

The background features a dark teal color with several overlapping rectangular shapes. These shapes are filled with a repeating geometric pattern of small, interlocking squares or diamonds, creating a textured, woven appearance. The shapes are arranged in a way that suggests a staircase or a series of steps, with some shapes appearing to be in front of others, creating a sense of depth. The overall aesthetic is modern and technical.

# Competent Authorities Panel Rules

## From 1 May 2023

## Rules outline

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## Introduction

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The Competent Authorities Panel (the Panel) is the body referenced in the Model Subordinate Instrument on the Transport of Dangerous Goods by Road or Rail and established by the Competent Authorities Panel Rules made by the National Transport Commission on 16 June 2008, as amended from time to time.

The Panel is made up of representatives from the Competent Authorities of each participating jurisdiction.

These rules set out how the Panel is to operate. Each Competent Authority of each participating jurisdiction is a member of the Panel. Each Panel member may appoint a representative to:

- participate in the Panel
- vote on its behalf on decisions of the Panel.

The Panel's functions include:

- Aiming for national consistency in:
  - the interpretation and application of dangerous goods transport legislation by making decisions on national effect of exemptions, determinations and approvals issued under the dangerous goods legislation
  - other matters referred to it by participating jurisdictions and industry.
- Communicating decisions and interpretations of the Australian Code for the Transport of Dangerous Goods by Road & Rail and dangerous goods transport legislation.
- In relation to the United Nations (UN) Sub-Committee of Experts on the Transport of Dangerous Goods:
  - providing input on issues relating to the land transport of dangerous goods to the Australian delegation
  - nominating a technical expert in the land transport of dangerous goods to support the Australian delegation, if required.

The Panel plays a pivotal role in maintaining the integrity and effectiveness of the national scheme for the transport of dangerous goods. It operates as a forum for important decisions allowing nationally consistent application of the model legislation and optimising mutual recognition arrangements across jurisdiction borders.

The Competent Authority Panel Rules are as amended and approved at the Infrastructure and Transport Senior Officials' Committee on 21 April 2023. The rules take effect from 1 May 2023.

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# 1 Preliminary matters

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## 1.1 Establishment of the Panel

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The Competent Authorities Panel was established by the Competent Authorities Panel Rules made by the National Transport Commission on 16 June 2008 and approved by the Australian Transport Council. The Senior Officials' Committee amends the rules from time to time. The Panel is to operate under these rules.

## 1.2 Definitions

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1. In these rules:

**alternate** means a person or person holding a particular office appointed by a Panel member with the capacity to take the place of the Panel member's representative at a meeting of the Panel if required.

**approval** means an approval by the Competent Authority or an authorised body under the corresponding jurisdictional laws modelled on the Model Subordinate Instrument and that are in effect.

**Chairperson** means the person appointed as the Chairperson of the Panel under rule 3.3.

**Code** means the Australian Code for the Transport of Dangerous Goods by Road & Rail

**Competent Authority** means the relevant competent authority of a participating jurisdiction, as appointed under the dangerous goods legislation.

**corresponding approval** means an approval made under the jurisdictional legislation equivalent of clause 15.3.3 of the Model Subordinate Instrument.

**corresponding determination** means a determination made under the jurisdictional legislation equivalent of clause 15.3.1 of the Model Subordinate Instrument.

**corresponding exemption** means an exemption made under the jurisdictional legislation equivalent of clause 15.3.2 of the Model Subordinate Instrument.

**dangerous goods legislation** means any legislation of a jurisdiction that regulates the transport of dangerous goods on land and corresponds, or substantially corresponds, to the model legislation.

**day** means a calendar day.

**decision** includes a determination, exemption or approval made in accordance with the dangerous goods legislation, or a refusal to make a determination, exemption or approval.

**decision register** means the register of decisions described in rule 8.

**Department** means the Australian Government department currently known as the Department of Infrastructure, Transport, Regional Development, Communications and the Arts.



**determination** means a determination that is made by the Competent Authority under the jurisdictional legislation equivalent of Division 1.5 of the Model Subordinate Instrument, and that is in effect.

**exemption** means an exemption in force under the jurisdictional legislation equivalent of section 77 of the Model Act.

**matter** means any matter referred to the Panel under the jurisdictional legislation equivalent of Part 16 (Division 16.2), Part 17 (Division 17.2 and 17.4) of the Model Subordinate Instrument.

**Ministerial Council** means the body (however described) that consists of the minister (or ministers) of:

- a. the Australian Government
- b. each state and territory

responsible, or principally responsible, for matters relating to infrastructure and transport.

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

**model legislation** means the *Model Act on the Transport of Dangerous Goods by Road or Rail* and the Model Subordinate Instrument on the Transport of Dangerous Goods by Road or Rail, as approved by the Ministerial Council.<sup>1</sup>

**National Transport Commission** means ...

**Model Subordinate Instrument** means the Model Subordinate Instrument on the Transport of Dangerous Goods by Road or Rail.

**Observer** means either:

- a. a permanent observer appointed under rule 3.2(1)
- b. a person or body invited by the Panel to be an observer under rule 3.2(3)

**Panel** means the Competent Authorities Panel.

**Panel member** means each Competent Authority of a jurisdiction.

**representative** means the person or a person holding a particular office appointed by a Panel member as its representative on the Panel.

**rules** means the Competent Authorities Panel Rules.

**Secretariat** means the person or a person holding a particular office provided by National Transport Commission to provide secretariat support to Panel proceedings.

**Senior Officials' Committee** means the body (however described) that is established to provide support to the Ministerial Council and consists of departmental heads (however described) from each jurisdiction with portfolio responsibility for transport and infrastructure issues.

**writing** includes all methods of representing or reproducing words, figures or symbols in a visible form, and expressions referring to writing are to be construed accordingly.

2. If a term used in these rules is defined in the model legislation, for the purposes of these rules the term has that defined meaning, unless the contrary intention appears.

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<sup>1</sup> The model legislation (as amended from time to time) is published by the Parliamentary Counsel's Committee [http://www.pcc.gov.au/uniform\\_legislation\\_official\\_versions.html](http://www.pcc.gov.au/uniform_legislation_official_versions.html)

3. A power to decide a determination, exemption or approval made in accordance with the dangerous goods legislation includes refusal to determine, exempt or approve.
4. A reference in these rules to a vote cast is a reference to a valid vote only (as referenced in 6.6(4)).



## 2 Functions of the Panel

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### 2.1 Functions of the Panel

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1. The functions of the Panel are to:

- a. Assess and give effect to corresponding determination, approval and exemption applications referred to it by a Competent Authority, as provided under dangerous goods legislation.
- b. Assess and decide matters referred to it by a Competent Authority as provided under dangerous goods legislation.
- c. Facilitate cooperation among jurisdictions in the application of Panel decisions on matters referred to it by a Competent Authority.
- d. Facilitate national liaison so that application of the Code and dangerous goods legislation is consistent.
- e. Determine and communicate agreed national interpretations of the Code and dangerous goods legislation.
- f. Facilitate national liaison with:
  - I. Competent Authorities for Class 1, Division 6.2 and Class 7 goods
  - II. sea and air regulatorsto ensure consistency and minimise conflict with parallel legislative frameworks covering these other dangerous goods or transport modes.
- g. Provide comment on relevant sub-committee papers to the Australian Delegation to the UN Sub-Committee of Experts on the Transport of Dangerous Goods in collaboration with the dangerous goods transport regulators.
- h. Facilitate the establishment of common training and licensing systems across participating jurisdictions.
- i. Do anything else it is authorised to do under dangerous goods legislation or these rules.

## 3 Membership of the Panel

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### 3.1 Membership of the Panel

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1. Each Competent Authority of a jurisdiction is a member of the Panel (a Panel member).
2. The Competent Authority established under the Explosives Act 1999 (Qld) and the Explosives Regulation 2017 is a Panel member with respect to the transport of ammonium nitrate.
3. Rule 3.1(1) applies even if there is more than one Competent Authority in a jurisdiction.
4. Each Panel member may appoint a person (a representative) to:
  - a. represent it at Panel meetings
  - b. vote on its behalf when any matter is put to a vote of the Panel.

### 3.2 Observer status on the Panel

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1. The following are permanent observers of the Panel:
  - a. Any person or body that:
    - I. is in a jurisdiction that does not have dangerous goods legislation in force
    - II. is responsible for administering any law that relates to the transport of dangerous goods
    - III. is voted by the Panel, using the procedures set out in rule 6.5, to be a permanent observer.
  - b. Any person nominated as a permanent observer by the Senior Officials' Committee.
  - c. Any person nominated as a permanent observer by the Ministerial Council.
  - d. The National Transport Commission
  - e. The Department

*Note: a list of Panel members and permanent observers can be found in the Panel guidelines for applicants on the National Transport Commission's website*

2. A permanent observer of the Panel may have a representative attend all Panel meetings and is to be notified of all Panel meetings.
3. The Panel may invite one or more other observers to attend Panel meetings or a part thereof.
4. Observers may participate in the deliberations of the Panel but may not cast a vote on any decision of the Panel.
5. Observers must notify the Chairperson in writing of who will represent them at a Panel meeting at least 24 hours before the meeting starts.

6. The Panel may vote, using the procedures set out in rule 6.5, to remove a permanent observer.

### 3.3 Appointment of the Chairperson of the Panel

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1. The representatives may, using the voting procedures set out in rule 6.5, appoint a jurisdiction to hold the office of Chairperson.
2. If there is more than one representative from the relevant jurisdiction, the Panel is to elect a Chairperson from the representatives of that jurisdiction.
3. From time to time the office of Chairperson may become vacant, or the person holding that office may be unable or unwilling to fulfil the duties of that office. If that is the case, the representatives may appoint a new Chairperson to serve the remainder of the term. The office of the previous Chairperson is thereby terminated.
4. The term of office for a Chairperson appointed under rule 3.3(1) or rule 3.3(2) is two years.
5. The Panel must follow the time frames set out in the table below when nominating and voting on the appointment of the next Chairperson.

Appointment period	Call for nominations*	Nomination & voting date**
1 June 2021 – 31 May 2023	November 2022	May 2023
1 June 2023 – 31 May 2025	November 2024	May 2025
1 June 2025 – 31 May 2027	November 2026	May 2027
1 June 2027 – 31 May 2029	November 2028	May 2029
1 June 2029 – 31 May 2031	November 2030	May 2031

\* The call for nominations is to occur in the second year of the current Chairperson's term. This gives members six months to seek their organisation's approval before formal nomination and voting occurs.

\*\* Voting must occur at the current Chairperson's last meeting, that is in May of the second year of the Chairperson's term.

6. If a Chairperson is not appointed under rules 3.3(1), 3.3(2) or 3.3(3), the office of Chairperson will be appointed to the least recent jurisdiction to hold it. This rule only applies to the following jurisdictions:
  - a. South Australia
  - b. Western Australia
  - c. Victoria
  - d. New South Wales
  - e. Queensland

*Example: If no nominations are received for the next Chairperson, and the most recent Chairs were New South Wales, Victoria, Queensland and South Australia, then Western Australia will be appointed as Chairperson.*

7. The Secretariat must include the outcome of a vote cast or appointment made under rules 3.3(1), 3.3(2) or 3.3(3) in the written report prepared for the Senior Officials' Committee (or delegates) under Rule 11.

8. Despite rule 3.3(3), the representatives may terminate the appointment of a Chairperson appointed under rule 3.3(1) or 3.3(2).
9. The appointment of a Chairperson under rule 3.3(2) terminates the appointment of a Chairperson under rule 3.3(6).
10. The Secretariat must notify the Senior Officials' Committee (or delegates) of the outcome of a vote cast under rule 3.3(9). The notification must be in writing and made within 30 days of the vote. The notification must provide sufficient detail about:
  - a. the reason for the termination
  - b. the termination process
  - c. voting outcomes.

### 3.4 Appointment of representatives

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1. A person becomes a representative of a Competent Authority when the Chairperson receives written advice from the Competent Authority that it has been appointed the person as its representative on the Panel.
2. A Competent Authority may appoint a person as its representative on the Panel for a specified period.
3. A Competent Authority may appoint as its representative on the Panel the holder of a specified office.
4. If a Competent Authority makes an appointment under rule 3.4(3):
  - a. The holder of the office specified by the Competent Authority becomes the authority's representative on the Panel when the Chairperson receives written advice of the appointment.
  - b. While the appointment remains in force, all subsequent holders of that office become the Competent Authority's representative on the Panel on attaining that office (regardless of whether the person is appointed to the office or acting in the office).
  - c. If the name of the office changes, the appointment is to be read as if it referred to the office by the new name, unless there is no express link between the names in the legislation or administrative orders of the jurisdiction in which the office is located
  - d. If more than one person holds the office, the Competent Authority must specify which of those office holders is to be its representative on the Panel.
5. In appointing a person to be its representative on the Panel, the Competent Authority must have regard to the potential for a conflict of interest to arise of the sort referred to in rule 4.8.

### 3.5 Appointment of alternates

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1. A Competent Authority or its representative must appoint at least one other person from the Competent Authority (an alternate) with the capacity to take the representative's place at a meeting of the Panel if required.

*Note: The alternate provides an alternative contact and voting rerepresentative for the panel, in the event that the representative is unavailable or no longer eligible to act as the representative. A*

*representative may also appoint an alternate to vote on a matter in respect of which the representative has a conflict of interest.*

2. To make such an appointment, written notice of the appointment must be given to the Chairperson at least 24 hours before a meeting is to start.
3. If a person is acting as an alternate at a meeting of the Panel, a reference in these rules to a representative (except in rule 3.4(1)) is to be read as including a reference to the person acting as an alternate.
4. In appointing a person to be an alternate, the Competent Authority or its representative must consider the potential for a conflict of interest to arise of the sort referred to in rule 4.8.

### 3.6 Cessation of appointment as a representative

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1. A person ceases to be a representative if any of the following criteria are met:
  - a. The person's appointment as such expires or otherwise ceases under the terms of the appointment.
  - b. The Competent Authority the person represents gives the Chairperson either:
    - I. written notice that it revokes the person's appointment as its representative
    - II. written advice that it appointed another person to be its representative (unless the appointment is made under rule 3.5).
  - c. The person ceases to hold an office specified by the Competent Authority as its representative.
  - d. The person is no longer employed by the Competent Authority.
2. If the Competent Authority that made an appointment to the Panel changes, the change does not of itself affect the appointment.

## 4 Roles and obligations

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### 4.1 Role of Competent Authorities

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1. A Competent Authority must appoint a representative and an alternate that have:
  - a. sufficient knowledge about the transport of dangerous goods
  - b. authority to make decisions on behalf of the Competent Authority during Panel meetings.
2. A Competent Authority must provide sufficient resources and support to enable the representative's full and robust participation in Panel meetings.

### 4.2 Role of the National Transport Commission

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1. The NTC will provide sufficient resources and support (with the level to be agreed) to enable the Secretariat to fulfil its role in:
  - a. supporting the Panel
  - b. publishing the decision register.

### 4.3 Role of the Secretariat

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1. The Secretariat facilitates the operation of the Panel by providing administrative support to the Chairperson. This includes:
  - a. Making administration templates available to representatives.
  - b. Supporting the organisation and operation of Panel meetings (in collaboration with the Chairperson) including:
    - I. preparing and circulating agenda in consultation with the Chairperson
    - II. receiving and distributing any agenda papers provided by Competent Authorities
    - III. taking minutes of each meeting.
  - c. Assisting with out-of-session decisions, including making voting arrangements, as agreed by the Chairperson.
  - d. Maintaining and making available Panel records, including:
    - I. appointments and memberships
    - II. templates developed by the Panel
    - III. guidelines developed to support the operation of the Panel.
  - e. Maintaining a public register of the Panel's decisions (the decision register). This includes making sure it is accessible and kept up to date

- f. Doing anything else the Secretariat is required to do under the rules, so far as it is practicable.
2. If the rules call for something to be given to or lodged with the Chairperson, it is sufficient for the thing to be given to the Secretariat.

#### 4.4 Role of the Chairperson

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1. The Chairperson:
  - a. sets the agenda for each meeting
  - b. chairs Panel meetings
  - c. authorises final minutes, records and publications.
2. The Chairperson establishes working groups of the Panel to consider specific issues or projects.
3. The Chairperson, in collaboration with Panel members, appoints someone to chair meetings of Panel working groups.
4. The outgoing Chairperson will provide a formal handover to the incoming Chairperson before their term ends.

#### 4.5 Role of representatives

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1. Representatives represent the Competent Authority of their jurisdiction.
2. Representatives agree to:
  - a. advise the Panel in writing, if the representative or alternate for their Competent Authority cannot attend a meeting
  - b. keep to time frames and procedures in the rules
  - c. give the Secretariat and Chairperson timely advice and documents needed for Panel meetings, in the agreed templates and format
  - d. come to meetings having done adequate preparation to discuss and vote on matters.
3. Representatives refer matters from their jurisdiction to the Panel for consideration and decision.
4. Representatives vote on behalf of their Competent Authority on matters requiring the Panel to vote.
5. Representatives will give the Secretariat relevant information so the Secretariat can publish a decision on the public register.
6. To have a matter included on the agenda and considered by the Panel, representatives must complete and give to the Secretariat a written submission template within the agreed time frame.
7. When a representative submits a matter to the Panel on behalf of an applicant, the representative must:



- a. Give any applicant invited to attend the relevant Panel meeting under rule 6.10 at least 14 days' notice of the meeting date.
- b. Inform the applicant of any Panel decision within 30 days of the date the application was considered.
- c. Give the applicant details about providing supplementary information to the Panel (through the relevant Competent Authority). This includes time frames and methods of providing the information.

## 4.6 Obligations on representatives and observers

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1. In participating in the deliberations of the Panel, representatives and observers must either:
    - a. If they are public servants of a jurisdiction, follow any requirements of conduct that apply to them as a public servant in that jurisdiction.
    - b. In any other case, follow:
      - I. the Australian Public Service Code of Conduct made under section 13 of the *Australian Public Service Act 1999*.
      - II. the Australian Public Service Values set out in section 10(1) of that Act (and any associated directions made under section 11 of that Act)
- as if they are an Australian Government public servant, to the extent that those provisions apply to them.

## 4.7 Proceedings to be confidential

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1. Representatives and observers must treat as confidential:
  - a. Panel proceedings
  - b. any information derived through their participation in Panel proceedings.
2. Rule 4.7(1) does not apply:
  - a. to matters that must be recorded under rule 4.8
  - b. to matters authorised, permitted or required to be disclosed by the rules or by law
  - c. if the use or disclosure of information is for the purpose of exercising the relevant functions under the rules or under dangerous good legislation.

*Note: Representatives and observers must keep confidential any commercially sensitive information provided as part of an application referred to the Panel. These Rules are not intended to abrogate any intellectual property rights that may reside in any application made to the Panel.*

## 4.8 Disclosure of interests of members and observers

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1. If a representative or observer has a direct or an indirect pecuniary interest in any Panel matter, they must disclose it to the Secretariat as soon as possible after becoming aware of the relevant facts. This rule applies to any matter the Panel is considering or is about to

consider (at a meeting or out of session).

*Example: If a representative operates a self-managed superannuation fund, the member has an indirect pecuniary interest in any assets held in the name of the fund.*

2. If a representative or observer holds an office or owns property that creates duties or interests, directly or indirectly, that may conflict with their duties under the rules, they must disclose the potential conflict to the Secretariat as soon as possible after becoming aware of it.
3. A representative or observer is not considered to have a pecuniary interest in:
  - a. A matter about the supply of goods or services to or by them if the goods or services are or will be available to the public on the same terms and conditions.
  - b. A contract or arrangement that benefits a company or other body in which they have a beneficial interest to a value not greater than 1 percent of the face value of their interest.
  - c. Any assets held by a superannuation fund if they do not have control of the fund or the investments it makes.
4. Unless the Chairperson or Panel decides otherwise, a representative or observer that must make a disclosure under rules 4.8 (1) or 4.8 (2) must not:
  - a. take part in any discussion about
  - b. vote on

any application or other matter that relates to their pecuniary interest or potential conflict. This rule applies regardless of when the representative or observer makes the disclosure.

## 5 Pre-meeting procedures

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### 5.1 How meetings are to be convened

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1. The Chairperson convenes Panel meetings.
2. To convene a Panel meeting, the Chairperson gives representatives written notice at least 60 days before the meeting. The written notice must include the date, time and location of the meeting. Once a meeting is convened, representatives may forward proposed agenda items to the Chairperson.
3. The 60-day notice period does not apply if all the representatives agree to waive that period.
4. The 60-day notice period does not apply to meetings that are a continuation of an adjourned meeting.

### 5.2 Submission of documents and issues by representatives

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1. Representatives must use the written submission template to submit all documents and information on agenda items to the Secretariat. Submissions must be made no later than 42 days before the scheduled meeting, or as directed by the Secretariat.
2. If an agenda item only applies to certain participating jurisdictions, that information must be included on the submission for the matter.
3. Where possible, representatives should provide any presentations pertaining to an agenda item seven days before the scheduled meeting.

### 5.3 Distribution of documents by the Secretariat

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1. At least 30 days before the scheduled meeting, the Secretariat must send representatives and observers:
  - a. a written agenda
  - b. a copy of each submission made under rule 5.2, including associated documents.
2. The Chairperson or the Secretariat may send representatives and observers additional documentation within the 30-day period.

## 6 Meetings of the Panel

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### 6.1 Frequency and timing of meetings

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1. The Panel must meet at least two times a year.
2. Panel meetings will be held in May and November of each year, unless representatives agree otherwise.
3. The Panel may meet at other times to address matters as they arise, at the discretion of the Chairperson.

### 6.2 Form of meetings

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1. Meetings may be held by whatever means are agreed by the representatives.

### 6.3 Standing agenda items

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1. The agenda for each meeting should include the following items:
  - a. Identification of representatives and alternates and their capacity to represent their Competent Authority.
  - b. A discussion on the formal papers from the UN Sub-Committee of Experts on the Transport of Dangerous Goods.
  - c. Arrangements for the next Panel meeting.
2. The Panel must consider all matters referred to it for decision by a Competent Authority under the dangerous goods legislation.

### 6.4 Control of meetings

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1. The Chairperson chairs Panel meetings.
2. If the Chairperson is not present at a meeting, the Panel must elect an acting Chairperson from the present representatives using the procedures set out under rule 6.5. The acting Chairperson must chair the meeting.
3. If the Panel disagrees with a ruling of the Chairperson, the Panel may vote to overturn or vary it. To be valid, the vote must be approved within 14 days of the Chairperson's ruling.

### 6.5 Voting

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1. Each jurisdiction (including the jurisdiction represented by the Chairperson or acting Chairperson) may exercise a deliberative vote on any matter decided by the Panel.
2. Jurisdictions with two or more Competent Authorities must:

- a. determine the value of each Competent Authority's vote before voting
  - b. cast a single vote that represents the jurisdiction.
3. A jurisdiction may abstain from voting in a matter being considered by the Panel.
4. Each jurisdiction must indicate their position on matters being considered by the Panel (namely: support, reject or abstain).
5. If a matter is put to a vote of the Panel, the matter is approved if more than half of the jurisdictions vote in the affirmative.
6. If a matter that does not apply to all jurisdictions is put to a vote of the Panel, only participating jurisdictions are eligible to cast a vote. The matter is approved if more than half of participating jurisdictions (as noted on the application instrument) vote in the affirmative.
7. If a matter that applies to less than four participating jurisdictions is put to a vote of the Panel, the matter is approved only if all participating jurisdictions vote in the affirmative.

## 6.6 Voting at meetings

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1. Representatives may cast a vote either:
  - a. in person (if they are present at the meeting)
  - b. by lodging a vote under rule 6.6(2).
2. If a representative does not attend a meeting or appoint an alternate under rule 3.5, the representative may lodge a vote in writing with the Chairperson. The Panel must accept a vote if it is lodged at least 24 hours before the meeting.
3. A representative is considered to be present at a meeting if she or he:
  - a. participates in the meeting through real-time, bidirectional communication with other participating representatives
  - b. is able to vote in the same way as those who attend the meeting in person.
4. If a representative votes on a matter in contravention of rule 4.8(4), the representative's vote is not valid.

## 6.7 Voting out of session

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1. The Panel may vote on a matter without convening a meeting (for example, by email) if either:
  - a. the Chairperson decides a referral or decision of a Competent Authority should be voted upon without convening a meeting
  - b. the Panel agrees.
2. If rule 6.7(1) applies:
  - a. The Secretariat must notify each representative in writing about:
    - I. the recommendation
    - II. the deadline for the receipt of votes.

- b. The Secretariat must give representatives at least 14 days to vote, unless otherwise determined by the Panel
  - c. A vote must be lodged in writing with the Secretariat by the agreed deadline to be valid.
3. Unless the Chairperson or Panel decides otherwise, a representative that must make a disclosure under rule 4.8 must not vote on any application or other matter that relates to their pecuniary interest or potential conflict. This rule applies regardless of when the representative makes the disclosure.
  4. If a representative votes on a matter in contravention of rule 6.7(4), the representative's vote is not valid.
  5. When the Chairperson has received the required votes (as described under rule 6.5), he or she may declare the vote resolved and communicate the Panel's decision. This Rule does not abrogate the obligations of rule 6.7(2), including the timing allowed for votes to be cast.

## 6.8 Procedure for referral of matters to the Panel

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1. To refer a matter to the Panel, a Competent Authority must notify the Chairperson in writing. The notification must include details of the matter the Panel is to decide.
2. In notifying the Chairperson under rule 6.9(1), the Competent Authority must:
  - a. Provide the Panel with any relevant expert opinion or advice commissioned by or provided by the applicant to the Competent Authority.
  - b. Provide the Panel with any relevant information about the applicant, including contact details
  - c. Notify the Panel if the applicant has been invited to appear before the Panel under rule 6.9 to assist the Panel in its deliberations
  - d. Make an initial assessment of the matter
  - e. Make a recommendation to the Panel on the matter.
3. On receipt of a written referral, the Chairperson may ask the Competent Authority to do any of the following:
  - a. provide more information for the Panel's consideration
  - b. seek further information from the applicant
  - c. seek or commission further expert opinion or advice on the matter.
4. Rule 6.9(3) does not prevent the Chairperson from seeking information directly from the applicant.
5. The Chairperson may reject the referral if its subject does not relate to a matter the Panel can decide on under the dangerous goods legislation.
6. Once satisfied the Panel has enough information to consider the matter, the Chairperson must either:
  - a. put the matter up for consideration at the next scheduled meeting of the Panel
  - b. take steps to hold a vote on the referral out of session under rule 6.7.

7. Notwithstanding rule 6.9(3) and despite rule 6.9(6) the Panel must decide a matter no later than 12 months after receipt of its referral under rule 6.9(1).

*Note: This means the Panel must make a decision in relation to a matter based on the information it has available to it, even though additional information sought under Rule 6.9(3) has not been provided. If the decision is made on the basis that not enough information is available, this fact must be noted in the decision register.*

## 6.9 Appearance of other people before the Panel

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1. The Chairperson may invite a person, including an applicant, to appear before the Panel if either:
  - a. the Chairperson believes the appearance is likely to assist the Panel in its deliberations
  - b. the Panel has asked that the person appear before it.
2. A person appearing before the Panel under rule 6.9(1) must:
  - a. comply with any restrictions imposed on the appearance by the Panel
  - b. adhere to any guidelines on their appearance issued by the Panel.

## 6.10 Other meeting procedures

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1. The Panel may determine its own procedures for any matters not covered by the rules.



## 7 Panel decisions

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### 7.1 Matters the Panel must consider when making a decision

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1. In making a decision, the Panel must consider the requirements of the dangerous goods legislation above all else.
2. When making decisions on the operation of the Australian Code for the Transport of Dangerous Goods by Road & Rail (the Code) and the dangerous goods transport legislation, the Panel must consider the principles contained in the Inter-Governmental Agreement for Regulatory and Operational Reform in Road, Rail and Intermodal Transport signed by ministers in 2003, in particular inter-modal liaison and jurisdictional harmonisation.
3. In making a decision, the Panel must consider (where relevant):
  - a. The need to ensure the safe transport of dangerous goods. This includes the safety of dangerous goods vehicle drivers, other road users, the public, public property and the built and natural environment.
  - b. Potential administrative or enforcement difficulties, particularly with respect to maintaining national uniformity of road and rail transport laws.
  - c. The need to ensure emergency response arrangements are not compromised
  - d. The practical effect if the determination, approval or exemption is issued, including:
    - I. how it would be implemented
    - II. whether it would be readily enforceable.
  - e. Relevant international dangerous goods transport standards such as the UN Model Recommendations on the Transport of Dangerous Goods - Model Regulations.
  - f. The effects of the decision on dangerous goods transported by air or sea, whether domestically or internationally.
  - g. Any other matter the Panel considers relevant.

*Note: Section 77 of the Model Act provides that an exemption may only be given if the [Panel] is satisfied that granting the exemption:*

- would not be likely to create a risk of death or injury to a person, or harm to the environment or to property, greater than that which would be the case if the person or class of persons were required to comply, and*
- would not cause unnecessary administrative or enforcement difficulties, particularly with respect to maintaining national uniformity of road and rail transport laws.*

### 7.2 Panel may seek further information

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1. The Panel may ask the Chairperson to seek further information on any matter referred to it before making a decision on the matter.

### 7.3 Reasons must be given the Panel

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1. A representative must give the Panel reasons for each dissenting vote or abstention so that the Panel operates as openly, effectively and efficiently as possible.
2. The Secretariat must record that any reasons given under rule 7.3(1) in the records of the Panel's decisions.

*Note: Under the dangerous goods legislation a Competent Authority may choose not to accept a decision of the Panel, but only if it records in writing the reasons for doing so.*

### 7.4 Records and communication of decisions

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1. The Secretariat must make:
  - a. minutes of each Panel meeting
  - b. records of other decisions made by the Panel.
2. The Secretariat must distribute to representatives and permanent observers:
  - a. the minutes of the Panel meeting
  - b. records of any other decisions made by the Panelno later than 30 days after the meeting.
3. If a conflict of interest is disclosed at a meeting, the Chairperson at that meeting must make sure the minutes include:
  - a. the disclosure
  - b. the details of who voted on any matters relating to the disclosure
4. Representatives must notify the Secretariat of any corrections to the records within 14 days of receiving them.
5. The Chairperson has the final say to resolve any conflict between representatives regarding the accuracy of the records.
6. Panel members must give each applicant the Panel's decision on their application, including the reasons for the decision.

### 7.5 Publishing Panel decisions

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1. The Secretariat must update the register of the Panel's decisions (including decisions that impact the public) no later than 30 days after each Panel meeting.
2. The Secretariat must publish the register of the Panel's decisions as soon as reasonably practicable after updating it under rule 7.5(1).
3. If decisions that impact the public are not publicly available elsewhere (for example, as a notice on a jurisdictional Government Gazette), the Panel has the discretion to redact parts of the decision that contain commercially sensitive information or personal information before the register is updated.

4. If the Panel cannot agree on redacting information under rule 7.5(3), it should seek the advice of an independent third party. The third party must be qualified to give advice on the laws and policies relevant to such publication or redaction.
5. The Secretariat must publish the Panel's statements of agreed national interpretation of the Code and dangerous goods transport legislation.

## 7.6 Applicant review of Panel decisions or process

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1. The Panel cannot review its own decisions or accept requests to remake its decisions.
2. If an applicant is dissatisfied with the Panel's decisions, they may request details about the voting outcomes of the Panel. This includes how each Panel member voted and the reasons for the decision.
3. An applicant may re-submit an amended application after consulting with the relevant Competent Authority.
4. Review of a representative's decision with regards to his or her vote on a Panel matter, is subject to the relevant jurisdiction's judicial and administrative review processes.

## 8 The Register of Decisions

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1. The purpose of the Register of Decisions is to give industry and affected stakeholders a transparent and accessible source of information about Panel decisions.
2. The Register of Decisions records:
  - a. the Panel's decisions (as defined under rule 1.2(1))
  - b. statements of agreed national interpretation of the Code and dangerous goods legislation.
3. The Secretariat must make sure the register is updated regularly and published in an accessible format.
4. Each Competent Authority is responsible for giving the Secretariat up-to-date information required for the Register of Decisions.

## 9 Working groups of the Panel

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1. Working groups may be established to consider discrete issues or undertake special projects.
2. The Panel votes on the establishment of working groups using the voting rules under rule 6.5.
3. When establishing a working group, the Panel is to decide:
  - a. its membership
  - b. the duration of its tenure
  - c. its terms of reference
  - d. the appointment of a chairperson.
4. Working groups must give the Panel a report that includes:
  - a. details of the issue they investigated
  - b. the stakeholders consulted
  - c. the material used to inform their considerations
  - d. their recommendations
5. A working group may present its recommendations during a Panel meeting or out of session. Representatives must then vote on the recommendations using the voting rules under rule 6.5.
6. The following people can be appointed as members or the chairperson of a working group:
  - a. representatives
  - b. alternates
  - c. non-representatives of a Competent Authority (for example, departmental officers)
  - d. the Secretariat
  - e. permanent observers
  - f. experts or specialists
  - g. industry stakeholders.
7. The chairperson of a working group:
  - a. sets up the work plan
  - b. sets meetings
  - c. determines roles
  - d. chairs meetings
  - e. makes appropriate minutes or delegates this task to a member of the working group.
8. Rules of conduct that apply to the Panel also apply to its working groups.

## 10 Reporting to the Senior Officials' Committee

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1. The Secretariat prepares a report endorsed by the Panel for consideration by the Senior Officials' Committee.
2. The report should contain any information that the Chairperson believes is relevant, including:
  - a. a summary of the Panel's activities
  - b. information about the status of the decision register
  - c. details of any complaints made to the Chairperson under these Rules.
3. A copy of the final report prepared should be distributed to Panel members.

*Note: The summary referred to in rule 10.2(a) should include information relating to the Panel's compliance with rule 6.8 (7).*

## 11 Other Matters

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### 11.1 Managing records and information

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1. The Secretariat must manage all records necessary to support the Panel under any legislation on records management that applies in the jurisdiction of the Secretariat's main office.

*Note: Rule 11.1 includes archiving and access under freedom of information legislation. Generally, all information relevant to the reasons for the decision of the Panel should be retained. In addition, records of decisions must be maintained in accordance with rule 7.4.*

2. The Secretariat must make records about advice given and Panel decisions available to representatives on request.
3. The Secretariat must make sure any records containing confidential or commercially sensitive information can only be accessed by people authorised to do so under applicable privacy law.
4. In rule 11.1, records include any information obtained by the Panel relating to its functions.

### 11.2 Complaints about the Panel or its members

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1. The Panel can only receive complaints relating to its processes and practices, not the substance of its decisions.
2. The Panel will use complaints it receives under rule 11.2(1) to improve the way it handles future applications. This includes complaints about its representatives and how they have exercised their role.
3. The Panel must approve a complaint procedure and make a copy of it available to all applicants.
4. The Panel must follow the approved complaint procedure when handling complaints.
5. The Secretariat must include in the Panel's report to the Senior Officials' Committee details of all complaints the Panel receives. Where appropriate, the Secretariat must attach written accounts to the report.

#### 11.2.1 Complaints about the Panel

1. If the Panel receives a complaint about how it has handled an application, the Chairperson must assess whether the Panel breached the Rules when it handled that application.
2. The Chairperson must prepare a written report outlining:
  - a. the complaint
  - b. the information considered when assessing the complaint
  - c. the outcome of the complaint



- d. any recommendations to improve future procedures for considering applications adopted by the Panel.
3. The Chairperson must give a copy of the written report to:
  - a. the complainant
  - b. representativesno later than 30 days after receiving the complaint.

### 11.2.2 *Complaints about individuals acting in their role as representative*

1. Complaints about representatives must be made to the Chairperson in the first instance.
2. If a complaint about a representative is about a breach of the rules, the Chairperson must handle the complaint using the procedure in rule 11.2.1.
3. If a complaint about a representative is about his or her potential breach of the Panel member's code of conduct, the complainant must make the complaint directly to the Competent Authority.

## 11.3 Succession provision

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1. The Panel is the successor in law to the Competent Authorities Panel that operated for the purposes of the laws supporting the Australian Code for the Transport of Dangerous Goods by Road & Rail (sixth edition).

## 11.4 Amendment of the rules

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1. The rules may only be amended with the approval of the Ministerial Council or by a body delegated by that group to exercise approval.

## 11.5 Delegation to the Senior Officials' Committee

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1. The Ministerial Council delegates to the Senior Officials' Committee or their delegates, the power to approve changes to the following rules:
  - a. 3.3 Appointment of the Chairperson of the Panel
  - b. 3.5 Appointment of alternatives
  - c. 4.3 Role of the Secretariat
  - d. 4.6 Obligations on representatives and observer
  - e. Section 6, except 6.5 (Voting)
  - f. Section 7, except 7.1 (Matters the Panel must consider when making decision)
  - g. Section 11, except 11.4 (Amendment of the rules)
  - h. Any other matters not specifically reserved by the Ministerial Council.