



Queensland

*Transport Infrastructure Act 1994*

# **Transport Infrastructure (Dangerous Goods by Rail) Regulation 2002**

**Reprinted as in force on 1 July 2008**

**Reprint No. 1D**

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This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of reprints is included in the endnotes.

**Also see endnotes for information about—**

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

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# **Transport Infrastructure (Dangerous Goods by Rail) Regulation 2002**

[as amended by all amendments that commenced on or before 1 July 2008]

## **Part 1 Preliminary**

### **Division 1 Introductory**

#### **1 Short title**

This regulation may be cited as the *Transport Infrastructure (Dangerous Goods by Rail) Regulation 2002*.

#### **2 Commencement**

This regulation commences on 29 November 2002.

#### **3 Main purposes of regulation**

The main purposes of this regulation are—

- (a) to reduce risk arising from the transport of dangerous goods by rail; and
- (b) to give effect to the standards, requirements and procedures of the ADG Code so far as they apply to the transport of dangerous goods by rail; and
- (c) to promote consistency between the standards, requirements and procedures applying to the transport of dangerous goods by rail and those applying to other modes of transport.

## **Division 2 Interpretation**

### **4 Definitions**

The dictionary in schedule 3 defines particular words used in this regulation.

### **5 References in ADG Code**

- (1) A reference in the ADG Code to a provision of the rail rules is taken, if the context permits, to be a reference to the provision in this regulation corresponding to the rail rules provision.
- (2) A reference in the ADG Code to *competent authority*, in relation to the State, is taken, if the context permits, to be a reference to the chief executive.

### **6 Corresponding provision of rail rules shown in attachment**

- (1) The attachment at the end of this regulation lists particular provisions of the rail rules and their corresponding provisions in this regulation.
- (2) The attachment does not form part of this regulation.

### **7 Inconsistency between regulation and particular instrument**

- (1) This section applies if—
  - (a) this regulation applies, adopts or incorporates an instrument; and
  - (b) there is an inconsistency between a provision of this regulation and the instrument as applied, adopted or incorporated.
- (2) The provision of this regulation prevails to the extent of the inconsistency.
- (3) In this section—

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*instrument* means a code, standard or rule, whether made in or outside Australia, relating to dangerous goods or the transport of dangerous goods by rail.

**8 Reference to a determination, exemption or approval**

In this regulation, a reference to—

- (a) a determination, exemption, or approval; or
  - (b) a corresponding determination, exemption, or approval;
- includes a reference to the determination, exemption, or approval as amended.

**9 Reference to amendment of a determination, exemption or approval**

In this regulation, a reference to the amendment of—

- (a) a determination, exemption, or approval; or
  - (b) a corresponding, determination, exemption or approval;
- includes a reference to an amendment by addition, omission or substitution.

*Example—*

The addition of a new condition to an existing administrative determination.

**Division 3 Application**

**10 Dangerous situations**

This regulation does not apply to the transport of dangerous goods by, or under the direction of, an authorised person or an officer of an emergency service, to the extent the transport is necessary to avert, eliminate or minimise a dangerous situation.

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## 11 Transport of small quantity

- (1) This regulation does not apply to the transport by a person of a load of dangerous goods by rail if—
- (a) the goods are packaged dangerous goods; and
  - (b) the goods are not, and do not include, designated dangerous goods; and
  - (c) the aggregate quantity of the dangerous goods in the load is less than 25% of a placard load; and
  - (d) the goods are not being transported by the person for hire or reward in the course of a business of transporting goods by rail; and
  - (e) the goods are not being transported by the person on a passenger train.
- (2) In this section—

*designated dangerous goods* means dangerous goods of class 1 (other than of class 1.4S and track signals carried for safe working purposes), class 6.2 or class 7.

## 12 Short trip after import

Sections 51 to 54<sup>1</sup> and part 4, divisions 5 to 7,<sup>2</sup> do not apply to the transport of dangerous goods by rail if—

- (a) the goods have been imported into Australia through a place in Queensland; and
- (b) the goods are being transported in a closed freight container; and
- (c) the goods are not leaking from the container; and
- (d) the goods are being transported directly to a destination that is not more than 50km by rail from the place of import; and

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1 Sections 51 (Suitability of packaging), 52 (Marking packaging), 53 (Consignor's duty) and 54 (Packer's duty)

2 Part 4 (Dangerous goods in bulk), divisions 5 (IBCs), 6 (Foreign approved IBCs) and 7 (Approval of tank and IBC designs)



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- (e) the container is placarded as stated in the IATA Regulations, ICAO Rules or IMDG Code.

**Division 4                      Division number not used<sup>3</sup>**

**13–16 Section numbers not used**

**Division 5                      Division number not used**

**Division 6                      Determinations**

**17                      Determinations—dangerous goods**

- (1) The chief executive may determine that—
- (a) goods are dangerous goods; or
  - (b) goods are not dangerous goods; or
  - (c) goods are dangerous goods of a particular class; or
  - (d) goods are dangerous goods with a particular subsidiary risk; or
  - (e) goods are dangerous goods assigned to a particular packing group; or
  - (f) goods are incompatible with particular dangerous goods; or
  - (g) goods are too dangerous to be transported by rail; or
  - (h) goods are too dangerous to be transported in bulk by rail; or
  - (i) goods are too dangerous to be transported on the same rail wagon as other goods.

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<sup>3</sup> This regulation is based on the rail rules. Some provisions of the rail rules are reserved for future amendments and others are not relevant to this regulation. To maximise uniformity between this regulation and the rail rules, the numbers of some parts, divisions and sections have not been used.

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- (2) A determination under subsection (1), other than an administrative determination, must be made by written notice.<sup>4</sup>

## 18 Administrative determinations

A determination is an *administrative determination* if the determination—

- (a) is made on the application of a person; and
- (b) applies only to the person.<sup>5</sup>

## 19 Conditions of administrative determinations

An administrative determination may be on a condition necessary for the safe transport of dangerous goods by rail.

## 20 Register of determinations

- (1) The chief executive must keep a register of determinations.
- (2) The register may have separate divisions for different kinds of determinations.
- (3) The chief executive must record in the register—
  - (a) each determination; and
  - (b) each determination by a corresponding competent authority that—
    - (i) the panel decides should have effect in all participating jurisdictions or 1 or more participating jurisdictions including this jurisdiction; and
    - (ii) the chief executive decides has effect in Queensland.

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4 The notice is declared to be subordinate legislation under the *Statutory Instruments Regulation 2002*, section 3(3) and schedule 1.

5 Part 17 contains provisions dealing with application for, and amendment and cancellation of, administrative determinations.

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- (4) The chief executive must note in the register—
  - (a) the revocation of a determination; and
  - (b) a decision of the panel reversing a decision that a corresponding determination should have effect in all participating jurisdictions or participating jurisdictions including this jurisdiction.

**21 Additional matters to be recorded in register**

- (1) The record of a determination in the register must include the provisions of the determination.
- (2) The record of a corresponding determination in the register must include the title of the Government gazette of the participating jurisdiction where the corresponding determination was notified or published and the date it was notified or published, but is not required to include the provisions of the determination.

**22 Reference to panel**

- (1) This section does not apply to an administrative determination.
- (2) The chief executive must refer a draft of a proposed determination to the panel if the chief executive decides the proposed determination should have effect in all participating jurisdictions or 1 or more other participating jurisdictions including this jurisdiction.
- (3) The chief executive must refer to the panel a determination having effect in this jurisdiction, and 1 or more other participating jurisdictions, if—
  - (a) the chief executive decides the determination should be cancelled or amended; or
  - (b) a corresponding competent authority recommends to the chief executive in writing that the determination should be cancelled or amended.

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**23 Effect of panel decision about draft determination**

- (1) This section applies if—
  - (a) a draft determination is referred to the panel under section 22(2); and
  - (b) the panel decides that—
    - (i) the draft determination should be made, what the provisions of the determination should be, and that the determination should have effect in all participating jurisdictions or 1 or more other participating jurisdictions including this jurisdiction; or
    - (ii) the determination should not have effect in this jurisdiction.
- (2) The chief executive must have regard to the panel's decision.

**24 Effect of panel decision about cancelling or amending determination**

- (1) This section applies if—
  - (a) a determination is referred to the panel under section 22(3); and
  - (b) the panel decides that—
    - (i) the determination should be cancelled; or
    - (ii) the determination should not be cancelled; or
    - (iii) the determination should be amended, whether or not the panel's decision is the same as the amendment proposed by the chief executive, and should have effect as amended in all participating jurisdictions or participating jurisdictions including this jurisdiction; or
    - (iv) the determination should not be amended.
- (2) The chief executive must have regard to the panel's decision.

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## **25 Inconsistent determinations**

If a provision of a corresponding determination is inconsistent with a provision of a determination made under this regulation (the *local determination*), the corresponding determination prevails over the local determination to the extent of the inconsistency.

## **Division 7 Division number not used**

### **26–27 Section numbers not used**

## **Division 8 Other provisions**

### **28 Deciding whether someone reasonably ought to have known or suspected**

If, in a prosecution for an offence against this regulation, it is material to prove someone reasonably ought to have known or suspected something, the issue must be decided having regard to—

- (a) the person's abilities, experience, qualifications and training; and
- (b) the circumstances of the alleged offence.

### **29 Duty to find out whether goods are dangerous goods**

- (1) This section applies if—
- (a) a person manufactures or imports goods; and
  - (b) the goods are not dangerous goods under section 31(1)(a) to (d); and
  - (c) the goods are not goods to which a determination under section 17(1)(b)<sup>6</sup> applies; and

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<sup>6</sup> Section 17 (Determinations—dangerous goods)

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- (d) the person suspects, or reasonably ought to suspect, that the goods satisfy the UN dangerous goods tests and criteria for determining whether goods are dangerous goods.
- (2) The person must not consign or transport the goods by rail unless the person finds out whether the goods satisfy the tests and criteria.

Maximum penalty—40 penalty units.

## Part 2                      Key concepts

### Division 1                  Kinds of goods

#### 30      Goods too dangerous to be transported by rail—Act, s 442

Goods are *too dangerous to be transported by rail* if they are—

- (a) mentioned in the ADG Code, appendix 5 as goods too dangerous to be transported; or
- (b) determined under section 17(1)(g) to be too dangerous to be transported by rail.

#### 31      Dangerous goods—Act, s 442

- (1) Goods are *dangerous goods* if they—
  - (a) are named in a specific entry in the ADG Code, appendix 2, column 2 but not in a generic entry or in an entry where the letters “N.O.S” are shown as part of the proper shipping name for the goods; or
  - (b) satisfy the criteria in the ADG Code, appendix 2, column 2 or 9; or

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- (c) satisfy the criteria in a special provision of the ADG Code that is applied by the ADG Code appendix 2, column 7; or
  - (d) are determined under section 17(1)(a) to be dangerous goods; or
  - (e) satisfy the UN dangerous goods tests and criteria for determining whether goods are dangerous goods.
- (2) However, goods are not dangerous goods if they are determined under section 17(1)(b) not to be dangerous goods.

### **32 Classes of dangerous goods**

- (1) In this regulation, a reference to—
- (a) a **class** of dangerous goods is a reference to the class to which the goods are assigned under subsection (2); and
  - (b) a **class** by number, or number and letter, is a reference to the number, or number and letter, of the class to which the goods are assigned.
- (2) Dangerous goods are assigned to a class if the goods—
- (a) are assigned to the class in the ADG Code, appendix 2, column 3; or
  - (b) are assigned to the class in a special provision of the ADG Code applying to the goods; or
  - (c) satisfy the criteria in the ADG Code, appendix 2, column 9 for assignment to the class; or
  - (d) are determined under section 17(1)(c) to be dangerous goods of the class; or
  - (e) satisfy the UN dangerous goods tests and criteria for assignment to the class.

### **33 Subsidiary risk**

- (1) In this regulation, a reference to—

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- (a) dangerous goods with a **subsidiary risk** is a reference to the dangerous goods assigned the subsidiary risk under subsection (2); and
  - (b) a **subsidiary risk** by number is a reference to the number of the subsidiary risk with which the dangerous goods are assigned.
- (2) Dangerous goods are assigned a subsidiary risk if the goods—
- (a) are assigned the subsidiary risk in the ADG Code, appendix 2, column 4; or
  - (b) are assigned the subsidiary risk in a special provision of the ADG Code applying to the goods; or
  - (c) satisfy the criteria in the ADG Code, appendix 2, column 9 for assignment of the subsidiary risk; or
  - (d) are determined under section 17(1)(d) to be dangerous goods with the subsidiary risk; or
  - (e) satisfy the UN dangerous goods tests and criteria for assignment to the subsidiary risk.

### 34 Packing group

- (1) In this regulation, a reference to—
- (a) a **packing group** of dangerous goods is a reference to the packing group to which the goods are assigned under subsection (2); and
  - (b) a **packing group** by number is a reference to the number of the packing group to which the goods are assigned.
- (2) Dangerous goods (other than dangerous goods of class 1, 2 or 7) are assigned to a packing group if the goods—
- (a) are assigned to the packing group in the ADG Code, appendix 2, column 5; or
  - (b) are assigned to the packing group in a special provision of the ADG Code applying to the goods; or
  - (c) satisfy the criteria in the ADG Code, appendix 2, column 9 for assignment to the packing group; or



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- (d) are determined under section 17(1)(e) to be assigned to the packing group; or
- (e) satisfy the UN dangerous goods tests and criteria for assignment to the packing group.

### 35 Incompatible goods, container or transfer equipment

- (1) Dangerous goods or other goods are *incompatible* with dangerous goods if—
  - (a) under the ADG Code, the goods are incompatible with the dangerous goods; or
  - (b) the goods are determined under section 17(1)(f) to be incompatible with the dangerous goods; or
  - (c) when the goods are mixed, or otherwise brought into contact, with the dangerous goods, the goods are likely to interact with the dangerous goods and increase risk because of the interaction.
- (2) However in a proceeding in which incompatibility is an issue, goods are taken not to be incompatible with dangerous goods if—
  - (a) the goods are incompatible with the dangerous goods only because of subsection (1)(a) or (b); and
  - (b) it is established that, when the goods are mixed, or otherwise brought into contact with the dangerous goods, the goods are not likely to interact with the dangerous goods and increase risk because of the interaction.
- (3) A tank or container is *incompatible* with dangerous goods if the tank or container is constructed of material that, when the goods are brought into contact with the tank or container, is likely to interact with the goods and increase risk because of the interaction.

*Example of increased risk because of interaction—*

Significant structural weakening of the tank or container.

- (4) Transfer equipment for use in the transport of dangerous goods is *incompatible* with the goods if the equipment is

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constructed of material that, when the goods are brought into contact with the equipment, is likely to interact with the goods and increase risk because of the interaction.

*Example of increased risk because of interaction—*

Failure of the transfer equipment resulting in leakage of dangerous goods.

## **Division 2                    Packages, packaging and loads**

### **36            Packages and packaging**

- (1) A *package* of dangerous goods or other goods is the complete product of the packing of the goods for transport by rail, and consists of the goods and their packaging.
- (2) The *packaging* of the goods is the container in which the goods are received or held for transport by rail, and includes anything that enables the container to receive or hold the goods or to be closed.

### **37            Capacity**

The *capacity* of a container is the total internal volume of the container expressed in litres or cubic metres at a temperature of 15°C.

### **38            What is a load of goods**

- (1) Goods on a rail wagon are taken to be a single load of goods if they are—
  - (a) in a separate freight container or bulk container on the rail wagon; or
  - (b) in a tank on the rail wagon.
- (2) All goods on a rail wagon that are not part of a single load under subsection (1) are taken to be a single load of goods.

### 39 Aggregate quantity

The *aggregate quantity* of dangerous goods in a load is the total of—

- (a) the number of kilograms of solid dangerous goods and aerosols in the load; and
- (b) the number of litres or kilograms, whichever is used in the shipping documentation for the load to describe the goods, of liquid dangerous goods in the load, other than dangerous goods of class 2; and
- (c) the number of litres that is the total capacity in litres of containers in the load containing dangerous goods of class 2, other than aerosols.

### 40 Packaged dangerous goods

Dangerous goods are *packaged dangerous goods* if—

- (a) they are dangerous goods of class 2 in a container with a capacity of not more than 500L; or
- (b) they are dangerous goods of another class in a container with—
  - (i) a capacity of not more than 450L; and
  - (ii) a net mass of not more than 400kg.

### 41 Dangerous goods in bulk

*Dangerous goods in bulk* are dangerous goods that are not packaged dangerous goods.

### 42 Placard load

- (1) A load of dangerous goods is a *placard load* if the load contains dangerous goods in bulk.
- (2) A load of dangerous goods is also a *placard load* if—
  - (a) the load does not contain dangerous goods in bulk; and
  - (b) the load is not a consumer commodity load; and

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- (c) at least 1 of the following applies to the load—
  - (i) the load contains dangerous goods of class 6.2;
  - (ii) the load does not contain dangerous goods of class 6.2, but contains dangerous goods of class 2.1, other than aerosols, or class 2.3, or dangerous goods of packing group I, and the aggregate quantity of dangerous goods in the load is at least 250;
  - (iii) the aggregate quantity of dangerous goods in the load is at least 1000.

#### 43 Unit load

Dangerous goods are in a *unit load* if the goods are packaged dangerous goods and are—

- (a) wrapped in plastics, and strapped or otherwise secured to a pallet or other base and to each other, for transport; or
- (b) placed together in a protective outer container, other than a freight container, for transport; or
- (c) secured together in a sling for transport.

### Division 3 Kinds of containers

#### 44 Freight container

A *freight container* is a reusable container of the kind mentioned in Australian/New Zealand Standard AS/NZS 3711 that is designed for repeated use for the transport of goods by 1 or more modes of transport.

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#### 45 IBC

An **IBC**<sup>7</sup> is a rigid or flexible portable packaging for the transport of dangerous goods that—

- (a) has a capacity of not more than—
  - (i) for solids of packaging group I packed in a composite, fibreboard, flexible, wooden or rigid plastics container—1500L; and
  - (ii) for solids of packaging group I packed in a metal container—3000L; and
  - (iii) for solids or liquids of packaging groups II and III—3000L; and
- (b) is designed for mechanical handling; and
- (c) is resistant to the stresses produced in usual handling and transport.

#### 46 Bulk container

- (1) A **bulk container** is an IBC or another container capable of transporting dangerous goods in bulk.
- (2) However, a tank that is part of a rail wagon, is not a bulk container.

### Division 4 Persons with special duties

#### 47 Owner

A person is an **owner** of a rail wagon if the person—

- (a) is the sole owner, a joint owner or a part owner of the wagon; or
- (b) has the possession or use of the wagon under a hiring agreement, hire-purchase agreement, lease or other agreement.

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<sup>7</sup> IBC is short for intermediate bulk container.

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#### 48 **Consignor**

- (1) A person **consigns** dangerous goods or other goods for transport by rail, and is the **consignor** of the goods, if—
  - (a) subsection (2) applies to the person; or
  - (b) subsection (2) does not apply to the person or anyone else, but subsection (3) applies to the person; or
  - (c) subsections (2) and (3) do not apply to the person or anyone else, but subsection (4) applies to the person.
- (2) This subsection applies to a person who, with the person's authority, is named or otherwise identified as the consignor of the goods in shipping documentation for the transport of the goods by rail.
- (3) This subsection applies to a person who—
  - (a) engages a rail operator, either directly or through an agent or other intermediary, to transport the goods by rail; or
  - (b) has possession of, or control over, the goods immediately before the goods are transported by rail; or
  - (c) loads a rail wagon with the goods, for transport by rail, at a place—
    - (i) where dangerous goods in bulk are stored; and
    - (ii) that is not attended during loading by anyone other than the person who loads the goods.
- (4) This subsection applies to a person if—
  - (a) the goods are imported into Australia through a place in Queensland; and
  - (b) the person is the importer of the goods.

#### 49 **Packer**

A person **packs** dangerous goods or other goods for transport by rail, and is a **packer** of the goods, if the person—

- (a) puts the goods in a packaging; or

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- (b) assembles the goods as packaged goods in an outer packaging or unit load for transport by rail; or
- (c) supervises an activity mentioned in paragraph (a) or (b); or
- (d) manages or controls an activity mentioned in paragraphs (a) to (c).

**50 Loader**

A person *loads* dangerous goods or other goods for transport by rail, and is a *loader* of the goods, if the person—

- (a) loads a rail wagon with the goods for transport by rail; or
- (b) loads a bulk container, freight container, or tank that is part of a rail wagon, with the goods for transport by rail; or
- (c) loads a rail wagon with a freight container containing the goods for transport by rail; or
- (d) supervises an activity mentioned in paragraphs (a) to (c); or
- (e) manages or controls an activity mentioned in paragraphs (a) to (d).

**Part 3 Packaging**

**Division 1 Packaging duties**

**51 Suitability of packaging**

For this division, packaging is unsuitable for the transport by rail of dangerous goods if—

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- (a) the packaging is not approved packaging; or
- (b) the packaging does not comply with the ADG Code, chapter 3.

**52 Marking packaging**

A person must not mark packaging used, or intended to be used, to transport dangerous goods by rail with performance and specification markings required under the ADG Code, division 3.5 unless the packaging is approved packaging.

Maximum penalty—40 penalty units.

**53 Consignor's duty**

A person must not consign packaged dangerous goods for transport by rail in packaging if the person knows, or reasonably ought to know, that the packaging—

- (a) is unsuitable for the transport of the goods by rail; or
- (b) is not used as specified in the ADG Code, chapter 3.

Maximum penalty—20 penalty units.

**54 Packer's duty**

A person must not pack dangerous goods for transport by rail in packaging if the person knows, or reasonably ought to know, that the packaging—

- (a) is unsuitable for the transport of the goods by rail; or
- (b) is not used as specified in the ADG Code, chapter 3.

Maximum penalty—20 penalty units.

**55 Loader's duty**

A person must not load packaged dangerous goods for transport by rail in packaging if the person knows, or reasonably ought to know, that the packaging is damaged or defective to the extent that it is not safe to use to transport the



goods by rail.

Maximum penalty—20 penalty units.

## **56 Rail operator's duty**

A rail operator must not transport packaged dangerous goods by rail in packaging if the rail operator knows, or reasonably ought to know, that the packaging is damaged or defective to the extent that it is not safe to use to transport the goods by rail.

Maximum penalty—15 penalty units.

## **57 Section number not used**

# **Division 2 Approval of packaging design types**

## **58 Approval of packaging design types**

- (1) The chief executive may, on application under section 178,<sup>8</sup> approve a packaging design type for use in the transport of dangerous goods by rail if—
  - (a) the applicant has carried out the tests required under the ADG Code, chapter 3; and
  - (b) the chief executive decides that a packaging of that design type would be safe for use in the transport of the goods by rail.
- (2) The approval of a packaging design type may be on a condition necessary for the safe transport of dangerous goods by rail in packaging of that design type.

## **59 Recognised testing facilities**

The following testing facilities are *recognised testing facilities* for a packaging design type—

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8 Section 178 (Applications)

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- (a) a testing facility registered by NATA to conduct performance tests under the ADG Code, chapter 3 for the packaging design type;
- (b) if NATA has not registered a testing facility to conduct performance tests of that kind—a testing facility in Australia capable of conducting the tests;
- (c) a facility in a foreign country approved by a public authority of the country to conduct performance tests of that kind.

## **60 Test certificate**

- (1) A recognised testing facility may certify in writing that a packaging design type has passed particular performance tests for particular dangerous goods.
- (2) If a performance test is conducted by a testing facility registered by NATA, a test certificate must—
  - (a) contain the details required under the ADG Code, division 3.7; and
  - (b) be in the appropriate form used by NATA registered testing facilities.
- (3) If a performance test is conducted in Australia by a recognised testing facility that is not registered by NATA—
  - (a) the test must be observed by or for the chief executive; and
  - (b) a test certificate must contain the details required under the ADG Code, division 3.7.

## **Division 3 Chief executive's performance testing powers**

### **61 Requiring production of packaging for testing**

- (1) This section applies to a person who—
  - (a) is—

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- (i) a manufacturer of packaging used, or intended to be used, to transport dangerous goods by rail; or
    - (ii) the consignor or rail operator for the transport of packaged dangerous goods by rail; and
  - (b) has possession of, or control over, packaging of a design type used, or intended to be used, to transport dangerous goods by rail.
- (2) The chief executive may, by signed notice, require the person to produce packaging manufactured or used by the person for performance testing.
- (3) The person must produce the packaging to the chief executive, or someone nominated in the notice, within 14 days after the day the notice is given to the person.

Maximum penalty—20 penalty units.

**62 Requiring evidence of performance tests**

- (1) This section applies to a person who is—
- (a) a manufacturer of packaging used, or intended to be used, to transport dangerous goods by rail; or
  - (b) a consignor of packaged dangerous goods for transport by rail.
- (2) The chief executive may, by signed notice, require the person to produce written evidence that a packaging design type manufactured or used by the person has passed performance tests required under the ADG Code, chapter 3.
- (3) The person must produce the evidence to the chief executive within 14 days after the day the notice is given to the person.

Maximum penalty—20 penalty units.

- (4) A test certificate under section 60 is evidence for this section.

## **Part 4                      Dangerous goods in bulk**

### **Division 1                      Restrictions on transport of dangerous goods in bulk**

#### **63            Consignor's duties**

- (1) A person must not consign dangerous goods in bulk for transport by rail if—
  - (a) the ADG Code, chapter 4 states that the goods must not be transported by rail in bulk; or
  - (b) the goods are determined under section 17(1)(h)<sup>9</sup> to be too dangerous to be transported in bulk by rail.

Maximum penalty—40 penalty units.

- (2) A person who consigns dangerous goods in bulk for transport by rail must comply with the ADG Code, chapter 4.

Maximum penalty—40 penalty units.

#### **64            Rail operator's duties**

- (1) A rail operator must not transport dangerous goods in bulk by rail if the rail operator knows, or reasonably ought to know, that—
  - (a) chapter 4 of the ADG Code states that the goods must not be transported in bulk; or
  - (b) the goods are determined under section 17(1)(h) to be too dangerous to be transported in bulk by rail.

Maximum penalty—40 penalty units.

- (2) A rail operator who transports dangerous goods in bulk by rail must comply with the ADG Code, chapter 4.

Maximum penalty—40 penalty units.

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9 Section 17 (Determinations—dangerous goods)

## **Division 2                    Bulk containers**

### **65            Consignor's duties**

- (1) A person must not consign dangerous goods in bulk for transport by rail in a bulk container provided by the person if—
- (a) the container is incompatible with the dangerous goods;  
or
  - (b) the container is damaged or defective to the extent that it is not safe to use to transport the goods by rail.

Maximum penalty—40 penalty units.

- (2) A person must not consign dangerous goods in bulk for transport by rail in a bulk container provided by someone else if the person knows, or reasonably ought to know, that—
- (a) the container is incompatible with the dangerous goods;  
or
  - (b) the container is damaged or defective to the extent that it is not safe to use to transport the goods by rail.

Maximum penalty—40 penalty units.

- (3) A person must not consign dangerous goods in bulk for transport by rail in a bulk container if the person knows, or reasonably ought to know, that the attachment system for attaching the container to the rail wagon does not comply with, or is not used as stated in, the ADG Code, chapters 4 and 5.

Maximum penalty—40 penalty units.

### **66            Rail operator's duties**

- (1) A rail operator must not transport dangerous goods in bulk by rail in a bulk container provided by the rail operator if—
- (a) the container is incompatible with the dangerous goods;  
or
  - (b) the container is damaged or defective to the extent that it is not safe to use to transport the goods by rail.

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Maximum penalty—40 penalty units.

- (2) A rail operator must not transport dangerous goods in bulk by rail in a bulk container provided by someone else if the rail operator knows, or reasonably ought to know, that—
- (a) the container is incompatible with the dangerous goods; or
  - (b) the container is damaged or defective to the extent that it is not safe to use to transport the goods by rail.

Maximum penalty—40 penalty units.

- (3) A rail operator must not transport dangerous goods by rail in a bulk container if the attachment system for attaching the container to the rail wagon does not comply with, or is not used as stated in the ADG Code, chapters 4 and 5.

Maximum penalty—40 penalty units.

**67 Driver's duty and loader's duty**

- (1) A person must not drive a train transporting dangerous goods in bulk by rail in a bulk or freight container if the person knows, or reasonably ought to know, that the container is damaged or defective to the extent that it is not safe to use it to transport the goods by rail.

Maximum penalty—40 penalty units.

- (2) A person must not load dangerous goods onto a rail wagon in a bulk or freight container—
- (a) if the person knows, or reasonably ought to know, that the container is damaged or defective to the extent that it is not safe to use it to transport the goods by rail; or
  - (b) if the attachment system for attaching the container to the rail wagon does not comply with, or is not used as stated in, the ADG Code, chapters 4 and 5.

Maximum penalty—40 penalty units.

## **Division 3                      Tanks**

### **68            Manufacturer's duties**

- (1) A person must not manufacture a tank designed to transport dangerous goods in bulk by rail other than as specified in a design approved under section 84.<sup>10</sup>

Maximum penalty—40 penalty units.

- (2) A person who manufactures a tank designed to transport dangerous goods in bulk by rail must attach a compliance plate to the tank as stated in the ADG Code, chapter 4.

Maximum penalty—40 penalty units.

### **69            Compliance plate**

A person must not attach a compliance plate, or something that purports to be a compliance plate, to a tank unless the tank is an approved tank.

Maximum penalty—40 penalty units.

### **70            Owner's duties for certain wagons**

The owner of a rail wagon of which a tank forms part, must not use the wagon, or permit the wagon to be used, to transport dangerous goods in bulk in liquid or gas form by rail, unless the tank—

- (a) is an approved tank; and
- (b) has been maintained, tested and inspected as stated in the ADG Code, chapter 4; and
- (c) is used as stated in the approval conditions, if any, stated on the tank's compliance plate.

Maximum penalty—40 penalty units.

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10 Section 84 (Tank design approval)

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## 71 Consignor's duties

- (1) A person must not consign dangerous goods in bulk for transport by rail in a tank provided by the person unless the tank—
  - (a) is an approved tank; and
  - (b) has been maintained, tested and inspected as stated in the ADG Code, chapter 4; and
  - (c) is used as stated in the approval conditions, if any, stated on the tank's compliance plate.

Maximum penalty—40 penalty units.

- (2) A person must not consign dangerous goods in bulk for transport by rail in a tank provided by someone else if the person knows, or reasonably ought to know, that the tank—
  - (a) is not an approved tank; or
  - (b) has not been maintained, tested and inspected as stated in the ADG Code, chapter 4; or
  - (c) is used other than as stated in the approval conditions, if any, stated on the tank's compliance plate.

Maximum penalty—40 penalty units.

## 72 Loader's duty

A person must not load dangerous goods in bulk for transport by rail in a tank if the person knows, or reasonably ought to know, that the tank—

- (a) is not an approved tank; or
- (b) is used other than as stated in the ADG Code, chapter 4.

Maximum penalty—20 penalty units.

## 73 Rail operator's duties

- (1) A rail operator must not transport dangerous goods in bulk by rail in a tank provided by the rail operator unless the tank—
  - (a) is an approved tank; and



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- (b) has been maintained, tested and inspected as stated in the ADG Code, chapter 4; and
- (c) is used as stated in the approval conditions, if any, stated on the tank's compliance plate.

Maximum penalty—40 penalty units.

- (2) A rail operator must not transport dangerous goods in bulk by rail in a tank provided by someone else if the rail operator knows, or reasonably ought to know, that the tank—
  - (a) is not an approved tank; or
  - (b) has not been maintained, tested and inspected as stated in the ADG Code, chapter 4; or
  - (c) is used other than as stated in the approval conditions, if any, stated on the tank's compliance plate.

Maximum penalty—40 penalty units.

- (3) A rail operator must not transport dangerous goods in bulk by rail in a tank forming part of a rail wagon if—
  - (a) the tank is incompatible with the dangerous goods; or
  - (b) the tank is damaged or defective to the extent that it is not safe to use to transport the goods by rail.

Maximum penalty—40 penalty units.

## **Division 4                      Foreign approved tanks**

### **74                      Consignor's duties**

- (1) A person must not consign dangerous goods in bulk for transport by rail in a foreign approved tank provided by the person if the transport of the goods by rail in the tank is prohibited by a determination under section 86(1).<sup>11</sup>

Maximum penalty—40 penalty units.

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<sup>11</sup> Section 86 (Determinations about foreign approved tanks and IBCs)

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- (2) A person must not consign dangerous goods in bulk for transport by rail in a foreign approved tank provided by someone else if the person knows, or reasonably ought to know, that the transport of the goods by rail in the tank is prohibited by a determination under section 86(1).

Maximum penalty—40 penalty units.

## **75 Rail operator's duties**

- (1) A rail operator must not transport dangerous goods in bulk by rail in a foreign approved tank provided by the rail operator if the transport of the goods by rail in the tank is prohibited by a determination under section 86(1).

Maximum penalty—40 penalty units.

- (2) A rail operator must not transport dangerous goods in bulk by rail in a foreign approved tank provided by someone else if the rail operator knows, or reasonably ought to know, that the transport of the goods by rail in the tank is prohibited by a determination under section 86(1).

Maximum penalty—40 penalty units.

## **Division 5 IBCs**

### **76 Manufacturer's duties**

- (1) A person must not manufacture an IBC other than as stated in a design approved under section 85.<sup>12</sup>

Maximum penalty—40 penalty units.

- (2) A person who manufactures an IBC must mark the IBC with an IBC marking as stated in the IBC supplement.

Maximum penalty—40 penalty units.

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<sup>12</sup> Section 85 (IBC design approval)

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## **77 IBC marking**

A person must not mark an IBC with an IBC marking as stated in the IBC supplement, or something purporting to be an IBC marking as stated in the supplement, unless the IBC is an approved IBC.

Maximum penalty—40 penalty units.

## **78 Consignor's duties**

- (1) A person must not consign dangerous goods in bulk for transport by rail in an IBC provided by the person unless the IBC—
  - (a) is an approved IBC; and
  - (b) is used as stated in the ADG Code, chapter 4 and the IBC supplement.

Maximum penalty—40 penalty units.

- (2) A person must not consign dangerous goods in bulk for transport by rail in an IBC provided by someone else if the person knows, or reasonably ought to know, that the IBC—
  - (a) is not an approved IBC; or
  - (b) is used other than as stated in the ADG Code, chapter 4 and the IBC supplement.

Maximum penalty—40 penalty units.

## **79 Loader's duties**

A person must not load dangerous goods in bulk for transport by rail in an IBC if the person knows, or reasonably ought to know, that the IBC—

- (a) is not an approved IBC; or
- (b) is used other than as stated in the ADG Code, chapter 4 and the IBC supplement.

Maximum penalty—20 penalty units.

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## **80 Rail operator's duties**

- (1) A rail operator must not transport dangerous goods in bulk by rail in an IBC provided by the rail operator unless the IBC—
  - (a) is an approved IBC; and
  - (b) is used as stated in the ADG Code, chapter 4 and the IBC supplement.

Maximum penalty—40 penalty units.

- (2) A rail operator must not transport dangerous goods in bulk by rail in an IBC provided by someone else if the rail operator knows, or reasonably ought to know, that the IBC—
  - (a) is not an approved IBC; or
  - (b) is used other than as stated in the ADG Code, chapter 4 and the IBC supplement.

Maximum penalty—40 penalty units.

## **Division 6 Foreign approved IBCs**

### **81 Consignor's duties**

- (1) A person must not consign dangerous goods in bulk for transport by rail in a foreign approved IBC provided by the person if the transport of the goods by rail in the IBC is prohibited by a determination under section 86(1).<sup>13</sup>

Maximum penalty—40 penalty units.

- (2) A person must not consign dangerous goods in bulk for transport by rail in a foreign approved IBC provided by someone else if the person knows, or reasonably ought to know, that the transport of the goods by rail in the IBC is prohibited by a determination under section 86(1).

Maximum penalty—40 penalty units.

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13 Section 86 (Determinations about foreign approved tanks and IBCs)

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## **82 Rail operator's duties**

- (1) A rail operator must not transport dangerous goods in bulk by rail in a foreign approved IBC provided by the rail operator if the transport of the goods by rail in the IBC is prohibited by a determination under section 86(1).

Maximum penalty—40 penalty units.

- (2) A rail operator must not transport dangerous goods in bulk by rail in a foreign approved IBC provided by someone else if the rail operator knows, or reasonably ought to know, that the transport of the goods by rail in the IBC is prohibited by a determination under section 86(1).

Maximum penalty—40 penalty units.

## **Division 7 Approval of tank and IBC designs**

### **83 Application for approval**

An application for approval of a design for a tank or IBC for use in the transport of dangerous goods in bulk by rail must—

- (a) for a tank—include the information required under the ADG Code, chapter 4; and
- (b) for an IBC—include the information required under the IBC supplement; and
- (c) be accompanied by the prescribed fee.

### **84 Tank design approval**

- (1) The chief executive may, on application made under section 178<sup>14</sup> approve a design of a tank for use in the transport of dangerous goods in bulk of a particular type by rail if—
- (a) the design complies with the ADG Code, chapter 4; or
  - (b) the design does not comply with the chapter but the chief executive decides the risk involved in using the

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14 Section 178 (Applications)

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tank is not greater than the risk involved in using a tank complying with the chapter.

- (2) The approval of the design may be on a condition about the construction, use or maintenance of a tank manufactured as stated in the design necessary for the safe use of the tank.

## **85 IBC design approval**

- (1) The chief executive may, on application made under section 178,<sup>15</sup> approve a design of an IBC for use in the transport of dangerous goods in bulk of a particular type by rail if the chief executive decides the design complies with the IBC supplement.
- (2) The approval of the design may be on a condition about the construction, use or maintenance of an IBC manufactured as stated in the design necessary for the safe use of the IBC.

## **Division 8 Determinations**

### **86 Determinations about foreign approved tanks and IBCs**

- (1) The chief executive may determine the dangerous goods in bulk that must not be transported by rail in a foreign approved tank or foreign approved IBC.
- (2) A determination under subsection (1), other than an administrative determination, must be made by written notice.<sup>16</sup>

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<sup>15</sup> Section 178 (Applications)

<sup>16</sup> The notice is declared to be subordinate legislation under the *Statutory Instruments Regulation 2002*, section 3(3) and schedule 1.

## **Part 5**                      **Freight containers**

### **87**      **Consignor's duties**

- (1) A person must not consign dangerous goods for transport by rail in a freight container provided by the person unless the container complies with the ADG Code, chapter 5.

Maximum penalty—20 penalty units.

- (2) A person must not consign dangerous goods for transport by rail in a freight container that is provided by someone else if the person knows, or reasonably ought to know, the container does not comply with the ADG Code, chapter 5.

Maximum penalty—20 penalty units.

- (3) A person must not consign dangerous goods for transport by rail in a freight container if the person knows, or reasonably ought to know, the attachment system for attaching the container to the rail wagon—

- (a) does not comply with the ADG Code, chapter 5; or  
(b) is used other than as stated in the chapter.

Maximum penalty—20 penalty units.

### **88**      **Loader's duty**

A person must not load dangerous goods for transport by rail in a freight container if the person knows, or reasonably ought to know, the container does not comply with the ADG Code, chapter 5.

Maximum penalty—20 penalty units.

### **89**      **Rail operator's duties**

- (1) A rail operator must not transport dangerous goods by rail in a freight container provided by the rail operator unless the container complies with the ADG Code, chapter 5.

Maximum penalty—40 penalty units.

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- (2) A rail operator must not transport dangerous goods by rail in a freight container that is provided by someone else if the rail operator knows, or reasonably ought to know, the container does not comply with the ADG Code, chapter 5.

Maximum penalty—40 penalty units.

- (3) A rail operator must not transport dangerous goods by rail in a freight container unless the attachment system for attaching the container to the rail wagon—
- (a) complies with the ADG Code, chapter 5; and
  - (b) is used as stated in the chapter.

Maximum penalty—40 penalty units.

**90 Section number not used**

## **Part 6 Unit loads**

**91 Consignor's duties**

A person must not consign packaged dangerous goods for transport by rail in a unit load unless—

- (a) the packages can safely be transported by rail in the unit load; and
- (b) if the ADG Code, chapter 6 requires the chief executive's approval for the transport by rail of the unit load—the unit load is prepared as stated in a way approved under section 95(1); and
- (c) the unit load otherwise complies with the chapter.

Maximum penalty—20 penalty units.



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**92 Loader's duties**

A person must not load packaged dangerous goods for transport by rail in a unit load if the person knows, or reasonably ought to know—

- (a) the packages cannot safely be transported by rail in the unit load; or
- (b) if the ADG Code, chapter 6 requires the chief executive's approval for the transport by rail of the unit load—the unit load is not prepared as stated in a way approved under section 95(1); or
- (c) the unit load does not otherwise comply with the chapter.

Maximum penalty—20 penalty units.

**93 Rail operator's duties**

A rail operator must not transport packaged dangerous goods by rail in a unit load if the rail operator knows, or reasonably ought to know—

- (a) the packages cannot safely be transported by rail in the unit load; or
- (b) the unit load does not comply with the ADG Code, chapter 6.

Maximum penalty—20 penalty units.

**94 Section number not used****95 Unit load approval**

- (1) The chief executive may, on application under section 178,<sup>17</sup> approve a way of preparing a unit load of dangerous goods for transport by rail that does not comply with the ADG Code, chapter 6 if the chief executive decides the risk involved in

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17 Section 178 (Applications)

using the way is not greater than the risk involved in using a way complying with the chapter.

- (2) The approval of a way of preparing a unit load of dangerous goods for transport by rail may be on a condition necessary for the safe transport of the dangerous goods using the way.

## **Part 7                      Marking and placarding**

### **Division 1                Marking packages and unit loads**

#### **96      Application of division**

This division does not apply to the transport of dangerous goods by rail if—

- (a) the goods have been imported into, or are to be exported from, Australia through a place in Queensland; and
- (b) the goods are being transported in a closed freight container; and
- (c) the goods are not leaking from the container; and
- (d) the goods are being transported directly—
  - (i) for imported goods—from the place of import; and
  - (ii) for goods for export—to the place of export; and
- (e) the container is placarded as stated in the IATA Regulations, ICAO Rules or IMDG Code.

#### **97      Meaning of *appropriately marked***

For this division, a package or unit load is *appropriately marked* if the package or unit load is marked as stated in the ADG Code, chapter 7.

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**98 Consignor's duties**

- (1) A person must not consign dangerous goods for transport by rail in a package or unit load unless the package or unit load is appropriately marked.

Maximum penalty—

- (a) for a package—10 penalty units; or
- (b) for a unit load—20 penalty units.

- (2) A person must not consign dangerous goods for transport by rail in a package or unit load if a marking on the package or unit load about its contents is false or misleading in a material particular.

Maximum penalty—

- (a) for a package—10 penalty units; or
- (b) for a unit load—20 penalty units.

- (3) A person must not consign for transport by rail something that, by its marking, appears to be a package or unit load of dangerous goods, if it is not a package or unit load of dangerous goods.

Maximum penalty—

- (a) for something appearing to be a package of dangerous goods—10 penalty units; or
- (b) for something appearing to be a unit load of dangerous goods—20 penalty units.

**99 Packer's duties**

- (1) A person must not pack dangerous goods for transport by rail in a package or unit load if the person knows, or reasonably ought to know, the packaging will not be appropriately marked when the goods are transported.

Maximum penalty—

- (a) for a package—10 penalty units; or
- (b) for a unit load—20 penalty units.

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- (2) A person who packs dangerous goods for transport by rail must not mark a package or unit load with a marking about its contents that the person knows, or reasonably ought to know, is false or misleading in a material particular.

Maximum penalty—

- (a) for a package—10 penalty units; or
- (b) for a unit load—20 penalty units.

- (3) A person who packs goods for transport by rail must not mark something in a way that causes it to appear to be a package or unit load of dangerous goods, if the person knows, or reasonably ought to know, that it is not a package or unit load of dangerous goods.

Maximum penalty—

- (a) for something appearing to be a package of dangerous goods—10 penalty units; or
- (b) for something appearing to be a unit load of dangerous goods—20 penalty units.

### **100 Rail operator's duties**

- (1) A rail operator must not transport dangerous goods by rail in a package or unit load if the rail operator knows, or reasonably ought to know, that—

- (a) the goods are dangerous goods; and
- (b) the package or unit load is not appropriately marked.

Maximum penalty—

- (a) for a package—10 penalty units; or
- (b) for a unit load—20 penalty units.

- (2) A rail operator must not transport dangerous goods by rail in a package or unit load if the rail operator knows, or reasonably ought to know, a marking on the package or unit load about its contents is false or misleading in a material particular.

Maximum penalty—

- (a) for a package—10 penalty units; or

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- (b) for a unit load—20 penalty units.
- (3) A rail operator must not transport by rail something that, by its marking, appears to be a package or unit load of dangerous goods, if the rail operator knows, or reasonably ought to know, that it is not a package or unit load of dangerous goods.  
Maximum penalty—
  - (a) for something appearing to be a package of dangerous goods—10 penalty units; or
  - (b) for something appearing to be a unit load of dangerous goods—20 penalty units.

## Division 2                      Placarding

### 101      **Meaning of *placards*, *placarding* and *appropriately placarded***

- (1) For this division—
  - (a) a person *placards* a load of goods if the person placards a bulk or freight container in which, or a rail wagon in or on which, the goods are being, or are to be, transported by rail; and
  - (b) the *placarding* of a load of goods includes the placarding of a bulk or freight container in which, and the rail wagon in or on which, the goods are being, or are to be, transported by rail.
- (2) For this division, a placard load of dangerous goods is *appropriately placarded* if the bulk or freight container in which, and the rail wagon in or on which, the goods are being, or are to be, transported by rail are placarded as stated in the ADG Code, chapter 7.

### 102      **Consignor's duties**

- (1) A person must not consign a placard load of dangerous goods for transport by rail unless the load is appropriately placarded.  
Maximum penalty—40 penalty units.

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- (2) A person must not consign a placard load of dangerous goods for transport by rail if the placarding of the load is false or misleading in a material particular.

Maximum penalty—40 penalty units.

- (3) A person must not consign goods for transport by rail in a load that does not contain dangerous goods but is placarded as if it were a placard load.

Maximum penalty—40 penalty units.

### **103 Loader's duties**

- (1) A person who loads dangerous goods for transport by rail must appropriately placard the load if the person knows, or reasonably ought to know, the goods are a placard load.

Maximum penalty—40 penalty units.

- (2) A person who loads a placard load of dangerous goods for transport by rail must not placard the load with placarding that the person knows, or reasonably ought to know, is false or misleading in a material particular.

Maximum penalty—40 penalty units.

- (3) A person who loads goods for transport by rail must not placard the load if the person knows, or reasonably ought to know, the load does not contain dangerous goods.

Maximum penalty—40 penalty units.

### **104 Rail operator's duties**

- (1) A rail operator must not transport a placard load of dangerous goods by rail if the rail operator knows, or reasonably ought to know the load is not appropriately placarded.

Maximum penalty—40 penalty units.

- (2) A rail operator must not transport a load of dangerous goods by rail if the rail operator knows, or reasonably ought to know, the placarding of the load is false or misleading in a material particular.

Maximum penalty—40 penalty units.

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- (3) A rail operator must not transport goods by rail in a load if the rail operator knows, or reasonably ought to know, the load does not contain dangerous goods but is placarded as if it were a placard load.

Maximum penalty—40 penalty units.

**105 Section number not used**

## **Part 8 Rail wagons**

### **106 Owner's duty**

If the owner of a rail wagon knows, or reasonably ought to know, that the wagon will be used for the transport of dangerous goods by rail, the owner of the wagon—

- (a) must not allow the wagon to be used unless the wagon and its equipment comply with the ADG Code, chapter 8; and
- (b) must ensure the wagon is marked with a unique identifying number or alphanumeric identifier.

Maximum penalty—40 penalty units.

### **107 Consignor's duty**

A person must not consign dangerous goods for transport by rail on a rail wagon if the person knows, or reasonably ought to know, the wagon or its equipment does not comply with the ADG Code, chapter 8.

Maximum penalty—40 penalty units.

### **108 Rail operator's duty**

- (1) A rail operator must not use a rail wagon to transport dangerous goods by rail unless the wagon and its equipment comply with the ADG Code, chapter 8.

Maximum penalty—40 penalty units.

- (2) If a rail operator knows, or reasonably ought to know, that a rail wagon will be used by the rail operator for the transport of dangerous goods by rail, the rail operator must ensure the wagon is marked with a unique identifying number or alphanumeric identifier.

Maximum penalty—40 penalty units.

### **109 Loader's duty**

A person must not load dangerous goods for transport by rail on a rail wagon if the person knows, or reasonably ought to know, the wagon or its equipment does not comply with the ADG Code, chapter 8.

Maximum penalty—40 penalty units.

## **Part 9 Segregation and stowage**

### **Division 1 Application of part**

#### **110 Application**

- (1) Divisions 2 and 4 apply to dangerous goods if the goods are being, or are to be, transported by rail in a placard load.
- (2) Divisions 2 and 4 also apply to dangerous goods of class 2.3, 6 or 8 if the goods are being, or are to be, transported by rail in a load with food or food packaging.

### **Division 2 Segregation of incompatible goods**

#### **111 Loads on rail wagons**

- (1) If dangerous goods, and other goods that are incompatible with the dangerous goods, are transported in separate closed



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freight containers, bulk containers or tanks on a rail wagon, or on separate load platforms or in separate wells of an articulated rail wagon, the dangerous goods and the other goods are taken to be segregated, as stated in the ADG Code, chapter 9.

- (2) However, the dangerous goods and other goods are taken not to be segregated as stated in the ADG Code, chapter 9 if, under the chapter or a determination under section 17(1)(i),<sup>18</sup> the dangerous goods are too dangerous to be transported on the same rail wagon as other goods.

### **112 Consignor's duties**

A person must not consign dangerous goods for transport by rail on a rail wagon or in a freight container if the person knows, or reasonably ought to know—

- (a) the wagon or container will also be transporting goods that are incompatible with the dangerous goods; and
- (b) the dangerous goods will not be segregated from the other goods as stated in—
  - (i) the ADG Code, chapter 9; or
  - (ii) an approval under section 116.

Maximum penalty—40 penalty units.

### **113 Loader's duties**

A person must not load dangerous goods for transport by rail on a rail wagon or in a freight container if the person knows, or reasonably ought to know—

- (a) the wagon or container will also be transporting goods that are incompatible with the dangerous goods; and
- (b) the dangerous goods will not be segregated from the other goods as stated in—
  - (i) the ADG Code, chapter 9; or

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<sup>18</sup> Section 17 (Determinations—dangerous goods)

- (ii) an approval under section 116.

Maximum penalty—40 penalty units.

#### **114 Rail operator's duties**

A rail operator must not use a rail wagon to transport dangerous goods if the rail operator knows or reasonably ought to know—

- (a) the wagon is also transporting goods that are incompatible with the dangerous goods; and
- (b) the dangerous goods are not segregated from the other goods as stated in—
  - (i) the ADG Code, chapter 9; or
  - (ii) an approval under section 116.

Maximum penalty—40 penalty units.

#### **115 Section number not used**

#### **116 Segregation approval**

- (1) The chief executive may, on application under section 178,<sup>19</sup> approve a segregation device, or a way of segregation, not complying with the ADG Code, chapter 9 for transporting by rail dangerous goods and goods that are incompatible with the dangerous goods, if the chief executive decides—
  - (a) it is impracticable to segregate the goods by a segregation device, or way of segregation, complying with the chapter; and
  - (b) the risk involved in using the device or way to transport the goods by rail is not greater than the risk involved in using a device or way complying with the chapter to transport the goods by rail.

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<sup>19</sup> Section 178 (Applications)

- (2) The approval of a device or way may be on a condition necessary for the safe transport of dangerous goods using the device or way.

## **Division 3                      Stowage and load restraint**

### **117      Consignor's duty**

A person must not consign dangerous goods for transport by rail on a rail wagon if the person knows, or reasonably ought to know, the goods are not stowed and secured as stated in the ADG Code, chapter 9.

Maximum penalty—20 penalty units.

### **118      Loader's duty**

A person must not load dangerous goods on a rail wagon for transport by rail if the person knows, or reasonably ought to know, the goods are not stowed and secured as stated in the ADG Code, chapter 9.

Maximum penalty—20 penalty units.

### **119      Rail operator's duty**

A rail operator must not transport dangerous goods by rail on a rail wagon if the rail operator knows, or reasonably ought to know, the goods are not stowed and secured as stated in the ADG Code, chapter 9.

Maximum penalty—20 penalty units.

### **120      Section number not used**

## **Division 4                    Separation and marshalling**

### **121    Rail operator's duties**

- (1) A rail operator must not transport dangerous goods on a train with other goods that are incompatible with the dangerous goods if the rail operator knows, or reasonably ought to know—
- (a) the other goods are incompatible with the dangerous goods; and
  - (b) the dangerous goods have not been separated from the other goods by the minimum distances specified in—
    - (i) the ADG Code, chapter 9; or
    - (ii) an approval under section 123.

Maximum penalty—40 penalty units.

- (2) A rail operator must not transport dangerous goods on a train if the rail operator knows, or reasonably ought to know, the rail wagons comprising the train have not been marshalled as stated in—
- (a) the ADG Code, chapter 9; or
  - (b) an approval under section 123.

Maximum penalty—40 penalty units.

### **122    Loader's duties**

- (1) A person must not load dangerous goods on a train with other goods if the person knows, or reasonably ought to know—
- (a) the other goods are incompatible with the dangerous goods; and
  - (b) the dangerous goods have not been separated from the other goods by the minimum distances specified in—
    - (i) the ADG Code, chapter 9; or
    - (ii) an approval under section 123.

Maximum penalty—20 penalty units.

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- (2) A person must not load dangerous goods on a train if the person knows, or reasonably ought to know, the rail wagons comprising the train have not been marshalled as stated in—
- (a) the ADG Code, chapter 9; or
  - (b) an approval under section 123.
- Maximum penalty—20 penalty units.

### **123 Separation and marshalling approval**

- (1) The chief executive may, on application under section 178,<sup>20</sup> approve a way of achieving separation of goods, or a way of marshalling of rail wagons, not complying with the ADG Code, chapter 9 for the transporting by rail of dangerous goods and other goods that are incompatible with the dangerous goods, if the chief executive decides—
- (a) use of the way would not increase risk; or
  - (b) it is impracticable to separate the goods or marshal the rail wagons by a way of separation or marshalling stated in the chapter.
- (2) The approval of the way of achieving separation, or the way of marshalling, may be on a condition necessary for the safe transport of dangerous goods.

## **Division 5 Carriage of dangerous goods on passenger trains**

### **124 Rail operator's duties**

A rail operator must not transport a quantity of dangerous goods of a particular type on a passenger train, if—

- (a) the rail operator knows, or reasonably ought to know, the quantity exceeds the quantity of dangerous goods of that type that may be transported on a passenger train as stated in the ADG Code, chapter 9; and

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<sup>20</sup> Section 178 (Applications)

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- (b) the goods are not being transported in a part of the train used solely for the carriage of baggage, parcels or freight.

Maximum penalty—40 penalty units.

## **125 Passenger's Duties**

- (1) A passenger on a train must not transport dangerous goods in a part of the train to which passengers have access, unless—
  - (a) the transport of the goods is authorised by the rail operator; or
  - (b) the goods are reasonably necessary for use by the passenger on the passenger's journey.

Maximum penalty—40 penalty units.

- (2) A passenger on a train must not transport dangerous goods of a particular type in a part of the train used solely for the carriage of baggage, parcels or freight, unless—
  - (a) the quantity is not more than the quantity of dangerous goods of that type that may be transported on a passenger train as stated in the ADG Code, chapter 9; and
  - (b) the transport of the goods is authorised by the rail operator.

Maximum penalty—40 penalty units.

## **Part 10                      Transfer of dangerous goods in    bulk**

### **Division 1                  Filling ratio and ullage**

#### **126      Transferor's duties**

- (1) This section applies to a transfer of dangerous goods if the transfer is made—
  - (a) in the transport of the goods by rail in bulk; and
  - (b) to or from a tank, or bulk container, on a rail wagon.
- (2) A person who transfers dangerous goods must ensure, as far as practicable, that—
  - (a) for dangerous goods of class 2 not in the form of a refrigerated liquid—the quantity of the goods in the tank or container to which the goods are transferred is not over the maximum permitted filling ratio under the ADG Code, chapter 10; and
  - (b) otherwise—the ullage in the tank or container complies with the chapter.

Maximum penalty—20 penalty units.

#### **127      Rail operator's duties**

A rail operator must not use a rail wagon to transport dangerous goods by rail in a tank or bulk container if the rail operator knows, or reasonably ought to know—

- (a) for dangerous goods of class 2 not in the form of a refrigerated liquid—the quantity of goods in the tank or container is over the maximum permitted filling ratio under the ADG Code, chapter 10; or
- (b) otherwise—the ullage in the tank or container does not comply with the chapter.

Maximum penalty—20 penalty units.

## **128 Section number not used**

## **Division 2 Transfer**

### **129 Application**

This division applies to a transfer of dangerous goods if the transfer is made—

- (a) in the transport of the goods by rail in bulk; and
- (b) to or from a tank, or bulk container, on a rail wagon.

### **130 Transferor's general duties**

- (1) A person who transfers dangerous goods must, as far as practicable, ensure that the goods are transferred—
  - (a) in a way that averts, eliminates or minimises risk; and
  - (b) if the ADG Code, chapter 10 applies to the transfer—
    - (i) as stated in the chapter; or
    - (ii) as stated in an approval under section 134 for the transfer.

Maximum penalty—20 penalty units.

- (2) A person must not transfer dangerous goods if the person knows, or reasonably ought to know—
  - (a) the tank or container to which the goods are transferred, or the transfer equipment used for the transfer, is incompatible with the dangerous goods; or
  - (b) the tank or container contains goods that are incompatible with the dangerous goods.

Maximum penalty—20 penalty units.

- (3) If dangerous goods leak, spill or accidentally escape during the transfer of the goods, the person transferring the goods—
  - (a) must immediately stop transferring the goods; and



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- (b) must take all practicable steps to avert, eliminate or minimise risk; and
- (c) must not start transferring the goods again until the conditions causing the leak, spill or escape have been rectified.

Maximum penalty—20 penalty units.

### **131 Transferor's duties for hose assemblies**

- (1) A person who uses a hose assembly to transfer dangerous goods must comply with the ADG Code, chapter 10.

Maximum penalty—40 penalty units.

- (2) A person must not use a hose assembly to transfer dangerous goods if the hose assembly is damaged or defective to the extent that use of the hose assembly to transfer the goods involves a greater risk than the risk involved in using a hose assembly that is not damaged or defective.

Maximum penalty—40 penalty units.

- (3) A person must not transfer dangerous goods if the person knows, or reasonably ought to know, a hose assembly used in the transfer—

- (a) has not been maintained, inspected and tested at the intervals, and in the way, required under the ADG Code, chapter 10; or
- (b) did not satisfy a test under the chapter.

Maximum penalty—20 penalty units.

### **132 Occupier's or owner's duties**

- (1) The occupier of premises where dangerous goods are transferred must, as far as practicable, ensure that the goods are transferred—

- (a) in a way that averts, eliminates or minimises risk; and
- (b) if the ADG Code, chapter 10 applies to the transfer—
  - (i) as stated in the chapter; or

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- (ii) as stated in an approval under section 134 for the transfer.

Maximum penalty—40 penalty units.

- (2) The occupier of premises where dangerous goods are transferred must ensure that a hose assembly on the premises that is used, or intended to be used, for the transfer, other than a hose assembly brought onto the premises on the rail wagon involved in the transfer—
- (a) is maintained, inspected and tested at the intervals, and in the way, required under the ADG Code, chapter 10; and
- (b) satisfies each test under the chapter.

Maximum penalty—20 penalty units.

- (3) The occupier must keep accurate records of all maintenance work, and each inspection and test, carried out on the hose assembly.

Maximum penalty—10 penalty units.

- (4) The owner of a tank or a bulk container must not use the tank or container to transport dangerous goods by rail, unless each hose assembly on the tank or container that is used for the transfer of dangerous goods—
- (a) is maintained, inspected and tested at the intervals, and in the way, required under the ADG Code, chapter 10; and
- (b) satisfies each test under the chapter.

Maximum penalty—20 penalty units.

- (5) The owner must keep accurate records of all maintenance work, and each inspection and test, carried out on the hose assembly.

Maximum penalty—10 penalty units.

### **133 Rail operator's duties**

A rail operator must not use a rail wagon to transport dangerous goods by rail if the rail operator knows, or

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reasonably ought to know, that a hose assembly on the wagon that is used, or intended to be used, for the transfer of dangerous goods—

- (a) has not been maintained, inspected and tested at the intervals, and in the way, required under the ADG Code, chapter 10; or
- (b) did not satisfy a test under the chapter.

Maximum penalty—20 penalty units.

### **134 Transfer of dangerous goods approval**

- (1) The chief executive may, on application under section 178,<sup>21</sup> approve the transfer of dangerous goods other than as stated in the ADG Code, chapter 10, if the chief executive decides that the risk involved in the transfer of the goods is not greater than the risk involved in the transfer of the goods as stated in the chapter.
- (2) The approval of a transfer of dangerous goods may be on a condition necessary for the safe transfer of the goods.

## **Part 11 Documents**

### **Division 1 Shipping documentation**

#### **135 False or misleading information**

- (1) A person must not include in shipping documentation for the transport of dangerous goods by rail information the person knows is false or misleading in a material particular.

*Example of false information in shipping documentation—*

A person named as consignor of the dangerous goods if the person is not the consignor of the goods

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21 Section 178 (Applications)

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Maximum penalty—40 penalty units.

- (2) It is enough for a complaint against a person for an offence against subsection (1) to state that the information was false or misleading to the person's knowledge.

**136 Consignor's duties**

- (1) A person must not consign dangerous goods for transport by rail by a rail operator unless the rail operator has shipping documentation for the goods complying with the ADG Code, chapter 11.

Maximum penalty—15 penalty units.

- (2) For subsection (1), the rail operator is taken to have the shipping documentation if the contents of the shipping documentation have been communicated to the rail operator using electronic data processing or electronic data interchange.

**137 Rail operator's duty**

- (1) A rail operator must not use a rail wagon to transport dangerous goods by rail unless the driver of the train that the rail wagon forms part of has been given shipping documentation for the goods complying with the ADG Code, chapter 11.

Maximum penalty—20 penalty units.

- (2) For subsection (1), the driver is taken to have been given the shipping documentation if the contents of the shipping documentation have been communicated to the driver using electronic data processing or electronic data interchange.

**138 Driver's duties**

- (1) This section does not apply to a person driving a train transporting dangerous goods if the driver is engaged in shunting operations and the shipping documentation for the dangerous goods is readily available in the immediate vicinity of the operations.

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- (2) A person must not drive a train, from a depot or yard, that the person knows, or reasonably ought to know, is transporting dangerous goods, unless shipping documentation for the goods, complying with the ADG Code, chapter 11, is in a holder in the driver's cab that is marked to show that the holder contains the documentation.

Maximum penalty—15 penalty units.

- (3) An officer of an emergency service or an authorised person may require the driver of a train transporting dangerous goods to produce the shipping documentation for the goods for inspection by the officer or authorised person.
- (4) The driver must comply with the requirement, unless the driver has a reasonable excuse.

Maximum penalty for subsection (4)—15 penalty units.

## **Division 2                      Emergency information**

### **139      Meaning of *emergency information***

In this division—

*emergency information*, for goods, means—

- (a) emergency information for the goods complying with the ADG Code, chapter 11; or
- (b) emergency information for the goods approved under section 143.

### **140      Section number not used**

### **141      Rail operator's duties**

- (1) A rail operator must not use a train to transport a placard load of dangerous goods unless emergency information for the goods is in the driver's cab.

Maximum penalty—20 penalty units.

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- (2) This section does not apply if a train transporting a placard load of dangerous goods is involved in shunting operations and emergency information for the goods is readily available elsewhere in the immediate vicinity of the operations.

## **142 Driver's duties**

- (1) A person must not drive a train transporting a placard load of dangerous goods unless emergency information for the goods is in the driver's cab.

Maximum penalty—15 penalty units.

- (2) Subsection (1) does not apply to a person driving a train transporting a placard load of dangerous goods if the driver is engaged in shunting operations and the emergency information for the dangerous goods is readily available in the immediate vicinity of the operations.
- (3) An officer of an emergency service or an authorised person may require the driver of a train transporting dangerous goods to produce emergency information for particular goods for inspection by the officer or authorised person.
- (4) The driver must comply with the requirement, unless the driver has a reasonable excuse.

Maximum penalty for subsection (4)—15 penalty units.

## **143 Emergency information approval**

The chief executive may, on application under section 178<sup>22</sup> or on the chief executive's own initiative, approve emergency information for dangerous goods that does not comply with the ADG Code, chapter 11 if the chief executive decides that use of the information would be as accurate, and at least as convenient and efficient, as information complying with the chapter.

## **Division 3                      Prior notice for specific dangerous goods**

### **144      Consignor's duties**

A person must not consign dangerous goods of class 1, 6.2 or 7 for transport by rail unless the person has—

- (a) given the rail operator notice of the consignment before consigning the dangerous goods; and
- (b) been advised by the rail operator that the goods can be transported.

Maximum penalty—40 penalty units.

### **145      Rail operator's duty**

A rail operator must, if required by the owner of the track on which dangerous goods of class 1, 6.2 or 7 are to be transported, give notice to the owner about the transport of the goods on the track before the goods are transported on the track.

Maximum penalty—40 penalty units.

## **Part 12                      Part number not used**

## **Part 13                      Procedures during transport**

### **Division 1                      Immobilised trains**

#### **146      Driver's duty**

If a train transporting a placard load of dangerous goods fails or is otherwise immobilised, the driver of the train must alert the train controller for the train.

Maximum penalty—10 penalty units.

#### **147      Rail operator's duties**

If a train transporting a placard load of dangerous goods fails or is otherwise immobilised, the rail operator must, as soon as practicable—

- (a) inform the owner of the section of track on which the train has failed or is otherwise immobilised; and
- (b) take all other appropriate steps to ensure that a dangerous situation does not arise.

Maximum penalty—20 penalty units.

### **Division 2                      General precautions during transport**

#### **148–149 Section numbers not used**

#### **150      Control of ignition sources**

- (1) This section applies to a person in charge of loading or unloading a rail wagon transporting dangerous goods in bulk—

- (a) of class 2.1, 3, 4 or 5; or
- (b) with a subsidiary risk of 2.1, 3, 4 or 5.



- (2) The person must take all practicable steps to ensure that a source of ignition, other than materials handling equipment, is not closer than 15m to the place where the goods are being loaded or unloaded.

Maximum penalty—40 penalty units.

### **Division 3                      Routes, areas, rail wagons, trains and times**

#### **151      Determination about routes, areas, rail wagons, trains or times**

- (1) The chief executive may determine that—
- (a) particular dangerous goods may only, or must not, be transported by rail on a particular route, or in or through a particular area; or
  - (b) only a particular rail wagon or train, or kind of rail wagon or train, may transport particular dangerous goods by rail; or
  - (c) a particular rail wagon or train, or kind of rail wagon or train, must not transport particular dangerous goods by rail; or
  - (d) particular dangerous goods may only be transported by rail at a particular time.
- (2) A determination under subsection (1), other than an administrative determination, must be made by written notice.<sup>23</sup>

#### **152      Rail operator's duty**

A rail operator must not transport dangerous goods by rail contrary to a determination under section 151.

Maximum penalty—20 penalty units.

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<sup>23</sup> The notice is declared to be subordinate legislation under the *Statutory Instruments Regulation 2002*, section 3(3) and schedule 1.

**153 Section number not used**

**Division 4 Unloading at unattended places**

**154 Rail operator's duty**

- (1) A rail operator must not allow dangerous goods being transported by rail to be delivered at a location that is not attended by railway personnel, other than the crew of the train transporting the goods, unless—
- (a) the consignee of the goods or a person acting for the consignee, is at the location to receive the goods; or
  - (b) the consignee of the goods has agreed, in writing, with the rail operator for the rail operator to deliver the goods at a secure location and the goods are unloaded at the location.

Maximum penalty—20 penalty units.

- (2) In this section—

***secure location***, for the delivery of goods, means a location to which it may reasonably be expected that unauthorised persons will not gain access including by having regard to—

- (a) the nature of the location; and
- (b) the nature of the goods; and
- (c) the type of any container or rail wagon in which the goods are stored.

## **Part 14                      Emergencies**

### **Division 1                      Emergencies generally**

#### **155      Rail operator's duties for dangerous situation**

- (1) This section applies if a train transporting dangerous goods is involved in an incident resulting in a dangerous situation.
- (2) The rail operator must—
  - (a) notify the following of the incident as soon as practicable—
    - (i) a police officer or a fire officer within the meaning of the *Fire and Rescue Service Act 1990*; and
    - (ii) the owner of the track on which the incident happened; and
  - (b) give the reasonable help required by an authorised person, or an officer of an emergency service, to deal with the situation.

Maximum penalty—20 penalty units.

- (3) As soon as practicable after the incident, the rail operator must tell the chief executive the following particulars about the incident—
  - (a) where the incident happened;
  - (b) the time and date of the incident;
  - (c) the nature of the incident;
  - (d) the dangerous goods being transported when the incident happened.

Maximum penalty—20 penalty units.

- (4) Within 21 days after the day of the incident, the rail operator must give the chief executive a written report about the incident containing the following particulars—
  - (a) where the incident happened;
  - (b) the time and date of the incident;

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- (c) the nature of the incident;
- (d) the dangerous goods being transported when the incident happened;
- (e) the measures taken to control any leak, spill or accidental escape of dangerous goods, and any fire or explosion, arising from the incident;
- (f) the measures taken after the incident for the dangerous goods involved in the incident.

Maximum penalty for subsection (4)—15 penalty units.

**156 Rail operator's duties for contaminated food and food packaging**

- (1) This section applies if an incident involving food or food packaging, and a train transporting dangerous goods, results in the possible contamination of the food or food packaging because of—
  - (a) a fire or explosion; or
  - (b) a leak, spill or accidental escape of the dangerous goods.
- (2) The rail operator must—
  - (a) as soon as practicable after the incident, give the chief executive a notice complying with subsection (3); and
  - (b) deal with the food or food packaging as directed by the chief executive.

Maximum penalty—40 penalty units.

- (3) The notice must—
  - (a) be in writing; and
  - (b) state the name of the person to whom it is given; and
  - (c) identify the incident; and
  - (d) identify the food or food packaging involved in the incident.

## **Division 2                      Emergencies involving placard loads**

### **157      Telephone advisory service for bulk transport**

- (1) A rail operator must not transport dangerous goods in bulk by rail unless a telephone advisory service for the transport of the dangerous goods is available throughout the journey.

Maximum penalty—40 penalty units.

- (2) A person must not consign dangerous goods in bulk for transport by rail unless a telephone advisory service for the transport of the dangerous goods is available throughout the journey.

Maximum penalty—40 penalty units.

- (3) A telephone advisory service for the transport of the dangerous goods may be provided by the rail operator or consignor, or someone else for the rail operator or consignor.

- (4) In this section—

*journey* means the transport of dangerous goods from where the goods are consigned to where the goods are delivered to the consignee.

*telephone advisory service*, for the transport of dangerous goods, means a service providing access by telephone to persons competent to give advice about—

- (a) the construction and properties of the containers in which the dangerous goods are being transported; and
- (b) the use of equipment on rail wagons on which the dangerous goods are being transported; and
- (c) the properties of the dangerous goods; and
- (d) ways of safely handling the dangerous goods; and
- (e) ways of safely containing and controlling the dangerous goods in a dangerous situation.

## 158 Emergency plan

- (1) A rail operator must not transport a placard load of dangerous goods by rail unless the rail operator has an emergency plan for the transport of the goods.

Maximum penalty—40 penalty units.

- (2) A person must not consign a placard load of dangerous goods for transport by rail unless the person has an emergency plan for the transport of the goods.

Maximum penalty—40 penalty units.

- (3) In this section—

*emergency plan*, for the transport of a placard load of dangerous goods by rail, means a written plan—

- (a) for dealing with a dangerous situation arising from the transport of the goods; and
- (b) prepared having regard to any guidelines approved by the chief executive.

## 159 Consignor's duty to give information and provide resources

- (1) This section applies if—

- (a) a train transporting a placard load of dangerous goods is involved in an incident resulting in a dangerous situation; and
- (b) an officer of an emergency service reasonably believes the consignor of the goods may be able to provide information or resources to help deal with the dangerous situation.

- (2) The officer of an emergency service may require the consignor to—

- (a) give the officer the information that the officer requires about—
- (i) the properties of the dangerous goods being transported; or
- (ii) safe ways of handling the goods; or

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- (iii) safe ways of containing and controlling the goods in a dangerous situation; and
    - (b) provide the equipment and other resources necessary—
      - (i) to control the dangerous situation; or
      - (ii) to contain, control, recover and dispose of dangerous goods that have leaked, spilled or accidentally escaped.
  - (3) The consignor must comply with the requirement unless the consignor has a reasonable excuse.
- Maximum penalty—20 penalty units.

**160 Rail operator's duty to give information and provide resources**

- (1) This section applies if—
    - (a) a train transporting a placard load of dangerous goods is involved in an incident resulting in a dangerous situation; and
    - (b) an officer of an emergency service reasonably believes the rail operator for the goods may be able to provide information or resources to help deal with the dangerous situation.
  - (2) The officer may require the rail operator to—
    - (a) give the officer the information the officer requires about the use of the rail operator's equipment involved in the dangerous situation; and
    - (b) provide the equipment and other resources necessary—
      - (i) to control the dangerous situation; or
      - (ii) to recover a train involved in the situation or its equipment.
  - (3) The rail operator must comply with the requirement unless the rail operator has a reasonable excuse.
- Maximum penalty—20 penalty units.

## **161 Rail operator and consignor given same requirements**

If a rail operator and a consignor are asked under this division to give the same information or provide the same resources for an incident, it is enough if either the rail operator or the consignor gives the information or provides the resources.

# **Part 15 Mutual recognition**

## **Division 1 Registers of determinations, exemptions and approvals**

### **162 Division applies to each register**

This division applies to a register kept under this regulation.

### **163 Registers may be kept by computer**

- (1) The register, or part of a register, may be kept by computer.
- (2) An entry made by computer for the register is taken to be a record made in the register.

### **164 Inspection of registers**

- (1) The chief executive must ensure the register is available for inspection by corresponding competent authorities and the public.
- (2) The chief executive is taken to comply with subsection (1) by ensuring there is reasonable access to—
  - (a) a computer terminal to inspect the register; or
  - (b) copies of information in the register.



**Division 2****Division number not used****Division 3****Recommendations by chief executive and corresponding competent authorities****165 Recommendations by chief executive**

- (1) This section applies if the chief executive decides that a ground exists for a corresponding competent authority to do any of the following (the *proposed action*)—
  - (a) amend or cancel a corresponding determination, other than a corresponding administrative determination;
  - (b) amend or cancel a corresponding administrative determination;
  - (c) amend or cancel a corresponding approval or exemption.
- (2) The chief executive may recommend, in writing, that the corresponding competent authority take the proposed action.
- (3) The chief executive must give written reasons to the corresponding competent authority for the recommendation.

**166 Recommendations by corresponding competent authorities**

- (1) This section applies if a corresponding competent authority recommends in writing to the chief executive that the chief executive do any of the following—
  - (a) amend or cancel a determination that is not an administrative determination; or
  - (b) amend or cancel an administrative determination; or
  - (c) amend or cancel an approval or exemption.
- (2) The chief executive must—
  - (a) if the recommendation is about a determination, other than an administrative determination, exemption or

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approval that has effect in 1 or more other participating jurisdictions—refer the recommendation to the panel; and

- (b) otherwise—have regard to the recommendation.

## **Division 4                      Mutual recognition of determinations, exemptions, and approvals**

### **167      Corresponding determinations**

- (1) This section applies to a determination made by a corresponding competent authority if—
- (a) the determination is made under a provision of a corresponding law that provides for the same matters as any of the following sections (a *relevant section*)—
- section 17
  - section 86
  - section 151;<sup>24</sup> and
- (b) the determination is in force in the authority's jurisdiction; and
- (c) either of the following subparagraphs applies—
- (i) the panel decides the determination should have effect in all participating jurisdictions or 1 or more participating jurisdictions including this jurisdiction, the determination is recorded in the register kept under section 20<sup>25</sup> and the panel has not reversed the decision;
- (ii) the determination is an administrative determination.

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24 Section 17 (Determinations—dangerous goods)

Section 86 (Determinations about foreign approved tanks and IBCs)

Section 151 (Determination about routes, areas, rail wagons, trains or times)

25 Section 20 (Register of determinations)

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- (2) Other than for circumstances that do not exist in this jurisdiction, the determination has effect in this jurisdiction as if it were a determination made by the chief executive under a relevant section.

### **168 Corresponding exemptions**

- (1) This section applies to an exemption given by a corresponding competent authority if—
- (a) the exemption is given under a corresponding law; and
  - (b) the exemption is in force in the authority's jurisdiction; and
  - (c) the panel decides that the exemption should have effect in all participating jurisdictions or 1 or more participating jurisdictions including this jurisdiction, the exemption is recorded in the register kept under 173 and the panel has not reversed the decision.
- (2) Other than for circumstances that do not exist in this jurisdiction, the exemption has effect in this jurisdiction as if it were an exemption given by the chief executive under this regulation.

### **169 Corresponding approvals**

- (1) This section applies to an approval given by a corresponding competent authority if—
- (a) the approval is given under a provision of a corresponding law that provides for the same matters as any of the following sections (a *relevant section*)—
    - section 58
    - section 84
    - section 85
    - section 95
    - section 116
    - section 123

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- section 134
  - section 143;<sup>26</sup> and
- (b) the approval is in force in the authority's jurisdiction; and
- (c) the panel decides that the approval should have effect in all participating jurisdictions or participating jurisdictions including this jurisdiction, and has not reversed the decision.
- (2) Other than for circumstances that do not exist in this jurisdiction, the approval has effect in this jurisdiction as if it were an approval given by the chief executive under a relevant section.

**170 Section number not used**

## **Part 16 Exemptions**

### **Division 1 Application for exemption, and keeping copy of gazette notice or exemption in train or on premises**

#### **171 Application for exemption**

- (1) An application for an exemption must be in the approved form.<sup>27</sup>
- (2) The chief executive may, by written notice, require the applicant to give to the chief executive any additional

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26 Sections 58 (Approval of packaging design types), 84 (Tank design approval), 85 (IBC design approval), 95 (Unit load approval), 116 (Segregation approval), 123 (Separation and marshalling approval), 134 (Transfer of dangerous goods approval) and 143 (Emergency information approval)

27 See also section 443 (Exemptions) of the Act.

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information necessary for a proper consideration of the application.

**172 Exemption notice to be kept**

- (1) If an exemption is being relied on by the holder of the exemption, the holder must keep a copy of the exemption in the train or on the premises to which the exemption applies.

Maximum penalty—10 penalty units.

- (2) If an exemption is being relied on by a member of the class of persons to which the exemption applies, the member must keep a copy of the following in the train or on the premises to which the exemption applies—
- (a) the exemption; or
  - (b) the gazette notice under section 443(4) of the Act giving notice of the exemption.

Maximum penalty—10 penalty units.

- (3) Subsection (1) does not apply if a copy of the exemption is available at an office of the exemption holder.
- (4) Subsection (2) does not apply if a copy of the exemption or gazette notice is available at an office of the member of the class of persons to whom the exemption applies.

**Division 2 Register of exemptions**

**173 Register of exemptions**

- (1) The chief executive must keep a register of exemptions, including class exemptions.
- (2) The register may have separate divisions for different kinds of exemptions.
- (3) The chief executive must record in the register—
- (a) each exemption given under the Act; and
  - (b) each exemption by a corresponding competent authority that—

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- (i) the panel decides should have effect in all participating jurisdictions or 1 or more participating jurisdictions including this jurisdiction; and
  - (ii) the chief executive decides has effect in Queensland.
- (4) The chief executive must note in the register—
  - (a) the cancellation or amendment of an exemption made under the Act; and
  - (b) a decision of the panel reversing a decision that a corresponding exemption should have effect in all participating jurisdictions or participating jurisdictions including this jurisdiction.

**174 Additional matters to be recorded in register**

The record of an exemption in the register must include—

- (a) the provisions of the exemption; or
- (b) the following information—
  - (i) for an exemption mentioned in section 173(3)(a)—the date notice of the exemption was gazetted;
  - (ii) for an exemption mentioned in section 173(3)(b) that was notified in the government gazette of a participating jurisdiction—the title of the gazette and the date the exemption was notified;
  - (iii) the name of the person to whom, or the name, or a description, of the class of people to which, the exemption applies;
  - (iv) the date the exemption was given;
  - (v) the provisions of the regulation to which the exemption relates;
  - (vi) the period for which the exemption is in force;

- (vii) the dangerous goods, equipment, packaging, rail wagon, train or other thing to which the exemption relates.

## **Division 3                      Reference of matters to panel**

### **175      Reference to panel**

- (1) The chief executive must refer an application for an exemption to the panel if the chief executive decides that the exemption should have effect in all participating jurisdictions or participating jurisdictions including this jurisdiction.
- (2) The chief executive must refer to the panel an exemption having effect in this jurisdiction, and 1 or more other participating jurisdictions, if—
  - (a) the chief executive decides that the exemption should be cancelled or amended; or
  - (b) a corresponding competent authority recommends to the chief executive in writing that the exemption should be cancelled or amended.

### **176      Effect of panel decision about application**

- (1) This section applies if—
  - (a) an application for an exemption is referred to the panel under section 175(1); and
  - (b) the panel decides—
    - (i) that the exemption should be given, what the provisions of the exemption should be, and that the exemption should have effect in all participating jurisdictions or participating jurisdictions including this jurisdiction; or
    - (ii) that the exemption should not have effect in this jurisdiction.
- (2) The chief executive must have regard to the panel's decision.

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**177 Effect of panel decision about cancelling or amending exemption**

- (1) This section applies if—
  - (a) an exemption is referred to the panel under section 175(2); and
  - (b) the panel decides that the exemption—
    - (i) should, or should not, be cancelled; or
    - (ii) should be amended, whether or not the panel's decision is the same as the amendment proposed by the chief executive, and should have effect as amended in all participating jurisdictions or participating jurisdictions including this jurisdiction; or
    - (iii) should not be amended.
- (2) The chief executive must have regard to the panel's decision.

**Part 17 Administrative determinations and approvals**

**Division 1 General**

**178 Applications**

- (1) An application for an administrative determination or an approval, or for an amendment of an administrative determination or an approval, must be made to the chief executive in the approved form.



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- (2) However, an application for an approval, or amendment of an approval, under section 134<sup>28</sup> may be made orally.
- (3) An application for an amendment of an administrative determination or written approval must have the determination or approval with it.
- (4) The chief executive may, by written notice, require an applicant to give to the chief executive any additional information necessary for a proper consideration of the application.

**179 Form of approvals and administrative determinations**

- (1) An administrative determination, or an approval, made or given on written application must be in writing.
- (2) An approval made on oral application under section 134 may be given orally.

**180 When approval must not be given or administrative determination must not be made**

The chief executive must not make an administrative determination on the application of, or give an approval under this regulation to, a person who is prohibited by a court order under section 452 of the Act from involvement in the transportation of dangerous goods by rail.

**181 Reasons for refusal of application**

- (1) This section applies if the chief executive refuses an application to—
  - (a) make or amend an administrative determination; or
  - (b) give or amend an approval under this regulation.
- (2) The chief executive must inform the applicant by written notice of the decision.
- (3) The notice must state—

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28 Section 134 (Transfer of dangerous goods approval)

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- (a) the reasons for the decision; and
  - (b) that the applicant may apply, within 28 days after the giving of the notice, to have the decision reviewed; and
  - (c) how the applicant may apply for the review.
- (4) However, if the chief executive refuses an oral application to amend an approval given under section 134, the chief executive may tell the applicant of the refusal and the reasons for the refusal orally.

**182 Periods and conditions**

- (1) An administrative determination is made, and a written approval is given, for the period stated in the determination or approval.
- (2) If an approval under section 134 is given orally, the chief executive may tell the applicant orally of the period for which the approval is given when giving it.
- (3) A condition to which an administrative determination, or a written approval, is subject must be stated in the determination or approval.
- (4) If an approval under section 134 is given orally, the chief executive may tell the applicant orally of any condition when giving it.

**183 Replacement administrative determinations and approvals**

The chief executive must issue to a person to whom an administrative determination applies, or an approval is given, a replacement determination or approval if—

- (a) the determination or approval is amended; or
- (b) the chief executive is satisfied the determination or approval has been defaced, destroyed, lost or stolen.

## 184    **Contravention of conditions**

A person to whom an administrative determination applies, or an approval is given, must not contravene a condition of the determination or approval.

Maximum penalty—20 penalty units.

## Division 2                    **Amending, suspending or cancelling administrative determination**

### 185    **Grounds for cancelling administrative determination and additional grounds for cancelling approval**

- (1) Each of the following is a ground for cancelling an administrative determination or an approval<sup>29</sup>—
- (a) a relevant change happens after the determination is made or the approval is given and had it happened before the determination was made or the approval was given—
    - (i) the determination would not have been made; or
    - (ii) the approval would not have been given; or
  - (b) the person on whose application the determination was made, or to whom the approval was given, contravenes a law of another participating jurisdiction that provides for the same, or substantially the same, matter as chapter 14<sup>30</sup> of the Act or this regulation.
- (2) In this section—
- relevant change***, for an administrative determination or an approval, means a change about something the chief executive may or must consider in deciding whether to make the determination or give the approval.

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29 See also section 444 (Grounds for amending, suspending or cancelling approval or exemption) of the Act.

30 Chapter 14 (Transporting dangerous goods by rail) of the Act

**186 Grounds for amending administrative determination and additional grounds for amending approval**

- (1) Each of the following is a ground for amending an administrative determination or an approval<sup>31</sup>—
- (a) a relevant change happens after the determination is made or the approval is given and had it happened before the determination was made or the approval was given—
    - (i) the determination would have been made in the way in which it is proposed to be amended; or
    - (ii) the approval would have been given in the way in which it is proposed to be amended; or
  - (b) the person on whose application the determination was made, or to whom the approval was given, contravenes a law of another participating jurisdiction that provides for the same, or substantially the same, matter as chapter 14 of the Act or this regulation.
- (2) In this section—

*relevant change*, for an administrative determination or approval, means a change about something the chief executive may or must consider in deciding whether to make the determination or give the approval.

**187 Provisions of Act about amending, suspending or cancelling approvals apply to administrative determinations**

Sections 445 and 447 to 449 of the Act apply for amending, suspending or cancelling an administrative determination as if the administrative determination were an approval.

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<sup>31</sup> See also section 444 (Grounds for amending, suspending or cancelling approval or exemption) of the Act.

## **Division 3                      Register of approvals**

### **188      Register**

- (1) The chief executive must keep a register of approvals.
- (2) The register may have separate divisions for different kinds of approvals.
- (3) The chief executive must record in the register—
  - (a) each approval given in writing under this regulation; and
  - (b) each corresponding approval.
- (4) The chief executive must note in the register—
  - (a) the cancellation or amendment of a written approval; and
  - (b) a decision of the panel reversing a decision that a corresponding approval should have effect in all participating jurisdictions or participating jurisdictions including this jurisdiction.

### **189      Additional matters to be recorded in register**

The record of an approval in the register must include—

- (a) the provisions of the approval; or
- (b) the following information—
  - (i) the name of the person to whom the approval was given;
  - (ii) the date the approval was given;
  - (iii) the provisions of this regulation, or of the ADG Code, to which the approval relates;
  - (iv) the period for which the approval is in force;
  - (v) the dangerous goods, equipment, packaging, rail wagon or other thing to which the approval relates.

## **Division 4                      Reference of approval matters to panel**

### **190      Reference to panel**

- (1) The chief executive must refer an application for an approval to the panel if the chief executive decides the approval should have effect in all participating jurisdictions or participating jurisdictions including this jurisdiction.
- (2) The chief executive must refer to the panel an approval having effect in this jurisdiction, and 1 or more other participating jurisdictions, if—
  - (a) the chief executive decides the approval should be cancelled or amended; or
  - (b) a corresponding competent authority recommends to the chief executive in writing that the approval should be cancelled or amended.

### **191      Effect of panel decision about application**

- (1) This section applies if—
  - (a) an application for an approval is referred to the panel under section 190(1); and
  - (b) the panel decides—
    - (i) that the approval should be given, what the provisions of the approval should be, and that the approval should have effect in all participating jurisdictions or participating jurisdictions including this jurisdiction; or
    - (ii) that the approval should not have effect in this jurisdiction.
- (2) The chief executive must have regard to the panel's decision.

### **192      Effect of panel decision about cancelling or amending approval**

- (1) This section applies if—

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- (a) an approval is referred to the panel under section 190(2); and
  - (b) the panel decides that the approval—
    - (i) should, or should not, be cancelled; or
    - (ii) should be amended, whether or not the panel's decision is the same as the amendment proposed by the chief executive, and should have effect as amended in all participating jurisdictions or in participating jurisdictions including this jurisdiction; or
    - (iii) should not be amended.
- (2) The chief executive must have regard to the panel's decision.

**Part 18****Part number not used****Part 19****Cancellation giving effect to court order****193 Cancellation giving effect to court order**

The chief executive must cancel an administrative determination if the person to whom the determination applies is prohibited by a court order under section 452 of the Act from involvement in the transportation of dangerous goods by rail.

## Part 20                      Instruction and training

### 194    Instruction and training

- (1) This section applies to a task involved in the transport of dangerous goods by rail, including, for example—
  - (a) packing dangerous goods or marking packaged dangerous goods and unit loads;
  - (b) consigning dangerous goods;
  - (c) loading dangerous goods into or onto a rail wagon, or into a container to be put in or on a rail wagon;
  - (d) unloading dangerous goods;
  - (e) placarding containers and rail wagons in or on which dangerous goods are transported;
  - (f) marshalling rail wagons and equipment used in the transport of dangerous goods;
  - (g) preparing shipping documentation;
  - (h) maintaining rail wagons and equipment used in the transport of dangerous goods;
  - (i) driving a train transporting dangerous goods;
  - (j) following the appropriate procedures as required by this regulation in a dangerous situation.
- (2) A person who is responsible for managing or controlling the task must not employ, engage or permit someone else (the **worker**) to do the task unless the worker—
  - (a) has received, or is receiving, appropriate instruction and training; and
  - (b) is appropriately supervised in doing the task;to ensure the worker is able to do the task safely and, if this regulation imposes a requirement about doing the task, as required by this regulation.

Maximum penalty for subsection (2)—40 penalty units.



**195 Section number not used**

**Part 21 Part number not used**

**Part 22 Review of and appeals against decisions**

**196 Review of, and appeals against, decisions**

- (1) A person whose interests are affected by a decision (the *original decision*) stated in schedule 1 may ask the chief executive to review the decision.
- (2) The person is entitled to receive a statement of reasons for the original decision.
- (3) If the chief executive confirms or amends the original decision or substitutes another decision, the person may appeal against the confirmed, amended or substituted decision to a Magistrates Court.
- (4) For the review or appeal, the *Transport Planning and Coordination Act 1994*, part 5, division 2<sup>32</sup>—
  - (a) applies to the review or appeal; and
  - (b) provides—
    - (i) for the procedure for applying for the review or appeal and the way it must be carried out; and
    - (ii) that the original decision or confirmed, amended or substituted decision may be stayed by the person applying to a Magistrates Court.

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<sup>32</sup> *Transport Planning and Coordination Act 1994*, part 5 (Review of and appeals against decisions), division 2 (Review of original decisions)

## Part 23                      Fees

### 197      Fees

The fees payable under this regulation are in schedule 2.

## Part 24                      Transitional provisions

### 198      Corresponding determinations

- (1) This section applies to a determination, however described, if the determination—
  - (a) was made under a law of another participating jurisdiction about the transport of dangerous goods by rail; and
  - (b) was in force in the other jurisdiction immediately before the commencement of this section; and
  - (c) is a determination about something that may be determined under a provision of the law of the other jurisdiction (the *corresponding provision*) corresponding to 1 of the following provisions—
    - section 17
    - section 86
    - section 151.<sup>33</sup>
- (2) Other than for circumstances that do not exist in this jurisdiction, the determination has effect for this regulation as if it were a determination made by the corresponding competent authority for the other jurisdiction under the corresponding provision.

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33 Section 17 (Determinations—dangerous goods)

Section 86 (Determinations about foreign approved tanks and IBCs)

Section 151 (Determination about routes, areas, rail wagons, trains or times)

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## 199 Corresponding exemptions

- (1) This section applies to an exemption, however described, if the exemption—
  - (a) was given under a law of another participating jurisdiction about the transport of dangerous goods by rail; and
  - (b) was in force in the other jurisdiction immediately before the commencement of this section; and
  - (c) is an exemption from compliance with a provision of the law of the other jurisdiction (the ***corresponding provision***) corresponding to a provision of this regulation.
- (2) Other than for circumstances that do not exist in this jurisdiction, the exemption has effect for this regulation as if it were an exemption given by the corresponding competent authority for the other jurisdiction from compliance with the corresponding provision.

## 200 Corresponding approvals

- (1) This section applies to an approval, however described, if the approval—
  - (a) was given under a law of another participating jurisdiction about the transport of dangerous goods by rail; and
  - (b) was in force in the other jurisdiction immediately before the commencement of this section; and
  - (c) is an approval of something that may be approved under a provision of the law of the other jurisdiction (the ***corresponding provision***) corresponding to a provision of 1 of the following sections—
    - section 58
    - section 84
    - section 85
    - section 95

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- section 116
  - section 123
  - section 134
  - section 143.<sup>34</sup>
- (2) Other than for circumstances that do not exist in this jurisdiction, the approval has effect for this regulation as if it were given by the corresponding competent authority for the other jurisdiction under the corresponding provision.

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<sup>34</sup> Sections 58 (Approval of packaging design types), 84 (Tank design approval), 85 (IBC design approval), 95 (Unit load approval), 116 (Segregation approval), 123 (Separation and marshalling approval), 134 (Transfer of dangerous goods approval) and 143 (Emergency information approval)

## **Schedule 1      Reviewable decisions**

section 196

| <b>Section</b> | <b>Description of decision</b>   |
|----------------|--|
| 17             | Administrative determination   |
| 58             | Refusal to approve packaging design type   |
| 58             | Approval, on a condition, of packaging design type   |
| 84             | Refusal to approve tank design   |
| 84             | Approval, on a condition, of tank design   |
| 85             | Refusal to approve IBC design  |
| 85             | Approval, on a condition, of IBC design  |
| 86             | Determination of dangerous goods in bulk that must not be transported by rail in a foreign approved tank or foreign approved IBC |
| 95             | Refusal to approve way of preparing a unit load  |
| 95             | Approval, on a condition, of way of preparing a unit load  |
| 116            | Refusal to approve segregation device or way of segregation  |
| 116            | Approval, on a condition, of segregation device or way of segregation  |
| 123            | Refusal to approve way of achieving separation or of marshalling   |
| 123            | Approval, on a condition, of way of achieving separation or of marshalling   |
| 134            | Refusal to approve transfer of dangerous goods   |
| 134            | Approval, on a condition, of transfer of dangerous goods   |
| 143            | Refusal to approve emergency information   |
| 151            | Administrative determination   |

## **Schedule 2      Fees**

section 197

|   | <b>\$</b> |
|---|-----------|
| 1    Application for approval of tank design (s 84(1)) . . . . .  | 180.80    |
| 2    Application for approval of an IBC design (s 85(1)). . . . . | 36.15     |

## Schedule 3 Dictionary

### section 4

**ADG Code** means the sixth edition of the Australian Code for the Transport of Dangerous Goods by Road and Rail.<sup>35</sup>

**administrative determination** see section 18.

**ADR approved** means approved under the European Agreement Concerning the International Carriage of Dangerous Goods by Road published by the Inland Transport Committee of the Economic Commission for Europe.

**aggregate quantity** see section 39.

**another participating jurisdiction** means a participating jurisdiction other than this jurisdiction.

**appropriately marked**, for part 7, division 1, see section 97.

**appropriately placarded**, for part 7, division 2, see section 101(2).

**approved IBC** means—

- (a) an IBC of a design that is approved under section 85; or
- (b) a foreign approved IBC.

**approved packaging** means—

- (a) packaging of a design type approved under section 58; or
- (b) foreign approved packaging.

**approved tank** means—

- (a) a tank of a design approved under section 84; or
- (b) a foreign approved tank.

**attachment system** includes all the components of the system.

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<sup>35</sup> To purchase a copy of the code see the website of the National Transport Commission <[www.ntc.gov.au](http://www.ntc.gov.au)>.

### Schedule 3 (continued)

**authorised person** means an authorised person under the *Transport Operations (Passenger Transport) Act 1994*.

**bulk container** see section 46.

**capacity**, of a container, see section 37.

**class**, for dangerous goods, see section 32.

**Commonwealth regulations** means the *Road Transport Reform (Dangerous Goods) Regulations (Cwlth)*.

**compliance plate**, for a tank, means a compliance plate complying with the ADG Code, chapter 4.

**consignor** see section 48.

**consigns** see section 48.

**consumer commodity load** see the ADG Code, division 1.1.

**corresponding approval** means an approval that—

- (a) is given by a corresponding competent authority of a participating jurisdiction under a corresponding law; and
- (b) has effect in this jurisdiction under section 169.

**corresponding competent authority** means a person in a participating jurisdiction discharging responsibilities—

- (a) corresponding to the responsibilities of the chief executive under this regulation; and
- (b) under a corresponding law.

**corresponding determination** means a determination that—

- (a) is made in a participating jurisdiction by a corresponding competent authority under a corresponding law; and
- (b) has effect in this jurisdiction under section 167.



### Schedule 3 (continued)

***corresponding exemption*** means an exemption that—

- (a) is given by a corresponding competent authority under a corresponding law; and
- (b) has effect in this jurisdiction under section 168.

***corresponding law*** means a law of another State that provides for substantially the same matter as this regulation.

***dangerous goods*** see section 31.

***dangerous goods in bulk*** see section 41.

***design***, of a tank, includes the design of—

- (a) the attachment system for attaching a container to a rail wagon of which the tank is intended to form a part or to which it is intended to be attached; and
- (b) the stability characteristics, and other attributes, of the rail wagon affecting the suitability of a tank manufactured as stated in the design to transport the dangerous goods of the particular type that are the subject of the design's approval.

***determination***, other than for a determination made in another jurisdiction, means a determination made by the chief executive under section 17, 86 or 151.

***emergency information***, for part 11, division 2, see section 139.

***emergency service*** means—

- (a) the Queensland Ambulance Service, the Queensland Fire and Rescue Service or other emergency service; or
- (b) a service of a participating jurisdiction corresponding to a service mentioned in paragraph (a); or
- (c) a unit of the Australian Defence Force corresponding to a service mentioned in paragraph (a).

***filling ratio*** means the ratio of the mass of liquefied gas in a tank or cylinder to the mass of water that the tank or cylinder will hold at a temperature of 15°C.

### Schedule 3 (continued)

**food** includes—

- (a) a substance prepared or intended for human or animal consumption; and
- (b) a substance, other than dangerous goods, intended to be an ingredient of a substance for human or animal consumption.

**food container** means a container designed or intended to contain food.

**food packaging** means—

- (a) a food container; or
- (b) any other container that actually contains food; or
- (c) material designed or intended to be used in a food container.

**foreign approved IBC** means an IBC that is—

- (a) manufactured outside Australia; and
- (b) ADR approved, IMO approved or RID approved.

**foreign approved packaging** means packaging that is—

- (a) manufactured outside Australia; and
- (b) marked with performance and specification markings complying with the ADG Code, chapter 3.

**foreign approved tank** means a tank that is—

- (a) manufactured outside Australia; and
- (b) ADR approved, IMO approved or RID approved.

**freight container** see section 44.

**hose assembly** means a hose, or hoses connected together, for use in the transfer of dangerous goods to or from a tank on a rail wagon, a bulk container or a storage container and includes—

- (a) if there are 2 or more hoses connected together—the connections between the hoses; and

### Schedule 3 (continued)

- (b) the attachment connecting the hose or hoses to the tank, bulk container or storage container; and
- (c) anything else, other than the tank, bulk container or storage container, attached to the hose or hoses.

***IATA Regulations*** means the Dangerous Goods Regulations published by the International Air Transport Association.<sup>36</sup>

***IBC*** see section 45.

***IBC marking***, for an IBC, means a marking complying with the IBC supplement.

***IBC supplement*** means the Specifications for Intermediate Bulk Containers for the Transport of Dangerous Goods published as a supplement to the ADG Code.<sup>37</sup>

***ICAO Rules*** means the Technical Instructions for the Safe Transport of Dangerous Goods by Air published by the International Civil Aviation Organisation.<sup>38</sup>

***IMDG Code*** means the International Maritime Dangerous Goods Code published by the International Maritime Organisation.<sup>39</sup>

***IMO approved*** means approved by or for the International Maritime Organisation.

***incompatible*** see section 35.

***loader***, of dangerous goods or other goods, see section 50.

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36 A copy of the regulations is available from the Australian Federation of International Forwarders. The website address is <[www.afif.asn.au](http://www.afif.asn.au)>.

37 A copy of the supplement is available from the Commonwealth Department of Transport and Regional Services. The website address is <[www.dotars.gov.au](http://www.dotars.gov.au)>.

38 A copy of the rules may be purchased from the Document Sales Unit, International Civil Aviation Organisation, 999 University Street, Montreal, Quebec, Canada, H3C5H7. While the rules form the basis for air transport law in Australia, the standard used by the air transport industry is the IATA regulations. The regulations incorporate all the requirements of the rules.

39 A copy of the code may be purchased from commercial outlets in Australia. See the International Maritime Organization's website for current outlets. The IMO's website is <[www.imo.org](http://www.imo.org)>.

### Schedule 3 (continued)

**loads**, when used as a verb in relation to dangerous goods or other goods, see section 50.

**NATA** means the National Association of Testing Authorities, Australia.

**outer packaging** see the ADG Code, division 1.1.

**owner**—

- (a) of a rail wagon, see section 47; or
- (b) of track, means the person who is responsible because of ownership, control or management, for—
  - (i) the construction and maintenance of the track and associated civil engineering or electric traction infrastructure; or
  - (ii) the construction, operation or maintenance of train control and communication systems for the transport of dangerous goods on the track.

**package**, of dangerous goods or other goods, see section 36(1).

**packaged dangerous goods** see section 40.

**packaging**, of dangerous goods or other goods, see section 36(2).

**packer**, of dangerous goods or other goods, see section 49.

**packing group** see section 34.

**packs**, when used as a verb in relation to dangerous goods or other goods, see section 49.

**panel** means the competent authorities panel established under the Commonwealth regulations, regulation 15.4.

**participating jurisdiction** means—

- (a) this jurisdiction; or
- (b) another State, unless the rail rules are not substantially adopted under a law of the State.

**placard**, for part 7, division 2, see section 101(1)(a).

### Schedule 3 (continued)

**placarding**, for part 7, division 2, see section 101(1)(b).

**placard load** see section 42.

**rail operator**, for the transport of dangerous or other goods by rail, means a person who undertakes to be responsible, or is responsible for—

- (a) the transport of the goods by rail; or
- (b) the condition of a wagon transporting the goods by rail.

**rail rules** means the Rail (Dangerous Goods) Rules as set out in a schedule to the ADG Code.

**rail wagon** means a rail vehicle that is designed to carry freight.

**recognised testing facility**, for a packaging design type, see section 59.

**RID approved** means approved as stated in the International Regulations Concerning the Carriage of Dangerous Goods by Rail published by the Inland Transport Committee of the Economic Commission for Europe.

**risk** means risk of personal injury, property damage or harm to the environment.

**subsidiary risk** see section 33.

**tank** means a container, other than an IBC, that is used, or designed to be used, to transport dangerous goods in bulk in the form of a liquid or gas, and includes fittings, closures, and any other equipment, forming part of the container.

**this jurisdiction** means the State.

**track** means railway track.

**train controller**, for a train, means an individual who is in control of train control signalling and communication for the section of track on which the train is travelling or standing.

Schedule 3 (continued)

***UN dangerous goods tests and criteria*** means the tests and criteria stated in—

- (a) the UN recommendations; or
- (b) the UN recommendations, manual of tests and criteria.

***unit load*** see section 43.

***UN recommendations*** means the ninth revised edition of the Recommendations on the Transport of Dangerous Goods published by the United Nations.<sup>40</sup>

***UN recommendations, manual of tests and criteria*** means the second revised edition of the Recommendations on the Transport of Dangerous Goods, Manual of Tests and Criteria published by the United Nations.<sup>41</sup>

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40 See footnote 39.

41 See footnote 39.

## **Attachment      Corresponding provisions of rail rules and this regulation**

| <b>Provision of rail rules</b> | <b>Corresponding<br/>provision of this<br/>regulation</b> |
|--------------------------------|---|
| 1.1 .....                      | 1   |
| 1.2 .....                      | 2   |
| 1.3 .....                      | 3   |
| 1.4 .....                      | 4   |
| 1.6 .....                      | 7   |
| 1.7 .....                      | 8   |
| 1.8 .....                      | 9   |
| 1.9 .....                      | 10  |
| 1.10 .....                     | 11  |
| 1.11 .....                     | 12  |
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| 1.19 .....                     | 18  |
| 1.20 .....                     | 19  |
| 1.21 .....                     | 20  |
| 1.22 .....                     | 21  |
| 1.23 .....                     | 22  |
| 1.24 .....                     | 23  |
| 1.25 .....                     | 24  |
| 1.26 .....                     | 25  |
| 1.29 .....                     | 29  |
| 2.1 .....                      | 30  |
| 2.2 .....                      | 31  |
| 2.3 .....                      | 32  |

**Attachment (continued)**

|      |    |
|------|----|
| 2.4  | 33 |
| 2.5  | 34 |
| 2.6  | 35 |
| 2.7  | 36 |
| 2.8  | 37 |
| 2.9  | 38 |
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## Endnotes

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### 2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 1 July 2008. Future amendments of the Transport Infrastructure (Dangerous Goods by Rail) Regulation 2002 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

### 3 Key

**Key to abbreviations in list of legislation and annotations**

| Key    | Explanation                    | Key     | Explanation                             |
|--------|--------------------------------|---------|---|
| AIA    | = Acts Interpretation Act 1954 | (prev)  | = previously                            |
| amd    | = amended                      | proc    | = proclamation                          |
| amdt   | = amendment                    | prov    | = provision                             |
| ch     | = chapter                      | pt      | = part                                  |
| def    | = definition                   | pubd    | = published                             |
| div    | = division                     | R[X]    | = Reprint No. [X]                       |
| exp    | = expires/expired              | RA      | = Reprints Act 1992                     |
| gaz    | = gazette                      | reloc   | = relocated                             |
| hdg    | = heading                      | renum   | = renumbered                            |
| ins    | = inserted                     | rep     | = repealed                              |
| lap    | = lapsed                       | (retro) | = retrospectively                       |
| notfd  | = notified                     | rv      | = revised edition                       |
| num    | = numbered                     | s       | = section                               |
| o in c | = order in council             | sch     | = schedule                              |
| om     | = omitted                      | sdiv    | = subdivision                           |
| orig   | = original                     | SIA     | = Statutory Instruments Act 1992        |
| p      | = page                         | SIR     | = Statutory Instruments Regulation 2002 |
| para   | = paragraph                    | SL      | = subordinate legislation               |
| prec   | = preceding                    | sub     | = substituted                           |
| pres   | = present                      | unnum   | = unnumbered                            |
| prev   | = previous                     |         |   |

### 4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

| Reprint No. | Amendments included | Effective        | Notes |
|-------------|---------------------|------------------|-------|
| 1           | none                | 29 November 2002 |       |
| 1A          | 2006 SL No. 90      | 1 July 2006      |       |
| 1B          | 2006 SL No. 289     | 1 December 2006  |       |
| 1C          | 2007 SL No. 83      | 1 July 2007      |       |
| 1D          | 2008 SL No. 131     | 1 July 2008      |       |

## 5 List of legislation

### **Transport Infrastructure (Dangerous Goods by Rail) Regulation 2002 SL No. 308**

made by the Governor in Council on 21 November 2002

notfd gaz 22 November 2002 pp 1018–21

ss 1–2 commenced on date of notification

remaining provisions commenced 29 November 2002 (see s 2)

exp 1 September 2013 (see SIA s 54)

Note—The expiry date may have changed since this reprint was published. See the latest reprint of the SIR for any change.

amending legislation—

### **Transport Legislation and Another Regulation Amendment Regulation (No. 1) 2006 SL No. 90 ss 1, 2(1), pt 5**

notfd gaz 19 May 2006 pp 252–4

ss 1–2 commenced on date of notification

remaining provisions commenced 1 July 2006 (see s 2(1))

### **Transport and Other Legislation Amendment Regulation (No. 1) 2006 SL No. 289 ss 1, 44 sch**

notfd gaz 1 December 2006 pp 1587–90

commenced on date of notification

### **Transport Legislation (Fees) Amendment Regulation (No. 1) 2007 SL No. 83 pts 1, 4**

notfd gaz 18 May 2007 pp 345–8

ss 1–2 commenced on date of notification

remaining provisions commenced 1 July 2007 (see s 2)

### **Transport Legislation (Fees) Amendment Regulation (No. 1) 2008 SL No. 131 pts 1, 4**

notfd gaz 23 May 2008 pp 543–5

ss 1–2 commenced on date of notification

remaining provisions commenced 1 July 2008 (see s 2)

## 6 List of annotations

### **Goods too dangerous to be transported by rail—Act, s 442**

s 30 prov hdg amd 2006 SL No. 289 s 44 sch

### **Dangerous goods—Act, s 442**

s 31 prov hdg amd 2006 SL No. 289 s 44 sch

### **Exemption notice to be kept**

s 172 amd 2006 SL No. 289 s 44 sch

### **When approval must not be given or administrative determination must not be made**

s 180 amd 2006 SL No. 289 s 44 sch

### **Grounds for cancelling administrative determination and additional grounds for cancelling approval**

s 185 amd 2006 SL No. 289 s 44 sch



*Transport Infrastructure (Dangerous Goods by Rail)  
Regulation 2002*

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**Grounds for amending administrative determination and additional grounds for amending approval**

s 186      amd 2006 SL No. 289 s 44 sch

**Provisions of Act about amending, suspending or cancelling approvals apply to administrative determinations**

s 187      amd 2006 SL No. 289 s 44 sch

**Cancellation giving effect to court order**

s 193      amd 2006 SL No. 289 s 44 sch

**PART 25—AMENDMENT OF STATUTORY INSTRUMENTS REGULATION  
2002**

pt 25 (ss 201–202) om R1 (see RA ss 7(1)(k) and 40)

**SCHEDULE 2—FEES**

sub 2006 SL No. 90 s 10; 2007 SL No. 83 s 8; 2008 SL No. 131 s 8