



Queensland

Transport Operations (Road Use Management) Act 1995

Transport Operations (Road Use Management—Dangerous Goods) Regulation 2008

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Minor editorial changes allowed under the provisions of the Reprints Act 1992 mentioned in the following list have been made to—

- use standard punctuation consistent with current drafting practice (s 27)
- reorder definitions consistent with current drafting practice (s 30)
- use aspects of format and printing style consistent with current drafting practice (s 35)
- omit provisions that are no longer required (s 40)
- make all necessary consequential amendments (s 7(1)(k)).

This page is specific to this reprint. A table of reprints is included in the endnotes.

Also see endnotes for information about when provisions commenced.

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The spelling of certain words or phrases may be inconsistent in this reprint or with other reprints because of changes made in various editions of the Macquarie Dictionary (for example, in the dictionary, ‘lodgement’ has replaced ‘lodgment’).

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Queensland

Transport Operations (Road Use Management—Dangerous Goods) Regulation 2008

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Part 1 Preliminary

Division 1 Introductory and application

1 Short title

This regulation may be cited as the *Transport Operations (Road Use Management—Dangerous Goods) Regulation 2008*.

2 Commencement

This regulation commences on 1 January 2009.

3 Main purposes of this regulation

- (1) The main purposes of this regulation are—
- (a) to prescribe the obligations of persons involved in the transport of dangerous goods by road; and
 - (b) to reduce as far as practicable the risks arising from the transport of dangerous goods by road; and
 - (c) to give effect to the standards, requirements and procedures of the ADG Code as far as they apply to the transport of dangerous goods by road; and
 - (d) to promote consistency between the standards, requirements and procedures applying to the transport

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of dangerous goods by road and those applying to other modes of transport.

- (2) In this section—
obligation includes duty and requirement.

4 Regulation is dangerous goods regulation for the Act—Act, sch 4, definition *dangerous goods regulation*

This regulation is a dangerous goods regulation for the Act.

5 Provision about exemption related to inner package requirement

- (1) This section provides information about the exemption under section 151(2)(b) of the Act.
- (2) For section 151(2)(b) of the Act, an inner package, in relation to goods including dangerous goods, is the complete product of the inner packaging of the goods for transport, and consists of the goods and their inner packaging.
- (3) Under part 5, inner packages must be marked and labelled in accordance with chapter 5.2 of the ADG Code.
- (4) Section 5.2.1.8 of the ADG Code states the quantity for which an inner package is required to be marked to comply with chapter 5.2 of the ADG Code.

6 Matters prescribed for particular exempt transport

- (1) For section 151(2)(c)(i)(A) of the Act, the capacity prescribed is 500L.
- (2) For section 151(2)(c)(i)(B) of the Act, the quantity prescribed for a receptacle is 500kg.
- (3) For section 151(2)(c)(ii) of the Act, the following are prescribed as designated dangerous goods—
- (a) dangerous goods of UN class 1 (explosives), other than dangerous goods of UN division 1.4S;

- (b) dangerous goods of category A of UN division 6.2 (infectious substances);
 - (c) dangerous goods of UN class 7 (radioactive material).
- (4) For section 151(2)(c)(iii) of the Act, the aggregate quantity must be worked out in the way provided for under schedule 4, definition *aggregate quantity*.

7 Special provisions for tools of trade and dangerous goods for private use

- (1) This section applies to dangerous goods that—
- (a) are not transported in the course of a business of transporting goods but are transported by a person who intends to use them or so they may be used for a commercial purpose; and
 - (b) are transported as part of a load that includes—
 - (i) an aggregate quantity of dangerous goods of less than 500 that does not include any dangerous goods of UN division 2.1 (other than aerosols), UN division 2.3 or packing group I; or
 - (ii) an aggregate quantity of dangerous goods of less than 250 that does include dangerous goods of UN division 2.1 (other than aerosols), UN division 2.3 or packing group I, provided that the dangerous goods of UN division 2.3 and packing group I together constitute less than 100 of the aggregate quantity.
- (2) This regulation other than subsections (3) to (5) does not apply to the transport of dangerous goods mentioned in subsection (1).
- (3) A person must not transport dangerous goods mentioned in subsection (1) unless each package in the load including the goods—
- (a) complies with the packaging requirements appropriate to the quantity of dangerous goods, as prescribed in part 4; and

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- (b) is labelled and marked as prescribed in part 5, division 1; and
- (c) is loaded, secured, segregated, unloaded and otherwise transported in a way that ensures—
 - (i) its packaging remains fit for its purpose; and
 - (ii) risks are eliminated or, if it is not practicable to eliminate risks, are minimised to the greatest practicable extent.

Maximum penalty—40 penalty units.

- (4) If a load of dangerous goods mentioned in subsection (1) contains dangerous goods of UN class 3, 4, 5 or 6 that together constitute more than 250 of the aggregate quantity of dangerous goods in the load, a person must not transport the load—
 - (a) in the passenger compartment of a vehicle; or
 - (b) in an enclosed space that is not separated from the passenger compartment of a vehicle.

Maximum penalty—40 penalty units.

- (5) If a load of dangerous goods mentioned in subsection (1) contains dangerous goods of UN division 2.1, UN division 2.3 or packing group I that together constitute more than 50 of the aggregate quantity of dangerous goods in the load, a person must not transport the load—
 - (a) in the passenger compartment of a vehicle; or
 - (b) in any other enclosed space in the vehicle.

Maximum penalty for subsection (5)—40 penalty units.

Division 2 Interpretation

8 Definitions

The dictionary in schedule 4 defines particular words used in this regulation.

9 Applying ADG Code to this regulation

For applying the ADG Code to this regulation, a reference in the code to competent authority in relation to the State is taken, if the context permits, to be a reference to the chief executive.

10 References to codes, standards and rules

(1) In this regulation, a reference to an instrument includes a reference to another instrument as applied or adopted by, or incorporated in, the first instrument.

(2) In this section—

instrument means a code, standard or rule, whether made in or outside Australia, relating to dangerous goods or transport by road or rail, and includes a provision of an instrument.

11 Inconsistency between regulation and codes etc.

(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) Despite subsection (2), if a provision of the instrument uses a term that is defined in both the instrument and in this regulation, the provision must be interpreted as if the term had the meaning stated in the instrument, unless the contrary intention appears.

(4) In this section—

instrument means a code, standard or rule, whether made in or outside Australia, for dangerous goods or transport of dangerous goods by road.

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12 References to determinations, exemptions, approvals and licences

In this regulation, a reference to—

- (a) a determination, exemption, approval, dangerous goods driver licence or dangerous goods vehicle licence; or
- (b) a corresponding determination, exemption, approval, dangerous goods driver licence or dangerous goods vehicle licence;

includes a reference to the determination, exemption, approval or licence as amended.

13 References to amendment of determinations etc.

In this regulation, a reference to the amendment of—

- (a) a determination, exemption, approval, dangerous goods driver licence or dangerous goods vehicle licence; or
- (b) a corresponding determination, exemption, approval, dangerous goods driver licence or dangerous goods vehicle licence;

includes a reference to an amendment by addition, omission or substitution.

Example of an amendment—

the addition of a new condition to an existing administrative determination

14 References to road

Each reference in this regulation to a road includes a reference to a road-related area.

15 References to load

For this regulation, all the goods in or on a vehicle are a single load, even if the vehicle is transporting more than 1 transport unit.

16 Meaning of *bulk container*

- (1) ***Bulk container*** means a container, with or without a liner or coating, that—
 - (a) has a capacity of 1m³ or more; and
 - (b) is intended for the transport of solid dangerous goods that are in direct contact with the container.
- (2) However, the following are not bulk containers—
 - (a) a large packaging complying with the requirements of chapter 6.6 of the ADG Code;
 - (b) an IBC;
 - (c) a tank;
 - (d) a tank vehicle;
 - (e) other packaging complying with the requirements of chapter 6.1 or 6.3 of the ADG Code.

17 Meaning of *intermediate bulk container*

- (1) ***Intermediate bulk container*** means a rigid or flexible portable packaging for the transport of dangerous goods that complies with the requirements of chapter 6.5 of the ADG Code and that—
 - (a) has a capacity of not more than—
 - (i) for solids of packing group I packed in a composite, fibreboard, flexible, wooden, or rigid plastics container—1500L; or
 - (ii) for solids of packing group I packed in a metal container—3000L; or
 - (iii) for solids or liquids of packing groups II and III—3000L; and
 - (b) is designed for mechanical handling.
- (2) However, rigid or flexible portable packaging complying with the requirements of chapter 6.1, 6.3 or 6.6 of the ADG Code is not an intermediate bulk container.

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18 Meaning of *multiple-element gas container*

Multiple-element gas container means—

- (a) multimodal assemblies of cylinders, tubes and bundles of cylinders that are interconnected by a manifold and assembled within a framework; and
- (b) service equipment or structural equipment necessary for the transport of gases in the cylinders and tubes.

19 Meaning of *tank*

(1) *Tank* means—

- (a) a receptacle for dangerous goods; and
 - (b) service equipment or structural equipment that enables the receptacle to transport the goods.
- (2) However, a receptacle for dangerous goods of UN class 2 is not a tank unless it has a capacity of more than 450L.
- (3) Also, the following are not tanks—
- (a) packaging complying with the requirements of chapter 6.1, 6.3 or 6.6 of the ADG Code;

Notes—

- 1 Chapter 6.1 of the ADG Code deals with drums, barrels, jerry cans, boxes, bags and composite packaging.
 - 2 Chapter 6.3 of the ADG Code deals with packaging for infectious substances.
- (b) an IBC;
 - (c) an MEGC;
 - (d) a cylinder;
 - (e) a pressure drum;
 - (f) a tube;
 - (g) a bulk container complying with the requirements of chapter 6.8 of the ADG Code.

20 When dangerous goods are *packed in limited quantities*

- (1) Dangerous goods are *packed in limited quantities* if—
 - (a) the goods are packed in accordance with chapter 3.4 of the ADG Code; and
 - (b) the quantity of dangerous goods in each inner packaging or in each article is not more than the quantity stated, or referred to, in column 7 of the dangerous goods list for the goods.
- (2) For subsection (1)(a), goods can be packed in accordance with chapter 3.4 of the ADG Code only if the chapter permits the goods to be packed in accordance with it under section 3.4.1 of the ADG Code.

Division 3 Instruction and training

21 Instruction and training

- (1) This section applies to any task involved in the transport of dangerous goods, including the following—
 - (a) packing dangerous goods;
 - (b) consigning dangerous goods;
 - (c) loading dangerous goods;
 - (d) unloading dangerous goods;
 - (e) marking packages containing dangerous goods;
 - (f) placarding placard loads;
 - (g) preparing transport documentation;
 - (h) maintaining vehicles and equipment used in the transport of dangerous goods;
 - (i) driving a vehicle transporting dangerous goods;
 - (j) being the consignee of dangerous goods;
 - (k) following the appropriate procedures as prescribed by this regulation in a dangerous situation.

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- (2) A person who is responsible for management or control of a task must not employ, engage or permit someone else (the *worker*) to perform the task unless the worker—
- (a) has received instruction, and has satisfactorily completed training, specific to the task; or
 - (b) is—
 - (i) receiving instruction and training specific to the task; and
 - (ii) appropriately supervised in doing the task by a person who has received instruction, and has satisfactorily completed training, specific to the task;

to enable the worker to do the task safely and in compliance with this regulation.

Maximum penalty—40 penalty units.

- (3) A person must not manage, control or supervise a task unless the person has received instruction, and has satisfactorily completed training, specific to the task to enable the person to manage, control or supervise another person to perform the task safely and in compliance with this regulation.

Maximum penalty—40 penalty units.

- (4) Subsection (5) applies if a person responsible for managing or controlling a task claims that—
- (a) a person employed, engaged or permitted to do the task; or
 - (b) a person who supervised a person employed, engaged or permitted to do the task;

has received instruction, and has satisfactorily completed training, specific to the task.

- (5) The chief executive may give the person responsible for managing or controlling the task a written notice requiring the person, within 14 days after receiving the notice, to give the chief executive written evidence of the instruction and the satisfactory completion of the training.

- (6) A person given a notice under subsection (5) must comply with the notice, unless the person has a reasonable excuse.

Maximum penalty for subsection (6)—15 penalty units.

22 Approvals—tests and training courses for drivers

- (1) The chief executive may, on application under section 171 or on the chief executive's own initiative, approve—
- (a) a test of competence for drivers of vehicles transporting dangerous goods; or
 - (b) a training course for drivers of vehicles transporting dangerous goods.
- (2) The chief executive may approve a test of competence or a training course only if the chief executive considers that a person who passes the test, or completes the course, will have the skills and knowledge to perform the task to which the test or course relates safely and in compliance with this regulation.

Division 4 Goods suspected of being dangerous goods or goods too dangerous to be transported

23 Goods suspected of being dangerous goods or goods too dangerous to be transported

If it is not clear whether goods are dangerous goods or goods too dangerous to be transported, but a person suspects or ought reasonably to suspect that they are, the person must not consign or transport them until—

- (a) the goods have been classified in accordance with the ADG Code; or
- (b) a determination has been made that—
 - (i) the goods are or are not dangerous goods; or

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- (ii) the goods are or are not goods too dangerous to be transported.

Maximum penalty—40 penalty units.

Division 5 Determinations

24 Determination about dangerous goods and packaging

- (1) The chief executive may decide that goods are or are not—
 - (a) dangerous goods; or
 - (b) dangerous goods of a particular UN class, UN division or category; or
 - (c) dangerous goods with a particular subsidiary risk; or
 - (d) substances of a particular packing group; or
 - (e) incompatible with particular dangerous goods.
- (2) The chief executive may decide that—
 - (a) particular goods are or are not too dangerous to be transported; or
 - (b) particular dangerous goods must not be or may be transported in or on the same transport unit as other goods, whether or not dangerous goods; or
 - (c) particular dangerous goods may or may not be transported in particular packaging, despite any prohibition or authorisation in the dangerous goods list.
- (3) A decision under subsection (1) or (2)—
 - (a) is a determination for this regulation; and
 - (b) must be made by written notice.

Note—

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

- (4) Subsection (3)(b) does not apply to an administrative determination.

Note—

Section 172(1) provides for administrative determinations being given in writing.

25 Determinations about vehicles, routes, areas etc.

- (1) The chief executive may decide that particular dangerous goods may be or must or must not be transported—
- (a) using a stated vehicle, or kind of vehicle; or
 - (b) on a stated route; or
 - (c) in or through a stated area; or
 - (d) at a stated time; or
 - (e) in quantities more than a stated amount; or
 - (f) in stated packaging.
- (2) A decision under subsection (1)—
- (a) is a determination for this regulation; and
 - (b) must be made by written notice.

Note—

A notice under subsection (2)(b) is declared to be subordinate legislation under the *Statutory Instruments Regulation 2002*, section 3(3) and schedule 1.

- (3) Subsection (2)(b) does not apply to an administrative determination.

Note—

Section 172(1) provides for administrative determinations being given in writing.

26 Administrative determinations—Act, sch 4, definition *administrative determination*

A determination is an administrative determination if the determination—

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- (a) is made on the application of a person; and
- (b) applies only to the person.

Notes—

- 1 Part 17 contains provisions dealing with administrative determinations, including applications for, and amendment of, administrative determinations.
- 2 See also chapter 3, part 1A of the Act.

27 Determinations may be subject to conditions

- (1) In making a determination, the chief executive may impose any condition necessary for the safe transport of dangerous goods on the determination.
- (2) A person to whom a determination applies must not contravene a condition of the determination.

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

28 Effect of determinations on contrary obligations under this regulation

- (1) If this regulation imposes an obligation on a person, and the person is authorised or permitted to act contrary to that obligation by a determination, the obligation must be read as if it stated that the person could fulfil the obligation by acting in compliance with the determination.
- (2) In this section—
obligation includes duty and requirement.

29 Register of determinations

- (1) The chief executive must—
 - (a) keep a register of determinations; and
 - (b) with other dangerous goods authorities, keep a central register of corresponding determinations.

- (2) A register kept under subsection (1) may have separate divisions for different kinds of determinations.
- (3) The chief executive must record each determination in the register kept under subsection (1)(a).
- (4) The chief executive must note the amendment, suspension or cancellation of a determination in the register kept under subsection (1)(a).
- (5) In this section—
corresponding determination includes a determination under this regulation that the competent authorities panel has decided should have effect in 1 or more other participating jurisdictions.

30 Records of determinations

The record of a determination in the register kept under section 29(1)(a) must include—

- (a) the provisions of the determination; or
- (b) the following information—
 - (i) for a determination other than an administrative determination—the title of the gazette and the date the determination is gazetted;
 - (ii) the provisions of this regulation, and of the ADG Code, to which the determination relates;
 - (iii) the dangerous goods, equipment, packaging, vehicle or other thing to which the determination relates.

31 Offence to do anything prohibited or regulated by a determination

- (1) If a determination prohibits or regulates the doing of something, a person to whom the determination applies must not do the thing contrary to the determination.

Maximum penalty—40 penalty units.

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- (2) It is a defence to a prosecution for an offence against subsection (1) that the person did not know, and could not reasonably have been expected to know, of the determination, or that the determination applied to the person.

Division 6 Non-participating jurisdictions

32 Declaration of non-participating jurisdictions

A State is not a participating jurisdiction if—

- (a) the Australian Transport Council decides the law of the State does not include provisions having the same, or substantially the same, effect as the model legislation under the *National Transport Commission (Model Legislation—Transport of Dangerous Goods by Road or Rail) Regulations 2007*; and
- (b) the Minister, by gazette notice, declares the State is not a participating jurisdiction.

Part 2 Key concepts

33 Dangerous goods—Act, sch 4, definition *dangerous goods*

- (1) Goods are dangerous goods if—
- (a) the chief executive has made a determination that the goods are dangerous goods; or
- (b) the goods satisfy the criteria stated, or referred to, in part 2 of the ADG Code.
- (2) However, goods that satisfy the criteria stated, or referred to, in part 2 of the ADG Code are not dangerous goods if—
- (a) the chief executive has made a determination that the goods are not dangerous goods; or

- (b) the goods are described as not subject to the ADG Code in a special provision in chapter 3.3 of the ADG Code that is applied to the goods by column 6 of the dangerous goods list.

34 Goods too dangerous to be transported—Act, sch 4, definition *goods too dangerous to be transported*

Goods are too dangerous to be transported if—

- (a) they are goods stated or described in appendix A to the ADG Code; or
- (b) the chief executive has made a determination that they are goods too dangerous to be transported; or
- (c) they are goods, other than goods mentioned in paragraph (a) or (b), that are so sensitive or unstable that they can not be safely transported even if the relevant requirements of this regulation and the ADG Code are complied with.

35 UN classes, UN divisions and categories of dangerous goods

In this regulation, the UN class, UN division or category of particular dangerous goods is—

- (a) if a determination that the goods are of a particular UN class, UN division or category is in effect—the UN class, UN division or category stated in the determination; or
- (b) otherwise—the UN class, UN division or category for the goods worked out using the ADG Code.

Notes—

- 1 There are 9 classes of dangerous goods under the UN classification system and some of the classes are divided into divisions and some of the divisions are divided into categories. For example, UN division 6.2 (infectious substances) is divided into—

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- (a) category A (substances transported in a form that, if exposure occurs, can cause permanent disability or life-threatening or fatal disease to humans or animals); and
 - (b) category B (others).
- 2 For the UN class or UN division for dangerous goods listed in the dangerous goods list, see column 3 of the list and any special provision of chapter 3.3 of the ADG Code applied to the goods under column 6 of the list.
 - 3 For the category of dangerous goods listed in the dangerous goods list, see part 2 of the ADG Code and any special provision of chapter 3.3 of the code applied to the goods under column 6 of the list.

36 Subsidiary risk

In this regulation, the subsidiary risk of particular dangerous goods is—

- (a) if a determination that the goods have a particular subsidiary risk is in effect—the subsidiary risk stated in the determination; or
- (b) otherwise—the subsidiary risk (if any) for the goods worked out using the ADG Code.

Notes—

- 1 If dangerous goods are able to be assigned to more than one UN class (or more than one UN division), the goods are assigned a subsidiary risk which is the other UN class or classes (or UN division or divisions) to which the goods also belong.
- 2 For the subsidiary risk of dangerous goods listed in the dangerous goods list, see column 4 of the list and any special provision of chapter 3.3 of the ADG Code applied to the goods under column 6 of the list.

37 Packing groups

In this regulation, the packing group of particular dangerous goods is—

- (a) if a determination that the goods are of a particular packing group is in effect—the packing group stated in the determination; or

-
- (b) otherwise—the packing group (if any) for the goods worked out using the ADG Code.

Notes—

- 1 Dangerous goods are assigned to a packing group to indicate the degree of danger, and the level of containment required, for the goods. The packing groups, and the degree of danger they indicate, are—
 - packing group I (substances presenting high danger)
 - packing group II (substances presenting medium danger)
 - packing group III (substances presenting low danger).
- 2 For the packing group of dangerous goods listed in the dangerous goods list, see column 5 of the list and any special provision of chapter 3.3 of the ADG Code applied to the goods under column 6 of the list.

38 Incompatibility

- (1) Dangerous or other goods are *incompatible* with dangerous goods if—
 - (a) the goods are incompatible with the dangerous goods under chapter 9.1 of the ADG Code; or
 - (b) the chief executive has made a determination that the goods are 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) Packaging or equipment for use in the transport of dangerous goods is *incompatible* with the dangerous goods if a component of the packaging or equipment that is intended or likely to come into contact with the dangerous goods during transport—
 - (a) is likely to interact with the dangerous goods and increase risk because of the interaction; and

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- (b) is not protected from contact under foreseeable circumstances by a protective coating or by another effective way.

Part 3 Transport of dangerous goods to which special provisions apply

39 Application of pt 3

This part applies if a special provision prohibits the transport of dangerous goods or imposes a restriction on the way dangerous goods are to be transported.

40 Definition for pt 3

In this part—

special provision means a special provision of chapter 3.3 of the ADG Code applying to dangerous goods under column 6 of the dangerous goods list.

41 Duty of consignor

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

- (a) a special provision applies to the transport of the goods; and
- (b) the transport of the goods does not, or will not, comply with the special provision.

Maximum penalty—20 penalty units.

42 Duty of packer

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

- (a) a special provision applies to the transport of the goods; and
- (b) the transport of the goods does not, or will not, comply with the special provision.

Maximum penalty—20 penalty units.

43 Duty of loader

A person must not load dangerous goods on to a vehicle for transport if the person knows, or ought reasonably to know, that—

- (a) a special provision applies to the transport of the goods; and
- (b) the transport of the goods does not, or will not, comply with the special provision.

Maximum penalty—20 penalty units.

44 Duty of prime contractor

A prime contractor must not transport dangerous goods if the prime contractor knows, or ought reasonably to know, that—

- (a) a special provision applies to the transport of the goods; and
- (b) the transport of the goods does not comply with the special provision.

Maximum penalty—20 penalty units.

45 Duty of driver

A person must not drive a vehicle transporting dangerous goods if the person knows, or ought reasonably to know, that—

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- (a) a special provision applies to the transport of the goods;
and
- (b) the transport of the goods does not comply with the
special provision.

Maximum penalty—10 penalty units.

Part 4 Packaging

Division 1 General

46 Part does not apply to dangerous goods packed in limited quantities

Dangerous goods packed in limited quantities do not need to
be packed as required by this part.

47 References to part 4 of the ADG Code include dangerous goods list requirements

In this part, a reference to dangerous goods being packed in
accordance with a provision in part 4 of the ADG Code must
be read as including a reference to the goods being packed in
accordance with each packing requirement stated for the
goods in the dangerous goods list.

Division 2 Suitability and design of packaging

48 Unsuitability of packaging for transport

- (1) Packaging is *unsuitable* for the transport of dangerous goods
if—
 - (a) it is required to undergo performance tests under part 6
of the ADG Code, and it is not approved packaging; or

- (b) it does not meet relevant standards or requirements of part 4 or 6 of the ADG Code (including requirements about inspection, maintenance and repair); or
 - (c) its use, or re-use, for the transport of the goods does not comply with part 4 or 6 of the ADG Code; or
 - (d) its use for the transport of the goods is prohibited by, or does not comply with, a determination; or
 - (e) it is incompatible with the goods; or
 - (f) it is damaged or defective to the extent that it is not safe to use to transport the goods.
- (2) A freight container is also *unsuitable* for use as a bulk container for the transport of dangerous goods if it does not have affixed to it a safety approval plate as required under the International Convention for Safe Containers, 1972.

49 Marking packaging

- (1) A person must not apply a marking required by part 6 of the ADG Code on packaging if the packaging is not of a design approved under section 51.

Maximum penalty—40 penalty units.

- (2) A person must not apply a marking mentioned in part 6 of the ADG Code on packaging if the marking is not appropriate for the packaging.

Maximum penalty—40 penalty units.

50 Applications for approval of packaging design

- (1) This section applies to packaging that is required to undergo performance tests under part 6 of the ADG Code.

Examples of packaging required to undergo performance tests under part 6 of the ADG Code—

portable tanks, MEGCs, tanks on tank vehicles, pressure receptacles, aerosol dispensers, IBCs, bulk containers and drums, barrels, jerry cans, boxes, bags, composite packaging

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Examples of kinds of performance tests required under part 6 of the ADG Code—

drop, leakproofness, hydraulic and stacking tests

- (2) A person may apply to the chief executive for the approval of a design of packaging to which this section applies for use in the transport of dangerous goods.
- (3) An application for approval must—
 - (a) be made under section 171; and
 - (b) include sufficient information to enable the chief executive to decide the matters mentioned in section 51(1).

51 Approval of packaging design

- (1) The chief executive may, on application under section 50, approve a design of packaging for use in the transport of dangerous goods if the chief executive is satisfied a packaging of the design—
 - (a) will comply with, or is permitted by, part 6 of the ADG Code; and
 - (b) satisfies all the relevant testing and inspection requirements of part 6 of the ADG Code.
- (2) In deciding whether packaging of a particular design satisfies a particular testing requirement, the chief executive may rely on a test certificate or report issued by a recognised testing facility and complying with section 53.
- (3) In giving an approval under subsection (1), the chief executive may impose on the approval any condition about the construction, packing, maintenance or use of a packaging manufactured in accordance with the design necessary for the safe use of the packaging to transport dangerous goods.
- (4) A person must not construct, pack or fail to maintain packaging for use in the transport of dangerous goods, or use packaging to transport dangerous goods, if the person knows, or ought reasonably to know, that—

-
- (a) a condition about the construction, packing, maintenance or use of the packaging was imposed on the approval of the design for the packaging; and
 - (b) the construction, packing, failure to maintain, or use is in contravention of the condition.

Maximum penalty for subsection (4)—40 penalty units.

52 Recognised testing facilities

Each of the following is a *recognised testing facility* for a packaging design type—

- (a) a testing facility registered by NATA to conduct performance tests under part 6 of the ADG Code for the packaging design type;
- (b) if NATA has not registered a testing facility to conduct performance tests of a kind mentioned in paragraph (a)—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 a kind mentioned in paragraph (a).

53 Test certificates and reports

- (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, or report on the test, must—
 - (a) contain the details required under the relevant chapter of part 6 of the ADG Code; and
 - (b) be in the appropriate form used by testing facilities registered by NATA.

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- (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, or report on the test, must contain the details required under the relevant chapter of part 6 of the ADG Code.

54 Approval of overpack preparation method

- (1) The chief executive may, on application under section 171, approve a method of preparing an overpack for transport that does not comply with section 5.1.2 of the ADG Code if the chief executive considers that the risk involved in using the method is not greater than the risk involved in using a method complying with the section.
- (2) In giving an approval under subsection (1), the chief executive may impose on the approval any condition about the use of the overpack necessary for the safe use of the overpack to transport dangerous goods.
- (3) A person must not use an overpack to transport dangerous goods if the person knows, or ought reasonably to know, that—
 - (a) a condition about the use of the overpack was imposed on the approval of the method of preparing the overpack; and
 - (b) the use is in contravention of the condition.

Maximum penalty for subsection (3)—40 penalty units.

55 Authorised entity may issue approvals

- (1) The chief executive may authorise an entity to issue approvals under section 51 or 54.
- (2) In giving an authorisation under subsection (1), the chief executive may impose on the authorisation any condition the

chief executive considers appropriate for the issuing of approvals by the entity.

- (3) In issuing an approval, in addition to complying with any condition imposed under subsection (2), the entity must—
 - (a) comply with any relevant requirements of part 6 of the ADG Code about the issuing of the approval; and
 - (b) give the chief executive all of the information mentioned in section 179(b) about the approval.
- (4) If an entity is authorised to issue approvals under this section—
 - (a) sections 50, 51 and 54 apply as if a reference in the sections to the chief executive were a reference to the entity; and
 - (b) part 17, division 1, to the extent that it deals with approvals, applies as if a reference in the division to the chief executive were a reference to the entity.
- (5) An approval issued by an entity under this section—
 - (a) is taken to be an approval issued by the chief executive; and
 - (b) may be amended, suspended or cancelled by the chief executive under the Act.

Note—

See chapter 3, part 1A of the Act.

- (6) The chief executive may withdraw an authorisation given under this section at any time.
- (7) The withdrawal of an authorisation under subsection (6) does not affect an approval issued by the entity before the withdrawal took effect.

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Division 3 Prohibition on the sale or supply of noncompliant packaging

56 Offence to sell or supply noncompliant packaging

A person must not sell, supply, or offer to sell or supply, packaging for use in the transport of particular dangerous goods unless—

- (a) it is packaging of a design that has been approved under section 51, and it is marked in accordance with part 6 (or, if applicable, chapter 3.4) of the ADG Code, and, according to the marking, its use is appropriate for the goods; or
- (b) it complies with the relevant requirements of parts 4 and 6 (or, if applicable, chapter 3.4) of the ADG Code (including any relevant marking requirements) and its use is appropriate for the goods.

Maximum penalty—40 penalty units.

Division 4 Offences about general packaging

57 Definition for div 4

In this division—

general packaging means all packaging (including large packagings and IBCs) other than portable tanks, demountable tanks, MEGCs, bulk containers, freight containers, tanks on tank vehicles and overpacks.

58 Duty of consignor

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

- (a) the packaging is unsuitable for the transport of the goods; or

-
- (b) the goods have not been packed in the packaging in accordance with a relevant provision of part 4 of the ADG Code.

Maximum penalty—40 penalty units.

59 Duty of packer

- (1) A person must not pack dangerous goods for transport in general packaging if the person knows, or ought reasonably to know, that the packaging is unsuitable for the transport of the goods.

Maximum penalty—40 penalty units.

- (2) A person must not pack dangerous goods for transport in general packaging in a way that the person knows, or ought reasonably to know, does not comply with a relevant provision of part 4 of the ADG Code.

Maximum penalty—40 penalty units.

60 Duty of loader

A person must not load dangerous goods that are in general packaging on to a vehicle for transport if the person knows, or ought reasonably to know, that the packaging is damaged or defective to the extent that it is not safe to use to transport the goods.

Maximum penalty—40 penalty units.

61 Duty of prime contractor

A prime contractor must not transport dangerous goods in general packaging if the prime contractor knows, or ought reasonably to know, that the packaging is damaged or defective to the extent that it is not safe to use to transport the goods.

Maximum penalty—40 penalty units.

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62 Duty of driver

A person must not drive a vehicle transporting dangerous goods in general packaging if the person knows, or ought reasonably to know, that the packaging is damaged or defective to the extent that it is not safe to use to transport the goods.

Maximum penalty—20 penalty units.

Division 5 Offences about other packaging

63 Definition for div 5

In this division—

other packaging means portable tanks, demountable tanks, MEGCs, bulk containers, freight containers and tanks on tank vehicles.

64 Approval required for attaching compliance plate

A person must not attach a compliance plate, or something that purports to be a compliance plate, to a tank, MEGC or tank vehicle unless the tank, MEGC or tank vehicle is approved under section 51.

Maximum penalty—40 penalty units.

65 Duty of manufacturers about compliance plates for portable tanks, MEGCs and tank vehicles

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

Maximum penalty—40 penalty units.

- (2) Subsection (1) does not apply to a person who manufactures a portable tank if—

-
- (a) chapter 6.7 of the ADG Code permits the marking of the tank instead of the attachment of a compliance plate; and
 - (b) the tank is marked as required by that chapter.
- (3) A person who manufactures a tank vehicle for use in the transport of dangerous goods must attach a compliance plate to the vehicle in accordance with section 6.9.2.2 of the ADG Code.

Maximum penalty for subsection (3)—40 penalty units.

66 Duty of owners of portable tanks, demountable tanks, MEGCs and tank vehicles

The owner of a portable tank, a demountable tank, an MEGC or a tank vehicle must not use the tank, MEGC or tank vehicle, or permit the tank, MEGC or tank vehicle to be used, to transport dangerous goods if the tank, MEGC, or the tank on the tank vehicle, is unsuitable for the transport of the goods.

Maximum penalty—40 penalty units.

67 Duty of consignor

- (1) A person must not consign dangerous goods for transport in other packaging provided by the person if—
- (a) the packaging is unsuitable for the transport of the goods; or
 - (b) the goods have not been packed in the packaging in accordance with a relevant provision of part 4 of the ADG Code.

Maximum penalty—40 penalty units.

- (2) A person must not consign dangerous goods for transport in other packaging that was provided by another person if—
- (a) the packaging is unsuitable for the transport of the goods; or

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- (b) the goods have not been packed in the packaging in accordance with a relevant provision of part 4 of the ADG Code.

Maximum penalty—40 penalty units.

68 Duty of packer

- (1) A person must not pack dangerous goods for transport in other packaging if the person knows, or ought reasonably to know, that the packaging is unsuitable for the transport of the goods.

Maximum penalty—40 penalty units.

- (2) A person must not pack dangerous goods for transport in other packaging in a way that the person knows, or ought reasonably to know, does not comply with a relevant provision of part 4 of the ADG Code.

Maximum penalty—40 penalty units.

69 Duty of loader

A person must not load dangerous goods that are in other packaging on to a vehicle for transport if the person knows, or ought reasonably to know, that the packaging is unsuitable for the transport of the goods.

Maximum penalty—40 penalty units.

70 Duty of prime contractor

- (1) A prime contractor must not transport dangerous goods in other packaging provided by the prime contractor if—
 - (a) the packaging is unsuitable for the transport of the goods; or
 - (b) the goods have not been packed in the packaging in accordance with a relevant provision of part 4 of the ADG Code.

Maximum penalty—40 penalty units.

-
- (2) A prime contractor must not transport dangerous goods in other packaging provided by another person if the prime contractor knows, or ought reasonably to know, that—
- (a) the packaging is unsuitable for the transport of the goods; or
 - (b) the goods have not been packed in the packaging in accordance with a relevant provision of part 4 of the ADG Code.

Maximum penalty—40 penalty units.

71 Duty of driver

A person must not drive a vehicle transporting dangerous goods in other packaging if the person knows, or ought reasonably to know, that—

- (a) the packaging is unsuitable for the transport of the goods; or
- (b) the goods have not been packed in the packaging in accordance with a relevant provision of part 4 of the ADG Code.

Maximum penalty—40 penalty units.

Division 6 Offences about overpacks

72 Duty of consignor

A person must not consign dangerous goods for transport in an overpack if the preparation of the overpack and its contents does not comply with either—

- (a) section 5.1.2 of the ADG Code; or
- (b) an approval under section 54.

Maximum penalty—20 penalty units.

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73 Duty of packer

A person must not pack dangerous goods for transport in an overpack if the person knows, or ought reasonably to know, that the packing of the packages into the overpack, or the preparation of the overpack or its contents, does not comply with either—

- (a) section 5.1.2 of the ADG Code; or
- (b) an approval under section 54.

Maximum penalty—20 penalty units.

74 Duty of loader

A person must not load dangerous goods in an overpack on to a vehicle for transport if the person knows, or ought reasonably to know, that the preparation of the overpack and its contents does not comply with either—

- (a) section 5.1.2 of the ADG Code; or
- (b) an approval under section 54.

Maximum penalty—20 penalty units.

75 Duty of prime contractor

A prime contractor must not transport dangerous goods in an overpack if the prime contractor knows, or ought reasonably to know, that the preparation of the overpack and its contents does not comply with either—

- (a) section 5.1.2 of the ADG Code; or
- (b) an approval under section 54.

Maximum penalty—20 penalty units.

76 Duty of driver

A person must not drive a vehicle transporting dangerous goods in an overpack if the person knows, or ought reasonably

to know, that the preparation of the overpack and its contents does not comply with either—

- (a) section 5.1.2 of the ADG Code; or
- (b) an approval under section 54.

Maximum penalty—15 penalty units.

Division 7 Chief executive’s performance testing powers

77 Requiring production of packaging for testing

- (1) This section applies to a person who—
 - (a) is—
 - (i) a manufacturer of packaging used, or intended to be used, to transport dangerous goods; or
 - (ii) the consignor or prime contractor for the transport of dangerous goods; and
 - (b) has possession of, or control over, packaging of a design type used, or intended to be used, to transport dangerous goods.
- (2) The chief executive may, by signed notice, require the person to produce packaging manufactured or used by the person for performance testing to the chief executive or another person nominated in the notice (the *nominated person*).
- (3) The person must produce the packaging to the chief executive or nominated person within 14 days after the day the notice is given, unless before the end of that period the person delivers the packaging to another person for performance testing under an agreement with that other person.

Maximum penalty for subsection (3)—15 penalty units.

78 Requiring evidence of performance tests

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

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- (a) a manufacturer of packaging used, or intended to be used, to transport dangerous goods; or
 - (b) a consignor for the transport of dangerous goods.
- (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 part 6 of the ADG Code.
 - (3) The person must produce the evidence to the chief executive within 14 days after the day the notice is given.
Maximum penalty—15 penalty units.
 - (4) A test certificate or report under section 53 is evidence for this section.

Part 5 Consignment procedures

Division 1 Marking and labelling

79 Meaning of *appropriately marked*

- (1) A receptacle, other than a transport unit or an overpack, that has a capacity of more than 500 kilograms or litres is *appropriately marked* if it is marked and labelled in accordance with chapters 5.2 and 5.3.3 of the ADG Code.
- (2) Another package of dangerous goods, other than an overpack, is *appropriately marked* if it is marked and labelled in accordance with chapter 5.2 of the ADG Code.
- (3) An overpack is *appropriately marked* if it is marked and labelled in accordance with section 5.1.2 of the ADG Code.
- (4) A package of dangerous goods packed in limited quantities is also *appropriately marked* if it is marked and labelled in accordance with chapter 3.4 of the ADG Code.

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- (5) A package of dangerous goods to be transported as a retail distribution load is also *appropriately marked* if it is marked and labelled in accordance with chapter 7.3 of the ADG Code.

80 Duties of consignor

- (1) A person must not consign dangerous goods for transport in a package if the package is not appropriately marked.

Maximum penalty—

- (a) for large packaging or an overpack—20 penalty units; or
(b) in any other case—7½ penalty units.

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

Maximum penalty—

- (a) for large packaging or an overpack—20 penalty units; or
(b) in any other case—7½ penalty units.

- (3) A person must not consign goods for transport in a package that does not contain dangerous goods but is marked or labelled as if it contained dangerous goods.

Maximum penalty—

- (a) for large packaging or an overpack—20 penalty units; or
(b) in any other case—7½ penalty units.

81 Duties of packer

- (1) A person must not pack dangerous goods for transport in a package if the person knows, or ought reasonably to know, that the package is not, or will not be once the package is ready to be transported, appropriately marked.

Maximum penalty—

- (a) for large packaging or an overpack—20 penalty units; or

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(b) in any other case—7½ penalty units.

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

Maximum penalty—

(a) for large packaging or an overpack—20 penalty units; or

(b) in any other case—7½ penalty units.

- (3) A person who packs goods for transport in a package must not mark or label the package as if it contained dangerous goods if the person knows, or ought reasonably to know, that it does not contain dangerous goods.

Maximum penalty—

(a) for large packaging or an overpack—20 penalty units; or

(b) in any other case—7½ penalty units.

82 Duties of prime contractor

- (1) A prime contractor must not transport goods in a package if the prime contractor knows, or ought reasonably to know, that—

(a) the goods are dangerous goods; and

(b) the package is not appropriately marked.

Maximum penalty—

(a) for large packaging or an overpack—20 penalty units; or

(b) in any other case—7½ penalty units.

- (2) A prime contractor must not transport dangerous goods in a package if the prime contractor knows, or ought reasonably to know, that a marking or label on the package about its contents is false or misleading in a material particular.

Maximum penalty—

- (a) for large packaging or an overpack—20 penalty units; or
 - (b) in any other case—7½ penalty units.
- (3) A prime contractor must not transport goods in a package that is marked or labelled as if it contained dangerous goods if the prime contractor knows, or ought reasonably to know, that the package does not contain dangerous goods.

Maximum penalty—

- (a) for large packaging or an overpack—20 penalty units; or
- (b) in any other case—7½ penalty units.

Division 2 Placarding

83 When load must be placarded

- (1) A load of dangerous goods must be placarded if—
 - (a) it contains—
 - (i) dangerous goods in a receptacle with a capacity of more than 500L; or
 - (ii) more than 500kg of dangerous goods in a receptacle; or
 - (b) it contains an aggregate quantity of dangerous goods of 250 or more and those goods include—
 - (i) dangerous goods of UN division 2.1 that are not aerosols; or
 - (ii) dangerous goods of UN division 2.3; or
 - (iii) dangerous goods of packing group I; or
 - (c) it contains dangerous goods of category A of UN division 6.2; or

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- (d) it contains an aggregate quantity of dangerous goods of UN division 6.2 (other than category A) of 10 or more; or
 - (e) it contains an aggregate quantity of dangerous goods of 1000 or more.
- (2) However, a retail distribution load complying with chapter 7.3 of the ADG Code is not a load that must be placarded.

84 Meaning of *placards* and *appropriately placarded*

- (1) A person *placards* a load of dangerous goods if the person affixes, stencils, prints or places a placard about the load on any thing that is being, or that is to be, used to transport the load.
- (2) A placard load is *appropriately placarded* if it is placarded in accordance with chapter 5.3 of the ADG Code.
- (3) In this section—
placard means—
 - (a) a label within the meaning of the ADG Code; or
 - (b) an emergency information panel within the meaning of the ADG Code.

85 Duties of consignor

- (1) A person must not consign a placard load for transport if the load is not appropriately placarded.
Maximum penalty—40 penalty units.
- (2) A person must not consign a placard load for transport 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 in or on a transport unit that does not contain a placard load but is placarded as if it contained a placard load.

Maximum penalty—40 penalty units.

86 Duties of loader

- (1) A person must not load dangerous goods on to a vehicle for transport if the person knows, or ought reasonably to know, that—

- (a) the load is a placard load; and
- (b) the load is not appropriately placarded.

Maximum penalty—40 penalty units.

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

Maximum penalty—40 penalty units.

- (3) A person who loads goods on to a vehicle for transport must not placard the load as if it was a placard load if the person knows, or ought reasonably to know, that the load is not a placard load.

Maximum penalty—40 penalty units.

87 Duties of prime contractor

- (1) A prime contractor must not transport a load of dangerous goods if the prime contractor knows, or ought reasonably to know, that—

- (a) the load is a placard load; and
- (b) the load is not appropriately placarded.

Maximum penalty—40 penalty units.

- (2) A prime contractor must not transport a placard load if the prime contractor knows, or ought reasonably to know, that the

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placarding of the load is false or misleading in a material particular.

Maximum penalty—40 penalty units.

- (3) A prime contractor must not use a transport unit that is placarded as if it contained a placard load if the prime contractor knows, or ought reasonably to know, that the transport unit does not contain a placard load.

Maximum penalty—40 penalty units.

88 Duties of driver

- (1) A person must not drive a vehicle transporting a load of dangerous goods if the person knows, or ought reasonably to know, that—

- (a) the load is a placard load; and
- (b) the load is not appropriately placarded.

Maximum penalty—30 penalty units.

- (2) A person must not drive a vehicle transporting a placard load if the person knows, or ought reasonably to know, that the placarding of the load is false or misleading in a material particular.

Maximum penalty—30 penalty units.

- (3) A person must not drive a vehicle that is, or that incorporates, a transport unit that is placarded as if it contained a placard load if the person knows, or ought reasonably to know, that the vehicle or transport unit does not contain a placard load.

Maximum penalty—30 penalty units.

Part 6 **Safety standards for vehicles and equipment**

89 **Duty of owner**

The owner of a vehicle must not use the vehicle, or permit it to be used, to transport dangerous goods if the vehicle or its equipment does not comply with chapter 4.4 of the ADG Code.

Maximum penalty—40 penalty units.

90 **Duty of consignor**

A person must not consign dangerous goods for transport in or on a vehicle if the person knows, or ought reasonably to know, that the vehicle or its equipment does not comply with chapter 4.4 of the ADG Code.

Maximum penalty—40 penalty units.

91 **Duty of loader**

A person must not load dangerous goods on to a vehicle for transport if the person knows, or ought reasonably to know, that the vehicle or its equipment does not comply with chapter 4.4 of the ADG Code.

Maximum penalty—20 penalty units.

92 **Duty of prime contractor**

A prime contractor must not use a vehicle to transport dangerous goods if the vehicle or its equipment does not comply with chapter 4.4 of the ADG Code.

Maximum penalty—40 penalty units.

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93 Duty of driver

A person must not drive a vehicle transporting dangerous goods if the person knows, or ought reasonably to know, that the vehicle or its equipment does not comply with chapter 4.4 of the ADG Code.

Maximum penalty—30 penalty units.

Part 7 Transport operations for particular dangerous goods

Division 1 Self-reactive substances, organic peroxides and particular other substances

94 Application of div 1

This division applies to the following types of dangerous goods—

- (a) gases of UN class 2;
- (b) self-reactive substances of UN division 4.1;
- (c) organic peroxides of UN division 5.2;
- (d) other substances for which—
 - (i) the proper shipping name, within the meaning of the ADG Code, contains the word ‘stabilised’; and
 - (ii) the self-accelerating decomposition temperature (as worked out under part 2 of the ADG Code) when presented for transport in a packaging is 50°C or lower;
- (e) toxic substances of UN division 6.1 or subsidiary risk 6.1;

- (f) infectious substances of UN division 6.2;
- (g) dangerous when wet substances of UN division 4.3.

95 Duty of consignor

A person must not consign dangerous goods to which this division applies for transport in or on a transport unit if the person knows, or ought reasonably to know, that the goods are not loaded or stowed, or can not be transported or unloaded, in accordance with chapter 7.1 of the ADG Code.

Maximum penalty—20 penalty units.

96 Duty of loader

A person must not load dangerous goods to which this division applies that are in or on a transport unit on to a vehicle for transport other than in accordance with chapter 7.1 of the ADG Code.

Maximum penalty—20 penalty units.

97 Duties of prime contractor

- (1) A prime contractor must not transport dangerous goods to which this division applies if the prime contractor knows, or ought reasonably to know, that the transport does not comply with chapter 7.1 of the ADG Code.

Maximum penalty—20 penalty units.

- (2) A prime contractor responsible for the transport of 1 or more packages of infectious substances of UN division 6.2 who becomes aware of damage to, or leakage from, the package or any of the packages must comply with section 7.1.7.2.2 of the ADG Code.

Maximum penalty—20 penalty units.

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98 Duty of driver

A person must not drive a vehicle transporting dangerous goods to which this division applies if the person knows, or ought reasonably to know, that the dangerous goods are not being transported in accordance with chapter 7.1 of the ADG Code.

Maximum penalty—13 penalty units.

Division 2 Goods too dangerous to be transported

99 Application of div 2

This division applies to goods too dangerous to be transported.

Note—

Section 161Q of the Act provides that a person must not consign for transport goods too dangerous to be transported.

100 Duty of loader

A person must not load goods for transport in or on a transport unit if the person knows, or ought reasonably to know, that the goods are goods too dangerous to be transported.

Maximum penalty—20 penalty units.

101 Duty of prime contractor

A prime contractor must not transport goods if the prime contractor knows, or ought reasonably to know, that the goods are goods too dangerous to be transported.

Maximum penalty—20 penalty units.

102 Duty of driver

A person must not drive a vehicle transporting goods if the person knows, or ought reasonably to know, that the goods are goods too dangerous to be transported.

Maximum penalty—13 penalty units.

Part 8 Stowage and restraint

103 Duties of consignor

- (1) A person must not consign dangerous goods for transport in or on a vehicle if the person knows, or ought reasonably to know, that the goods or their packaging are not, or will not be, loaded, stowed and restrained in accordance with chapter 8.1 of the ADG Code.

Maximum penalty—20 penalty units.

- (2) A person must not consign dangerous goods for transport in or on a transport unit if the person knows, or ought reasonably to know, that the transport unit is not, or will not be, restrained in accordance with chapter 8.2 of the ADG Code.

Maximum penalty—20 penalty units.

104 Duties of loader

- (1) A person who loads dangerous goods for transport in or on a vehicle must load, stow and restrain the goods and their packaging in accordance with chapter 8.1 of the ADG Code.

Maximum penalty—20 penalty units.

- (2) A person who loads for transport in or on a vehicle dangerous goods that are in or on a transport unit must restrain the transport unit in accordance with chapter 8.2 of the ADG Code.

Maximum penalty—20 penalty units.

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105 Duties of prime contractor

- (1) A prime contractor must not transport dangerous goods in or on a vehicle if the prime contractor knows, or ought reasonably to know, that the goods or their packaging have not been loaded or stowed, or are not restrained, in accordance with chapter 8.1 of the ADG Code.

Maximum penalty—20 penalty units.

- (2) A prime contractor must not transport dangerous goods in or on a transport unit if the prime contractor knows, or ought reasonably to know, that the goods or their packaging are not restrained in accordance with chapter 8.2 of the ADG Code.

Maximum penalty—20 penalty units.

106 Duties of driver

- (1) A person must not drive a vehicle transporting dangerous goods if the person knows, or ought reasonably to know, that the goods or their packaging have not been loaded or stowed, or are not restrained, in accordance with chapter 8.1 of the ADG Code.

Maximum penalty—13 penalty units.

- (2) A person must not drive a vehicle transporting dangerous goods in or on a transport unit if the person knows, or ought reasonably to know, that the goods or their packaging are not restrained in accordance with chapter 8.2 of the ADG Code.

Maximum penalty—13 penalty units.

Part 9 Segregation

107 Application of pt 9

- (1) This part applies to—
 - (a) the transport of a placard load; and

-
- (b) the transport of a load of dangerous goods that is not a placard load if—
 - (i) the load contains dangerous goods of UN division 2.3, UN class 6 or UN class 8, or dangerous goods that have a subsidiary risk of 6.1 or 8; and
 - (ii) the load is being transported, or is to be transported, with food or food packaging.
 - (2) Dangerous goods packed in limited quantities do not need to comply with this part.

108 Exception for particular goods for driver's personal use

- (1) Despite sections 109 to 112, food and food packaging may be transported in or on a vehicle with dangerous goods if the food or packaging is in the vehicle's cabin and is for the driver's personal use.
- (2) Despite sections 109 to 112, a fire-risk substance may be transported in or on a vehicle with dangerous goods if the fire-risk substance is in the vehicle's cabin and is for the driver's personal use.
- (3) In this section—

fire-risk substance means a readily ignitable solid substance.

Examples—

hay, sawdust, waste paper, wood chips

109 Duty of consignor

A person must not consign dangerous goods for transport in or on a vehicle if the person knows, or ought reasonably to know, that—

- (a) the vehicle is, in the same journey, transporting goods that are incompatible with the dangerous goods; and
- (b) the dangerous goods will not be segregated from the incompatible goods in accordance with either—
 - (i) part 9 of the ADG Code; or

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- (ii) an approval under section 113.

Maximum penalty—40 penalty units.

110 Duty of loader

A person must not load dangerous goods for transport in or on a vehicle if the person knows, or ought reasonably to know, that—

- (a) the vehicle is, in the same journey, transporting goods that are incompatible with the dangerous goods; and
- (b) the dangerous goods will not be segregated from the incompatible goods in accordance with either—
 - (i) part 9 of the ADG Code; or
 - (ii) an approval under section 113.

Maximum penalty—40 penalty units.

111 Duty of prime contractor

A prime contractor must not use a vehicle to transport dangerous goods if the prime contractor knows, or ought reasonably to know, that—

- (a) the vehicle is, in the same journey, transporting goods that are incompatible with the dangerous goods; and
- (b) the dangerous goods are not segregated from the incompatible goods in accordance with either—
 - (i) part 9 of the ADG Code; or
 - (ii) an approval under section 113.

Maximum penalty—40 penalty units.

112 Duty of driver

A person must not drive a vehicle transporting dangerous goods if the person knows, or ought reasonably to know, that—

-
- (a) the vehicle is, in the same journey, transporting goods that are incompatible with the dangerous goods; and
 - (b) the dangerous goods are not segregated from the incompatible goods in accordance with either—
 - (i) part 9 of the ADG Code; or
 - (ii) an approval under section 113.

Maximum penalty—13 penalty units.

113 Approval of methods of segregation

- (1) The chief executive may, on application made under section 171, approve a method of segregation not complying with part 9 of the ADG Code for transporting dangerous goods and goods that are incompatible with the dangerous goods, if the chief executive considers that—
 - (a) it is impracticable to segregate the dangerous goods from the incompatible goods by a segregation device, or method of segregation, complying with that part; and
 - (b) the risk involved in using the method to transport the goods is not greater than the risk involved in using a device or method complying with that part to transport the goods.
- (2) In giving an approval under subsection (1), the chief executive may impose on the approval any condition necessary for the safe transport of dangerous goods.
- (3) A person to whom an approval has been given under this section must not contravene a condition of the approval.

Maximum penalty for subsection (3)—40 penalty units.

114 Approval of design of type II segregation devices

- (1) This section provides for the approval of the design of a type II segregation device for the purposes of chapter 6.11 of the ADG Code.

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- (2) A person may apply to the chief executive for the approval of a design for a type II segregation device for use in the transport of dangerous goods.
- (3) An application for approval must—
 - (a) be made under section 171; and
 - (b) include sufficient information to enable the chief executive to decide whether the design complies with chapter 6.11 of the ADG Code.
- (4) The chief executive may, on application under subsection (3), approve a design for a type II segregation device if the design complies with chapter 6.11 of the ADG Code.
- (5) In giving an approval under subsection (4), the chief executive may impose on the approval any condition necessary for the safe transport of dangerous goods.
- (6) A person to whom an approval has been given under this section must not contravene a condition of the approval.
Maximum penalty for subsection (6)—40 penalty units.

Part 10 Bulk transfer of dangerous goods

Division 1 General

115 Definition for pt 10

In this part—

bulk transfer means to transfer liquid, solid or gaseous dangerous goods—

- (a) by gravity, pump or pressure differential; and
- (b) using pipework or a hose; and

-
- (c) into or out of—
 - (i) a tank vehicle; or
 - (ii) a portable tank, demountable tank, bulk container, pressure drum, tube, MEGC or IBC that is on a vehicle.

Division 2 Equipment and transfer

116 Definitions for div 2

In this division—

prescribed dangerous goods means—

- (a) dangerous goods of UN division 2.1 or subsidiary risk 2.1; or
- (b) dangerous goods of UN class 3 or subsidiary risk 3.

prescribed way means—

- (a) for the bulk transfer of prescribed dangerous goods—a way that—
 - (i) complies with chapter 10.2 of the ADG Code, to the extent the chapter is not inconsistent with subparagraph (ii); and
 - (ii) ensures the distance between a source of ignition and any hose connection point is at least—
 - (A) for dangerous goods of UN division 2.1 or subsidiary risk 2.1—10m; or
 - (B) for dangerous goods of UN class 3 or subsidiary risk 3—8m; or
- (b) for the bulk transfer of other dangerous goods—a way that complies with chapter 10.2 of the ADG Code.

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117 Duties of transferor—hose assemblies

- (1) A person must not use a hose assembly for the bulk transfer of dangerous goods if the person knows, or ought reasonably to know, that the assembly is damaged or defective to the extent that it is not safe to use to transfer the goods.

Maximum penalty—30 penalty units.

- (2) A person must not use a hose assembly for the bulk transfer of dangerous goods if the person knows, or ought reasonably to know, that the hose assembly—

- (a) has not been constructed, assembled or maintained in accordance with chapter 10.1 of the ADG Code; or
- (b) has not been inspected or tested at the intervals, or in the way, required under that chapter; or
- (c) did not satisfy a test under that chapter.

Maximum penalty—40 penalty units.

118 Duties of transferor—general

- (1) A person must not bulk transfer dangerous goods unless the goods are transferred—

- (a) in the prescribed way; and
- (b) in a way that eliminates risk or, if it is not possible to eliminate risk, that minimises risk to the maximum extent that is practicable.

Maximum penalty—20 penalty units.

- (2) A person must not bulk transfer dangerous goods if the person knows, or ought reasonably to know, that—

- (a) the receptacle to which the goods are being or are to be transferred, or the equipment used or to be used to transfer the goods, is incompatible with the dangerous goods; or
- (b) the receptacle to which the goods are being or are to be transferred contains goods that are incompatible with the dangerous goods.

Maximum penalty—20 penalty units.

- (3) If dangerous goods leak, spill or escape during a bulk transfer, the person transferring the goods—
- (a) must immediately stop transferring the goods; and
 - (b) must take steps to eliminate risk or, if it is not possible to eliminate risk, to minimise risk to the greatest practicable extent; 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.

- (4) It is a defence to a prosecution for an offence against subsection (1) that the person complied with that subsection as far as practicable.
- (5) Subsection (4) does not apply in relation to a contravention of a requirement mentioned in section 116, definition *prescribed way*, paragraph (a)(ii).

119 Duties of occupier

- (1) The occupier of premises where the bulk transfer of dangerous goods occurs must not keep on the premises a hose assembly for use in the transfer (other than a hose assembly brought on to the premises on the vehicle involved in the transfer) that—
- (a) has not been constructed, assembled and maintained in accordance with chapter 10.1 of the ADG Code; or
 - (b) has not been inspected and tested at the intervals, and in the way, required under that chapter; or
 - (c) did not satisfy a test under that chapter.

Maximum penalty—20 penalty units.

- (2) The occupier of premises where the bulk transfer of dangerous goods occurs must not transfer the goods, or permit the goods to be transferred, other than—

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- (a) in the prescribed way; and
- (b) in a way that eliminates risk or, if it is not possible to eliminate risk, that minimises risk to the maximum extent that is practicable.

Maximum penalty—40 penalty units.

- (3) The occupier of premises where the bulk transfer of dangerous goods occurs must keep, in accordance with section 10.1.3.4 of the ADG Code, accurate records of all maintenance work, and each inspection and test, performed on the hose assembly.

Maximum penalty—7½ penalty units.

- (4) It is a defence to a prosecution for an offence against subsection (2) that the person complied with that subsection as far as practicable.
- (5) Subsection (4) does not apply in relation to a contravention of a requirement mentioned in section 116, definition *prescribed way*, paragraph (a)(ii).

120 Duties of prime contractor

- (1) A prime contractor must not use, or permit to be used, a hose assembly for the bulk transfer of dangerous goods (other than a hose assembly for which the prime contractor is not responsible) that—
 - (a) has not been constructed, assembled and maintained in accordance with chapter 10.1 of the ADG Code; or
 - (b) has not been inspected and tested at the intervals, and in the way, required under that chapter; or
 - (c) did not satisfy a test under that chapter.

Maximum penalty—20 penalty units.

- (2) A prime contractor must not bulk transfer, or permit to be bulk transferred, dangerous goods unless the goods are transferred—
 - (a) in the prescribed way; and

-
- (b) in a way that eliminates risk or, if it is not possible to eliminate risk, that minimises risk to the greatest practicable extent.

Maximum penalty—40 penalty units.

- (3) The prime contractor must keep, in accordance with section 10.1.3.4 of the ADG Code, accurate records of all maintenance work, and each inspection and test, performed on the hose assembly.

Maximum penalty—7½ penalty units.

- (4) It is a defence to a prosecution for an offence against subsection (2) that the prime contractor complied with that subsection as far as practicable.
- (5) Subsection (4) does not apply in relation to a contravention of a requirement mentioned in section 116, definition *prescribed way*, paragraph (a)(ii).

Division 3 Filling ratio and ullage

121 Application of div 3

This division applies to, and in relation to, the bulk transfer of dangerous goods into a tank vehicle.

122 Duty of transferor

A person must not bulk transfer dangerous goods into the tank of a tank vehicle if—

- (a) for dangerous goods of UN class 2 that are not in the form of refrigerated liquid—the quantity of the goods in the tank is more than the maximum permitted filling ratio stated in section 10.3.2 of the ADG Code; or
- (b) in any other case—the ullage in the tank does not comply with section 10.3.1 of the ADG Code.

Maximum penalty—20 penalty units.

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123 Duty of prime contractor

A prime contractor must not transport dangerous goods in a tank of a tank vehicle if—

- (a) for dangerous goods of UN class 2 that are not in the form of refrigerated liquid—the quantity of goods in the tank is more than the maximum permitted filling ratio stated in section 10.3.2 of the ADG Code; or
- (b) in any other case—the ullage in the tank does not comply with section 10.3.1 of the ADG Code.

Maximum penalty—20 penalty units.

124 Duty of driver

A person must not drive a tank vehicle that is transporting dangerous goods if the person knows, or ought reasonably to know, that—

- (a) for dangerous goods of UN class 2 that are not in the form of refrigerated liquid—the quantity of goods in the tank of the tank vehicle is more than the maximum permitted filling ratio stated in section 10.3.2 of the ADG Code; or
- (b) in any other case—the ullage in the tank of the tank vehicle does not comply with section 10.3.1 of the ADG Code.

Maximum penalty—20 penalty units.

Part 11 Documentation

Division 1 Transport documentation

Subdivision 1 False or misleading information

125 False or misleading information

- (1) A person must not include information in transport documentation for dangerous goods that the person knows, or ought reasonably to know, is false or misleading in a material particular.

Example of false information in transport documentation—

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

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.

Subdivision 2 Requirements about keeping transport documentation

126 Duties of consignor

- (1) A person must not consign dangerous goods for transport in or on a vehicle if the prime contractor or driver of the vehicle does not have transport documentation complying with chapter 11.1 of the ADG Code for the goods.

Maximum penalty—40 penalty units.

- (2) A person must not consign dangerous goods for transport if—

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- (a) the person knows, or ought reasonably to know, that the goods will be divided into, and transported in, separate loads; and
- (b) the prime contractor, or the driver of each vehicle transporting the load, has not been given separate transport documentation complying with chapter 11.1 of the ADG Code for each load.

Maximum penalty—40 penalty units.

127 Duty of prime contractor

A prime contractor must not permit a person to drive a vehicle used by the prime contractor to transport dangerous goods if the person has not been given transport documentation complying with chapter 11.1 of the ADG Code for the goods.

Maximum penalty—40 penalty units.

128 Duties of driver

- (1) The driver of a vehicle transporting dangerous goods must carry transport documentation complying with chapter 11.1 of the ADG Code for the goods.

Maximum penalty—40 penalty units.

- (2) A relevant emergency service officer may require the driver of a vehicle transporting dangerous goods to produce the transport documentation for the goods for inspection by the officer.

Note—

Under section 49 of the Act, an authorised officer may also require the driver to produce the transport documentation.

- (3) The driver must comply with the requirement, unless the driver has a reasonable excuse.

Maximum penalty for subsection (3)—40 penalty units.

Division 2 Emergency information

129 Definition for div 2

In this division—

required emergency information, for dangerous goods, means—

- (a) emergency information complying with chapter 11.2 of the ADG Code for the goods; or
- (b) emergency information approved under section 133 for the goods.

130 Duty of consignor

A person must not consign a placard load for transport in or on a vehicle if the person knows, or ought reasonably to know, that the required emergency information for the dangerous goods in the load is not on the vehicle.

Maximum penalty—13 penalty units.

131 Duty of prime contractor

A prime contractor must not use a vehicle to transport a placard load if—

- (a) the vehicle is not equipped with an emergency information holder complying with chapter 11.2 of the ADG Code; or
- (b) the required emergency information for the dangerous goods in the load is not in the holder.

Maximum penalty—20 penalty units.

132 Duties of driver

- (1) A person must not drive a vehicle transporting a placard load if—

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- (a) the vehicle is not equipped with an emergency information holder complying with chapter 11.2 of the ADG Code; or
- (b) the required emergency information for the dangerous goods in the load provided by the consignor of the goods, or by the prime contractor for the transport of the goods, is not in the holder.

Maximum penalty—13 penalty units.

- (2) The driver of a vehicle transporting a placard load must keep only the following in the vehicle's emergency information holder—
 - (a) the required emergency information for the dangerous goods in the load;
 - (b) the transport documentation for the goods.

Maximum penalty—6½ penalty units.

- (3) A relevant emergency service officer may require the driver of a vehicle transporting a placard load to produce the required emergency information for the dangerous goods in the load for inspection by the officer.

Note—

Under section 49 of the Act, an authorised officer may also require the driver to produce the required emergency information.

- (4) The driver must comply with the requirement, unless the driver has a reasonable excuse.

Maximum penalty for subsection (4)—13 penalty units.

133 Approval of emergency information

The chief executive may, on application under section 171 or on the chief executive's own initiative, approve emergency information that does not comply with chapter 11.2 of the ADG Code if the chief executive considers that use of the information would be as accurate, and at least as convenient and efficient, as information complying with the chapter.

Part 12 Safety equipment

134 Duty of owner

The owner of a vehicle must not use the vehicle, or permit the vehicle to be used, to transport a placard load if the vehicle is not equipped with—

- (a) fire extinguishers and portable warning devices complying with part 12 of the ADG Code; and
- (b) any other equipment required under that part.

Maximum penalty—40 penalty units.

135 Duties of prime contractor

- (1) A prime contractor must not use a vehicle to transport a placard load if the vehicle is not equipped with—

- (a) fire extinguishers and portable warning devices complying with part 12 of the ADG Code; and
- (b) any other equipment required under that part.

Maximum penalty—40 penalty units.

- (2) A prime contractor must not use a vehicle to transport a placard load if the prime contractor knows, or ought reasonably to know, that the equipment for the vehicle mentioned in subsection (1)—

- (a) has not been inspected or tested as required by part 12 of the ADG Code; or
- (b) is not in good repair or is not in proper working order.

Maximum penalty—40 penalty units.

136 Duties of driver

- (1) A person must not drive a vehicle transporting a placard load if the vehicle is not equipped with—

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- (a) fire extinguishers and portable warning devices complying with part 12 of the ADG Code; and
- (b) any other equipment required under that part.

Maximum penalty—13 penalty units.

- (2) A person must not drive a vehicle transporting a placard load if the person knows, or ought reasonably to know, that the equipment for the vehicle mentioned in subsection (1)—
 - (a) is not stowed in accordance with part 12 of the ADG Code; or
 - (b) has not been inspected or tested in accordance with that part; or
 - (c) is not in good repair or is not in proper working order.

Maximum penalty—13 penalty units.

Part 13 Procedures during transport

Division 1 Immobilised and stopped vehicles

137 Duty of driver

- (1) This section applies if a vehicle transporting a placard load—
 - (a) is broken down or otherwise immobilised, or has stopped, on a road; and
 - (b) is a traffic hazard.
- (2) The driver of the vehicle must alert other road users of the hazard in accordance with part 13 of the ADG Code.

Maximum penalty—13 penalty units.

138 Duties of prime contractor

- (1) If a prime contractor knows, or ought reasonably to know, that a vehicle transporting a placard load has broken down or is otherwise immobilised on a road, the prime contractor must, as soon as practicable, have the vehicle—
 - (a) repaired so that it can be driven safely off the road; or
 - (b) towed to a place where it can be repaired.

Maximum penalty—20 penalty units.

- (2) The prime contractor must—
 - (a) remove the dangerous goods from the vehicle before the vehicle is repaired or towed; and
 - (b) transport the dangerous goods from the place of the breakdown or immobilisation.

Maximum penalty—20 penalty units.

- (3) Subsection (2) applies only if the risk involved in complying with the subsection is not greater than the risk involved in not complying with the subsection.

Division 2 Duties of driver

139 Driving

The driver of a vehicle transporting a placard load must not allow another person to ride in the vehicle other than in accordance with part 13 of the ADG Code.

Maximum penalty—7½ penalty units.

140 Parking

The driver of a vehicle transporting a placard load must not park the vehicle, or leave the vehicle standing, in a public or

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private place other than in accordance with part 13 of the ADG Code.

Maximum penalty—13 penalty units.

141 Control of ignition sources

- (1) This section applies to a vehicle transporting a load of dangerous goods if—
 - (a) the load contains—
 - (i) dangerous goods in a receptacle with a capacity of more than 500L; or
 - (ii) more than 500kg of dangerous goods in a receptacle; and
 - (b) the dangerous goods are UN division 2.1, UN class 3, 4 or 5 dangerous goods or dangerous goods that have a subsidiary risk of 2.1, 3, 4 or 5.1.
- (2) The driver of the vehicle must not—
 - (a) have matches or a cigarette lighter in the driver's possession in the vehicle; or
 - (b) smoke in the vehicle.

Maximum penalty—40 penalty units.

- (3) The driver of the vehicle must take all practicable steps to prevent another person in the vehicle from—
 - (a) having matches or a cigarette lighter in the other person's possession; or
 - (b) smoking.

Maximum penalty—40 penalty units.

142 Unloading

The driver of a vehicle transporting a placard load must not permit the dangerous goods in the load to be unloaded from

the vehicle other than in accordance with part 13 of the ADG Code.

Maximum penalty—40 penalty units.

143 Detaching trailer

The driver of a vehicle that has attached to it a trailer transporting a placard load must not detach the trailer or permit it to be detached from the vehicle other than in accordance with part 13 of the ADG Code.

Maximum penalty—40 penalty units.

144 Tank vehicle equipped with burner

The driver of a tank vehicle that is transporting a placard load and is equipped with a burner to heat the load must not operate the burner or permit it to be operated other than in accordance with part 13 of the ADG Code.

Maximum penalty—40 penalty units.

Division 3 Duties of prime contractor

145 Unloading

A prime contractor must not authorise or instruct a driver to unload dangerous goods, from a vehicle transporting a placard load, in a way that does not comply with part 13 of the ADG Code.

Maximum penalty—40 penalty units.

146 Detaching trailer

A prime contractor must not authorise or instruct a driver to detach a trailer containing a placard load from a vehicle other than in accordance with part 13 of the ADG Code.

Maximum penalty—40 penalty units.

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Division 4 Other matters

147 Unauthorised access to goods

A prime contractor for the transport of dangerous goods or the driver of a vehicle transporting dangerous goods must take all reasonable precautions to prevent access to the goods by anyone else other than someone lawfully entitled to have access to the goods.

Maximum penalty—40 penalty units.

Part 14 Emergencies

Division 1 Emergencies generally

148 Duties of driver of vehicles

- (1) This section applies if a vehicle transporting dangerous goods is involved in an incident resulting in a dangerous situation.
- (2) The driver of the vehicle must—
 - (a) notify the prime contractor, the chief executive, and either the Queensland Police Service or the Queensland Fire and Rescue Service, of the incident as soon as practicable, but not more than 24 hours after the incident; and
 - (b) provide any reasonable assistance required by an authorised officer, or a relevant emergency service officer, to deal with the situation.

Maximum penalty—20 penalty units.

149 Duties of prime contractor relating to food or food packaging

- (1) This section applies if—
 - (a) an incident involving a vehicle transporting dangerous goods results in the leakage, spillage or escape of the dangerous goods, or in a fire or explosion; and
 - (b) there is food or food packaging in the vicinity of the incident that is within the control of a prime contractor.
- (2) The prime contractor must not remove, or permit to be removed, the food or food packaging from the site of the incident unless the chief executive has given permission to the prime contractor to transport the food or food packaging from the site.

Maximum penalty—40 penalty units.

- (3) A permission under subsection (2)—
 - (a) must be in writing; and
 - (b) must state the name of the person to whom it is given; and
 - (c) must identify the relevant incident; and
 - (d) must identify the food or food packaging to which it relates; and
 - (e) must take into consideration any requirements of the appropriate food and health authorities; and
 - (f) may contain any other information the chief executive considers necessary.

150 Duty of prime contractor to inform chief executive

- (1) This section applies if a vehicle transporting dangerous goods is involved in an incident resulting in a dangerous situation.
- (2) As soon as practicable, but not more than 24 hours after becoming aware of the incident, the prime contractor responsible for the transport of the goods must provide the chief executive with the following details about the incident—

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- (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;
- (e) any other details the chief executive may reasonably require.

Maximum penalty—20 penalty units.

- (3) Within 21 days after the day the incident happens, the prime contractor must give to the chief executive a written report about the incident stating the following—

- (a) where the incident happened;
- (b) the time and date of the incident;
- (c) the nature of the incident;
- (d) what the driver of the vehicle believes to be the likely cause of the incident;
- (e) what the prime contractor believes to be the likely cause of the incident;
- (f) the dangerous goods being transported when the incident happened;
- (g) the measures taken to control any leak, spill or escape of dangerous goods, and any fire or explosion, arising out of the incident;
- (h) the measures taken after the incident in relation to the dangerous goods involved in the incident.

Maximum penalty—20 penalty units.

Division 2 Emergencies involving placard loads

151 Telephone advisory service

- (1) A prime contractor must not transport a load of—
- (a) dangerous goods in a receptacle with a capacity of more than 500L; or
 - (b) more than 500kg of dangerous goods in a receptacle; if a telephone advisory service is not available during the journey.

Maximum penalty—40 penalty units.

- (2) A person must not consign a load of—
- (a) dangerous goods in a receptacle with a capacity of more than 500L; or
 - (b) more than 500kg of dangerous goods in a receptacle; if a telephone advisory service for the transport is not available during the journey.

Maximum penalty—40 penalty units.

- (3) For subsection (1) or (2), a telephone advisory service may be provided by the prime contractor or consignor, or someone else for the prime contractor or consignor.

- (4) In this section—

telephone advisory service, for the transport of dangerous goods, means a service providing access by a continuously monitored telephone not located on the vehicle carrying the goods to a person competent to give advice about—

- (a) the construction and properties of the receptacles in which the dangerous goods are being transported; and
- (b) the use of equipment on or in vehicles on which the dangerous goods are being transported; and
- (c) the properties of the dangerous goods; and

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- (d) methods of safely handling the dangerous goods; and
- (e) methods of safely containing and controlling the dangerous goods in a dangerous situation.

152 Emergency plans

- (1) A prime contractor must not transport a placard load if the prime contractor does not have an emergency plan for the transport of the load.

Maximum penalty—40 penalty units.

- (2) A person must not consign a placard load for transport if the person does not have an emergency plan for the transport of the load.

Maximum penalty—40 penalty units.

- (3) The chief executive may, by written notice, require the prime contractor or consignor of a placard load to produce the emergency plan for the transport of the load.

- (4) The prime contractor or consignor must produce the emergency plan to the chief executive within 14 days after the day the notice is given.

Maximum penalty—15 penalty units.

- (5) In this section—

emergency plan, for the transport of a placard load, means a written plan, for dealing with any dangerous situation arising from the transport of the goods, that is prepared having regard to guidelines approved by the Australian Transport Council.

Editor's note—

A copy of the guidelines is available from the website of the National Transport Commission. At the commencement of this definition, the website was at <www.ntc.gov.au>.

153 Duties of consignor—information and resources

- (1) This section applies if the consignor of dangerous goods in a placard load becomes aware that the vehicle transporting the

load has been involved in an incident resulting in a dangerous situation.

- (2) The consignor must, unless the consignor has a reasonable excuse—
 - (a) give the prescribed person information about the following—
 - (i) the properties of the goods;
 - (ii) the construction and properties of packaging used to transport the goods;
 - (iii) safe methods of handling the goods;
 - (iv) safe methods of containing and controlling the goods in a dangerous situation; and
 - (b) provide the equipment and other resources necessary for the following—
 - (i) controlling the dangerous situation;
 - (ii) containing, controlling, recovering or disposing of dangerous goods that have leaked, spilled or escaped.

Maximum penalty—20 penalty units.

- (3) Subsection (2)(a) or (b) does not apply if the prime contractor of the dangerous goods in the load gives the information or provides the equipment and resources for the incident.
- (4) In this section—

prescribed person means—

- (a) if the consignor has been notified of the relevant emergency service officer who is in charge of dealing with the dangerous situation—the relevant emergency service officer; or
- (b) otherwise—a relevant emergency service officer.

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154 Duties of prime contractor—information and resources

- (1) This section applies if the prime contractor of dangerous goods in a placard load becomes aware that the vehicle transporting the load has been involved in an incident resulting in a dangerous situation.
- (2) The prime contractor must, unless the prime contractor has a reasonable excuse—
 - (a) give the prescribed person information about the following—
 - (i) the vehicle's construction, properties and equipment;
 - (ii) the construction and properties of packaging used to transport the goods; and
 - (b) provide the equipment and other resources for the following—
 - (i) controlling the dangerous situation;
 - (ii) recovering a vehicle involved in the situation or its equipment.

Maximum penalty—20 penalty units.

- (3) Subsection (2)(a) or (b) does not apply if the consignor of the dangerous goods in the load gives the information or provides the equipment and resources for the incident.
- (4) In this section—

prescribed person means—

 - (a) if the prime contractor has been notified of the relevant emergency service officer who is in charge of dealing with the dangerous situation—the relevant emergency service officer; or
 - (b) otherwise—a relevant emergency service officer.

Part 15 Administrative matters

Division 1 Provisions about registers

155 Registers to which this division applies

This division applies to each of the following registers—

- (a) the register of determinations kept under section 29(1)(a);
- (b) the register of exemptions kept under section 166(1)(a);
- (c) the register of approvals kept under section 178(1)(a);
- (d) the register of dangerous goods driver licences kept under section 214(1);
- (e) the register of dangerous goods vehicle licences kept under section 214(2).

156 Registers may be kept by computer

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

157 Inspection of registers

- (1) The chief executive must ensure that each register is available for inspection by dangerous goods authorities.
- (2) The chief executive must ensure that each register mentioned in section 155(a) to (c) is available for inspection by the public.
- (3) The chief executive is taken to comply with subsections (1) and (2) by ensuring that there is reasonable access to—
 - (a) copies of information in a register; or
 - (b) a computer terminal to inspect a register.

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Division 2 Recommendations by chief executive and dangerous goods authorities

158 Recommendations by chief executive

- (1) This section applies if the chief executive considers that a ground exists for a dangerous goods authority to do any of the following (the *proposed action*)—
 - (a) amend or cancel a corresponding determination;
 - (b) amend or cancel a corresponding approval or corresponding exemption;
 - (c) amend, suspend or cancel a corresponding dangerous goods driver licence or corresponding dangerous goods vehicle licence.
- (2) The chief executive may recommend, in writing, that the dangerous goods authority take the proposed action.
- (3) The chief executive must provide written reasons to the dangerous goods authority for the recommendation.
- (4) If the recommendation is about a corresponding determination (other than a corresponding administrative determination), corresponding approval or corresponding exemption that has effect in 1 or more other participating jurisdictions, the chief executive must also refer the recommendation to the competent authorities panel.
- (5) In this section—

corresponding administrative determination means a corresponding determination that is—

 - (a) made by a dangerous goods authority on the application of a person; and
 - (b) applies only to the person.

159 Recommendations by dangerous goods authorities

- (1) This section applies if a dangerous goods authority recommends to the chief executive in writing that the chief executive do any of the following—
 - (a) amend or cancel a determination;
 - (b) amend, suspend or cancel an administrative determination;
 - (c) amend, suspend or cancel an approval or exemption;
 - (d) amend, suspend or cancel a dangerous goods driver licence or dangerous goods vehicle licence.
- (2) Subject to section 168(2)(b) and 180(2)(b), if the recommendation is about a determination (other than an administrative determination), approval or exemption that has effect in 1 or more other participating jurisdictions, the chief executive need not take any action on the recommendation until the competent authorities panel has considered the recommendation.
- (3) In any other case, the chief executive must have regard to the recommendation.

Division 3 Mutual recognition of determinations, exemptions, approvals and licences

160 Corresponding determinations

- (1) This section applies to a decision, however called, made by a dangerous goods authority if—
 - (a) the decision is made under a provision of the law of another jurisdiction corresponding to a provision (the *relevant provision*) of section 24 or 25; and
 - (b) the decision has effect in the other jurisdiction; and
 - (c) either of the following subparagraphs applies—

[s 161]

- (i) the competent authorities panel has decided that the decision should have effect in all participating jurisdictions or participating jurisdictions including this jurisdiction, and the panel has not reversed its decision;
 - (ii) the decision is an administrative determination under a provision of the law of the other jurisdiction corresponding to section 26.
- (2) Other than for circumstances that do not exist in this jurisdiction, the decision has effect in this jurisdiction as if it were a determination made by the chief executive under the relevant provision.

161 Corresponding exemptions

- (1) This section applies to an exemption granted by a dangerous goods authority if—
 - (a) the exemption is granted for a provision of the law of another jurisdiction corresponding to a provision (the *relevant provision*) of this regulation; and
 - (b) the exemption has effect in the other jurisdiction; and
 - (c) the competent authorities panel has decided that the exemption should have effect in all participating jurisdictions or participating jurisdictions including this jurisdiction, and the panel has not reversed its 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 granted by the chief executive for the relevant provision.

162 Corresponding approvals

- (1) This section applies to an approval issued or given in another jurisdiction if—
 - (a) the approval is issued or given under a provision of the law of the other jurisdiction corresponding to a

provision (the *relevant provision*) of any of the following sections—

- (i) section 22;
 - (ii) section 51;
 - (iii) section 54;
 - (iv) section 113;
 - (v) section 114;
 - (vi) section 133;
 - (vii) section 224; and
- (b) the approval has effect in the other jurisdiction; and
 - (c) the competent authorities panel has decided that the approval should have effect in all participating jurisdictions or participating jurisdictions including this jurisdiction, and the panel has not reversed its 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 the relevant provision.

163 Corresponding licences

- (1) This section applies to a licence granted in another jurisdiction if—
- (a) the licence is granted under a provision of the law of the other jurisdiction corresponding to section 192 or 202 (the *relevant provision*); and
 - (b) the licence has effect in the other jurisdiction.
- (2) Other than for circumstances that do not exist in this jurisdiction, the licence has effect in this jurisdiction as if it were a licence granted under the relevant provision.

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Part 16 Exemptions

Division 1 Purpose of part

164 Purpose of pt 16

This part provides for the following matters in relation to exemptions under section 153 of the Act—

- (a) how applications for the exemptions must be made;
- (b) the keeping of a register of exemptions;
- (c) the role of the competent authorities panel in relation to the exemptions.

Division 2 General matters about exemptions

165 Applications for exemptions

- (1) An application for an exemption must be in the approved form.
- (2) An application for an exemption must—
 - (a) be made in writing to the chief executive; and
 - (b) be signed and dated by or for the applicant; and
 - (c) state the applicant's name and address; and
 - (d) state the name of the person to whom, or the name or a description of the class of persons to which, the application relates; and
 - (e) state the provisions of this regulation, and of the ADG Code, to which the application relates; and
 - (f) state the dangerous goods to which the application relates; and

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- (g) state why, in the applicant's opinion, compliance with the provisions mentioned in paragraph (e) is not reasonably practicable; and
 - (h) state why, in the applicant's opinion, the exemption is not likely to involve a greater risk than the risk involved in complying with the provisions mentioned in paragraph (e); and
 - (i) if the application relates to a vehicle, equipment, packaging or other thing—describe the vehicle, equipment, packaging or thing; and
 - (j) state the period for which the exemption is sought; and
 - (k) state the geographical area within which the exemption is to have effect; and
 - (l) if a fee is prescribed for the application—be accompanied by the prescribed fee.
- (3) The chief executive may, by written notice, ask the applicant to give to the chief executive the additional information reasonably necessary to decide the application.

166 Register of exemptions

- (1) The chief executive must—
 - (a) keep a register of exemptions; and
 - (b) with other dangerous goods authorities, keep a central register of corresponding exemptions.
- (2) A register kept under subsection (1) may have separate divisions for different kinds of exemptions.
- (3) The chief executive must record each exemption in the register kept under subsection (1)(a).
- (4) The chief executive must note the amendment, suspension or cancellation of an exemption in the register kept under subsection (1)(a).
- (5) In this section—

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corresponding exemption includes an exemption under this regulation that the competent authorities panel has decided should have effect in 1 or more other participating jurisdictions.

167 Records of exemptions

The record of an exemption in the register kept under section 166(1)(a) must include—

- (a) the terms of the exemption; or
- (b) the following information—
 - (i) the name of the person to whom, or the name or a description of the class of persons to which, the exemption applies;
 - (ii) the date when the exemption was granted;
 - (iii) the provisions of this regulation, and of the ADG Code, to which the exemption relates;
 - (iv) the period for which the exemption has effect;
 - (v) the dangerous goods, vehicle, equipment, packaging or other thing to which the exemption relates;
 - (vi) the geographical area for which the exemption has effect.

Division 3 Referring matters to the competent authorities panel

168 Referring matters to the competent authorities panel

- (1) The chief executive must refer an application for an exemption to the competent authorities panel if the chief executive considers that the exemption should have effect in all participating jurisdictions or participating jurisdictions including this jurisdiction.

- (2) The chief executive must refer to the competent authorities panel an exemption having effect in this jurisdiction, and 1 or more other participating jurisdictions, if—
 - (a) the chief executive considers that the exemption should be amended, suspended or cancelled; or
 - (b) a dangerous goods authority recommends to the chief executive in writing that the exemption should be amended, suspended or cancelled.

169 Effect of competent authorities panel decision about application

- (1) This section applies if—
 - (a) an application for an exemption is referred to the competent authorities panel under section 168(1); and
 - (b) the competent authorities panel decides—
 - (i) that the exemption should be granted, what the terms 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 competent authorities panel's decision.

170 Effect of competent authorities panel decision about amending, suspending or cancelling exemption

- (1) This section applies if—
 - (a) an exemption is referred to the competent authorities panel under section 168(2); and
 - (b) the competent authorities panel decides that the exemption—

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- (i) 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
 - (ii) should not be amended; or
 - (iii) should, or should not, be suspended or cancelled.
- (2) The chief executive must have regard to the competent authorities panel's decision.

Part 17 Administrative determinations and approvals

Division 1 General

171 Applications

- (1) An application for an administrative determination or approval, or for the amendment of an administrative determination or approval, must—
 - (a) be made to the chief executive in writing; and
 - (b) if a fee is prescribed for the application—be accompanied by the prescribed fee.
- (2) An application for the amendment of an administrative determination or approval must have the determination or approval with it.
- (3) The chief executive may, by written notice, ask an applicant to give to the chief executive the additional information reasonably necessary to decide the application.

172 Form of administrative determinations and approvals

- (1) An administrative determination, or an approval on application, must be given by written notice to the applicant.
- (2) An approval under section 22 or 133 on the chief executive's initiative is given by recording it in the register kept under section 178(1)(a).

173 When administrative determinations and approvals not to be made etc.

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 160 of the Act from involvement in the transport of dangerous goods.

174 Reasons for refusal of applications

- (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 refusal.
- (3) The notice must be or include an information notice for the refusal.

175 Periods and conditions

- (1) An administrative determination or approval has effect for the period stated in the determination or approval.
- (2) A condition to which an administrative determination, or an approval, is subject must be stated in the determination or approval.

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176 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 that the determination or approval has been defaced, destroyed, lost or stolen.

177 Amending, suspending or cancelling administrative determinations and approvals

An administrative determination or an approval under this regulation is prescribed as an approval for section 18(1)(k) and (l) of the Act.

Division 2 Register of approvals

178 Register of approvals

- (1) The chief executive must—
 - (a) keep a register of approvals; and
 - (b) with other dangerous goods authorities, keep a central register of corresponding approvals.
- (2) A register kept under subsection (1) may have separate divisions for different kinds of approvals.
- (3) The chief executive must record each approval in the register kept under subsection (1)(a).
- (4) The chief executive must note the amendment, suspension or cancellation of an approval in the register kept under subsection (1)(a).
- (5) In this section—

corresponding approval includes an approval under this regulation that the competent authorities panel has decided

should have effect in 1 or more other participating jurisdictions.

179 Records of approvals

The record of an approval in the register kept under section 178(1)(a) must include—

- (a) the terms of the approval; or
- (b) the following information—
 - (i) the name of the person to whom the approval was given;
 - (ii) the date when the approval was given;
 - (iii) the provisions of this regulation, and of the ADG Code, to which the approval relates;
 - (iv) the period for which the approval has effect;
 - (v) the dangerous goods, equipment, packaging, vehicle or other thing to which the approval relates;
 - (vi) the conditions, if any, of the approval.

Division 3 Referring matters to the competent authorities panel

180 Referring matters to the competent authorities panel

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

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- (b) a dangerous goods authority recommends to the chief executive in writing that the approval should be amended, suspended or cancelled.

181 Effect of competent authorities panel decision about application

- (1) This section applies if—
 - (a) an application for an approval is referred to the competent authorities panel under section 180(1); and
 - (b) the competent authorities panel decides—
 - (i) that the approval should be given, what the terms 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 competent authorities panel's decision.

182 Effect of competent authorities panel decision about amending, suspending or cancelling approval

- (1) This section applies if—
 - (a) an approval is referred to the competent authorities panel under section 180(2); and
 - (b) the competent authorities panel decides that the approval—
 - (i) 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

- (ii) should not be amended; or
 - (iii) should, or should not, be suspended or cancelled.
- (2) The chief executive must have regard to the competent authorities panel's decision.

Part 18 Licences

Division 1 Preliminary

183 Application of pt 18

Despite anything to the contrary in this part, this part does not apply to the transport of dangerous goods on a vehicle if—

- (a) the goods are transported in an IBC; and
- (b) the IBC is not packed or unpacked on the vehicle; and
- (c) the total capacity of IBCs containing dangerous goods on the vehicle is not more than 3000L.

184 Part additional to other laws

This part is in addition to any other law in force in this jurisdiction about—

- (a) the licensing of drivers; or
- (b) the employment or engaging of drivers; or
- (c) the registration of vehicles; or
- (d) the transport of goods by road.

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Division 2 Vehicles and drivers must be licensed under this part

185 Vehicles must be licensed

A vehicle must not be used to transport—

- (a) dangerous goods that are in a receptacle with a capacity of more than 500L; or
 - (b) more than 500kg of dangerous goods in a receptacle;
- unless the vehicle is licensed under this part to transport the goods.

Note—

See section 154 of the Act for offences relating to vehicles required to be licensed under this section.

186 Drivers must be licensed

A person must not drive a vehicle transporting—

- (a) dangerous goods that are in a receptacle with a capacity of more than 500L; or
 - (b) more than 500kg of dangerous goods in a receptacle;
- unless the person holds a dangerous goods driver licence that authorises the person to drive the vehicle with the goods.

Note—

See section 154 of the Act for offences relating to drivers required to be licensed under this section.

Division 3 Dangerous goods driver licences

187 Definition for div 3

In this division—

licensee means the holder of a dangerous goods driver licence.

188 Applications for licences

- (1) A person resident in Queensland who is not the holder of a dangerous goods driver licence may apply to the chief executive for a dangerous goods driver licence.
- (2) The application must be in the approved form and must be accompanied by—
 - (a) the driver licence evidence required by section 189; and
 - (b) the competency evidence required by section 190; and
 - (c) the medical fitness evidence required by section 191; and
 - (d) if the application is made through an agent of the chief executive—2 photographs of the applicant of a size suitable for passports that were taken not more than 6 months before the day the application is made; and
 - (e) if a fee is prescribed for the application—the prescribed fee.

189 Required driver licence evidence

The following documents are required as driver licence evidence for an application for the grant or renewal of a dangerous goods driver licence—

- (a) a copy of the applicant's open licence;
- (b) an authorisation by the applicant for the chief executive to have access to entries about the applicant in the driver licences register of any State.

Note—

Under section 17C of the Act, the chief executive may obtain information about the applicant's criminal history from the commissioner.

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190 Required competency evidence

- (1) A document mentioned in subsection (2) is required as competency evidence for an application for grant or renewal of a dangerous goods driver licence.
- (2) The document must be either—
 - (a) a certificate issued, not more than 6 months before the day the application is made, by a person who conducted an approved test or approved training course stating that the applicant passed the test or completed the course; or
 - (b) other written evidence that the applicant passed an approved test or completed an approved training course not more than 6 months before the day the application is made.
- (3) In this section—

approved test means a test approved under section 22(1)(a).

approved training course means a training course approved under section 22(1)(b).

191 Required medical fitness evidence

- (1) The certificate mentioned in subsection (2) is required as medical fitness evidence for an application for the grant or renewal of a dangerous goods driver licence.
- (2) The certificate must be—
 - (a) about the medical fitness of the applicant to drive a vehicle; and
 - (b) issued by a doctor who, not more than 6 months before the day the application is made, examined and passed the applicant in accordance with the fitness to drive standards, as in force at the time of the examination.

192 Grant of dangerous goods driver licences

- (1) The chief executive must grant a dangerous goods driver licence, with or without conditions, if—

-
- (a) an application is made to the chief executive for the licence; and
 - (b) the application is accompanied by the documents required by section 188 and otherwise complies with the section; and
 - (c) the applicant holds an open licence.

Note—

See section 196 for the conditions the chief executive may impose on a dangerous goods driver licence.

- (2) However, the chief executive must not grant a dangerous goods driver licence if—
 - (a) in the 5 years before the day the application is made—
 - (i) the applicant was convicted by a court in Australia of an offence that in the chief executive’s opinion makes the applicant unsuitable to be the driver of a vehicle transporting dangerous goods; or
 - (ii) the applicant’s driver licence has been suspended or cancelled on a ground that in the chief executive’s opinion makes the applicant unsuitable to be the driver of a vehicle transporting dangerous goods; or
 - (b) the applicant is subject to a court order, under section 160 of the Act, prohibiting the applicant from involvement in the transport of dangerous goods.
- (3) Without limiting subsection (2)(a), the chief executive may consider a person to be unsuitable to be the driver of a vehicle transporting dangerous goods if—
 - (a) the person has been convicted of an offence against the *Drugs Misuse Act 1986* or of an offence involving careless or dangerous driving or driving under the influence of liquor or a drug; or
 - (b) the person has been disqualified from holding or obtaining a driver licence, whether absolutely or for a period.

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- (4) If the chief executive refuses to grant a dangerous goods driver licence, or grants a dangerous goods driver licence subject to conditions, the chief executive must inform the applicant by written notice of the decision.
- (5) The notice must be or include an information notice.

193 Applications for renewal of licences

- (1) A person resident in Queensland who holds a dangerous goods driver licence may apply to the chief executive for the renewal of the licence.
- (2) The application must be in the approved form and must be accompanied by—
 - (a) the driver licence evidence required by section 189; and
 - (b) the competency evidence required by section 190; and
 - (c) the medical fitness evidence required by section 191; and
 - (d) if the application is made through an agent of the chief executive—2 photographs of the applicant of a size suitable for passports that were taken not more than 6 months before the day the application is made; and
 - (e) if a fee is prescribed for the application—the prescribed fee.

194 Renewal of licences

- (1) The chief executive must renew a dangerous goods driver licence, with or without conditions, if—
 - (a) an application is made to the chief executive for renewal of the licence; and
 - (b) the application is accompanied by the documents required by section 193 and otherwise complies with the section.

Note—

See section 196 for the conditions the chief executive may impose on a dangerous goods driver licence.

- (2) However, the chief executive must not renew a dangerous goods driver licence if—
 - (a) while the licence was in force—
 - (i) the applicant was convicted in Australia of an offence that in the chief executive’s opinion makes the applicant unsuitable to be the driver of a vehicle transporting dangerous goods; or
 - (ii) the applicant’s driver licence has been suspended or cancelled on a ground that in the chief executive’s opinion makes the applicant unsuitable to be the driver of a vehicle transporting dangerous goods; or
 - (b) the applicant is subject to a court order, under section 160 of the Act, prohibiting the applicant from involvement in the transport of dangerous goods.
- (3) Without limiting subsection (2)(a), the chief executive may consider a person to be unsuitable to be the driver of a vehicle transporting dangerous goods if—
 - (a) the person has been convicted of an offence against the *Drugs Misuse Act 1986* or of an offence involving careless or dangerous driving or driving under the influence of liquor or a drug; or
 - (b) the person has been disqualified from holding or obtaining a driver licence, whether absolutely or for a period.
- (4) If the chief executive refuses to renew a dangerous goods driver licence, or renews a dangerous goods driver licence subject to conditions, the chief executive must inform the applicant by written notice of the decision.
- (5) The notice must be or include an information notice.

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195 Licence periods

- (1) A dangerous goods driver licence is granted for the period stated in the licence, being a period not longer than 5 years.
- (2) A dangerous goods driver licence takes effect on the day the licence is granted or a later day stated in the licence.
- (3) A dangerous goods driver licence is renewed for the period stated in the renewed licence, being a period not longer than 5 years and 3 months.

196 Licence conditions

- (1) The chief executive may grant or renew a dangerous goods driver licence subject to conditions mentioned in subsections (3) and (4).
- (2) A condition to which a dangerous goods driver licence is subject must be stated in the licence.
- (3) A dangerous goods driver licence may be subject to conditions about—
 - (a) the dangerous goods that may or may not be transported in or on a vehicle driven by the licensee; or
 - (b) the packaging that may or may not be used to transport dangerous goods in or on a vehicle driven by the licensee; or
 - (c) the vehicles that may be driven by the licensee in transporting dangerous goods; or
 - (d) the areas where the licensee may or may not drive a vehicle transporting dangerous goods or particular dangerous goods; or
 - (e) the supervision of the licensee when driving a vehicle transporting dangerous goods; or
 - (f) the medical examinations required to be undergone by the licensee in accordance with the fitness to drive standards.

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- (4) A dangerous goods driver licence may be subject to any other condition necessary for the safe transport of dangerous goods by road.

197 Additional condition

- (1) It is a condition of a dangerous goods driver licence that the chief executive may, by written notice given to the licensee, require the licensee to produce to the chief executive a certificate that would be required by section 191 if the licensee were to apply for a renewal of the licence.
- (2) The written notice must state a period of at least 2 months after the day the notice is given to the licensee within which the licensee must produce the certificate.
- (3) The chief executive must not give written notice under this section if the period of validity of the dangerous goods driver licence is less than 4 months.

198 Amending, suspending or cancelling licences

A dangerous goods driver licence is prescribed as an approval for section 18(1)(l) of the Act.

Division 4 Dangerous goods vehicle licences

199 Definitions for div 4

In this division—

converter dolly has the meaning given by the *Transport Operations (Road Use Management—Vehicle Standards and Safety) Regulation 1999*.

vehicle does not include—

- (a) a prime mover; or
- (b) a converter dolly.

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200 Applications for licences

- (1) A person may apply to the chief executive for a dangerous goods vehicle licence for a vehicle—
 - (a) used, or intended to be used, for transporting dangerous goods; and
 - (b) for which the person does not hold a dangerous goods vehicle licence.
- (2) The application must be in the approved form and must include the following information—
 - (a) the registration number, make and type of the vehicle;
 - (b) the type of dangerous goods intended to be transported in or on the vehicle;
 - (c) if the applicant holds a dangerous goods vehicle licence for another vehicle—the number of the other dangerous goods vehicle licence.
- (3) If a fee is prescribed for the application, the application must be accompanied by the prescribed fee.
- (4) An application may be made for dangerous goods vehicle licences for 2 or more vehicles in the same approved form.

201 Additional information and inspections

- (1) The chief executive may, by written notice, ask an applicant for a dangerous goods vehicle licence, or for the renewal of a dangerous goods vehicle licence, for a vehicle—
 - (a) to give to the chief executive the additional information reasonably necessary to decide the application; or
 - (b) to make the vehicle available for inspection by the chief executive at a stated place and time.
- (2) If a report of an inspection under subsection (1)(b) is prepared, the chief executive must give a copy of it to the applicant if the applicant asks for it.

202 Grant of dangerous goods vehicle licences

- (1) Subject to subsection (4), the chief executive must grant, with or without conditions, a dangerous goods vehicle licence for a vehicle if—
 - (a) an application is made to the chief executive for the licence; and
 - (b) the application complies with section 200; and
 - (c) the applicant has complied with any requirement made under section 201 in relation to the application; and
 - (d) the vehicle is suitable to transport each type of dangerous goods intended to be transported in or on the vehicle.

Note—

See section 206 for the conditions the chief executive may impose on a dangerous goods vehicle licence.

- (2) Without limiting subsection (1)(d), if a vehicle is intended for use in the transport of dangerous goods in the form of a liquid or gas using a tank that will form part of the vehicle or be attached to it, the vehicle is suitable only if—
 - (a) the tank is an approved tank; and
 - (b) the vehicle complies with the requirements of chapters 4.4 and 6.9 of the ADG Code applying to vehicles for use in transporting dangerous goods in the form of a liquid or gas.
- (3) However, the chief executive must not grant a dangerous goods vehicle licence if the applicant is subject to a court order, under section 160 of the Act, prohibiting the applicant from involvement in the transport of dangerous goods.
- (4) The chief executive may issue a single dangerous goods vehicle licence for more than 1 vehicle.
- (5) If the chief executive refuses to grant a dangerous goods vehicle licence, or grants a dangerous goods vehicle licence

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subject to conditions, the chief executive must inform the applicant by written notice of the decision.

- (6) The notice must be or include an information notice.

203 Applications for renewal of licences

- (1) A person who holds a dangerous goods vehicle licence for a vehicle may apply to the chief executive for the renewal of the licence.
- (2) The application must be in the approved form and must include the information required under section 200(2) for an application for the grant of a dangerous goods vehicle licence for the vehicle.
- (3) If a fee is prescribed for the application, the application must be accompanied by the prescribed fee.

204 Renewal of licences

- (1) Subject to subsection (4), the chief executive must, with or without conditions, renew a dangerous goods vehicle licence for a vehicle if—
 - (a) an application is made to the chief executive for the renewal of the licence; and
 - (b) the application complies with section 203; and
 - (c) the applicant has complied with any requirement made under section 201 in relation to the application; and
 - (d) the vehicle is suitable to transport each type of dangerous goods intended to be transported in or on the vehicle.

Note—

Under section 206 the chief executive may grant a dangerous goods vehicle licence subject to conditions.

- (2) Without limiting subsection (1)(d), if a vehicle is intended for use in the transport of dangerous goods in the form of a liquid

or gas using a tank that will form part of the vehicle or be attached to it, the vehicle is suitable only if—

- (a) the tank is an approved tank; and
 - (b) the vehicle complies with the requirements of chapters 4.4 and 6.9 of the ADG Code applying to vehicles for use in transporting dangerous goods in the form of a liquid or gas.
- (3) However, the chief executive must not renew a dangerous goods vehicle licence if the applicant is subject to a court order, under section 160 of the Act, prohibiting the applicant from involvement in the transport of dangerous goods.
 - (4) The chief executive may issue a single dangerous goods vehicle licence for more than 1 vehicle.
 - (5) If the chief executive refuses to renew a dangerous goods vehicle licence, or renews a dangerous goods vehicle licence subject to conditions, the chief executive must inform the applicant by written notice of the decision.
 - (6) The notice must be or include an information notice.

205 Licence periods

- (1) A dangerous goods vehicle licence is granted for the period stated in the licence.
- (2) A dangerous goods vehicle licence takes effect on the day the licence is granted or a later day stated in the licence.
- (3) A dangerous goods vehicle licence is renewed for the period stated in the renewed licence.

206 Licence conditions

- (1) The chief executive may grant or renew a dangerous goods vehicle licence subject to conditions mentioned in subsections (3) and (4).
- (2) A condition to which a dangerous goods vehicle licence is subject must be stated in the licence.

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- (3) A dangerous goods vehicle licence for a vehicle may be subject to conditions about—
 - (a) the dangerous goods that may or may not be transported in or on the vehicle; and
 - (b) the areas where the vehicle may or may not be used to transport dangerous goods or particular dangerous goods; and
 - (c) the inspections of the vehicle that are required.
- (4) A dangerous goods vehicle licence may be subject to any other condition necessary for the safe transport of dangerous goods.

207 Disposal of licensed vehicles

- (1) Before transferring possession or otherwise disposing of a licensed vehicle (the *disposed vehicle*), the person who holds the dangerous goods vehicle licence for the vehicle must—
 - (a) remove the licence label from the vehicle and destroy the label; and
 - (b) if required by the chief executive, provide sufficient evidence to show that the label has been destroyed.

Maximum penalty—6½ penalty units.

- (2) Within 21 days after transferring possession or otherwise disposing of the disposed vehicle, the person who holds the dangerous goods vehicle licence for the vehicle must notify the chief executive of the disposal.

Maximum penalty—7½ penalty units.

- (3) Within 21 days after transferring possession or otherwise disposing of the disposed vehicle, the person who holds the dangerous goods vehicle licence for the vehicle must—
 - (a) destroy the licence; and
 - (b) if required by the chief executive, provide sufficient evidence to show that the licence has been destroyed.

Maximum penalty—6½ penalty units.

- (4) If the dangerous goods vehicle licence for the disposed vehicle relates to another vehicle, on receipt of notification of disposal of the disposed vehicle under subsection (2), the chief executive must—
 - (a) amend the record of the licence in the register kept under section 214(2) by omitting the reference to the disposed vehicle; and
 - (b) issue an amended licence that does not include a reference to the disposed vehicle to the holder of the licence.
- (5) In this section—

licensed vehicle means a vehicle for which a dangerous goods vehicle licence is in force.

208 Licence labels

- (1) The chief executive must issue to the holder of a dangerous goods vehicle licence a licence label for each vehicle to which the licence relates.
- (2) A person must not drive a vehicle transporting dangerous goods if a current licence label for the vehicle is not attached to the vehicle in a conspicuous place.

Maximum penalty—7½ penalty units.

- (3) A prime contractor must not transport dangerous goods in a vehicle if a current licence label for the vehicle is not attached to the vehicle in a conspicuous place.

Maximum penalty for subsection (3)—7½ penalty units.

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Division 5 Requirements about dangerous goods driver licences

209 Licence to be carried

The holder of a dangerous goods driver licence must carry the licence when driving a vehicle transporting—

- (a) dangerous goods that are in a receptacle with a capacity of more than 500L; or
- (b) more than 500kg of dangerous goods in a receptacle.

Maximum penalty—7½ penalty units.

Division 6 Licences generally

210 Definitions for div 6

In this division—

licence means a dangerous goods driver licence or dangerous goods vehicle licence.

licensee means the holder of a licence.

211 Replacement licences and licence labels

- (1) The chief executive may issue a replacement licence to a licensee if—
 - (a) the licence is renewed; or
 - (b) the licence is amended; or
 - (c) a period of suspension of the licence ends or a suspension is withdrawn.
- (2) The chief executive must issue a replacement licence or licence label to a licensee if the chief executive is satisfied that the licence or label has been defaced, destroyed, lost or stolen.

- (3) If the chief executive refuses to issue a replacement licence or licence label to a licensee, the chief executive must give the licensee a written notice about the refusal.
- (4) The written notice must be or include an information notice.

212 Failure to comply with licence conditions

A licensee must not contravene a condition of the licensee's licence.

Maximum penalty—40 penalty units.

213 Surrender of licences

- (1) A licensee may surrender the licensee's licence by giving notice of surrender to the chief executive and returning the licence to the chief executive.
- (2) A licence ceases to have effect on its surrender.

214 Registers of licences

- (1) The chief executive must keep a register of dangerous goods driver licences.
- (2) The chief executive must keep a register of dangerous goods vehicle licences.
- (3) A register under subsection (1) or (2) may have separate divisions for different kinds of licences to which it applies.
- (4) The chief executive must record each licence granted under this regulation in the relevant register.
- (5) The chief executive must note in the relevant register the amendment, suspension, cancellation or surrender of a licence.

215 Records of licences

The record of a licence in a register must include the following information—

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- (a) the name of the licensee;
- (b) the date when the licence was granted or renewed;
- (c) either—
 - (i) the period for which the licence was granted or renewed; or
 - (ii) the expiry date of the licence;
- (d) for a dangerous goods driver licence—the licensee's date of birth;
- (e) for a dangerous goods vehicle licence—the registration number, make and type of each vehicle to which the licence relates;
- (f) the classes of dangerous goods for which the licence is valid;
- (g) any other condition to which the licence is subject.

216 Change of information given in licence applications

- (1) This section applies if a licensee becomes aware that information given by the licensee to the chief executive in, or in relation to, an application for the grant or renewal of a licence is or has become incorrect in a material respect.
- (2) Within 14 days after becoming aware of the matter, the licensee must inform the chief executive about the matter and give the correct information to the chief executive.

Maximum penalty—20 penalty units.

217 Production of licences to chief executive

- (1) The chief executive may, by written notice, require a person to whom a licence has been granted to produce the licence to the chief executive.
- (2) The person must produce the licence to the chief executive within 14 days after the day the notice is given.

Maximum penalty—7½ penalty units.

218 Seizure of licences etc.

- (1) An authorised officer to whom a licence is produced for inspection may seize the licence if the officer reasonably believes—
 - (a) the licence has been suspended or cancelled; or
 - (b) the licence has ended; or
 - (c) the licence has been amended and the amendment is not recorded on the licence; or
 - (d) the person who produces the licence is not the licensee.

Note—

Under section 49 of the Act, an authorised officer may require a person to produce particular documents for inspection.

- (2) An authorised officer to whom a document that purports to be a licence is produced for inspection may seize the document if the officer reasonably believes the document is not a licence.

219 Return of licences

- (1) This section applies if, after seizing a licence under section 218, an authorised officer finds—
 - (a) the licence is not suspended, has not been cancelled, and has not ended; or
 - (b) the licence has been suspended, the suspension has ended and a replacement licence is not issued; or
 - (c) the licence has been amended, the amendment is recorded on the licence and a replacement licence is not issued.
- (2) An authorised officer must return the licence to the licensee.
- (3) However, if the licence period has ended, the authorised officer is not required to return the licence to the licensee.

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Part 19 Review and appeal of decisions

220 Review of and appeals against decisions

- (1) A person whose interests are affected by a decision (the *original decision*) described 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 whether or not the provision of this regulation under which the decision is made requires that the person be given a statement of reasons for the decision.
- (3) The *Transport Planning and Coordination Act 1994*, part 5, division 2—
 - (a) applies to the review; and
 - (b) provides—
 - (i) for the procedure for applying for the review and the way it is to be carried out; and
 - (ii) that the original decision may be stayed by the person by applying to the Magistrates Court.
- (4) Also, after the chief executive confirms or amends the original decision or substitutes another decision, the person may appeal against the confirmed, amended or substituted decision (the *reviewed decision*) to the Magistrates Court.
- (5) The *Transport Planning and Coordination Act 1994*, part 5, division 3—
 - (a) applies to the appeal; and
 - (b) provides—
 - (i) for the procedure for the appeal and the way it is to be disposed of; and
 - (ii) that the reviewed decision may be stayed by the person by applying to the Magistrates Court.

Part 20 Insurance

221 Duties of owner

- (1) The owner of a vehicle must not use the vehicle, or permit it to be used, to transport a placard load unless—
 - (a) the use of the vehicle is covered by a policy of insurance or other form of indemnity, for a sum of at least \$5000000, for—
 - (i) personal injury, death, property damage and other damage (other than consequential economic loss) arising out of fire, explosion, leakage or spillage of dangerous goods in, on or from the vehicle or any packaging transported in or on the vehicle; and
 - (ii) costs incurred by or for a Commonwealth, State or Territory government authority in a clean-up resulting from a fire, explosion, leakage or spillage of dangerous goods in, on or from the vehicle or any packaging transported in or on the vehicle; or
 - (b) the owner has an approval under section 224 for the use of the vehicle and is complying with the conditions to which the approval is subject.

Maximum penalty—60 penalty units.

- (2) Each load bearing vehicle, whether or not a motor vehicle and whether or not it is being used in combination with another vehicle, is a vehicle for subsection (1).

222 Duties of prime contractor

- (1) A prime contractor must not use a vehicle to transport a placard load unless—
 - (a) the use of the vehicle is covered by a policy of insurance or other form of indemnity, for a sum of at least \$5000000, for—

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- (i) personal injury, death, property damage and other damage (other than consequential economic loss) arising out of fire, explosion, leakage or spillage of dangerous goods in, on or from the vehicle or any packaging transported in or on the vehicle; and
 - (ii) costs incurred by or for a Commonwealth, State or Territory government authority in a clean-up resulting from a fire, explosion, leakage or spillage in, on or from the vehicle or any packaging transported in or on the vehicle; or
- (b) the prime contractor has an approval under section 224 for the use of the vehicle and is complying with the conditions to which the approval is subject.

Maximum penalty—60 penalty units.

- (2) Each load bearing vehicle, whether or not a motor vehicle and whether or not it is being used in combination with another vehicle, is a vehicle for subsection (1).

223 Requiring evidence of insurance etc.

- (1) The chief executive may, by written notice, require the owner of a vehicle used to transport a placard load, or a prime contractor responsible for the condition of the vehicle, to produce—
- (a) written evidence that the vehicle is covered by a policy of insurance or other form of indemnity under section 221(1)(a) or 222(1)(a); or
 - (b) an approval under section 224 for the vehicle.
- (2) The owner or prime contractor must produce the evidence or approval to the chief executive within 14 days after the day the notice is given.

Maximum penalty—15 penalty units.

224 Approvals—insurance

- (1) The owner of a vehicle used to transport placard loads, or a prime contractor responsible for the condition of the vehicle, may make an application under section 170 to use the vehicle even if the vehicle is not covered by a policy of insurance or other form of indemnity under section 221(1)(a) or 222(1)(a).
- (2) If the chief executive is satisfied that the owner or prime contractor is adequately capable of self-insurance for the purposes of section 221(1)(a) or 222(1)(a), the chief executive may give an approval for the use of the vehicle.
- (3) An approval under subsection (2) may be given by the chief executive—
 - (a) for a single use or for a period not longer than 5 years; and
 - (b) subject to any other condition.

Part 21 Fees

225 Fees

The fees payable under this regulation are stated in schedule 2.

226 Waiver of additional application fee

The chief executive may waive the payment of an additional application fee payable under schedule 2, item 3(b) for a person.

227 Refund of additional application fee

- (1) This section applies if—
 - (a) a person makes an application for—

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- (i) a dangerous goods driver licence; or
 - (ii) the renewal of a dangerous goods driver licence;
and
 - (b) the chief executive does not ask the commissioner, under section 17C of the Act, for a written report about the person's criminal history for the application or renewal.
- (2) The additional application fee paid under schedule 2, item 3(b) for the application must be refunded to the applicant.

Part 22 Repeal and transitional provisions

Division 1 Repeal provision

228 Repeal

The Transport Operations (Road Use Management—Dangerous Goods) Regulation 1998, SL No. 224 is repealed.

Division 2 Transitional provisions

Subdivision 1 General provisions

229 Definitions for div 2

In this division—

commencement means the commencement of this section.

repealed regulation means the *Transport Operations (Road Use Management—Dangerous Goods) Regulation 1998* as in force before the commencement.

230 Infringement notice offences

An offence against the repealed regulation may be punished in the same way after the commencement as if the repealed regulation continued in force and the *State Penalties Enforcement Regulation 2000* as in force immediately before the commencement continued to apply in relation to the offence.

231 Lawful conduct under previous law

A person does not commit an offence against this regulation if, within 12 months after the commencement, the person transports dangerous goods in accordance with the Act, including the repealed regulation, as in force immediately before the commencement.

Subdivision 2 Determinations and corresponding determinations

232 Continuing effect of particular determinations

- (1) This section applies to a determination that—
 - (a) was made under the repealed regulation; and
 - (b) was in force in this jurisdiction immediately before the commencement; and
 - (c) is a determination in relation to something that may be decided under a provision (the *relevant provision*) of section 24 or 25.
- (2) This section also applies to a determination made under the repealed regulation following a review or appeal under subdivision 6 that is in relation to something that may be

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decided under a provision (the *relevant provision*) of section 24 or 25.

- (3) The determination is taken to be a determination under the relevant provision subject to the same conditions and restrictions.
- (4) Without limiting subsection (3), the chief executive may record the determination in the register of determinations kept under section 29(1)(a).

233 Existing applications for particular administrative determinations

- (1) This section applies to an application (*existing application*) that—
 - (a) is for an administrative determination in relation to something that may be decided under a relevant provision mentioned in section 232(1)(c); and
 - (b) was made under the repealed regulation, section 176; and
 - (c) has not been finally decided before the commencement.
- (2) At the commencement, the existing application is taken to be an application made under this regulation for an administrative determination under the relevant provision.

234 Existing applications for amendments of particular administrative determinations

- (1) This section applies to an application (*existing application*) that—
 - (a) is for an amendment of an administrative determination in relation to something that may be decided under a relevant provision mentioned in section 232(1)(c); and
 - (b) was made under the repealed regulation, section 176; and
 - (c) has not been finally decided before the commencement.

-
- (2) At the commencement, the existing application is taken to be an application made under this regulation for an amendment of an administrative determination under the relevant provision.

235 Continuing effect of particular corresponding determination

- (1) This section applies to a determination (however described) that—
- (a) was made under a law of another jurisdiction about the transport of dangerous goods; and
 - (b) was in force in this jurisdiction immediately before the commencement; and
 - (c) is a determination in relation to something that may be decided under a provision of the law of the other jurisdiction (the *corresponding provision*) that corresponds to a relevant provision mentioned in section 232(1)(c).
- (2) Except for circumstances that do not exist in this jurisdiction, the determination has effect for this regulation as if it were a decision subject to the same conditions and restrictions made by a dangerous goods authority under the corresponding provision.

Subdivision 3 Approvals and corresponding approvals

236 Continuing effect of particular approvals

- (1) This section applies to an approval that—
- (a) was given under the repealed regulation; and
 - (b) was in force in this jurisdiction immediately before the commencement; and

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- (c) is an approval of something that may be approved under a provision (the *relevant provision*) of any of the following sections—
 - (i) section 51;
 - (ii) section 113;
 - (iii) section 114;
 - (iv) section 133.
- (2) This section also applies to an approval given under the repealed regulation following a review or appeal under subdivision 6 that is an approval of something that may be approved under a relevant provision mentioned in subsection (1)(c).
- (3) The approval is taken to be an approval given by the chief executive under the relevant provision subject to the same conditions and restrictions.
- (4) For subsection (1)(c)(iii), an approval of a segregation device under the repealed regulation, section 119 is taken to be an approval of a type II segregation device.
- (5) Without limiting subsection (3), the chief executive may record the approval in the register of approvals kept under section 178(1)(a).
- (6) If an approval to which subsection (3) applies does not have an expiry date, the approval expires 5 years after the commencement.
- (7) Each approval under the repealed regulation, section 94 or 232 stops having effect at the commencement other than to the extent the approval applies in relation to a person engaging in conduct to which section 231 applies.

237 Existing applications for particular approvals

- (1) This section applies to an application (*existing application*) that—

-
- (a) is for an approval of something that may be approved under a relevant provision mentioned in section 236(1)(c); and
 - (b) was made under the repealed regulation, section 176; and
 - (c) has not been finally decided before the commencement.
- (2) At the commencement, the existing application is taken to be an application made under this regulation for an approval under the relevant provision.

238 Existing applications for amendments of particular approvals

- (1) This section applies to an application (*existing application*) that—
- (a) is for an amendment of an approval of something that may be approved under a relevant provision mentioned in section 236(1)(c); and
 - (b) was made under the repealed regulation, section 176; and
 - (c) has not been finally decided before the commencement.
- (2) At the commencement, the existing application is taken to be an application made under this regulation for an amendment of an approval under the relevant provision.

239 Continuing effect of particular corresponding approvals

- (1) This regulation applies to an approval (however described) that—
- (a) was given under a law of another jurisdiction about the transport of dangerous goods; and
 - (b) was in force in the other jurisdiction immediately before the commencement; and
 - (c) is an approval of something that may be approved under a provision of the law of the other jurisdiction (the

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corresponding provision) corresponding to a relevant provision mentioned in section 236(1)(c).

- (2) Except for circumstances that do not exist in this jurisdiction, the approval has effect for this regulation as if it were an approval subject to the same conditions and restrictions given by a dangerous goods authority under the corresponding provision.
- (3) If an approval to which subsection (2) applies does not have an expiry date, the approval expires 5 years after the commencement.

Subdivision 4 Licences

240 Continuing effect of particular licences

- (1) This section applies to a bulk driver licence or bulk vehicle licence—
 - (a) granted under the repealed regulation; and
 - (b) in force immediately before the commencement.
- (2) This section also applies to a bulk driver licence or bulk vehicle licence granted under the repealed regulation following a review or appeal under subdivision 6.
- (3) The licence is taken to be—
 - (a) for a bulk driver licence—a dangerous goods driver licence granted by the chief executive under section 192 subject to the same conditions and restrictions; or
 - (b) for a bulk vehicle licence—a dangerous goods vehicle licence granted by the chief executive under section 202 subject to the same conditions and restrictions.
- (4) A licence label issued under the repealed regulation for a vehicle to which a continued vehicle licence relates is taken to be a licence label issued under section 208 for the vehicle.
- (5) Section 211 applies to a licence to which this section applies, or a licence label mentioned in subsection (4), even if the

licence or label was defaced, destroyed, lost or stolen before commencement.

(6) Without limiting subsection (3), the chief executive may record the licence in the relevant register of licences kept under section 214.

(7) In this section—

continued vehicle licence means a bulk vehicle licence taken to be a dangerous goods vehicle licence under subsection (3)(b).

241 Existing applications for particular licences

(1) This section applies to an application under the repealed regulation that—

- (a) is for a bulk driver licence or bulk vehicle licence; and
- (b) has not been finally decided before the commencement.

(2) The application must be decided under the repealed regulation.

(3) However, if the chief executive decides to grant the licence, the chief executive must grant—

- (a) for an application for a bulk driver licence—a dangerous goods driver licence under this regulation; or
- (b) for an application for a bulk vehicle licence—a dangerous goods vehicle licence under this regulation.

242 Existing applications for renewals of particular licences

(1) This section applies to an application (*existing application*) under the repealed regulation that—

- (a) is an application for renewal of a bulk driver licence or bulk vehicle licence; and
- (b) has not been finally decided before the commencement.

(2) The application must be decided under the repealed regulation.

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- (3) However, if the chief executive decides to grant the renewal, the chief executive must grant—
 - (a) for an application for renewal of a bulk driver licence—a dangerous goods driver licence under this regulation; or
 - (b) for an application for renewal of a bulk vehicle licence—a dangerous goods vehicle licence under this regulation.

243 Continuing effect of particular corresponding licences

- (1) This section applies to a corresponding bulk driver licence, or corresponding bulk vehicle licence, within the meaning of the repealed regulation that—
 - (a) was granted under a law of another jurisdiction about the transport of dangerous goods; and
 - (b) was in force in the other jurisdiction immediately before the commencement.
- (2) Except for circumstances that do not exist in this jurisdiction, the licence has effect for this regulation as if it were—
 - (a) for a corresponding bulk driver licence—a licence subject to the same conditions and restrictions granted by a dangerous goods authority under the corresponding law to section 192; or
 - (b) for a corresponding bulk vehicle licence—a licence subject to the same conditions and restrictions granted by a dangerous goods authority under a corresponding law to section 202.

Subdivision 5 Particular existing requirements

244 Particular requirements made of a person continue

- (1) This section applies if—

- (a) a requirement is made of a person under any of the following sections of the repealed regulation—
 - (i) section 57;
 - (ii) section 58;
 - (iii) section 111;
 - (iv) section 136;
 - (v) section 140;
 - (vi) section 159;
 - (vii) section 160;
 - (viii) section 205;
 - (ix) section 231; and
 - (b) the requirement has not been complied with before the commencement.
- (2) The requirement and the repealed regulation continue to apply in relation to the person as if this regulation had not been made.

245 Requirements relating to particular incidents continue

- (1) This section applies if—
- (a) an incident to which section 154, 155 or 156 of the repealed regulation applies happens before the commencement; and
 - (b) the relevant section requires something to be done or not done in relation to the incident; and
 - (c) the thing has not been done or has been done before the commencement.
- (2) The repealed regulation continues to apply in relation to the incident as if this regulation had not been made.

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**246 Requirements relating to disposal of licensed vehicle
continue**

- (1) This section applies if—
 - (a) before the commencement, a person sells or otherwise disposes of a vehicle to which a bulk vehicle licence under the repealed regulation relates; and
 - (b) the person has not given notice of the sale or disposal under the repealed regulation, section 216.
- (2) The repealed regulation continues to apply in relation to the sale or disposal as if this regulation had not been made.

Subdivision 6 Existing reviews and appeals

247 Definition for sdiv 6

In this subdivision—

reviewable decision means a decision mentioned in the repealed regulation, schedule 1.

248 Reviews about particular decisions

- (1) Subsection (2) applies if—
 - (a) a person has made an application under the repealed regulation for a review of a reviewable decision; and
 - (b) a decision on the application for review has not been made before the commencement.
- (2) A decision (a *review decision*) on the application for review must be made under the repealed regulation.
- (3) Subsection (4) applies if—
 - (a) immediately before the commencement, a person could have applied under the repealed regulation for a review of a reviewable decision; and

-
- (b) the person has not made the application before the commencement.
 - (4) The person may apply to the chief executive for a review of the decision as provided under the repealed regulation, and the chief executive's decision (also a *review decision*) on that application must be made under the repealed regulation.
 - (5) If the review decision is an amendment or substitution of the reviewable decision, the review decision must be given effect under the repealed regulation.

Example—

If the effect of a review decision about the chief executive's refusal to make an administrative determination is that the administrative determination must be made, the administrative determination must be made under the repealed regulation.

- (6) If the review decision is a confirmation of the reviewable decision, despite the repeal of the repealed regulation—
 - (a) the matter to which the reviewable decision relates continues to be a matter to be dealt with under the repealed regulation; and

Example—

If the reviewable decision relates to an application for an administrative determination, the application continues to be an application for an administrative determination under the repealed regulation.

- (b) any further decision about the matter must be made under the repealed regulation; and
 - (c) the person in relation to whom the review decision is made may appeal against the review decision under the repealed regulation.
- (7) For subsections (2) and (4) to (6), the repealed regulation continues to have effect as if this regulation had not been made.

249 Appeals about particular decisions

- (1) Subsection (2) applies if—

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- (a) a person has appealed to a court under the repealed regulation against a decision of the chief executive confirming a reviewable decision; and
 - (b) the appeal has not been decided before the commencement.
- (2) The court must hear, or continue to hear, and decide the appeal under the repealed regulation.
- (3) Subsection (5) applies if—
- (a) immediately before the commencement, a person could have appealed to a court under the repealed regulation against a decision mentioned in subsection (1)(a); and
 - (b) the person has not appealed before the commencement.
- (4) Subsection (5) also applies to a review decision mentioned in section 248(6)(c).
- (5) The person may appeal to the court as provided under the repealed regulation, and the court must hear and decide the appeal under the repealed regulation.
- (6) If the court decides in favour of the appellant, the chief executive must give effect to the court's decision under the repealed regulation.

Example—

If the court decides that an administrative determination the subject of the appeal must be made, the administrative determination must be made under the repealed regulation.

- (7) If the court refers the matter to the chief executive with directions—
- (a) the matter must be dealt with under the repealed regulation; and
 - (b) the chief executive must follow the court's directions to the extent possible.
- (8) If the court confirms the decision being appealed against, despite the repeal of the repealed regulation—

- (a) the matter to which the decision relates continues to be a matter to be dealt with under the repealed regulation; and

Example—

If the decision being appealed against relates to an application for an administrative determination, the application continues to be an application for an administrative determination under the repealed regulation.

- (b) any further decision about the matter must be made under the repealed regulation.
- (9) For subsections (2) and (5) to (8), the repealed regulation continues to have effect as if this regulation had not been made.

Subdivision 7 Other provision

250 Return of licences

- (1) This section applies if, before the commencement, an authorised officer seizes a licence granted under the repealed regulation.
- (2) The repealed regulation, section 230 continues to apply in relation to the seizure as if this regulation had not been made.

Schedule 1 Reviewable decisions

section 220

Section	Description of decision
22	refusing to approve test of competence or training course
24	refusing to make an administrative determination under section 24(1) or (2) or making administrative determination on conditions
25	refusing to make an administrative determination under section 25(1) or making administrative determination on conditions
51	refusing to approve design of packaging or approving design on conditions
54	refusing to approve method of preparing overpack or approving method on conditions
113	refusing to approve method of segregation or approving method on conditions
114	refusing to approve design of type II segregation device or approving design on conditions
133	refusing to approve emergency information
174	refusing application to amend an administrative determination or an approval
192 and 196	refusing to grant dangerous goods driver licence or granting a dangerous goods driver licence on conditions

Section	Description of decision
194 and 196	refusing to renew dangerous goods driver licence or renewing dangerous goods driver licence on conditions
202 and 206	refusing to grant dangerous goods vehicle licence or granting dangerous goods vehicle licence on conditions
204 and 206	refusing to renew dangerous goods vehicle licence or renewing dangerous goods vehicle licence on conditions
211	refusing to issue replacement licence or licence label
224	refusing to approve the use of a vehicle that is not covered by a policy of insurance or other form of indemnity as required by section 221(1)(a) or 222(1)(a) or approving use on conditions

Schedule 2 Fees

section 225

	\$
1 Application for approval of a design of a tank under section 50.....	196.65
2 Application for approval of a design of an IBC under section 50.....	39.35
3 Application for dangerous goods driver licence or application for renewal of dangerous goods driver licence—the total of the following—	
(a) standard application fee.....	19.65
(b) additional application fee.....	32.05
4 Application for dangerous goods vehicle licence or application for renewal of dangerous goods vehicle licence—	
(a) for a vehicle with a GVM of 8t or less	52.40
(b) for a vehicle with a GVM of more than 8t.	104.85

Schedule 4 Dictionary

section 8

ADG Code means the Australian Code for the Transport of Dangerous Goods by Road and Rail, seventh edition, approved by the Australian Transport Council.

Editor's note—

A copy of the code may be obtained from the website of the National Transport Commission. At the commencement of this definition, the website was at <www.ntc.gov.au>.

administrative determination see section 26.

ADR approved means approved in accordance with the European Agreement concerning the International Carriage of Dangerous Goods by Road published by the Inland Transport Committee of the United Nations Economic Commission for Europe.

Editor's note—

A copy of the agreement is available from the website of the United Nations Economic Commission for Europe. At the commencement of this definition, the website was at <www.unece.org>.

aggregate quantity, in relation to a load containing dangerous goods, means the total of—

- (a) the number of kilograms of the following in the load—
 - (i) solid dangerous goods;
 - (ii) articles, including aerosols; and
- (b) the number of litres or kilograms, being whichever is used to describe the goods in the transport documentation for the transport of the goods, of liquid dangerous goods in the load; and
- (c) the total capacity in litres of receptacles in the load containing dangerous goods of UN class 2 other than aerosols.

amend includes vary.

appropriately marked see section 79.

appropriately placarded see section 84(2).

approval means an approval that—

- (a) is given under this regulation by the chief executive or an authorised entity; and
- (b) is in effect.

approved packaging means—

- (a) packaging of a design approved under section 51; or
- (b) foreign approved packaging.

approved tank means—

- (a) a tank of a design approved under section 51; or
- (b) a foreign approved tank.

AS/NZS means a standard published jointly by Standards Australia and Standards New Zealand.

Australian Transport Council means the council of Commonwealth, New Zealand and State Ministers, established on 11 June 1993 and known as the Australian Transport Council, but constituted so that it consists of only 1 Minister representing each of the Commonwealth, the States, the Australian Capital Territory and the Northern Territory.

authorised entity means an entity authorised under section 55 to issue approvals under section 51 or 54.

bulk container see section 16.

bulk transfer, for part 10, see section 115.

capacity, of packaging, means the total internal volume of the packaging at a temperature of 15°C, expressed in litres or cubic metres.

category, for dangerous goods, means the category to which the dangerous goods belong under section 35.

competent authorities panel means the entity—

- (a) whose members include—

- (i) the chief executive; and
 - (ii) dangerous goods authorities; and
- (b) that is established, and operates, in accordance with the Competent Authorities Panel Rules made by the National Transport Commission on 13 June 2008 and approved by the Australian Transport Council on 15 August 2008.

compliance plate means a plate that must be attached to a portable tank, MEGC or tank vehicle under part 6 of the ADG Code, and includes identification plates.

converter dolly, for part 18, division 4, see section 199.

corresponding approval means an approval to which section 162 applies.

corresponding dangerous goods driver licence means a licence to which section 163 applies that has effect in this jurisdiction under that section as a dangerous goods driver licence.

corresponding dangerous goods vehicle licence means a licence to which section 163 applies that has effect in this jurisdiction under that section as a dangerous goods vehicle licence.

corresponding determination means a decision to which section 160 applies.

corresponding exemption means an exemption to which section 161 applies.

dangerous goods see section 33.

dangerous goods driver licence means a dangerous goods driver licence that is in force under part 18, division 3.

dangerous goods list means the dangerous goods list set out in section 3.2.3 of the ADG Code.

dangerous goods vehicle licence means a dangerous goods vehicle licence that is in force under part 18, division 4.

demountable tank means a tank, other than a portable tank, that—

- (a) is designed to be carried on a vehicle; and
- (b) does not form part of and is not permanently attached to the vehicle; and
- (c) is designed to be removable.

determination means a decision that is made by the chief executive under section 24 or 25, and that is in effect.

exemption means an exemption in force under section 153 of the Act.

Note—

Part 16 provides for matters relating to exemptions under section 153 of the Act.

fitness to drive standards means the standards in Assessing Fitness to Drive for Commercial and Private Vehicle Drivers—Medical Standards for Licensing and Clinical Management Guidelines published by Austroads and the National Transport Commission.

food includes—

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

food packaging means—

- (a) a receptacle that contains, or is designed or intended to contain, food; or
- (b) material designed or intended to be used in a receptacle that is designed or intended to contain food.

foreign approved, in relation to packaging, means packaging that has the markings required by part 6 of the ADG Code for packaging of its type, in confirmation that the packaging is ADR, ICAO, IMO, RID or UN approved.

freight container means a re-usable container of the kind mentioned in AS/NZS 3711 that is designed for repeated use for the transport of goods by 1 or more modes of transport.

general packaging, for part 4, division 4, see section 57.

goods too dangerous to be transported see section 34.

hose assembly means a hose, or 2 or more hoses connected together, for use in the transfer of dangerous goods to or from a tank on a vehicle, portable tank or receptacle and includes—

- (a) if there are 2 or more hoses connected together—the connections between the hoses; and
- (b) the attachment connecting the hose or hoses to the tank; and
- (c) anything else other than the vehicle, portable tank or receptacle that is attached to the hose or hoses.

IBC means an intermediate bulk container.

ICAO approved means approved in accordance with the Technical Instructions for the Safe Transport of Dangerous Goods by Air published by the International Civil Aviation Organization.

Editor's note—

To purchase a copy of the technical instructions, see the website of the International Civil Aviation Organization. At the commencement of this definition, the website was at <www.icao.int>.

IMO approved means approved in accordance with the International Maritime Dangerous Goods Code published by the International Maritime Organization.

Editor's note—

To purchase a copy of the code, see the website of the International Maritime Organization. At the commencement of this definition, the website was at <www.imo.org>.

incompatible see section 38.

information notice, for a decision made in relation to a person, means a written notice stating—

- (a) the reasons for the decision; and
- (b) that the person may—
 - (i) under section 220, ask for the decision to be reviewed and appeal against the reviewed decision; and

- (ii) under the *Transport Planning and Coordination Act 1994*, part 5, ask for the decision or the reviewed decision to be stayed.

inner packaging, in relation to goods, means packaging for which outer packaging is required for the transport of the goods under the ADG Code.

intermediate bulk container see section 17.

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

jurisdiction means the Commonwealth or a State.

large packaging means outer packaging that—

- (a) is designed for mechanical handling; and
- (b) has a capacity of not more than 3m³; and
- (c) is intended to contain articles or inner packaging with—
 - (i) a net mass of more than 400kg; or
 - (ii) capacities totalling more than 450L.

licence for part 18, division 6, see section 210.

licence label means a licence label issued under section 208.

licensee for—

- (a) part 18, division 3—see section 187; or
- (b) part 18, division 6—see section 210.

MEGC means multiple-element gas container.

multimodal means applicable to, or suitable for use on, more than 1 mode of transport.

multiple-element gas container see section 18.

NATA means the National Association of Testing Authorities, Australia.

other packaging, for part 4, division 5, see section 63.

outer packaging, means external packaging, including absorbent materials, cushioning and any other components,

necessary for the purposes of transport to contain and protect—

- (a) articles; or
- (b) receptacles in composite packaging within the meaning of section 1.2.1.1 of the ADG Code; or
- (c) inner packaging in combination packaging within the meaning of section 1.2.1.1 of the ADG Code.

overpack means packaging, other than large packaging, used to hold and consolidate packages of goods into a single unit for easier handling and stowage.

Examples—

- a pallet, together with strapping or shrink wrapping, designed to hold packages
- a box or crate into which packages are placed

packaging includes inner packaging, outer packaging, overpacks, large packaging, IBCs, MEGCs, tanks (including the tank of a tank vehicle), bulk containers, freight containers, drums, barrels, jerry cans, boxes and bags.

packed in limited quantities see section 20.

packing group, for dangerous goods, means the packing group to which the dangerous goods belong under section 37.

participating jurisdiction means—

- (a) this jurisdiction; or
- (b) a participating dangerous goods jurisdiction.

placard load means a load of dangerous goods that must be placarded under section 83.

placards, when used as a verb, see section 84(1).

portable tank means a multimodal tank that—

- (a) is designed primarily to be loaded on to a vehicle or ship; and
- (b) has a capacity of more than 450L; and
- (c) is equipped with skids, mountings, stabilisers and accessories to facilitate mechanical handling; and

(d) is capable of being loaded and unloaded without removing its service equipment or structural equipment; and

(e) is capable of being lifted when full.

prescribed dangerous goods, for part 10, division 2, see section 116.

prescribed way, for part 10, division 2, see section 116.

pressure drum means a welded transportable pressure receptacle with a water capacity of more than 150L but not more than 1000L.

Examples of welded transportable pressure receptacles—

cylindrical receptacle equipped with rolling hoops, spheres on skids

receptacle, in relation to a substance or article, means a container that is—

(a) for receiving and holding the substance or article (including anything that enables the container to be closed); and

(b) in contact with the substance or article.

recognised testing facility see section 52.

required emergency information, for part 11, division 2, see section 129.

retail distribution load has the meaning given by section 7.3.1 of the ADG Code.

RID approved means approved under the Regulation concerning the International Carriage of Dangerous Goods by Rail published by the Intergovernmental Organisation for International Carriage by Rail.

Editor's note—

A copy of the regulation is available from the website of the Intergovernmental Organisation for International Carriage by Rail. At the commencement of this definition, the website was at <www.otif.org>.

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

service equipment has the meaning given by—

- (a) for a tank—section 6.7.2.1, 6.7.3.1 or 6.7.4.1 of the ADG Code; or
- (b) for an MEGC—section 6.7.5.1 of the ADG Code.

special provision, for part 3, see section 40.

structural equipment has the meaning given by—

- (a) for a tank—section 6.7.2.1, 6.7.3.1 or 6.7.4.1 of the ADG Code; or
- (b) for an MEGC—section 6.7.5.1 of the ADG Code.

subsidiary risk, for dangerous goods, means the subsidiary risk to which the dangerous goods belong under section 36.

tank see section 19.

tank vehicle means a vehicle—

- (a) of which a tank forms a part; or
- (b) to which a tank other than a portable tank is attached.

this jurisdiction means the State.

transport unit means—

- (a) a vehicle; or
- (b) a portable tank; or
- (c) a bulk container; or
- (d) a freight container.

tube means a seamless transportable pressure receptacle with a water capacity of more than 150L but not more than 3000L.

UN approved means approved under the Recommendations on the Transport of Dangerous Goods: Model Regulations published by the United Nations.

Editor's note—

To purchase a copy of the model regulations, see the website of the United Nations. At the commencement of this definition, the website was at <www.un.org>.

UN class, for dangerous goods, means the class to which the dangerous goods belong under section 35.

UN division, for dangerous goods, means the division to which the dangerous goods belong under section 35.

unsuitable see section 48.

vehicle, for part 18, division 4, see section 199.

Endnotes

1 Index to 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). However, no amendments have commenced operation on or before that day. Future amendments of the Transport Operations (Road Use Management—Dangerous Goods) Regulation 2008 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	1 January 2009	

5 List of legislation

Transport Operations (Road Use Management—Dangerous Goods) Regulation 2008 SL No. 427

made by the Governor in Council on 11 December 2008

notfd gaz 12 December 2008 pp 2044–53

ss 1–2 commenced on date of notification

remaining provisions commenced 1 January 2009 (see s 2)

exp 1 September 2019 (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.

6 List of annotations

PART 23—AMENDMENT OF STATE PENALTIES ENFORCEMENT REGULATION 2000

pt 23 (ss 251–252) om R1 (see RA ss 7(1)(k) and 40)

PART 24—CONSEQUENTIAL AMENDMENTS

pt 24 (s 253) om R1 (see RA ss 7(1)(k) and 40)

SCHEDULE 3—CONSEQUENTIAL AMENDMENTS OF REGULATIONS

om R1 (see RA s 40)