

Queensland



*Transport Operations (Road Use Management) Act 1995*

**TRANSPORT OPERATIONS  
(ROAD USE  
MANAGEMENT—DANGEROUS  
GOODS) REGULATION 1998**

**Reprinted as in force on 1 July 2004  
(includes commenced amendments up to 2004 SL No. 54)**

**Reprint No. 2C**

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This regulation is reprinted as at 1 July 2004. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes. Also see list of legislation for any uncommenced amendments.

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

**Also see endnotes for information about—**

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

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**CORRESPONDING PROVISIONS OF COMMONWEALTH  
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# **TRANSPORT OPERATIONS (ROAD USE MANAGEMENT—DANGEROUS GOODS) REGULATION 1998**

[as amended by all amendments that commenced on or before 1 July 2004]

## **PART 1—PRELIMINARY**

### *Division 1—Introductory*

#### **1 Short title**

This regulation may be cited as the *Transport Operations (Road Use Management—Dangerous Goods) Regulation 1998*.

#### **2 Commencement**

This regulation commences on 7 August 1998.

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

The main purposes of this regulation are—

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

## ***Division 2—Interpretation***

### **4 Definitions—the dictionary**

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

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

A reference in the ADG Code to—

- (a) a provision of the Commonwealth regulations is taken, if the context permits, to be a reference to the provision in this regulation corresponding to the Commonwealth regulations; and
- (b) the term “**Competent Authority**”, in relation to the State, is taken, if the context permits, to be a reference to the chief executive.

### **6 Corresponding provision of Cwlth regulations shown in attachment**

(1) The attachment at the end of this regulation states the provisions of the Commonwealth regulations for which there is a corresponding provision in this regulation.

(2) The attachment does not form part of this regulation.

### **7 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) In this section—



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**“instrument”** means a code, standard or rule (whether made in or outside Australia) relating to dangerous goods or transport of dangerous goods by road.

## **8 References to determinations, exemptions, approvals and licences**

In this regulation, a reference to—

- (a) a determination, exemption, approval, bulk driver licence or bulk vehicle licence; or
- (b) a corresponding administrative determination, exemption, approval, bulk driver licence or bulk vehicle licence;

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

## **9 References to amendment of administrative determinations etc.**

In this regulation, a reference to the amendment of—

- (a) an administrative determination, exemption, approval, bulk driver licence or bulk vehicle licence; or
- (b) a corresponding exemption, approval, bulk driver licence or bulk vehicle licence;

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

*Example—*

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

## ***Division 3—Application***

## **10 Dangerous situations**

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

## 11 Transport of small quantities

(1) This regulation does not apply to the transport by a person of a load of dangerous goods by road if—

- (a) the goods are packaged dangerous goods; and
- (b) the goods are not, and do not include, designated dangerous goods; and
- (c) the aggregate quantity of the dangerous goods in the load is less than 25% of a placard load; and
- (d) the goods are not being transported by the person in the course of a business of transporting goods by road.

(2) In this section—

“**designated dangerous goods**” means dangerous goods of class 1 (except of class 1.4S), class 6.2 or class 7.

## 12 Short trips after import

Sections 47 to 50 and part 4, divisions 5 to 7, do not apply to the transport of dangerous goods by road if—

- (a) the goods have been imported into Australia through a place in Queensland; and
- (b) the goods are being transported in a closed freight container; and
- (c) the goods are not leaking from the container; and
- (d) the goods are being transported directly to a destination that is not more than 50 km by road from the place of import; and
- (e) the container is placarded as stated in the IATA Regulations, ICAO Rules or IMDG Code.

### *Division 4—Determinations*

## 13 Determinations—dangerous goods

(1) The chief executive may determine that—

- (a) goods are dangerous goods; or

- (b) goods are not dangerous goods; or
- (c) goods are dangerous goods of a particular class; or
- (d) goods are dangerous goods with a particular subsidiary risk; or
- (e) goods are dangerous goods of a particular packing group; or
- (f) goods are incompatible with particular dangerous goods; or
- (g) goods are too dangerous to be transported; or
- (h) goods are too dangerous to be transported in bulk; or
- (i) goods are too dangerous to be transported on the same combination road vehicle as other goods.

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

#### **14 Administrative determinations**

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

- (a) is made on the application of a person; and
- (b) applies only to the person.<sup>2</sup>

#### **15 Conditions of administrative determinations**

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

#### **16 Register of determinations**

(1) The chief executive must keep a register of determinations.

(2) The register may have separate divisions for different kinds of determinations.

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

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

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(3) The chief executive must record in the register—

- (a) each determination made by the chief executive under this regulation; and
- (b) each determination made by a corresponding competent authority that would be a corresponding determination if it were recorded in the register.

(4) The chief executive must note in the register—

- (a) the revocation of a determination made under this regulation; and
- (b) a decision of the panel reversing a decision that a corresponding determination should have effect in all participating jurisdictions or participating jurisdictions including this jurisdiction.

## **17 Records of determinations**

The record of a determination in the register must include—

- (a) the provisions of the determination; or
- (b) the following information—
  - (i) the title of the Government gazette of the participating jurisdiction where the determination was notified or published and the date of notification or publication;
  - (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.

## **18 References to panel**

(1) This section does not apply to an administrative determination.

(2) The chief executive must refer a draft determination to the panel if the chief executive decides the determination should have effect in all participating jurisdictions or 1 or more other participating jurisdictions including this jurisdiction.

(3) The chief executive must refer to the panel a determination having effect in this jurisdiction, and 1 or more other participating jurisdictions, if—

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- (a) the chief executive decides the determination should be cancelled or amended; or
- (b) a corresponding competent authority recommends to the chief executive in writing that the determination should be cancelled or amended.

## **19 Effect of panel decisions about draft determinations**

(1) This section applies if—

- (a) a draft determination is referred to the panel under section 18(2); and
- (b) the panel decides that—
  - (i) the draft determination should be made, what the provisions of the determination should be, and that the determination should have effect in all participating jurisdictions or 1 or more other participating jurisdictions including this jurisdiction; or
  - (ii) the determination should not have effect in this jurisdiction.

(2) The chief executive must have regard to the panel's decision.

## **20 Effect of panel decisions about revoking or varying determinations**

(1) This section applies if—

- (a) a determination is referred to the panel under section 18(3); and
- (b) the panel decides that the determination—
  - (i) should, or should not, be cancelled; or
  - (ii) should be amended (whether or not the panel's decision is the same as the amendment proposed by the chief executive), and should have effect as amended in all participating jurisdictions or participating jurisdictions including this jurisdiction; or
  - (iii) should not be amended.

(2) The chief executive must have regard to the panel's decision.

## **21 Inconsistent determinations**

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

### *Division 5—Other provisions*

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

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

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

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

(1) This section applies if—

- (a) a person manufactures or imports goods; and
- (b) the goods are not dangerous goods under section 26(1)(a) to (d); and
- (c) the goods are not goods to which a determination under section 13(1)(b)<sup>3</sup> applies; and
- (d) the person suspects, or reasonably ought to suspect, that the goods satisfy the UN dangerous goods tests and criteria for determining whether goods are dangerous goods.

(2) The person must not consign or transport the goods by road unless the person finds out whether the goods satisfy the tests and criteria.

Maximum penalty—40 penalty units.

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3 Section 13 (Determinations—dangerous goods)

## 24 Declaration of non-participating jurisdictions

A State is not a participating jurisdiction if—

- (a) the Ministerial Council decides the law of the State does not include provisions having the same, or substantially the same, effect as the *Road Transport Reform (Dangerous Goods) Act 1995* (Cwlth) and *Road Transport Reform (Dangerous Goods) Regulations*; and
- (b) the Minister, by gazette notice, declares the State is not a participating jurisdiction.

## PART 2—KEY CONCEPTS

### *Division 1—Kinds of goods*

## 25 Goods too dangerous to be transported—Act, s 155

For section 155<sup>4</sup> of the Act, goods are too dangerous to be transported by road if they are—

- (a) mentioned in appendix 5 to the ADG Code; or
- (b) determined under section 13(1)(g) to be too dangerous to be transported.

## 26 Dangerous goods

(1) Goods are “**dangerous goods**” if they—

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

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4 Section 155 (Goods too dangerous to be transported) of the Act

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- (c) satisfy the criteria in a special provision of the ADG Code that is applied by column 7 in the appendix; or
- (d) are determined under section 13(1)(a) to be dangerous goods; or
- (e) satisfy the UN dangerous goods tests and criteria for determining whether goods are dangerous goods.

(2) However, goods are not dangerous goods if they are determined under section 13(1)(b) not to be dangerous goods.

## 27 Classes of dangerous goods

(1) In this regulation, a reference to—

- (a) a “**class**” of dangerous goods is a reference to the class to which the goods are assigned under subsection (2); and
- (b) a “**class**” by number, or number and letter, is a reference to the number, or number and letter, of the class to which the goods are assigned.

(2) Dangerous goods are assigned to a class if the goods—

- (a) are assigned to the class in column 3 in appendix 2 to the ADG Code; or
- (b) are assigned to the class in a special provision of the ADG Code applying to the goods; or
- (c) satisfy the criteria in column 9 in appendix 2 to the ADG Code for assignment to the class; or
- (d) are determined under section 13(1)(c) to be dangerous goods of the class; or
- (e) satisfy the UN dangerous goods tests and criteria for assignment to the class.

## 28 Subsidiary risk

(1) In this regulation, a reference to—

- (a) dangerous goods with a “**subsidiary risk**” is a reference to the dangerous goods assigned the subsidiary risk under subsection (2); and



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- (b) a “**subsidiary risk**” by number is a reference to the number of the subsidiary risk with which the dangerous goods are assigned.
- (2) Dangerous goods are assigned a subsidiary risk if the goods—
- (a) are assigned the subsidiary risk in column 4 in appendix 2 to the ADG Code; or
  - (b) are assigned the subsidiary risk in a special provision of the ADG Code applying to the goods; or
  - (c) satisfy the criteria in column 9 in appendix 2 to the ADG Code for assignment of the subsidiary risk; or
  - (d) are determined under section 13(1)(d) to be dangerous goods assigned the subsidiary risk; or
  - (e) satisfy the UN dangerous goods tests and criteria for assignment to the subsidiary risk.

## 29 Packing groups

- (1) In this regulation, a reference to—
- (a) a “**packing group**” of dangerous goods is a reference to the packing group to which the goods are assigned under subsection (2); and
  - (b) a “**packing group**” by number is a reference to the number of the packing group to which the goods are assigned.
- (2) Dangerous goods (except dangerous goods of class 1, 2 or 7) are assigned to a packing group if the goods—
- (a) are assigned to the packing group in column 5 in appendix 2 to the ADG Code; or
  - (b) are assigned to the packing group in a special provision of the ADG Code applying to the goods; or
  - (c) satisfy the criteria in column 9 in appendix 2 to the ADG Code for assignment to the packing group; or
  - (d) are determined under section 13(1)(e) to be assigned to the packing group; or
  - (e) satisfy the UN dangerous goods tests and criteria for assignment to the packing group.

### **30 Incompatible goods etc.**

(1) Dangerous or other goods are **“incompatible”** with dangerous goods if—

- (a) under the ADG Code, the goods are incompatible with the dangerous goods; or
- (b) the goods are determined under section 13(1)(f) to be incompatible with the dangerous goods; or
- (c) when the goods are mixed, or otherwise brought into contact, with the dangerous goods, the goods are likely to interact with the dangerous goods and increase risk because of the interaction.

(2) However in a proceeding in which incompatibility is an issue, goods are taken not to be incompatible with dangerous goods if—

- (a) the goods are incompatible with the dangerous goods only because of subsection (1)(a) or (b); and
- (b) it is established that, when the goods are mixed, or otherwise brought into contact with the dangerous goods, the goods are not likely to interact with the dangerous goods and increase risk because of the interaction.

(3) A container is **“incompatible”** with dangerous goods if the container is constructed of material that, when the goods are brought into contact with the container, is likely to interact with the goods and increase risk because of the interaction.

*Example of increased risk because of interaction—*

Substantial structural weakening of the container.

(4) Transfer equipment for use in the transport of dangerous goods is **“incompatible”** with the goods if the equipment is constructed of material that, when the goods are brought into contact with the equipment, is likely to interact with the goods and increase risk because of the interaction.

*Example of increased risk because of interaction—*

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

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

### **31 Packages and packaging**

(1) A “**package**” of dangerous goods or other goods is the complete product of the packing of the goods for transport by road, and consists of the goods and their packaging.

(2) The “**packaging**” of the goods is the container in which the goods are received or held for transport by road, and includes anything that enables the container to receive or hold the goods or to be closed.

### **32 Capacity**

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

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

All the goods in or on a vehicle are taken to be a single load.

### **34 Aggregate quantity**

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

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

### **35 Packaged dangerous goods**

Dangerous goods are “**packaged dangerous goods**” if—

- (a) they are dangerous goods of class 2 in a container with a capacity of not more than 500 L; or

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

### 36 Dangerous goods in bulk

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

### 37 Placard loads

(1) A load of dangerous goods is a “**placard load**” if the load contains dangerous goods in bulk.

(2) A load of dangerous goods is also a “**placard load**” if the load does not contain dangerous goods in bulk, or is not a consumer commodity load, but—

- (a) the load contains dangerous goods of class 6.2; or
- (b) for another load containing dangerous goods of class 2.1 (except aerosols) or class 2.3 or dangerous goods of packing group I—the aggregate quantity of dangerous goods in the load is at least 250; or
- (c) for any other load—the aggregate quantity of dangerous goods in the load is at least 1 000.

### 38 Unit loads

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

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

### *Division 3—Kinds of containers*

#### **39 Freight containers**

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

#### **40 IBCs**

An “**IBC**” (or “**intermediate bulk container**”) is a rigid or flexible portable packaging for the transport of dangerous goods that—

- (a) has a capacity of not more than—
  - (i) for solids of packaging group I packed in a composite, fibreboard, flexible, wooden or rigid plastics or wooden container—1 500 L; and
  - (ii) for solids of packaging group I packed in a metal container—3 000 L; and
  - (iii) for solids or liquids of packaging groups II and III—3 000 L; and
- (b) is designed for mechanical handling; and
- (c) is resistant to the stresses produced in usual handling and transport.

#### **41 Bulk containers**

(1) A “**bulk container**” is an IBC or another container capable of transporting dangerous goods in bulk.

(2) However, a tank that is part of a vehicle, is not a bulk container.

### *Division 4—Persons with special duties*

#### **42 Vehicle owners**

(1) A person is an “**owner**” of a vehicle if—

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- (a) the person is the sole owner, a joint owner or a part owner of the vehicle; or
- (b) the person has the possession or use of the vehicle under a hiring agreement, hire purchase agreement, lease or other agreement; or
- (c) the vehicle is registered in the person's name under a transport Act or a corresponding law.

(2) However, the driver of a vehicle when the driver has been provided as part of a hiring agreement for the vehicle is not the owner of a vehicle.

### 43 Consignors

(1) A person “**consigns**” dangerous or other goods for transport by road, and is the “**consignor**” of the goods, if—

- (a) subsection (2) applies to the person; or
- (b) subsection (2) does not apply to the person or anyone else, but subsection (3) applies to the person; or
- (c) subsections (2) and (3) do not apply to the person or anyone else, but subsection (4) applies to the person.

(2) This subsection applies to a person who, with the person's authority, is named or otherwise identified as the consignor of the goods in shipping documentation for the transport of the goods by road.

(3) This subsection applies to a person who—

- (a) engages a prime contractor, either directly or through an agent or other intermediary, to transport the goods by road; or
- (b) has possession of, or control over, the goods immediately before the goods are transported by road; or
- (c) loads a vehicle with the goods, for transport by road, at a place—
  - (i) where dangerous goods in bulk are stored; and
  - (ii) that is unattended (except by the driver of the vehicle) during loading.

(4) This subsection applies to a person if—

- (a) the goods are imported into Australia through a place in Queensland; and
- (b) the person is the importer of the goods.

#### 44 Packers

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

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

#### 45 Loaders

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

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

#### 46 Prime contractors

A person is the “**prime contractor**” for the transport of dangerous or other goods by road if the person, in conducting a business for or involving the transport of dangerous goods by road, undertakes to be responsible, or is responsible, for the transport of the goods by road.

## **PART 3—PACKAGING**

### ***Division 1—Packaging duties***

#### **47 Suitability of packaging**

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

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

#### **48 Marking packaging**

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

Maximum penalty—40 penalty units.

#### **49 Consignor's duties**

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

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

Maximum penalty—20 penalty units.

#### **50 Packer's duties**

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

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



(b) is not used as specified in chapter 3 of the ADG Code.

Maximum penalty—20 penalty units.

### **51 Loader's duties**

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

Maximum penalty—20 penalty units.

### **52 Prime contractor's duty**

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

Maximum penalty—15 penalty units.

### **53 Driver's duty**

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

Maximum penalty—15 penalty units.

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

### **54 Approvals—packaging design types**

(1) The chief executive may, on application made under section 176, approve a packaging design type for use in the transport of dangerous goods by road if—

- (a) the applicant has carried out the tests required under chapter 3 of the ADG Code; and

- (b) the chief executive decides that a packaging of that design type would be safe for use in the transport of the goods by road.

(2) The approval of a packaging design type may be on a condition necessary for the safe transport of dangerous goods by road in packaging of that design type.

## **55 Recognised testing facilities**

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

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

## **56 Test certificates**

(1) A recognised testing facility may certify in writing that a packaging design type has passed particular performance tests for particular dangerous goods.

(2) If a performance test is conducted by a testing facility registered by NATA, a test certificate must—

- (a) contain the details required under division 3.7 of the ADG Code; and
- (b) be in the appropriate form used by NATA registered testing facilities.

(3) If a performance test is conducted in Australia by a recognised testing facility that is not registered by NATA—

- (a) the test must be observed by or for the chief executive; and
- (b) a test certificate must contain the details required under division 3.7 of the ADG Code.

***Division 3—Chief executive’s performance testing powers***

**57 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 by road; or
- (ii) the consignor or prime contractor for the transport of packaged dangerous goods by road; and

(b) has possession of, or control over, packaging of a design type used, or intended to be used, to transport dangerous goods by road.

(2) The chief executive may, by signed notice, require the person to produce packaging manufactured or used by the person for performance testing.

(3) The person must produce the packaging to the chief executive, or someone nominated in the notice, within 14 days after the day when the notice is given to the person, unless the person, under an agreement with someone else, delivers the packaging to the other person for performance testing before the end of that period.

Maximum penalty—20 penalty units.

**58 Requiring evidence of performance tests**

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

- (a) a manufacturer of packaging used, or intended to be used, to transport dangerous goods by road; or
- (b) a consignor of packaged dangerous goods for transport by road.

(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 chapter 3 of the ADG Code.

(3) The person must produce the evidence to the chief executive within 14 days after the day when the notice is given to the person.

Maximum penalty—20 penalty units.

(4) A test certificate under section 56 is evidence for this section.

## **PART 4—DANGEROUS GOODS IN BULK**

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

#### **59 Consignor's duties**

(1) A person must not consign dangerous goods in bulk for transport by road if—

- (a) chapter 4 of the ADG Code states that the goods must not be transported by road in bulk; or
- (b) the goods are determined under section 13(1)(h) to be too dangerous to be transported in bulk.

Maximum penalty—40 penalty units.

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

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

#### **60 Prime contractor's duties**

(1) A prime contractor must not transport dangerous goods in bulk by road if—

- (a) chapter 4 of the ADG Code states that the goods must not be transported by road in bulk; or
- (b) the goods are determined under section 13(1)(h) to be too dangerous to be transported in bulk.

Maximum penalty—40 penalty units.

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(2) A prime contractor who transports dangerous goods in bulk by road must comply with chapter 4 of the ADG Code.

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

### **61 Driver's duty**

A person who drives a vehicle transporting dangerous goods in bulk by road must comply with chapter 4 of the ADG Code.

Maximum penalty—20 penalty units.

## ***Division 2—Bulk containers***

### **62 Consignor's duties**

(1) A person must not consign dangerous goods in bulk for transport by road in a bulk container provided by the person if—

- (a) the material of which the container is constructed is incompatible with the dangerous goods; or
- (b) the container is damaged or defective to the extent that it is not safe to use to transport the goods by road.

Maximum penalty—40 penalty units.

(2) A person must not consign dangerous goods in bulk for transport by road in a bulk container provided by someone else if the person knows, or reasonably ought to know, that—

- (a) the material of which the container is constructed is incompatible with the dangerous goods; or
- (b) the container is damaged or defective to the extent that it is not safe to use to transport the goods by road.

Maximum penalty—40 penalty units.

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

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

### **63 Prime contractor's duties**

(1) A prime contractor must not transport dangerous goods in bulk by road in a bulk container provided by the prime contractor if—

- (a) the material of which the container is constructed is incompatible with the dangerous goods; or
- (b) the container is damaged or defective to the extent that it is not safe to use to transport the goods by road.

Maximum penalty—40 penalty units.

(2) A prime contractor must not transport dangerous goods in bulk by road in a bulk container provided by someone else if the prime contractor knows, or reasonably ought to know, that—

- (a) the material of which the container is constructed is incompatible with the dangerous goods; or
- (b) the container is damaged or defective to the extent that it is not safe to use to transport the goods by road.

Maximum penalty—40 penalty units.

(3) A prime contractor must not transport dangerous goods by road in a bulk container if the attachment system does not comply with, or is not used as stated in, chapters 4 and 5 of the ADG Code.

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

### **64 Driver's duties**

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

Maximum penalty—40 penalty units.

(2) A person must not drive a vehicle transporting dangerous goods by road in a bulk container if the person knows, or reasonably ought to know, that the attachment system does not comply with, or is not used as stated in, chapters 4 and 5 of the ADG Code.

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

### ***Division 3—Tanks***

#### **65 Manufacturer's duties**

(1) A person must not manufacture a tank designed to transport dangerous goods in bulk by road other than as specified in a design approved under section 83.

Maximum penalty—40 penalty units.

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

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

#### **66 Compliance plates**

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

Maximum penalty—40 penalty units.

#### **67 Owner's duties for certain vehicles**

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

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

Maximum penalty—40 penalty units.

#### **68 Consignor's duties**

(1) A person must not consign dangerous goods in bulk for transport by road in a tank provided by the person unless the tank—

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

Maximum penalty—40 penalty units.

(2) A person must not consign dangerous goods in bulk for transport by road in a tank provided by someone else if the person knows, or reasonably ought to know, that the tank—

- (a) is not an approved tank; or
- (b) has not been maintained, tested and inspected as stated in chapter 4 of the ADG Code; or
- (c) is used other than as stated in the approval conditions (if any) stated on the tank's compliance plate.

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

## **69 Loader's duty**

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

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

Maximum penalty—20 penalty units.

## **70 Prime contractor's duties**

(1) A prime contractor must not transport dangerous goods in bulk by road in a tank provided by the prime contractor unless the tank—

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

Maximum penalty—40 penalty units.



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(2) A prime contractor must not transport dangerous goods in bulk by road in a tank provided by someone else if the prime contractor knows, or reasonably ought to know, that the tank—

- (a) is not an approved tank; or
- (b) has not been maintained, tested and inspected as stated in chapter 4 of the ADG Code; or
- (c) is used other than as stated in the approval conditions (if any) stated on the tank's compliance plate.

Maximum penalty—40 penalty units.

(3) A prime contractor must not transport dangerous goods in bulk by road in a tank forming part of a vehicle if—

- (a) the material of which the tank is constructed is incompatible with the dangerous goods; or
- (b) the tank is damaged or defective to the extent that it is not safe to use to transport the goods by road.

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

## **71 Driver's duties**

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

- (a) is not an approved tank; or
- (b) is used other than as stated in the approval conditions (if any) stated on the tank's compliance plate.

Maximum penalty—20 penalty units.

### *Division 4—Foreign approved tanks*

## **72 Consignor's duties**

(1) A person must not consign dangerous goods in bulk for transport by road in a foreign approved tank provided by the person if the transport of the goods by road in the tank is prohibited by a determination under section 85(1).

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Maximum penalty—40 penalty units.

(2) A person must not consign dangerous goods in bulk for transport by road in a foreign approved tank provided by someone else if the person knows, or reasonably ought to know, that the transport of the goods by road in the tank is prohibited by a determination under section 85(1).

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

### **73 Prime contractor's duties**

(1) A prime contractor must not transport dangerous goods in bulk by road in a foreign approved tank provided by the prime contractor if the transport of the goods by road in the tank is prohibited by a determination under section 85(1).

Maximum penalty—40 penalty units.

(2) A prime contractor must not transport dangerous goods in bulk by road in a foreign approved tank provided by someone else if the prime contractor knows, or reasonably ought to know, that the transport of the goods by road in the tank is prohibited by a determination under section 85(1).

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

## ***Division 5—IBCs***

### **74 Manufacturer's duties**

(1) A person must not manufacture an IBC other than as stated in a design approved under section 84.

Maximum penalty—40 penalty units.

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

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

## **75 IBC markings**

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

Maximum penalty—40 penalty units.

## **76 Consignor's duties**

(1) A person must not consign dangerous goods in bulk for transport by road in an IBC provided by the person unless the IBC—

- (a) is an approved IBC; and
- (b) is used as stated in chapter 4 of the ADG Code and the IBC supplement.

Maximum penalty—40 penalty units.

(2) A person must not consign dangerous goods in bulk for transport by road in an IBC provided by someone else if the person knows, or reasonably ought to know, that the IBC—

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

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

## **77 Loader's duties**

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

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

Maximum penalty—20 penalty units.

## **78 Prime contractor's duties**

(1) A prime contractor must not transport dangerous goods in bulk by road in an IBC provided by the prime contractor unless the IBC—

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- (a) is an approved IBC; and
- (b) is used as stated in chapter 4 of the ADG Code and the IBC supplement.

Maximum penalty—40 penalty units.

(2) A prime contractor must not transport dangerous goods in bulk by road in an IBC provided by someone else if the prime contractor knows, or reasonably ought to know, that the IBC—

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

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

## **79 Driver's duties**

A person must not drive a vehicle transporting dangerous goods in bulk by road in an IBC if the person knows, or reasonably ought to know, that the IBC—

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

Maximum penalty—20 penalty units.

## ***Division 6—Foreign approved IBCs***

## **80 Consignor's duties**

(1) A person must not consign dangerous goods in bulk for transport by road in a foreign approved IBC provided by the person if the transport of the goods by road in the IBC is prohibited by a determination under section 85(2).

Maximum penalty—40 penalty units.

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(2) A person must not consign dangerous goods in bulk for transport by road in a foreign approved IBC provided by someone else if the person knows, or reasonably ought to know, that the transport of the goods by road in the IBC is prohibited by a determination under section 85(2).

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

### **81 Prime contractor's duties**

(1) A prime contractor must not transport dangerous goods in bulk by road in a foreign approved IBC provided by the prime contractor if the transport of the goods by road in the IBC is prohibited by a determination under section 85(2).

Maximum penalty—40 penalty units.

(2) A prime contractor must not transport dangerous goods in bulk by road in a foreign approved IBC that is not provided by someone else if the prime contractor knows, or reasonably ought to know, that the transport of the goods by road in the IBC is prohibited by a determination under section 85(2).

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

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

### **82 Applications for approval**

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

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

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### **83 Approvals—tank designs**

(1) The chief executive may, on application made under sections 82 and 176, approve a design for a tank for use in the transport of dangerous goods in bulk of a particular type by road if—

- (a) the design complies with chapter 4 of the ADG Code; or
- (b) the design does not comply with the chapter but the chief executive decides the risk involved in using the tank is not greater than the risk involved in using a tank complying with the chapter.

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

(3) In this regulation, a reference to the design of a tank includes a reference to the design of—

- (a) the attachment system to a vehicle of which the tank is intended to form a part or to which it is intended to be attached; and
- (b) the stability characteristics, and other attributes, of the vehicle affecting the suitability of a tank manufactured as stated in the design to transport the dangerous goods.

### **84 Approvals—IBC designs**

(1) The chief executive may, on application made under sections 83 and 176, approve a design for an IBC for use in the transport of dangerous goods in bulk of a particular type by road if the chief executive decides the design complies with the IBC supplement.

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

## *Division 8—Determinations*

### **85 Determinations—foreign approved tanks and IBCs**

(1) The chief executive may determine the dangerous goods in bulk that must not be transported by road in a foreign approved tank or foreign approved IBC.

(2) A determination under subsection (1) (other than an administrative determination) must be made by written notice.<sup>5</sup>

## **PART 5—FREIGHT CONTAINERS**

### **86 Consignor's duties**

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

Maximum penalty—20 penalty units.

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

Maximum penalty—20 penalty units.

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

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

Maximum penalty for subsection (3)—20 penalty units.

### **87 Loader's duty**

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

Maximum penalty—20 penalty units.

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<sup>5</sup> The notice is declared to be subordinate legislation under the *Statutory Instruments Regulation 2002*, section 3(3) and schedule 1.

### **88 Prime contractor's duties**

(1) A prime contractor must not transport dangerous goods by road in a freight container provided by the prime contractor unless the container complies with chapter 5 of the ADG Code.

Maximum penalty—40 penalty units.

(2) A prime contractor must not transport dangerous goods by road in a freight container that is not provided by the prime contractor if the prime contractor knows, or reasonably ought to know, the container does not comply with chapter 5 of the ADG Code.

Maximum penalty—40 penalty units.

(3) A prime contractor must not transport dangerous goods by road in a freight container unless the attachment system—

- (a) complies with chapter 5 of the ADG Code; and
- (b) is used as stated in the chapter.

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

### **89 Driver's duty**

A person must not drive a vehicle transporting dangerous goods by road in a freight container unless the container is attached to the vehicle as stated in chapter 5 of the ADG Code.

Maximum penalty—20 penalty units.

## **PART 6—UNIT LOADS**

### **90 Consignor's duties**

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

- (a) the packages can safely be transported by road in the unit load; and



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- (b) if chapter 6 of the ADG Code requires the chief executive's approval for the transport by road of the unit load—the unit load is prepared as stated in a way approved under section 94(1); and
- (c) the unit load otherwise complies with the chapter.

Maximum penalty—20 penalty units.

### **91 Loader's duties**

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

- (a) the packages cannot safely be transported by road in the unit load; or
- (b) if chapter 6 of the ADG Code requires the chief executive's approval for the transport by road of the unit load—the unit load is not prepared as stated in a way approved under section 94(1); or
- (c) the unit load does not otherwise comply with the chapter.

Maximum penalty—20 penalty units.

### **92 Prime contractor's duties**

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

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

Maximum penalty—20 penalty units.

### **93 Driver's duties**

A person must not drive a vehicle transporting packaged dangerous goods by road in a unit load if the person knows, or reasonably ought to know—

- (a) the packages cannot safely be transported by road in the unit load; or

(b) the unit load does not comply with chapter 6 of the ADG Code.  
Maximum penalty—20 penalty units.

#### **94 Approvals—unit loads**

(1) The chief executive may, on application made under section 176, approve a way of preparing a unit load of dangerous goods for transport by road that does not comply with chapter 6 of the ADG Code if the chief executive decides the risk involved in using the way is not greater than the risk involved in using a way complying with the chapter.

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

## **PART 7—MARKING AND PLACARDING**

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

#### **95 Application of division**

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

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

## **96 Meaning of appropriately marked**

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

## **97 Consignor’s duties**

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

Maximum penalty—

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

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

Maximum penalty—

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

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

Maximum penalty for subsection (3)—

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

## **98 Packer’s duties**

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

Maximum penalty—

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

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

Maximum penalty—

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

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

Maximum penalty for subsection (3)—

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

## **99 Prime contractor's duties**

(1) A prime contractor must not transport goods by road in a package or unit load if the prime contractor knows, or reasonably ought to know—

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

Maximum penalty—

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

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

Maximum penalty—

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

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(3) A prime contractor must not transport goods by road in a package or unit load if the prime contractor knows, or reasonably ought to know, the package or unit load does not contain dangerous goods but is marked as if it contained dangerous goods.

Maximum penalty for subsection (3)—

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

***Division 2—Placarding***

**100 Meaning of appropriately placarded etc.**

(1) For this division—

- (a) a person “**placards**” a load of goods if the person placards a bulk or freight container in which, or a vehicle in or on which, the goods are being, or are to be, transported by road; and
- (b) the “**placarding**” of a load of goods includes the placarding of a bulk or freight container in which, and the vehicle in or on which, the goods are being, or are to be, transported by road.

(2) For this division, a placard load of dangerous goods is “**appropriately placarded**” if the bulk or freight container in which, and the vehicle in or on which, the goods are being, or are to be, transported by road are placarded as stated in chapter 7 of the ADG Code.

**101 Consignor’s duties**

(1) A person must not consign a placard load of dangerous goods for transport by road unless the load is appropriately placarded.

Maximum penalty—40 penalty units.

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

Maximum penalty—40 penalty units.

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

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

### **102 Loader's duties**

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

Maximum penalty—40 penalty units.

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

Maximum penalty—40 penalty units.

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

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

### **103 Prime contractor's duties**

(1) A prime contractor must not transport dangerous goods by road if the prime contractor knows, or reasonably ought to know—

- (a) the goods are 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 of dangerous goods by road if the prime contractor knows, or reasonably ought to know, the placarding of the load is false or misleading in a material particular.

Maximum penalty—40 penalty units.

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

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

### **104 Driver's duties**

(1) A person must not drive a vehicle transporting dangerous goods by road if the person knows, or reasonably ought to know—

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

Maximum penalty—40 penalty units.

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

Maximum penalty—40 penalty units.

(3) A person must not drive a vehicle transporting goods by road in a load if the person knows, or reasonably ought to know, the load does not contain dangerous goods but is placarded as if it were a placard load.

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

## **PART 8—VEHICLES**

### *Division 1—Safety standards*

### **105 Owner's duty**

The owner of a vehicle must not use the vehicle, or permit it to be used, to transport dangerous goods by road unless the vehicle and its equipment comply with chapter 8 of the ADG Code.

Maximum penalty—40 penalty units.

### **106 Consignor's duty**

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

Maximum penalty—40 penalty units.

### **107 Prime contractor's duty**

A prime contractor must not use a vehicle to transport dangerous goods by road unless the vehicle and its equipment comply with chapter 8 of the ADG Code.

Maximum penalty—40 penalty units.

### **108 Driver's duty**

A person must not drive a vehicle transporting dangerous goods by road if the person knows, or reasonably ought to know, the vehicle or its equipment does not comply with chapter 8 of the ADG Code.

Maximum penalty—40 penalty units.

## ***Division 2—Vehicle insurance***

### **109 Owner's duty**

The owner of a vehicle must not use the vehicle, or permit it to be used, to transport a placard load of dangerous goods by road unless the vehicle is insured, or the owner is otherwise indemnified, as stated in chapter 8 of the ADG Code.

Maximum penalty—40 penalty units.

### **110 Prime contractor's duty**

A prime contractor must not use a vehicle to transport a placard load of dangerous goods by road unless the vehicle is insured, or the prime contractor is otherwise indemnified, as stated in chapter 8 of the ADG Code.

Maximum penalty—40 penalty units.



### **111 Requiring evidence of insurance etc.**

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

- (a) the owner of a vehicle used to transport placard loads of dangerous goods by road; or
- (b) a prime contractor responsible for the condition of the vehicle.

(2) The chief executive may, by written notice, require the person to produce written evidence that the vehicle is insured, or the person is otherwise indemnified, as stated in chapter 8 of the ADG Code.

(3) The person must produce the evidence to the chief executive within 14 days after the day when the notice is given to the person.

Maximum penalty—15 penalty units.

## **PART 9—SEGREGATION AND STOWAGE**

### *Division 1—Segregation of incompatible goods*

#### **112 Application**

(1) This division applies to dangerous goods if the goods are being, or are to be, transported by road in a placard load.

(2) This division also applies to dangerous goods of class 2.3, 6 or 8 if the goods are being, or are to be, transported by road in a load with food or food packaging.

#### **113 Loads on combination road vehicles**

(1) If dangerous and incompatible goods are transported on separate vehicles forming part of a combination road vehicle, the goods are taken to be segregated as stated in chapter 9 of the ADG Code.

(2) However, the goods are taken not to be segregated as stated in chapter 9 if, under the chapter or a determination under section 13(1)(i), the goods are too dangerous to be transported on the same combination road vehicle as other goods transported on the vehicle.

### **114 Exception for certain goods for driver’s personal use**

(1) Despite sections 115 to 118, permitted goods may be transported on a vehicle with incompatible goods if the permitted goods are in the vehicle’s cabin for the driver’s personal use.

(2) In this section—

“permitted goods” means—

- (a) a fire-risk substance; or
- (b) food or food packaging.

### **115 Consignor’s duties**

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

- (a) the vehicle will also be transporting incompatible goods; and
- (b) the dangerous goods will not be segregated from the incompatible goods as stated in—
  - (i) chapter 9 of the ADG Code; or
  - (ii) an approval under section 119.

Maximum penalty—40 penalty units.

### **116 Loader’s duties**

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

- (a) the vehicle or container will also be transporting incompatible goods; and
- (b) the dangerous goods will not be segregated from the incompatible goods as stated in—
  - (i) chapter 9 of the ADG Code; or
  - (ii) an approval under section 119.

Maximum penalty—40 penalty units.

### **117 Prime contractor's duties**

A prime contractor must not use a vehicle to transport dangerous goods if—

- (a) the vehicle is also transporting incompatible goods; and
- (b) the dangerous goods are not segregated from the incompatible goods as stated in—
  - (i) chapter 9 of the ADG Code; or
  - (ii) an approval under section 119.

Maximum penalty—40 penalty units.

### **118 Driver's duties**

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

- (a) the vehicle is also transporting incompatible goods; and
- (b) the dangerous goods are not segregated from the incompatible goods as stated in—
  - (i) chapter 9 of the ADG Code; or
  - (ii) an approval under section 119.

Maximum penalty—15 penalty units.

### **119 Approvals—segregation**

(1) The chief executive may, on application made under section 176, approve a segregation device, or a way of segregation, not complying with chapter 9 of the ADG Code for transporting dangerous and incompatible goods by road, if the chief executive decides—

- (a) it is impracticable to segregate the goods by a segregation device, or way of segregation, complying with the chapter; and
- (b) the risk involved in using the device or way to transport the goods by road is not greater than the risk involved in using a device or way complying with the chapter to transport the goods by road.

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

### *Division 2—Stowage*

#### **120 Consignor’s duty**

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

Maximum penalty—20 penalty units.

#### **121 Loader’s duty**

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

Maximum penalty—20 penalty units.

#### **122 Prime contractor’s duty**

A prime contractor must not transport dangerous goods by road on a vehicle if the prime contractor knows, or reasonably ought to know, the goods are not stowed on the vehicle as stated in chapter 9 of the ADG Code.

Maximum penalty—20 penalty units.

#### **123 Driver’s duty**

A person must not drive a vehicle transporting dangerous goods by road if the person knows, or reasonably ought to know, the goods are not stowed on the vehicle as stated in chapter 9 of the ADG Code.

Maximum penalty—15 penalty units.

## **PART 10—TRANSFER OF DANGEROUS GOODS IN BULK**

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

#### **124 Transferor’s duties**

(1) This section applies to a transfer of dangerous goods if the transfer is made—

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

(2) A person who transfers dangerous goods must ensure, as far as practicable, that—

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

Maximum penalty—20 penalty units.

#### **125 Prime contractor’s duty**

A prime contractor must not use a vehicle to transport dangerous goods by road in a tank or bulk container if the prime contractor knows, or reasonably ought to know—

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

Maximum penalty—20 penalty units.

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**126 Driver's duty**

A person must not drive a vehicle transporting dangerous goods by road in a tank or bulk container if the person knows, or reasonably ought to know—

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

Maximum penalty—20 penalty units.

***Division 2—Transfer***

**127 Application**

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

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

**128 Transferor's duties—general**

(1) A person who transfers dangerous goods must, as far as practicable, ensure that the goods are transferred—

- (a) in a way that averts, eliminates or minimises risk; and
- (b) if chapter 10 of the ADG Code applies to the transfer—as stated in the chapter; and
- (c) if the transfer of the goods is approved under section 132—as stated in the approval.

Maximum penalty—20 penalty units.

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

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- (a) the material of which the tank or container to which the goods are transferred, or the transfer equipment, is constructed is incompatible with the dangerous goods; or
- (b) the tank or container contains incompatible goods.

Maximum penalty—20 penalty units.

(3) If dangerous goods leak, spill or accidentally escape during the transfer of the goods, the person transferring the goods—

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

Maximum penalty for subsection (3)—20 penalty units.

### **129 Transferor's duties—hose assemblies**

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

Maximum penalty—40 penalty units.

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

Maximum penalty—40 penalty units.

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

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

Maximum penalty for subsection (3)—20 penalty units.

### **130 Occupier's duties**

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

- (a) in a way that averts, eliminates or minimises risk; and
- (b) if chapter 10 of the ADG Code applies to the transfer—as stated in the chapter; and
- (c) if the transfer of the goods is approved under section 132—as stated in the approval.

Maximum penalty—40 penalty units.

(2) The occupier of premises where dangerous goods are transferred must ensure that a hose assembly on the premises that is used, or intended to be used, for the transfer (other than a hose assembly brought onto the premises on the vehicle involved in the transfer)—

- (a) is maintained as stated in chapter 10 of the ADG Code; and
- (b) is inspected and tested at the intervals, and in the way, required under the chapter; and
- (c) satisfies each test under the chapter.

Maximum penalty—20 penalty units.

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

Maximum penalty for subsection (3)—10 penalty units.

### **131 Prime contractor's duties**

(1) A prime contractor must, as far as practicable, ensure that dangerous goods being transferred to or from a tank, or bulk container, on a vehicle used by the prime contractor are transferred—

- (a) in a way that averts, eliminates or minimises risk; and
- (b) if chapter 10 of the ADG Code applies to the transfer—as stated in the chapter; and
- (c) if the transfer of the goods is approved under section 132—as stated in the approval.

Maximum penalty—40 penalty units.



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(2) A prime contractor must not use a vehicle to transport dangerous goods by road unless each hose assembly on the vehicle that is used, or intended to be used, for the transfer of dangerous goods—

- (a) has been maintained as stated in chapter 10 of the ADG Code; and
- (b) was inspected and tested at the intervals, and in the way, required under the chapter; and
- (c) satisfied each test.

Maximum penalty—20 penalty units.

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

Maximum penalty—10 penalty units.

### **132 Approvals—transfers of dangerous goods**

(1) The chief executive may, on application made under section 176, approve the transfer of dangerous goods otherwise than as stated in chapter 10 of the ADG Code if the chief executive decides that the risk involved in the transfer of the goods is not greater than the risk involved in the transfer of the goods as stated in the chapter.

(2) The approval of a transfer of dangerous goods may be on a condition necessary for the safe transfer of the goods.

## **PART 11—DOCUMENTS**

### *Division 1—Shipping documentation*

#### **133 False or misleading information**

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

Maximum penalty—40 penalty units.

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*Example of false information in shipping documentation—*

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

(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.

### **134 Consignor's duties**

(1) A person must not consign dangerous goods for transport by road on a vehicle unless the prime contractor or driver of the vehicle has shipping documentation for the goods complying with chapter 11 of the ADG Code.

Maximum penalty—15 penalty units.

(2) A person must not consign dangerous goods for transport by road if the person knows, or reasonably ought to know, the goods will be divided into, and transported in, separate loads, unless subsection (3) is complied with for each load.

Maximum penalty—15 penalty units.

(3) This subsection is complied with for a load if the prime contractor, or the driver of the vehicle transporting the load, has been given separate shipping documentation for the load complying with chapter 11 of the ADG Code.

### **135 Prime contractor's duty**

A prime contractor must ensure that a person does not drive a vehicle used by the prime contractor to transport dangerous goods by road unless the person has been given shipping documentation for the goods complying with chapter 11 of the ADG Code.

Maximum penalty—20 penalty units.

### **136 Driver's duties**

(1) The driver of a vehicle transporting dangerous goods by road must carry shipping documentation for the goods complying with chapter 11 of the ADG Code.

Maximum penalty—15 penalty units.

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(2) The driver of a vehicle transporting dangerous goods by road must carry the shipping documentation for the goods—

- (a) if the goods are a placard load—in an emergency information holder complying with chapter 11 of the ADG Code; and
- (b) if the goods are not a placard load—in an emergency information holder complying with the chapter or elsewhere in the vehicle’s cabin in a conspicuous location.

Maximum penalty—10 penalty units.

(3) An officer of an emergency service may require the driver of a vehicle transporting dangerous goods by road to produce the shipping documentation for the goods for inspection by the officer.<sup>6</sup>

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

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

***Division 2—Emergency information***

**137 Meaning of required emergency information**

In this division—

**“required emergency information”** means—

- (a) emergency information complying with chapter 11 of the ADG Code; or
- (b) emergency information approved under section 141.

**138 Consignor’s duty**

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

Maximum penalty—15 penalty units.

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<sup>6</sup> Under section 49 of the Act, an authorised officer may make the same requirement of the driver.

### **139 Prime contractor's duties**

A prime contractor must not use a vehicle to transport a placard load of dangerous goods by road unless—

- (a) the vehicle is equipped with an emergency information holder complying with chapter 11 of the ADG Code; and
- (b) the required emergency information is in the holder.

Maximum penalty—20 penalty units.

### **140 Driver's duties**

(1) A person must not drive a vehicle transporting a placard load of dangerous goods by road unless—

- (a) the vehicle is equipped with an emergency information holder complying with chapter 11 of the ADG Code; and
- (b) the required emergency information is in the holder.

Maximum penalty—15 penalty units.

(2) The driver of a vehicle transporting a placard load of dangerous goods by road must ensure that the vehicle's emergency information holder contains only—

- (a) the required emergency information; and
- (b) the shipping documentation for the goods.

Maximum penalty—10 penalty units.

(3) An officer of an emergency service may require the driver of a vehicle transporting a placard load of dangerous goods by road to produce the shipping documentation for the goods for inspection by the officer.<sup>7</sup>

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

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

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<sup>7</sup> Under section 49 of the Act, an authorised officer may make the same requirement of the driver.

### **141 Approvals—emergency information**

The chief executive may, on application made under section 176 or on the chief executive's own initiative, approve emergency information that does not comply with chapter 11 of the ADG Code if the chief executive decides that use of the information would be as accurate, and at least as convenient and efficient, as information complying with the chapter.

## **PART 12—PERSONAL PROTECTIVE AND SAFETY EQUIPMENT**

### **142 Owner's duties**

The owner of a vehicle must not use the vehicle, or allow the vehicle to be used, to transport a placard load of dangerous goods by road unless the vehicle is equipped with—

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

Maximum penalty—40 penalty units.

### **143 Prime contractor's duties**

A prime contractor must not use a vehicle to transport a placard load of dangerous goods by road unless—

- (a) the driver of the vehicle is provided with personal protective equipment of a type, quality and quantity reasonably necessary for the personal safety of the driver, both during the normal course of transport and in a dangerous situation; and
- (b) the vehicle is equipped with safety equipment of a type, quality and quantity reasonably necessary to allow the goods to be transported safely on the vehicle and the vehicle to operate safely, both in the normal course of transport and in a dangerous situation; and

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- (c) the vehicle is equipped with—
  - (i) fire extinguishers that are stowed, and have been inspected and tested, as stated in chapter 12 of the ADG Code; and
  - (ii) portable warning devices complying with the chapter; and
  - (iii) any other equipment required under the chapter; and
- (d) each item of equipment mentioned in paragraphs (a) to (c) is in good repair and proper working order.

Maximum penalty—40 penalty units.

#### **144 Driver's duties**

(1) A person must not drive a vehicle transporting a placard load of dangerous goods by road unless the vehicle is equipped with—

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

Maximum penalty—15 penalty units.

(2) A person must not drive a vehicle transporting a placard load of dangerous goods by road if the person knows, or reasonably ought to know, that the equipment for the vehicle mentioned in subsection (1)—

- (a) is not stowed as stated in chapter 12 of the ADG Code; or
- (b) has not been inspected or tested as stated in the chapter.

Maximum penalty for subsection (2)—15 penalty units.

## **PART 13—PROCEDURES DURING TRANSPORT**

### *Division 1—Immobilised and stopped vehicles*

#### **145 Driver's duty**

(1) This section applies if a vehicle transporting a placard load of dangerous goods by road—

- (a) is broken down or otherwise immobilised, or has stopped, on a road; and
- (b) is a traffic hazard.

(2) The driver must alert other road users of the hazard as stated in chapter 13 of the ADG Code.

Maximum penalty—10 penalty units.

#### **146 Prime contractor's duties**

(1) If a vehicle transporting a placard load of dangerous goods by road is broken down or otherwise immobilised on a road, the prime contractor must, as soon as practicable, ensure that the vehicle is—

- (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;

if the risk involved in complying with paragraphs (a) and (b) is not greater than the risk involved in not complying with the paragraphs.

Maximum penalty for subsection (2)—20 penalty units.

### ***Division 2—Drivers' duties***

#### **147 Driving**

The driver of a vehicle transporting a placard load of dangerous goods by road must not allow anyone else to ride in the vehicle other than as stated in chapter 13 of the ADG Code.

Maximum penalty—10 penalty units.

#### **148 Parking**

The driver of a vehicle transporting a placard load of dangerous goods by road must not park the vehicle, or leave it standing, in a place (whether public or private) unless the person complies with chapter 13 of the ADG Code.

Maximum penalty—15 penalty units.

#### **149 Control of ignition sources**

(1) This section applies to the driver a vehicle transporting dangerous goods by road, in bulk—

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

(2) The driver of the vehicle must not—

- (a) have matches or a cigarette lighter in his or her possession in the vehicle; or
- (b) smoke in the vehicle.

Maximum penalty—40 penalty units.

(3) The driver must also do everything practicable to ensure that anyone else in the vehicle does not—

- (a) have matches or a cigarette lighter in his or her possession; or
- (b) smoke in the vehicle.

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



***Division 3—Routes, areas, vehicles and times***

**150 Determinations—routes, areas, vehicles and times**

(1) The chief executive may determine that—

- (a) particular dangerous goods may only be transported by road on a particular route, or in or through a particular area; or
- (b) only a particular vehicle, or kind of vehicle, may transport particular dangerous goods by road; or
- (c) particular dangerous goods may only be transported by road at a particular time; or
- (d) unodourised LP Gas may only be transported by road on a particular route, or in or through a particular area.

(2) A determination under subsection (1) (other than an administrative determination) must be made by written notice.<sup>8</sup>

**151 Prime contractor's duty**

A prime contractor must not use a vehicle to transport dangerous goods along a route, or in or through an area, contrary to a determination under section 150.

Maximum penalty—20 penalty units.

**152 Driver's duty**

A person must not drive a vehicle transporting dangerous goods by road along a route, or in or through an area, contrary to a determination under section 150.

Maximum penalty—20 penalty units.

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<sup>8</sup> The notice is declared to be subordinate legislation under the *Statutory Instruments Regulation 2002*, section 3(3) and schedule 1.

### ***Division 4—Miscellaneous***

#### **153 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—20 penalty units.

## **PART 14—EMERGENCIES**

### ***Division 1—Emergencies generally***

#### **154 Driver's duties**

(1) This section applies if a vehicle transporting dangerous goods by road is involved in an incident resulting in a dangerous situation.

(2) The driver of the vehicle must—

- (a) notify the following of the incident as soon as practicable—
  - (i) a police officer or a fire officer within the meaning of the *Fire and Rescue Authority Act 1990*;<sup>9</sup> and
  - (ii) the prime contractor; and
- (b) give the reasonable help required by an authorised officer, or an officer of an emergency service, to deal with the situation.

Maximum penalty for subsection (2)—15 penalty units.

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<sup>9</sup> Now see *Acts Interpretation Act 1954*, section 14I and *Emergency Services Legislation Amendment Act 2001*, section 13.

### **155 Prime contractor's duties—contaminated food and food packaging**

(1) This section applies if an incident involving food or food packaging, and a vehicle transporting dangerous goods by road, results in the leakage, spillage or accidental escape of the dangerous goods, contamination of the food or food packaging, or a fire or explosion.

(2) The food or food packaging must not be transported from the site of the incident, unless the chief executive gives written permission to the prime contractor to transport the food or food packaging from the site.

Maximum penalty—40 penalty units.

(3) If the chief executive gives the permission, the prime contractor must deal with the food or food packaging as required by the permission.

Maximum penalty—40 penalty units.

(4) A permission under subsection (2) must—

- (a) be in writing; and
- (b) state the name of the person to whom it is given; and
- (c) identify the incident; and
- (d) identify the food or food packaging to which it relates.

### **156 Prime contractors and drivers to inform chief executive**

(1) This section applies if a vehicle transporting dangerous goods by road is involved in an incident resulting in a dangerous situation.

(2) As soon as practicable after the incident, both the prime contractor and the driver of the vehicle must tell the chief executive the following particulars about the incident—

- (a) where the incident happened;
- (b) the time and date of the incident;
- (c) the nature of the incident;
- (d) the dangerous goods being transported when the incident happened.

Maximum penalty—20 penalty units.

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(3) Within 21 days after the day when the incident happens, both the prime contractor and the driver of the vehicle must give the chief executive a written report about the incident containing the following particulars—

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

*Division 2—Emergencies involving placard loads*

**157 Telephone advisory service—bulk transport**

(1) A prime contractor must not transport dangerous goods in bulk by road unless a telephone advisory service is available during the journey.

Maximum penalty—40 penalty units.

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

Maximum penalty—40 penalty units.

(3) 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—

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

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

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

### **158 Emergency plans**

(1) A prime contractor must not transport a placard load of dangerous goods by road unless the prime contractor has an emergency plan for the transport of the goods.

Maximum penalty—40 penalty units.

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

Maximum penalty—40 penalty units.

(3) In this section—

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

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

### **159 Consignor’s duties—information and resources**

(1) This section applies if—

- (a) a vehicle transporting a placard load of dangerous goods by road is involved in an incident resulting in a dangerous situation; and

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(b) an officer of an emergency service reasonably believes the consignor of the goods may be able to give information or produce a document that will help to prevent the dangerous situation.<sup>10</sup>

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

(a) give the officer the information that the officer requires about—

(i) the properties of the dangerous goods being transported; and

(ii) safe ways of handling the goods; and

(iii) safe ways of containing and controlling the goods in a dangerous situation; or

(b) provide the equipment and other resources necessary—

(i) to control the dangerous situation; and

(ii) to contain, control, recover and dispose of dangerous goods that have leaked, spilled or accidentally escaped.

(3) The consignor must comply with the requirement unless the person has a reasonable excuse for not complying with it.

Maximum penalty—20 penalty units.

(4) If the prime contractor and the consignor of the goods are asked to give the same information or provide the same resources for the incident, it is sufficient if the prime contractor gives the information or provides the resources.

### **160 Prime contractor's duties—information and resources**

(1) This section applies if—

(a) a vehicle transporting a placard load of dangerous goods by road is involved in an incident resulting in a dangerous situation; and

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<sup>10</sup> Under chapter 3, part 4A of the Act, authorised officers have powers to prevent dangerous situations.

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- (b) an officer of an emergency service reasonably believes the prime contractor for the goods may be able to give information or produce a document that will help to prevent the dangerous situation.<sup>11</sup>

(2) The officer may require the prime contractor to—

- (a) give the officer the information the officer requires about—
- (i) the vehicle’s construction and properties; and
  - (ii) the vehicle’s equipment, except a bulk container for which the prime contractor is not responsible; and
- (b) provide the equipment and other resources necessary—
- (i) to control the dangerous situation; and
  - (ii) to recover a vehicle involved in the situation or its equipment.

(3) The prime contractor must comply with the requirement unless the person has a reasonable excuse for not complying with it.

Maximum penalty—20 penalty units.

(4) If the prime contractor and the consignor of the goods are asked to give the same information or provide the same resources for the incident, it is enough if the consignor gives the information or provides the resources.

## PART 15—MUTUAL RECOGNITION

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

#### 161 Registers

Each of the following registers is a “**register**”—

- (a) the register of determinations kept under section 16;

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<sup>11</sup> Under chapter 3, part 4A of the Act, authorised officers have powers to prevent dangerous situations.

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- (b) the register of exemptions kept under section 171;
- (c) the register of approvals kept under section 185;
- (d) the register of bulk driver licences kept under section 226(1);
- (e) the register of bulk vehicle licences kept under section 226(2).

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

(1) A register, or part of a register, under this section may be kept by computer.

(2) An entry made by computer for a register is taken to be a record made in the register.

### **163 Inspection of registers**

(1) The chief executive must ensure each register is available for inspection by corresponding competent authorities and the public.

(2) The chief executive is taken to comply with subsection (1) by ensuring there is reasonable access to—

- (a) a computer terminal to inspect a register; or
- (b) copies of information in a register.

### ***Division 2—Recommendations by chief executive and corresponding competent authorities***

### **164 Recommendations by chief executive**

(1) This section applies if the chief executive decides that a ground exists for a corresponding competent authority to do any of the following (the “**proposed action**”)—

- (a) amend or cancel a corresponding determination, other than a corresponding administrative determination;
- (b) amend or cancel a corresponding administrative determination;
- (c) amend or cancel a corresponding approval or exemption;



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(d) amend, suspend or cancel a corresponding bulk driver or vehicle licence.

(2) The chief executive may recommend, in writing, that the corresponding competent authority take the proposed action.

(3) The chief executive must give written reasons to the corresponding competent authority for the recommendation.

### **165 Recommendations by corresponding competent authorities**

(1) This section applies if a corresponding competent authority recommends in writing to the chief executive that the chief executive do any of the following—

- (a) amend or cancel a determination that is not an administrative determination; or
- (b) amend or cancel an administrative determination; or
- (c) amend or cancel an approval or exemption; or
- (d) amend, suspend or cancel a bulk driver or vehicle licence.

(2) The chief executive must—

- (a) if the recommendation is about a determination (except an administrative determination), exemption or approval that has effect in 1 or more other participating jurisdictions—refer the recommendation to the panel; and
- (b) otherwise—have regard to the recommendation.

### ***Division 3—Mutual recognition of determinations, exemptions, approvals and licences***

### **166 Corresponding determinations**

(1) This section applies to a determination made by a corresponding competent authority for another participating jurisdiction if—

- (a) the determination is made under a corresponding law of the other jurisdiction that provides for the same matters as any of the following sections (a “**relevant section**”)—
  - section 13 (Determinations—dangerous goods)

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- section 85 (Determinations—foreign approved tanks and IBCs)
  - section 150 (Determinations—routes, areas, vehicles and times);
- (b) the determination is in force in the other jurisdiction; and
- (c) either of the following subparagraphs applies—
- (i) the panel decides the determination should have effect in all participating jurisdictions or 1 or more participating jurisdictions including this jurisdiction, the determination is recorded in the register kept under section 16, and the panel has not reversed the decision;
  - (ii) the determination is an administrative determination.

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

### **167 Corresponding exemptions**

(1) This section applies to an exemption granted by a corresponding competent authority for another participating jurisdiction if—

- (a) the exemption is granted under a corresponding law of the other jurisdiction that provides for the same matter as this section (the “**relevant section**”); and
- (b) the exemption is in force in the other jurisdiction; and
- (c) the panel decides that the exemption should have effect in all participating jurisdictions or 1 or more participating jurisdictions including this jurisdiction, the exemption is recorded in the register kept under section 171, and the panel has not reversed the decision.

(2) Except 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 section.

## 168 Corresponding approvals

(1) This section applies to an approval given by a corresponding competent authority for another participating jurisdiction if—

- (a) the approval is given under a corresponding law of the other jurisdiction that provides for the same matters as any of the following sections (a “**relevant section**”)—
  - section 54 (Approvals—packaging design types)
  - section 83 (Approvals—tank designs)
  - section 84 (Approvals—IBC designs)
  - section 94 (Approvals—unit loads)
  - section 119 (Approvals—segregation)
  - section 132 (Approvals—transfers of dangerous goods)
  - section 141 (Approvals—emergency information)
  - section 232 (Approvals—tests and training courses for drivers);
- (b) the approval is in force in the other jurisdiction; and
- (c) the panel decides that the approval should have effect in all participating jurisdictions or participating jurisdictions including this jurisdiction, and has not reversed the decision.

(2) Except 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 section.

## 169 Corresponding licences

(1) This section applies to a licence granted by a corresponding competent authority for another participating jurisdiction if—

- (a) the licence is a licence granted under a corresponding law of the other jurisdiction that provides for the same matters as either of the following sections (the “**relevant section**”)—
  - (i) section 200; (which is about bulk driver licences)
  - (ii) section 211; and (which is about bulk vehicle licences)
- (b) the licence is in force in the other jurisdiction.

(2) Except for circumstances that do not exist in this jurisdiction, the licence has effect in this jurisdiction as if it were a licence granted by the chief executive under the relevant section.

## **PART 16—EXEMPTIONS**

### *Division 1—General*

#### **170 Applications for exemptions**

(1) An application for an exemption must be in the approved form.<sup>12</sup>

(2) The chief executive may, by written notice, require the applicant to give to the chief executive any additional information necessary for a proper consideration of the application.

#### **171 Register of exemptions**

(1) The chief executive must keep a register of exemptions.

(2) The register may have separate divisions for different kinds of exemptions.

(3) The chief executive must record in the register—

- (a) each exemption granted under the Act; and
- (b) each exemption granted by a corresponding competent authority that would be a corresponding exemption if it were recorded in the register.

(4) The chief executive must note in the register—

- (a) the cancellation or amendment of an exemption made under the Act; and
- (b) a decision of the panel reversing a decision that a corresponding exemption should have effect in all participating jurisdictions or participating jurisdictions including this jurisdiction.

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<sup>12</sup> See section 153 (Exemptions) of the Act.

## **172 Records of exemptions**

The record of an exemption in the register must include—

- (a) the provisions of the exemption; or
- (b) the following information—
  - (i) for an exemption mentioned in section 171(3)(a)—the date notice of the exemption was published in the gazette;
  - (ii) for an exemption mentioned in section 171(3)(b) that was notified in the Government gazette of a participating jurisdiction—the title of the gazette and the date of notification;
  - (iii) the name of the person to whom, or the name, or a description, of the class of people to which, the exemption applies;
  - (iv) the date when the exemption was granted;
  - (v) the provisions of this regulation, and of the ADG Code, to which the exemption relates;
  - (vi) the period for which the exemption is in force;
  - (vii) the dangerous goods, equipment, packaging, vehicle or other thing to which the exemption relates.

### *Division 2—Reference of matters to panel*

## **173 References to panel**

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

(2) The chief executive must refer to the panel an exemption having effect in this jurisdiction, and 1 or more other participating jurisdictions, if—

- (a) the chief executive decides that the exemption should be cancelled or amended; or

- (b) a corresponding competent authority recommends to the chief executive in writing that the exemption should be cancelled or amended.

### **174 Effect of panel decisions about applications**

(1) This section applies if—

- (a) an application for an exemption is referred to the panel under section 173(1); and
- (b) the panel decides—
  - (i) that the exemption should be granted, what the provisions of the exemption should be, and that the exemption should have effect in all participating jurisdictions or participating jurisdictions including this jurisdiction; or
  - (ii) that the exemption should not have effect in this jurisdiction.

(2) The chief executive must have regard to the panel's decision.

### **175 Effect of panel decisions about cancelling or varying exemptions**

(1) This section applies if—

- (a) an exemption is referred to the panel under section 173; and
- (b) the panel decides that the exemption—
  - (i) should, or should not, be cancelled; or
  - (ii) should be amended (whether or not the panel's decision is the same as the amendment proposed by the chief executive, and should have effect as amended in all participating jurisdictions or participating jurisdictions including this jurisdiction; or
  - (iii) should not be amended.

(2) The chief executive must have regard to the panel's decision.

## **PART 17—ADMINISTRATIVE DETERMINATIONS AND APPROVALS**

### *Division 1—General*

#### **176 Applications**

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

(2) However, an application for an approval, or amendment of an approval, under section 132 may be made orally.

(3) An application for an amendment of an administrative determination or written approval must have the determination or approval with it.

(4) The chief executive may, by written notice, require an applicant to give to the chief executive any additional information necessary for a proper consideration of the application.

#### **177 Form of administrative determinations and approvals**

(1) An administrative determination, or an approval made on written application, must be in writing.

(2) However, an approval made on oral application under section 132 may be given orally.

#### **178 When administrative determinations and approvals must not 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<sup>13</sup> of the Act from involvement in the transport of dangerous goods by road.

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13 Section 160 (Prohibition from involvement in the transport of dangerous goods by road) of the Act

### **179 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) grant or amend an approval under this regulation.

(2) The chief executive must inform the applicant by written notice of the decision.

(3) The notice must state—

- (a) the reasons for the decision; and
- (b) that the applicant may apply within 28 days after the giving of the notice to have the decision reviewed; and
- (c) how the applicant may apply for the review.

(4) However, if the chief executive refuses an oral application to amend an approval given under section 132, the chief executive may tell the applicant of the refusal and the reasons for the refusal orally.

### **180 Periods and conditions**

(1) An administrative determination is made, and a written approval under this section is given, for the period stated in the determination or approval.

(2) However, if an approval under section 132 is given orally, the chief executive may tell the applicant orally of the period for which the approval is given when giving it.

(3) A condition to which an administrative determination, or a written approval, is subject must be stated in the determination or approval.

(4) However, if an approval under section 132 is given orally, the chief executive may tell the applicant orally of any condition when giving it.

### **181 Replacement administrative determinations and approvals**

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

- (a) the determination or approval is amended; or



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

### **182 Contravention of conditions**

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

Maximum penalty—20 penalty units.

### **183 Additional grounds for cancelling administrative determinations and approvals**

(1) Each of the following is a ground for cancelling an administrative determination or approval—

- (a) a relevant change happens after the determination is made or the approval is given and had it happened before the determination was made or the approval was given—
- (i) the determination would not have been made; or
  - (ii) the approval would not have been given; or
- (b) the person on whose application the determination was made, or to whom the approval was given contravenes a corresponding law in force in another participating jurisdiction that provides for the same matter under the Act or this regulation.<sup>14</sup>

(2) In this section—

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

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<sup>14</sup> See also sections 18 (Grounds for amending, suspending or cancelling approvals) and 19 (Procedure for amending, suspending or cancelling approvals) of the Act.

### **184 Additional grounds for amending administrative determinations and approvals**

(1) Each of the following is a ground for amending an administrative determination or approval—

- (a) a relevant change happens after the determination is made or the approval is given and had it happened before the determination was made or the approval was given—
  - (i) the determination would have been made in the way in which it is proposed to be amended; or
  - (ii) the approval would have been given in the way in which it is proposed to be amended; or
- (b) the person on whose application the determination was made, or to whom the approval was given contravenes a provision of a corresponding law in force in another participating jurisdiction that provides for the same matter under the Act or this regulation.<sup>15</sup>

(2) In this section—

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

### *Division 2—Register of approvals*

#### **185 Register**

(1) The chief executive must keep a register of approvals.

(2) The register may have separate divisions for different kinds of approvals.

(3) The chief executive must record in the register—

- (a) each approval given in writing under this regulation; and
- (b) each corresponding approval.

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<sup>15</sup> See also sections 18 (Grounds for amending, suspending or cancelling approvals) and 19 (Procedure for amending, suspending or cancelling approvals) of the Act.

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

### **186 Records of approvals**

The record of an approval in the register must include—

- (a) the provisions of the approval; or
- (b) the following information—
  - (i) the name of the person to whom the approval was given;
  - (ii) the date 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 is in force;
  - (v) the dangerous goods, equipment, packaging, vehicle or other thing to which the approval relates.

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

### **187 References to panel**

(1) The chief executive must refer an application for an approval to the panel if the chief executive decides the approval should have effect in all participating jurisdictions or participating jurisdictions including this jurisdiction.

(2) The chief executive must refer to the panel an approval having effect in this jurisdiction, and 1 or more other participating jurisdictions, if—

- (a) the chief executive decides the approval should be cancelled or amended; or
- (b) a corresponding competent authority recommends to the chief executive in writing that the approval should be cancelled or amended.

### **188 Effect of panel decisions about applications**

(1) This section applies if—

- (a) an application for an approval is referred to the panel under section 187(1); and
- (b) the panel decides—
  - (i) that the approval should be given, what the provisions of the approval should be, and that the approval should have effect in all participating jurisdictions or participating jurisdictions including this jurisdiction; or
  - (ii) that the approval should not have effect in this jurisdiction.

(2) The chief executive must have regard to the panel's decision.

### **189 Effect of panel decisions about cancelling or varying approvals**

(1) This section applies if—

- (a) an approval is referred to the panel under section 187(2); and
- (b) the panel decides that the approval—
  - (i) should, or should not, be cancelled; or
  - (ii) should be amended (whether or not the panel's decision is the same as the amendment proposed by the chief executive), and should have effect as amended in all participating jurisdictions or in participating jurisdictions including this jurisdiction; or
  - (iii) should not be amended.

(2) The chief executive must have regard to the panel's decision.

## **PART 18—LICENCES**

### *Division 1—Preliminary*

#### **190 Application of part**

This part does not apply to the transport by road of dangerous goods in bulk on a vehicle if—

- (a) the goods are transported in an IBC; and
- (b) the IBC is not filled or emptied on the vehicle; and
- (c) the total capacity of IBCs on the vehicle is not more than 3 000 L.

#### **191 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.

### *Division 2—Principal duties under part*

#### **192 Prime contractor's duties**

(1) If a prime contractor uses a vehicle to transport dangerous goods by road in bulk (other than as the driver of the vehicle), the vehicle must be licensed under this part to transport the goods.

(2) If a prime contractor employs, engages or permits another person to drive a vehicle transporting dangerous goods by road in bulk, the other person must be licensed under this part to drive the vehicle.

### **193 Driver’s duties**

(1) If a person drives a vehicle transporting dangerous goods by road in bulk, the vehicle must be licensed under this part to transport the goods.

(2) If a person drives a vehicle transporting dangerous goods by road in bulk, the person must be licensed under this part to drive the vehicle.

### **194 Consignor’s duty**

A person must not consign dangerous goods in bulk for transport by road on a vehicle if the person knows, or reasonably ought to know, that the vehicle is not licensed under this part to transport the goods.

Maximum penalty—40 penalty units.

## ***Division 3—Bulk driver licences***

### **195 Definitions for div 3**

In this division—

“**licence**” means a bulk driver licence.

“**licensee**” means the holder of a licence.

### **196 Required driver’s licence evidence**

(1) The following documents are required as driver’s licence evidence for an application for grant or renewal of a licence—

- (a) a copy of the applicant’s driver’s licence; and
- (b) either—
  - (i) the documents mentioned in subsection (2); or
  - (ii) the authorisation mentioned in subsection (3).

(2) For subsection (1)(b)(i), the following documents are required—

- (a) a current certified extract of entries about the applicant in the driver’s licences register kept by the licensing authority of each jurisdiction where the applicant is licensed to drive;

- (b) a copy of the records of any conviction of the applicant for a driving offence certified by the appropriate authority of the jurisdiction where the applicant was convicted.

(3) For subsection (2)(a), a current certified extract is an extract certified by the licensing authority not more than 6 months before the day when the application is made.

### **197 Required competency evidence**

(1) A document mentioned in subsection (2) is required as competency evidence for an application for grant or renewal of a licence.

(2) The document must be either—

- (a) a test or training certificate issued to the applicant; 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 when the application is made.

### **198 Required medical fitness evidence**

(1) The certificate mentioned in subsection (2) is required as medical fitness evidence for an application for grant or renewal of a licence.

(2) The certificate must be—

- (a) about the fitness of the applicant to drive a vehicle; and
- (b) issued by a doctor who, not more than 6 months before the day when the application is made, examined and passed the applicant under the required standard.

(3) In this section—

**“required standard”** means the *Medical Examinations of Commercial Vehicle Drivers* published by the Federal Office of Road Safety and the National Road Transport Commission.

### **199 Applications for licences**

(1) A person who is not already the holder of a licence or a corresponding bulk driver licence may apply to the chief executive for a licence.

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- (2) The application must be in the approved form and accompanied by—
- (a) the driver's licence evidence required by section 196; and
  - (b) the competency evidence required by section 197; and
  - (c) the medical fitness evidence required by section 198; and
  - (d) 2 recent passport-size photographs of the applicant; and
  - (e) the appropriate fee.

## 200 Grant of licences

- (1) The chief executive must grant a licence 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 199 and otherwise complies with the section; and
  - (c) the applicant is at least 21 years old.
- (2) However, the chief executive must not grant the licence if—
- (a) in the 5 years before the day when the application is made—
    - (i) the applicant has been convicted in Australia of an offence that makes the applicant unsuitable to be the driver of a vehicle transporting dangerous goods in bulk; or
    - (ii) the applicant's driver's licence has been cancelled or suspended on a ground that makes the applicant unsuitable to be the driver of a vehicle transporting dangerous goods in bulk; or
  - (b) the applicant is subject to a court order, under section 160<sup>16</sup> of the Act, prohibiting the applicant from involvement in the transport of dangerous goods by road.
- (3) Without limiting subsection (2), a person may be unsuitable to be the driver of a vehicle transporting dangerous goods in bulk 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

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16 Section 160 (Prohibition from involvement in the transport of dangerous goods by road) of the Act



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- (b) the person has been disqualified from holding or obtaining a driver's licence (whether absolutely or for a period).

(4) If the chief executive refuses to grant a licence, or grants a licence subject to conditions, the chief executive must inform the applicant by written notice.

(5) The notice must state—

- (a) the reasons for the decision; and
- (b) that the applicant may apply within 28 days after the giving of the notice to have the decision reviewed; and
- (c) how the applicant may apply for the review.

## **201 Applications for renewal of licences**

(1) A person who holds a licence may apply to the chief executive for renewal of the licence.

(2) The application must be accompanied by—

- (a) the driver's licence evidence required by section 196; and
- (b) the competency evidence required by section 197; and
- (c) the medical fitness evidence required by section 198; and
- (d) 2 recent passport-size photographs of the applicant; and
- (e) the appropriate fee.

## **202 Renewal of licences**

(1) The chief executive must renew a licence 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 201 and otherwise complies with the section.

(2) However, the chief executive must not renew the licence if—

- (a) while the licence was in force—

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- (i) the applicant was convicted in Australia of an offence that makes the applicant unsuitable to be the driver of a vehicle transporting dangerous goods in bulk; or
  - (ii) the applicant's driver's licence was cancelled on a ground that makes the applicant unsuitable to be the driver of a vehicle transporting dangerous goods in bulk; or
- (b) the applicant is subject to a court order, under section 160<sup>17</sup> of the Act, prohibiting the applicant from involvement in the transport of dangerous goods by road.
- (3) Without limiting subsection (2), a person may be unsuitable to be the driver of a vehicle transporting dangerous goods in bulk 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's licence (whether absolutely or for a period).
- (4) If the chief executive refuses to renew a licence, or renews a licence subject to conditions, the chief executive must inform the applicant by written notice.
- (5) The notice must state—
- (a) the reasons for the decision; and
  - (b) that the applicant may apply within 28 days after the giving of the notice to have the decision reviewed; and
  - (c) how the applicant may apply for the review.

### **203 Licence periods**

- (1) A licence is granted for the period of not longer than 3 years stated in the licence.
- (2) A licence takes effect on the day when the licence is granted.
- (3) A licence is renewed for the period of not longer than 3 years stated in the renewed licence.

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<sup>17</sup> Section 160 (Prohibition from involvement in the transport of dangerous goods by road) of the Act

## **204 Licence conditions**

(1) The chief executive may grant or renew a licence on conditions mentioned in subsections (3) and (4).

(2) A condition on which the licence is granted or renewed must be stated in the licence.

(3) The licence may be issued or renewed on conditions about—

- (a) the dangerous goods that may or may not be transported in or on a vehicle driven by the licensee; and
- (b) the containers that may or may not be used to transport dangerous goods in or on a vehicle driven by the licensee; and
- (c) the vehicles that may be driven by the licensee in transporting dangerous goods; and
- (d) the areas where the licensee may or may not drive a vehicle transporting dangerous goods or particular dangerous goods; and
- (e) the supervision of the licensee when driving a vehicle transporting dangerous goods; and
- (f) the medical examinations required to be undergone by the licensee under the standard mentioned in section 198(3).

(4) The licence may also be issued or renewed on any other condition necessary for the safe transport by road of dangerous goods in bulk.

## **205 Additional condition**

It is a condition of a licence that the chief executive may, by written notice given to a licensee at least 2 months before the licence ends, require the licensee to produce to the chief executive the medical fitness evidence that would be required by section 198 if the licensee were to apply for renewal of the licence.

## **206 Additional grounds for amending suspending or cancelling licences**

(1) Each of the following is a ground for amending, suspending or cancelling a licence—

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- (a) the licensee is no longer entitled to be issued a licence because the licensee becomes unsuitable to be the driver of a vehicle transporting dangerous goods in bulk; or
- (b) the licensee's driver's licence is suspended or cancelled; or
- (c) the licensee becomes incapable of properly driving a vehicle transporting dangerous goods by road in bulk because of a medical condition, or a physical or mental incapacity.<sup>18</sup>

(2) Also, the making of an order by a court under section 160<sup>19</sup> of the Act prohibiting a licensee from involvement in the transport of dangerous goods by road is a ground for cancelling the licensee's licence.

### **207 When licence taken to be suspended**

A person's bulk driver licence is taken to be suspended if the person's driver's licence is not in force.

### *Division 4—Bulk vehicle licences*

#### **208 Definitions for div 4**

In this division—

**“converter dolly”** means a trailer with one axle group or single axle and a fifth wheel coupling designed to convert a semi-trailer into a dog trailer.

**“licence”** means a bulk vehicle licence.

**“licensee”** means the holder of a licence.

**“vehicle”** does not include a prime mover or converter dolly.

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18 Section 18 of the Act also states grounds for amending, suspending or cancelling approvals. “Approval” is defined to include a licence—see section 17A of the Act.

19 Section 160 (Prohibition from involvement in the transport of dangerous goods by road) of the Act

## **209 Applications for licences**

(1) A person may apply to the chief executive for a licence for a vehicle—

- (a) used, or intended to be used, in transporting dangerous goods by road in bulk; and
- (b) for which the person does not hold a licence.

(2) The application must be in the approved form and be accompanied by the prescribed fee.

(3) An application may be made for 2 or more vehicles in the same form.

## **210 Additional information and inspections**

(1) The chief executive may, by written notice, require an applicant for a licence, or for renewal of a licence, for a vehicle—

- (a) to give to the chief executive, or to someone nominated by the chief executive, any additional information necessary for a proper consideration of the application; and
- (b) to make the vehicle available for inspection by the chief executive, or by someone nominated by the chief executive, at a stated place and time.

(2) A person who inspects a vehicle for the chief executive must give the inspection report to the chief executive as soon as practicable after the inspection.

(3) The chief executive must give a copy of the inspection report to the applicant if the applicant asks for it.

## **211 Grant of licences**

(1) The chief executive must grant a licence for a vehicle if—

- (a) an application is made to the chief executive for the licence; and
- (b) the application complies with section 209; and
- (c) the applicant complies with a requirement made under section 210 for the application; and
- (d) the vehicle is suitable to transport by road in bulk each type of dangerous goods intended to be transported in or on the vehicle.

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(2) Without limiting subsection (1)(d), a vehicle to which this subsection applies is suitable only if—

- (a) the tank forming part of, or attached or intended to be attached to, the vehicle is an approved tank; and
- (b) the vehicle complies with the requirements of chapter 4 of the ADG Code applying to a vehicle for use in transporting by road dangerous goods in the form of liquid or gas.

(3) Subsection (2) applies to a vehicle—

- (a) intended for use in the transport by road of dangerous goods in bulk in the form of liquid or gas; and
- (b) of which a tank forms part, or to which a tank is attached or intended to be attached.

(4) However, the chief executive must not grant the licence if the applicant is prohibited by a court, under section 160<sup>20</sup> of the Act, from involvement in the transport of dangerous goods by road.

(5) The chief executive may issue a single licence to an applicant for a licence for more than 1 vehicle.

(6) If the chief executive refuses to grant a licence, or grants a licence subject to conditions, the chief executive must inform the applicant by written notice.

(7) The notice must state—

- (a) the reasons for the decision; and
- (b) that the applicant may apply within 28 days after the giving of the notice to have the decision reviewed; and
- (c) how the applicant may apply for the review.

## **212 Applications for renewal of licences**

(1) A person who holds a licence for a vehicle may apply to the chief executive for renewal of the licence.

(2) The application must be in the approved form and be accompanied by the prescribed fee.

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20 Section 160 (Prohibition from involvement in the transport of dangerous goods by road) of the Act

## **213 Renewal of licences**

**(1)** The chief executive must renew a licence for a vehicle if—

- (a) an application is made to the chief executive for renewal of the licence; and
- (b) the application complies with section 212; and
- (c) the applicant has complied with any requirement made under section 210 for the application; and
- (d) the vehicle is suitable to transport by road each type of dangerous goods in bulk intended to be transported in or on the vehicle.

**(2)** Without limiting subsection (1)(d), a vehicle to which this subsection applies is suitable only if—

- (a) the tank forming part of, or attached or intended to be attached to, the vehicle is an approved tank; and
- (b) the vehicle complies with the requirements of chapter 4 of the ADG Code applying to a vehicle for use in transporting by road dangerous goods in the form of liquid or gas.

**(3)** Subsection (2) applies to a vehicle—

- (a) intended for use in the transport by road of dangerous goods in bulk in the form of liquid or gas; and
- (b) of which a tank forms a part, or to which a tank is attached or intended to be attached.

**(4)** However, the chief executive must not renew the licence if the applicant is prohibited by a court, under section 160<sup>21</sup> of the Act, from involvement in the transport of dangerous goods by road.

**(5)** The chief executive may issue a single licence to an applicant for a licence for more than 1 vehicle.

**(6)** If the chief executive refuses to grant a licence, or renews a licence subject to conditions, the chief executive must inform the applicant by written notice.

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<sup>21</sup> Section 160 (Prohibition from involvement in the transport of dangerous goods by road) of the Act

(7) The notice must state—

- (a) the reasons for the decision; and
- (b) that the applicant may apply within 28 days after the giving of the notice to have the decision reviewed; and
- (c) how the applicant may apply for the review.

### **214 Licence periods**

(1) A licence is granted for the period of not longer than 3 years stated in the licence.

(2) A licence takes effect on the day when the licence is granted.

(3) A licence is renewed for the period of not longer than 3 years stated in the renewed licence.

### **215 Licence conditions**

(1) The chief executive may grant or renew a licence on conditions mentioned in subsections (3) and (4).

(2) A condition on which a licence is granted or renewed must be stated in the licence.

(3) The licence may be granted or renewed on 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 (if any) that are required.

(4) The licence may also be granted or renewed on any other condition necessary for the safe transport by road of dangerous goods in bulk.

### **216 Disposal of licensed vehicles**

(1) As soon as practicable after selling or otherwise disposing of a licensed vehicle (the “**disposed vehicle**”), the licensee must give notice of the disposal to the chief executive with the licence attached.

Maximum penalty—10 penalty units.



(2) The chief executive must—

- (a) if the licence for the disposed vehicle also relates to another vehicle—
  - (i) amend the licence by omitting reference to the disposed vehicle; and
  - (ii) return the licence to the licensee; or
- (b) if paragraph (a) does not apply—cancel the licence.

### **217 Additional grounds for amending, suspending or cancelling licences**

(1) The ceasing of a licensed vehicle to comply with the Act or this regulation is a ground for amending, suspending or cancelling the licence.<sup>22</sup>

(2) Also, the making of an order by a court under section 160<sup>23</sup> of the Act prohibiting a licensee from involvement in the transport of dangerous goods by road is a ground for cancelling the licensee's licence.

### **218 When licences taken to be suspended**

A person's bulk vehicle licence for a vehicle is taken to be suspended in relation to the vehicle if the vehicle is not registered.

### **219 Licence labels**

(1) The chief executive must issue to the holder of a licence a licence label for each vehicle to which the licence relates.

(2) A person must not drive a vehicle transporting dangerous goods in bulk by road unless a current licence label for the vehicle is attached to the vehicle in a conspicuous place.

Maximum penalty—10 penalty units.

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22 Section 18 of the Act also states grounds for amending, suspending or cancelling approvals. "Approval" is defined in section 17A of the Act.

23 Section 160 (Prohibition from involvement in the transport of dangerous goods by road) of the Act

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

Maximum penalty—10 penalty units.

(4) A licence label must be capable of being securely attached to the vehicle.

*Division 5—Carriage and production of bulk driver licences*

**220 Definitions for div 5**

In this division—

“**licence**” means a bulk driver licence.

“**licensee**” means the holder of a licence.

**221 Licences to be carried**

A licensee must carry his or her licence at all times when driving a vehicle transporting dangerous goods in bulk by road.

Maximum penalty—10 penalty units.

*Division 6—Licences generally*

**222 Definitions for div 6**

In this division—

“**licence**” means a bulk driver or bulk vehicle licence.

“**licensee**” means the holder of a licence.

**223 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.

(2) The chief executive must issue a replacement licence or licence label to a licensee if the chief executive is satisfied the licence or label has been defaced, destroyed, lost or stolen.

### **224 Contravention of licence conditions**

A licensee must not contravene a condition of his or her licence.

Maximum penalty—40 penalty units.

### **225 Surrender of licences**

(1) A licensee may surrender his or her licence by giving signed notice of surrender to the chief executive and returning the licence to the chief executive.

(2) A licence ceases to be in force on its surrender.

### **226 Registers of licences**

(1) The chief executive must keep the following registers—

- (a) a bulk driver licence register;
- (b) a bulk vehicle licence register.

(2) A register may have separate divisions for different kinds of licences.

(3) The chief executive must record each licence granted under this regulation in the appropriate register.

(4) The chief executive must note in the register the amendment, suspension, cancellation or surrender of a licence.

### **227 Records of licences**

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

- (a) the licensee's name;
- (b) the date when the licence was granted or renewed;

- (c) the period for which the licence was granted or renewed;
- (d) for a bulk driver licence—the licensee’s date of birth;
- (e) for a bulk vehicle licence—the registration number, make and type of each vehicle to which the licence relates;
- (f) the conditions on the licence.

### **228 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 for, an application for the grant or renewal of a licence is, or has become, incorrect in a material way.

(2) Within 14 days after becoming aware of the matter, the licensee must tell the chief executive about the matter and give the correct information to the chief executive.

Maximum penalty—10 penalty units.

### **229 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 cancelled or suspended; 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.<sup>24</sup>

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

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<sup>24</sup> Under section 49 of the Act, an authorised officer may require a person to produce certain documents for inspection. See also the powers of authorised officers under chapter 3 (Road user performance and compliance), part 3 (Powers of authorised officers), division 3 (Power to seize evidence) of the Act.

### **230 Return of licences**

(1) This section applies if, after seizing a licence, an authorised officer finds—

- (a) the licence has not been cancelled, is not suspended 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.

## **PART 19—INSTRUCTION AND TRAINING**

### **231 Instruction and training**

(1) This section applies to any task involved in the transport of dangerous goods by road, including, for example—

- (a) packing dangerous goods or marking packaged dangerous goods and unit loads;
- (b) consigning dangerous goods;
- (c) loading dangerous goods into or onto a vehicle, or into a container to be put in or on a vehicle;
- (d) unloading dangerous goods;
- (e) placarding containers and vehicles in or on which dangerous goods are transported;
- (f) preparing shipping documentation;
- (g) maintaining vehicles and equipment used in the transport of dangerous goods;
- (h) driving a vehicle transporting dangerous goods;
- (i) following the appropriate procedures as required by this regulation in a dangerous situation.

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(2) A person who is responsible for managing or controlling the task must not employ, engage or permit someone else (the “**worker**”) to do the task unless the worker—

- (a) has received, or is receiving, appropriate instruction and training; and
- (b) is appropriately supervised in doing the task;

to ensure the worker is able to do the task safely and as required by this regulation.

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

### **232 Approvals—tests and training courses for drivers**

(1) The chief executive may, on application made under section 176, approve a competency test or training course for drivers of vehicles transporting dangerous goods in bulk by road.

(2) The chief executive may approve the test or training course only if the chief executive decides 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 as required by this regulation.

## **PART 20—REVIEW OF AND APPEALS AGAINST DECISIONS**

### **233 Review of decisions**

(1) A person whose interests are affected by a decision stated in schedule 1 may apply for a review of the decision as if the decision were stated in schedule 3<sup>25</sup> of the Act.

(2) Chapter 4<sup>26</sup> of the Act applies to the review.

(3) The person is entitled to receive a statement of reasons for the decision whether or not the provision of this regulation under which the

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25 Schedule 3 (Reviewable decisions) of the Act

26 Chapter 4 (Review of and appeals against decisions) of the Act

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decision is made requires the person be given a statement of reasons for the decision.

(4) The court for an appeal against a decision on the review is the Magistrates Court.

## PART 21—MISCELLANEOUS

### 234 Fees

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

## PART 22—REPEALS AND SAVINGS AND TRANSITIONAL PROVISIONS

### *Division 1—Preliminary*

### 235 Definitions for pt 22

In this part—

**“existing subordinate legislation”** means subordinate legislation that—

- (a) was made under the repealed Act; and
- (b) after the repeal of the repealed Act, continued to have effect under the *Transport Operations (Road Use Management) Act 1995* under the *Transport Operations (Road Use Management) Regulation 1995*, section 63.

**“old licence”** means a licence issued under the repealed Act to carry dangerous goods or a class of dangerous goods.

**“repealed Act”** means the *Carriage of Dangerous Goods by Road Act 1984*.

**“repealed regulation”** means the *Carriage of Dangerous Goods by Road Regulation 1989*.

### ***Division 2—Repeals***

#### **236 Subordinate legislation repealed**

All existing subordinate legislation is repealed.

### ***Division 3—Savings and Transitional provisions***

#### ***Subdivision 1—Licences***

#### **237 Licences to carry dangerous goods**

(1) This section applies if—

- (a) immediately before the repeal of the repealed Act, a person held an old licence; and
- (b) but for the repeal, the old licence would have continued in force after the repeal.

(2) The person is taken to have a bulk vehicle licence for carrying dangerous goods, or the class of dangerous goods stated in the old licence, subject to the conditions that applied to the old licence immediately before the repeal.

(3) Subsection (2) ceases to apply to the person on—

- (a) if the old licence would have expired before the commencement of this section—31 August 1998; or
- (b) if the old licence would have expired after the commencement but before 31 August 1998—30 September 1998; or
- (c) if the old licence would have expired on or after 31 August 1998—the date it would have expired.

(4) As soon as practicable after the commencement, the chief executive must record details of the application of this section to the person in the bulk vehicle licence register.



### ***Subdivision 2—Certificates of authorisation***

#### **238 Certificates of authorisation**

(1) This section applies if, immediately before the commencement of this section, a person held a certificate of authorisation issued under the repealed regulation.

(2) The certificate is taken to be a bulk driver licence for the type and class of dangerous goods stated in the certificate subject to the conditions stated in the certificate.

(3) The certificate ends on the date of expiry stated in the certificate.

(4) As soon as practicable after the commencement, the chief executive must record details of the certificate in the bulk driver licence register.

#### **239 Applications for certificates of authorisation**

(1) This section applies if—

- (a) before the commencement of this section, a person applied under the repealed regulation for a certificate of authorisation; and
- (b) on the commencement, the application has not been decided.

(2) The application is taken to be an application for a bulk driver licence.

#### **240 Applications for renewal of certificates of authorisation**

(1) This section applies if—

- (a) before the commencement of this section, a person applied under the repealed regulation for the renewal of a certificate of authorisation; and
- (b) on the commencement, the application has not been decided.

(2) The application is taken to be an application for the renewal of the person's bulk driver licence.<sup>27</sup>

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<sup>27</sup> The person's certificate of authorisation is taken to be a bulk driver licence under section 238.

## **241 Cancellation and suspension of certificates of authorisation**

(1) This section applies if—

- (a) under the repealed regulation, notice was given to the holder of a certificate of authorisation about the cancellation or suspension of the certificate; and
- (b) on the commencement of this section, a decision about the matter has not been made.

(2) An inquiry into the matter may be started or finished, and a decision on the matter made, as if the repealed regulation had not been repealed.

### *Subdivision 3—Corresponding authorities*

## **242 Corresponding licences**

(1) This section applies to a licence (however described) if the licence—

- (a) was granted under a law of another participating jurisdiction about the transport of dangerous goods by road; and
- (b) was in force in the other jurisdiction immediately before the commencement of this section; and
- (c) is a licence that may be issued under a provision of the law of the other jurisdiction (the “**corresponding provision**”) corresponding to 1 of the following provisions—
  - section 200 (which is about granting bulk driver licences)
  - section 211 (which is about granting bulk vehicle licences).

(2) Except for circumstances that do not exist in this jurisdiction, the licence has effect for this regulation as if it were granted by the corresponding competent authority for the other jurisdiction under the corresponding provision.

## **243 Corresponding determinations**

(1) This section applies to a determination (however described) if the determination—

- (a) was granted under a law of another participating jurisdiction about the transport of dangerous goods by road; and

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- (b) was in force in the other jurisdiction immediately before the commencement of this section; and
- (c) is a determination about something that may be determined under a provision of the law of the other jurisdiction (the “**corresponding provision**”) corresponding to 1 of the following provisions—
  - section 13 (Determinations—dangerous goods)
  - section 85 (Determinations—foreign approved tanks and IBCs)
  - section 150 (Determinations—routes, areas, vehicles and times).

(2) Except for circumstances that do not exist in this jurisdiction, the determination has effect for this regulation as if it were a determination made by the corresponding competent authority for the other jurisdiction under the corresponding provision.

#### **244 Corresponding exemptions**

(1) This section applies to an exemption (however described) if the exemption—

- (a) was granted under a law of another participating jurisdiction about the transport of dangerous goods by road; and
- (b) was in force in the other jurisdiction immediately before the commencement of this section; and
- (c) is an exemption from compliance with a provision of the law of the other jurisdiction (the “**corresponding provision**”) corresponding to a provision of this regulation.

(2) Except for circumstances that do not exist in this jurisdiction, the exemption has effect for this regulation as if it were an exemption granted by the corresponding competent authority for the other jurisdiction from compliance with the corresponding provision.

#### **245 Corresponding approvals**

(1) This section applies to an approval (however described) if the approval—

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- (a) was given under a law of another participating jurisdiction about the transport of dangerous goods by road; and
- (b) was in force in the other jurisdiction immediately before the commencement of this section; and
- (c) is an approval of something that may be approved under a provision of the law of the other jurisdiction (the “**corresponding provision**”) corresponding to a provision of 1 of the following sections—
  - section 54 (Approvals—packaging design types)
  - section 83 (Approvals—tank designs)
  - section 84 (Approvals—IBC designs)
  - section 94 (Approvals—unit loads)
  - section 119 (Approvals—segregation)
  - section 132 (Approvals—transfer of dangerous goods)
  - section 141 (Approvals—emergency information)
  - section 232 (Approvals—tests and training courses for drivers).

(2) Except for circumstances that do not exist in this jurisdiction, the licence has effect for this regulation as if it were granted by the corresponding competent authority for the other jurisdiction under the corresponding provision.

*Subdivision 4—General*

**246 Lawful conduct under previous law**

(1) This section applies to a person who—

- (a) transports dangerous goods by road; and
- (b) if not for subsection (2), would have to comply with a provision of this regulation in transporting the goods.

(2) Despite the provision, the person does not contravene the provision if, within 6 months after the commencement of this section, the person transports the goods by road in accordance with the repealed regulation.

## **SCHEDULE 1**

### **REVIEWABLE DECISIONS**

section 233

<b>Section</b>	<b>Description of decision</b>
13	Making administrative determination about dangerous goods
54	Refusing to approve packaging design type or approving on conditions
83	Refusing to approve tank design or approving on conditions
84	Refusing to approve IBC design or approving on conditions
85	Making an administrative determination about dangerous goods that must not be transported by road in a foreign approved tank or IBC
94	Refusing to approve way of preparing unit load or approving on conditions
119	Refusing to approve segregation device or way or approving on conditions
132	Refusing to approve transfer of dangerous goods or approving on conditions
141	Refusing to approve emergency information
150	Making an administrative determination about routes, areas, vehicles and times

## SCHEDULE 1 (continued)

200 and 204	Refusing to grant licence or granting on conditions
202 and 204	Refusing to renew licence or renewing on condition
211 and 215	Refusing to grant licence or granting on condition
213 and 215	Refusing to renew licence or renewing on conditions
223	Refusing to issue replacement licence or licence label
232	Refusing to approve test or training course

## SCHEDULE 2

### FEES

section 234

		\$
1.	Application for approval of tank design for use in transport of dangerous goods in bulk by road . . . . .	172.70
2.	Application for approval of IBC for use in transport of dangerous goods in bulk by road . . . . .	34.55
3.	Application for, or renewal of, bulk driver licence . . . . .	17.25
4.	Application for, or renewal of, bulk vehicle licence for a vehicle with a GVM not over 8 t . . . . .	46.05
5.	Application for, or renewal of, bulk vehicle licence for a vehicle with a GVM over 8 t . . . . .	92.10

## SCHEDULE 3

### DICTIONARY

section 4

**“ADG Code”** means the sixth edition of the *Australian Code for the Transport of Dangerous Goods by Road and Rail*.<sup>28</sup>

**“administrative determination”** see section 14.

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

**“aggregate quantity”** see section 34.

**“another participating jurisdiction”** means a participating jurisdiction except this jurisdiction.

**“appropriately marked”** see section 96.

**“appropriately placarded”** see section 100.

**“approval”**, for a provision of this regulation, means an approval by the chief executive that is in force under the provision.

**“approved IBC”** means—

- (a) an IBC of a design that is approved under section 84; or
- (b) a foreign approved IBC.

**“approved packaging”** means—

- (a) packaging of a design type approved under section 54; or
- (b) foreign approved packaging.

**“approved tank”** means—

- (a) a tank of a design approved under section 83; or

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<sup>28</sup> A copy of the code may be purchased from the Australian Government Info Shop, City Plaza, Adelaide and George Streets, Brisbane.



SCHEDULE 3 (continued)

(b) a foreign approved tank.

**“approved test”** means a test approved under section 232.

**“approved training course”** means a training course approved under section 232.

**“attachment system”** means a system for attaching a bulk container to a vehicle, and includes all the components of the system.

**“bulk container”** see section 41.

**“bulk driver licence”** means a licence in force under part 18, division 3.

**“bulk vehicle licence”** means a licence in force under part 18, division 4.

**“capacity”** see section 32.

**“class”**, for dangerous goods, see section 27.

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

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

**“consigns”** and **“consignor”** see section 43.

**“consumer commodity load”** see division 1.1 of the ADG Code.

**“corresponding approval”** means an approval that—

(a) is given by a corresponding competent authority of a participating jurisdiction under a corresponding law to this regulation; and

(b) has effect in this jurisdiction under section 168.

**“corresponding bulk driver licence”** means a licence that—

(a) is granted by a corresponding competent authority of a participating jurisdiction under a corresponding law to this regulation; and

(b) has effect in this jurisdiction under section 169 as a bulk driver licence.

**“corresponding bulk vehicle licence”** means a licence that—

SCHEDULE 3 (continued)

- (a) is granted by a corresponding competent authority of a participating jurisdiction under a corresponding law to this regulation; and
- (b) has effect in this jurisdiction under section 169 as a bulk vehicle licence.

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

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

**“corresponding determination”** means a determination that—

- (a) is made in a participating jurisdiction by a corresponding competent authority under a corresponding law that provides for the same matter as this regulation; and
- (b) has effect in this jurisdiction under section 166.

**“corresponding exemption”** means an exemption that—

- (a) is granted by a corresponding competent authority under a corresponding law that provides for the same matter as this regulation; and
- (b) has effect in this jurisdiction under section 167.

**“dangerous goods”** see section 26.

**“dangerous goods in bulk”** see section 36.

**“determination”** means a determination made by the chief executive that is in force.

**“driver’s licence”** means a driver’s licence (other than a learner’s permit) issued under the *Transport Operations (Road Use Management) Act 1995*.

**“emergency service”** means—

- (a) the Queensland Ambulance Service, the Queensland Fire and Rescue Authority or other emergency service; or
- (b) a service of a participating jurisdiction corresponding to a service mentioned in paragraph (a); or

SCHEDULE 3 (continued)

- (c) a unit of the Australian Defence Force corresponding to a service mentioned in paragraph (a).

**“exemption”** means an exemption under section 153 of the Act.

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

**“fire-risk substance”** means a readily ignitable solid substance.

*Examples—*

1. Waste paper.
2. Wood chips.
3. Sawdust.
4. Hay.

**“food”** includes—

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

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

**“food packaging”** means—

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

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

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

**“foreign approved packaging”** means a packaging that is—

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

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

SCHEDULE 3 (continued)

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

**“freight container”** see section 39.

**“hose assembly”** means a hose, or hoses connected together, for use in the transfer of dangerous goods to or from a tank on a vehicle, bulk container or storage container, 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 (except the vehicle, bulk container or storage container) attached to the hose or hoses;

**“IATA Regulations”** means the *Dangerous Goods Regulations* published by the International Air Transport Association.<sup>29</sup>

**“IBC”** see section 40.

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

**“IBC supplement”** means the *Specifications for Intermediate Bulk Containers for the Transport of Dangerous Goods* published as a supplement to the ADG Code.<sup>30</sup>

**“ICAO Rules”** means the *Technical Instructions for the Safe Transport of Dangerous Goods by Air* published by the International Civil Aviation Organisation.<sup>31</sup>

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

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

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

SCHEDULE 3 (continued)

**“IMDG Code”** means the *International Maritime Dangerous Goods Code* published by the International Maritime Organisation.<sup>32</sup>

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

**“incompatible”** see section 30.

**“journey”** means the transport by road of dangerous goods from the point where the goods are consigned to the point where the goods are delivered to the consignee.

**“licence”** for—

- (a) part 18, division 3—see section 195; or
- (b) part 18, division 4—see section 208; or
- (c) part 18, division 5—see section 220; and
- (d) part 18, division 6—see section 222.

**“licence label”** means a licence label issued under section 219.

**“licensed vehicle”** means a vehicle for which a bulk vehicle licence is in force.

**“licensee”** for—

- (a) part 18, division 3—see section 195; or
- (b) part 18, division 4—see section 208; or
- (c) part 18, division 5—see section 220; or
- (d) part 18, division 6—see section 222.

**“loader”** see section 45.

**“loads”** see section 45.

**“Ministerial Council”** means the Ministerial Council for Road Transport established by part 6 of the heavy vehicles agreement stated in schedule 1 to the *National Road Transport Commission Act 1991* (Cwlth).

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32 A copy of the code may be purchased from Hunter Publications, PO Box 404, Abbotsford, Victoria 3067.

SCHEDULE 3 (continued)

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

“**outer packaging**” see division 1.1 of the ADG Code.

“**owner**” see section 42.

“**package**” see section 31(1).

“**packaged dangerous goods**” see section 35.

“**packaging**” see section 31(2).

“**packer**” see section 44.

“**packing group**” see section 29.

“**packs**” see section 44.

“**panel**” means the competent authorities panel established under regulation 15.4 of the Commonwealth regulations.<sup>33</sup>

“**participating jurisdiction**” means—

- (a) this jurisdiction; or
- (b) another State unless the State is declared under section 24 not to be a participating jurisdiction.

“**prime contractor**” see section 46.

“**recognised testing facility**” see section 55.

“**register**” see section 161.

“**registered**” includes a vehicle registered under a corresponding law to the *Transport Infrastructure (Roads) Act 1991*.<sup>34</sup>

“**required emergency information**” see section 137.

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

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33 Part 15, division 2 of the Commonwealth regulations contains provisions about the membership of the panel and its functions (reg 15.4), panel meetings (reg 15.5) and decisions of the panel (reg 15.6).

34 Now see *Transport Operations (Road Use Management) Act 1995*, section 178.

## SCHEDULE 3 (continued)

**“rigid vehicle”** means a vehicle the load carrying area of which is fixed to the vehicle’s chassis or frame.

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

**“semi-trailer”** means a trailer having—

- (a) 1 axle group, or a single axle, towards the rear of the trailer; and
- (b) a means of attachment to a prime mover that, once attached, results in some of the load being imposed on the prime mover,

**“subsidiary risk”** see section 28.

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

**“test or training certificate”** means a certificate—

- (a) issued by a person who conducted an approved test or training course; and
- (b) stating a person named in the certificate passed the test or completed the course.

**“this jurisdiction”** means the State.

**“trailer”** means a vehicle that is designed to be towed, or is towed, by another vehicle, but does not include a vehicle propelled by a motor that forms part of the vehicle.

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

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

**“unit load”** see section 38.

## SCHEDULE 3 (continued)

**“UN recommendations”** means the ninth revised edition of the *Recommendations on the Transport of Dangerous Goods* published by the United Nations.<sup>35</sup>

**“UN recommendations, manual of tests and criteria”** means the second revised edition of the *Recommendations on the Transport of Dangerous Goods, Manual of Tests and Criteria* published by the United Nations.

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<sup>35</sup> A copy of the code may be purchased from Hunter Publications, PO Box 404, Abbotsford, Victoria 3067.



## ATTACHMENT

### CORRESPONDING PROVISIONS OF COMMONWEALTH REGULATIONS AND THIS REGULATION

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### 2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 1 July 2004. Future amendments of the Transport Operations (Road Use Management—Dangerous Goods) Regulation 1998 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
o in c	= order in council	s	= section
om	= omitted	sch	= schedule
orig	= original	sdiv	= subdivision
p	= page	SIA	= Statutory Instruments Act 1992
para	= paragraph	SIR	= Statutory Instruments Regulation 2002
prec	= preceding	SL	= subordinate legislation
pres	= present	sub	= substituted
prev	= previous	unnum	= unnumbered

## 4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of earlier 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.

### TABLE OF REPRINTS

Reprint No.	Amendments included	Effective	Reprint date
1	none	7 August 1998	28 August 1998
1A	to 1999 SL No. 286	1 December 1999	4 January 2000
1B	to 2000 SL No. 89	1 July 2000	28 July 2000
1C	to 2000 SL No. 297	27 November 2000	8 December 2000
1D	to 2001 SL No. 57	1 July 2001	8 February 2002
1E	to 2002 SL No. 32	1 March 2002	15 March 2002 (Column discontinued) Notes
1F	to 2002 SL No. 112	1 July 2002	
2	to 2002 SL No. 112	1 July 2002	
2A	to 2002 SL No. 285	1 November 2002	
2B	to 2003 SL No. 106	1 July 2003	
2C	to 2004 SL No. 54	1 July 2004	

## 5 List of legislation

### **Transport Operations (Road Use Management—Dangerous Goods) Regulation 1998 SL No. 224**

made by the Governor in Council on 6 August 1998

notfd gaz 7 August 1998 pp 1717–20

commenced on date of notification (see s 2)

exp 1 September 2008 (see SIA s 54)

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

amending legislation—

### **Road Transport Reform Regulation 1999 SL No. 286 ss 1, 2(2), 4 sch 2**

notfd gaz 19 November 1999 pp 1149–52

ss 1–2 commenced on date of notification

remaining provisions commenced 1 December 1999 (see s 2(2))

### **Transport Legislation Amendment Regulation (No. 1) 2000 SL No. 89 pts 1, 6**

notfd gaz 19 May 2000 pp 218–19

ss 1–2 commenced on date of notification

remaining provisions commenced 1 July 2000 (see s 2)

**Transport Legislation Amendment Regulation (No. 4) 2000 SL No. 297 pts 1, 3 s 13 sch 1**

notfd gaz 24 November 2000 pp 1188–9  
ss 1–2 commenced on date of notification  
remaining provisions commenced 27 November 2000 (see s 2)

**Transport Legislation Amendment Regulation (No. 2) 2001 SL No. 57 pts 1, 7**

notfd gaz 25 May 2001 pp 334–6  
ss 1–2 commenced on date of notification  
remaining provisions commenced 1 July 2001 (see s 2)

**Transport Legislation Amendment Regulation (No. 1) 2002 SL No. 32 pts 1, 6**

notfd gaz 1 March 2002 pp 850–2  
commenced on date of notification

**Transport Legislation Amendment Regulation (No. 2) 2002 SL No. 112 pts 1, 10**

notfd gaz 24 May 2002 pp 308–10  
ss 1–2 commenced on date of notification  
remaining provisions commenced 1 July 2002 (see s 2)

**Transport Legislation Amendment Regulation (No. 5) 2002 SL No. 285 s 1, pt 4**

notfd gaz 1 November 2002 pp 759–62  
commenced on date of notification

**Transport Legislation Amendment Regulation (No. 2) 2003 SL No. 106 pts 1, 11**

notfd gaz 30 May 2003 pp 371–6  
ss 1–2 commenced on date of notification  
remaining provisions commenced 1 July 2003 (see s 2)

**Transport Legislation Amendment Regulation (No. 1) 2004 SL No. 54 pts 1, 10**

notfd gaz 14 May 2004 pp 112–14  
ss 1–2 commenced on date of notification  
remaining provisions commenced 1 July 2004 (see s 2)

## **6 List of annotations**

**Goods too dangerous to be transported—Act, s 155**

**prov hdg** amd 2000 SL No. 297 s 13 sch 1  
**s 25** amd 2000 SL No. 297 s 13 sch 1

**Determinations—routes, areas, vehicles and times**

**s 150** amd 2002 SL No. 32 s 20

**Records of exemptions**

**s 172** amd 2002 SL No. 285 s 12

**When administrative determinations and approvals must not be made etc.**

**s 178** amd 2000 SL No. 297 s 13 sch 1

**Grant of licences**

**s 200** amd 2000 SL No. 297 s 13 sch 1

**Renewal of licences**

s 202      amd 2000 SL No. 297 s 13 sch 1

**Additional grounds for amending suspending or cancelling licences**

s 206      amd 2000 SL No. 297 s 13 sch 1

**Grant of licences**

s 211      amd 2000 SL No. 297 s 13 sch 1

**Renewal of licences**

s 213      amd 2000 SL No. 297 s 13 sch 1

**Additional grounds for amending, suspending or cancelling licences**

s 217      amd 2000 SL No. 297 s 13 sch 1

**Review of decisions**

s 233      amd 2000 SL No. 297 s 13 sch 1

**PART 23—AMENDMENT OF JUSTICES REGULATION 1993**

pt 23 (ss 247–8) om R1 (see RA s 40)

**PART 24—AMENDMENT OF STATUTORY INSTRUMENTS REGULATION  
1992**

pt 24 (ss 249–50) om R1 (see RA s 40)

**SCHEDULE 2—FEES**

sub 2000 SL No. 89 s 12; 2001 No. 57 s 14; 2002 SL No. 112 s 20; 2003 SL  
No. 106 s 22; 2004 SL No. 54 s 20

**SCHEDULE 3—DICTIONARY**

def “**driver’s licence**” amd 1999 SL No. 286 s 4 sch 2

def “**exemption**” amd 2000 SL No. 297 s 13 sch 1