



Queensland

Transport Infrastructure Act 1994

Transport Infrastructure (Dangerous Goods by Rail) Regulation 2018

Current as at 1 July 2021

© State of Queensland 2021



This work is licensed under a Creative Commons Attribution 4.0 International License.



Queensland

Transport Infrastructure (Dangerous Goods by Rail) Regulation 2018

Contents

		Page
Part 1	Preliminary	
Division 1	Introductory and application	
1	Short title	11
2	Commencement	11
3	Main purposes of this regulation	11
4	Prescribed exempt transport—Act, s 441A	12
5	Special provisions for tools of trade and dangerous goods for private use 14	
Division 2	Interpretation	
6	Definitions	15
7	Applying ADG Code to this regulation	15
8	References to codes, standards and rules	16
9	Inconsistency between regulation and other instruments	16
10	References to determinations, exemptions or approvals	16
11	References to amendment of particular instruments	17
12	References to load	17
13	Meaning of bulk container	17
14	Meaning of intermediate bulk container	18
15	Meaning of multiple-element gas container	18
16	Meaning of tank	19
17	When dangerous goods are packed in limited quantities	19
17A	When dangerous goods are packed in excepted quantities	20
Division 3	Instruction and training	
18	Instruction and training	20
Division 4	Goods suspected of being dangerous goods or goods too dangerous to be transported	

Contents

19	Goods suspected of being dangerous goods or goods too dangerous to be transported	22
Division 5	Determinations	
20	Determinations about dangerous goods and packaging	22
21	Determinations about vehicles, routes, areas and other matters	23
22	Administrative determinations	24
23	Determinations may be subject to conditions	25
24	Effect of determinations on contrary obligations under this regulation	25
25	Register of determinations	25
26	Records of determinations	26
27	Offence to do anything prohibited or regulated by determinations	26
Division 6	Non-participating jurisdictions	
28	Declaration of non-participating dangerous goods jurisdictions .	27
Part 2	Key concepts	
29	Dangerous goods—Act, sch 6, definition dangerous goods	27
30	Goods too dangerous to be transported—Act, sch 6, definition goods too dangerous to be transported	28
31	UN classes, UN divisions and categories of dangerous goods . .	28
32	Subsidiary hazards	29
33	Packing groups	30
34	Incompatibility	30
Part 3	Transport of dangerous goods to which special provisions apply	
35	Application of part	31
36	Definition for part	31
37	Duty of consignors	31
38	Duty of packers	32
39	Duty of loaders	32
40	Duty of prime contractors and rail operators	32
Part 4	Packaging	
Division 1	General	
41	Packing of dangerous goods in limited quantities or excepted quantities 33	
42	References to part 4 of the ADG Code include dangerous goods list requirements	33
Division 2	Suitability and design of packaging	
43	Unsuitability of packaging for transport	34
44	Marking packaging	35

45	Applications for approval of packaging designs	35
46	Approval of packaging designs	36
47	Recognised testing facilities	36
48	Test certificates and reports	37
49	Approval of overpack preparation methods	37
50	Authorised entity may give approvals	38
Division 3	Prohibition on the sale or supply of noncompliant packaging	
51	Offence to sell or supply noncompliant packaging	39
Division 4	Offences about general packaging	
52	Definition for division	40
53	Duty of consignors	40
54	Duties of packers	40
55	Duty of loaders	41
56	Duty of prime contractors and rail operators	41
Division 5	Offences about other packaging	
57	Definitions for division	41
58	Attaching compliance plates to particular packaging	42
59	Duties of manufacturers about compliance plates for portable tanks, MEGCs and tank vehicles	42
60	Duty of owners of portable tanks, demountable tanks, MEGCs and tank vehicles	42
61	Duties of consignors	43
62	Duties of packers	43
63	Duty of loaders	44
64	Duties of prime contractors and rail operators	44
65	Duties of drivers	44
Division 6	Offences about overpacks	
66	Duty of consignors	45
67	Duty of packers	45
68	Duty of loaders	46
69	Duty of prime contractors and rail operators	46
70	Duty of drivers	46
Division 7	Chief executive's performance testing powers	
71	Requiring packaging for testing	47
72	Requiring evidence of performance tests	47
Part 5	Consignment procedures	

Contents

Division 1	Marking and labelling	
73	Meaning of appropriately marked	48
74	Reference to label includes placard	49
75	Duties of consignors	49
76	Duties of packers	50
77	Duties of prime contractors and rail operators	51
Division 2	Placarding	
78	When loads must be placarded	52
79	Meaning of placards and appropriately placarded	54
80	Duties of consignors	54
81	Duties of loaders	55
82	Duties of prime contractors and rail operators	55
Part 6	Safety standards for vehicles and equipment	
83	Duty of owners	56
84	Duty of consignors	56
85	Duty of loaders	57
86	Duty of prime contractors and rail operators	57
Part 7	Transport operations for particular dangerous goods	
Division 1	Self-reactive substances, organic peroxides and particular other substances	
87	Application of division	57
88	Duty of consignors	58
89	Duty of loaders	58
90	Duties of prime contractors and rail operators	58
Division 2	Goods too dangerous to be transported	
91	Application of division	59
92	Duty of loaders	59
93	Duty of prime contractors and rail operators	59
94	Duty of drivers	59
Part 7A	Nominally empty storage vessels	
94A	Definition for part	60
94B	Duty of consignors	60
94C	Duty of loaders	60
94D	Duty of prime contractors and rail operators	60
Part 8	Stowage and restraint	
95	Duties of consignors	61

96	Duties of loaders	61
97	Duties of prime contractors and rail operators	61
Part 9	Segregation, separation and marshalling	
Division 1	Application	
98	Application of part	62
99	Exception for particular goods for driver’s personal use	63
Division 2	Segregation	
100	Loads on rail wagons	63
101	Duty of consignors	63
102	Duty of loaders	64
103	Duty of prime contractors	64
104	Duty of rail operators	65
105	Duty of drivers	65
106	Approval of methods of segregation	65
107	Approval of design of type II segregation devices	66
Division 3	Separation and marshalling	
108	Duties of rail operators	67
109	Duties of loaders	67
110	Separation and marshalling approvals	68
Part 10	Carriage of dangerous goods on passenger trains	
111	Duty of prime contractors and rail operators	69
112	Duties of passengers	69
Part 11	Bulk transfer of dangerous goods	
Division 1	General	
113	Definition for part	70
Division 2	Equipment and transfer	
114	Definitions for division	70
115	Duties of transferors—hose assemblies	71
116	Duties of transferors—general	72
117	Duties of occupiers	73
118	Duties of prime contractors	74
119	Duty of rail operators	75
Division 3	Filling ratio and ullage	
120	Application of division	75
121	Duties of transferors	75
122	Duties of prime contractors and rail operators	76

Contents

123	Duties of drivers	77
Part 12	Documentation	
Division 1	Transport documentation	
Subdivision 1	False or misleading information	
124	False or misleading information	78
Subdivision 2	Requirements about transport documentation	
125	Duty of consignors	78
126	Duties of prime contractors	79
127	Duty of rail operators	79
128	Duties of drivers	80
Division 2	Emergency information	
129	Definition for division	80
130	Duty of consignors	81
131	Duty of prime contractors	81
132	Duty of rail operators	81
133	Duties of drivers	81
134	Approval of emergency information	82
Division 2A	Dangerous goods packed in limited quantities	
134A	Duty of consignors	82
134B	Duty of prime contractors	83
134C	False or misleading information	83
Division 3	Prior notice for specific dangerous goods	
135	Duty of consignors	83
136	Duty of rail operators	83
137	Duty of prime contractors	84
Part 13	Procedures during transport	
Division 1	Immobilised rail vehicles	
138	Duty of drivers	84
139	Duty of rail operators	84
Division 2	Unloading at unattended places	
140	Duty of rail operators	85
Part 14	Emergencies	
Division 1	Emergencies generally	
141	Duties of drivers and rail operators for dangerous situation	86
142	Duties of prime contractors and rail operators—food or food packaging	86

143	Duties of prime contractors and rail operators to inform chief executive 88	
Division 2	Emergencies involving placard loads	
144	Telephone advisory service	89
145	Emergency plans	90
146	Duties of consignors—information and resources	91
147	Duties of prime contractors—information and resources	92
148	Duties of rail operators—information and resources	93
Part 15	Administrative matters	
Division 1	Provisions about registers	
149	Registers to which this division applies	95
150	Registers may be kept by computer	95
151	Inspection of registers	95
Division 2	Recommendations by chief executive and dangerous goods authorities	
152	Recommendations by chief executive	96
153	Recommendations by dangerous goods authorities	96
Division 3	Mutual recognition of determinations, exemptions and approvals	
154	Chief executive may refer corresponding decisions to competent authorities panel	97
155	Corresponding determinations	98
156	Corresponding exemptions	98
157	Corresponding approvals	99
Part 16	Exemptions	
Division 1	Purpose of part	
158	Purpose of part	100
Division 2	General matters about exemptions	
159	Applications for exemptions	100
160	Exemption notice to be kept	101
161	Register of exemptions	102
162	Records of exemptions	102
Division 3	Referring matters to the competent authorities panel	
163	Referring matters to the competent authorities panel	103
164	Effect of competent authorities panel decisions about exemptions	103
165	Effect of the competent authorities panel decisions about amending, suspending or cancelling exemptions	104
Part 17	Administrative determinations and approvals	

Contents

Division 1	General	
166	Applications	105
167	Form of administrative determinations and approvals	105
168	When administrative determinations and approvals not to be made	105
169	Reasons for refusal of applications	106
170	Periods and conditions	106
171	Replacement administrative determinations and approvals	106
Division 2	Register of approvals	
172	Register of approvals	107
173	Records of approvals	107
Division 3	Referring matters to the competent authorities panel	
174	Referring matters to the competent authorities panel	108
175	Effect of competent authorities panel decisions about particular matters 108	
176	Effect of competent authorities panel decisions about amending, suspending or cancelling approvals or administrative determinations 109	
Division 4	Amendment, suspension or cancellation of administrative determinations	
177	Amending, suspending or cancelling administrative determinations	110
Part 18	Review of decisions	
178	Internal review of decisions	110
179	External review of decisions	111
Part 19	Miscellaneous	
180	Fees	111
180A	Particular provision for ADG Code, edition 7.7	111
Part 20	Repeal and transitional provisions	
Division 1	Repeal	
181	Repeal	112
Division 2	Transitional provisions	
Subdivision 1	General provisions	
182	Definition for division	112
183	References to repealed regulation	112
184	Lawful conduct under previous law	112
Subdivision 2	Determinations	
185	Continuing effect of particular determinations	113
186	Existing applications for administrative determinations	113

187	Existing applications for amendments of administrative determinations 114	
Subdivision 3	Approvals	
188	Continuing effect of particular approvals	114
189	Existing applications for particular approvals	115
190	Existing applications for amendments of particular approvals . . .	116
Subdivision 4	Exemptions	
191	Existing exemptions	116
192	Existing applications for exemptions	117
Subdivision 5	Particular existing requirements	
193	Particular existing requirements continue	117
194	Requirements relating to particular incidents continue	118
Subdivision 6	Permissions and directions	
195	Continuing effect of particular permissions	118
196	Continuing effect of particular directions	119
Subdivision 7	Existing recommendations	
197	Existing recommendations by chief executive	119
198	Existing recommendations by dangerous goods authority	120
Subdivision 8	Existing referrals	
199	Existing referrals by chief executive	120
Subdivision 9	Reviews	
200	Definition for subdivision	121
201	Internal reviews about particular decisions	121
202	External reviews about particular decisions	123
Schedule 1	Reviewable decisions	125
Schedule 2	Fees	127
Schedule 3	Dictionary	128

Transport Infrastructure (Dangerous Goods by Rail) Regulation 2018

Part 1 Preliminary

Division 1 Introductory and application

1 Short title

This regulation may be cited as the *Transport Infrastructure (Dangerous Goods by Rail) Regulation 2018*.

2 Commencement

This regulation commences on 31 August 2018.

3 Main purposes of this regulation

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

obligation includes duty and requirement.

4 Prescribed exempt transport—Act, s 441A

- (1) For section 441A of the Act, definition *prescribed exempt transport*, each of the following is exempt from the application of chapter 14 of the Act—
- (a) the transport of the following except if transported with other dangerous goods—
 - (i) radioactive substances under the *Radiation Safety Act 1999*;
 - (ii) explosives under the *Explosives Act 1999*;
 - (b) the transport of a load of dangerous goods if—
 - (i) the dangerous goods are not, and do not include, infectious substances of UN division 6.2; and
 - (ii) the total quantity of each type of dangerous goods in the load is no more than the quantity stated in section 1.1.1.2, note (3)(a), table 1.1.1.2 of the ADG Code for that type;
 - (c) the transport by a person of a load of dangerous goods by rail if—
 - (i) the load does not contain dangerous goods—
 - (A) in a receptacle with a capacity that is more than 500L; or
 - (B) in a receptacle if the quantity of dangerous goods in the receptacle is more than 500kg; and
 - (ii) the goods are not, and do not include, dangerous goods of UN class 1 (explosives), other than—
 - (A) dangerous goods of UN division 1.4S; and
 - (B) track signals carried in a unit of rolling stock for the safety of persons working in rail transport; and
 - (iii) the goods are not, and do not include, dangerous goods of category A of UN division 6.2 (infectious substances); and

-
- (iv) the goods are not, and do not include, dangerous goods of UN class 7 (radioactive material); and
 - (v) the aggregate quantity of the dangerous goods in the load, calculated in the way provided for under schedule 3, definition *aggregate quantity*, is less than 25% of a load of dangerous goods that, under section 78, is required to be placarded; and
 - (vi) the goods are not being transported by the person in the course of a business of transporting goods by rail;
- (d) the transport of dangerous goods by rail to the extent the goods are transported by, or under the direction of, an authorised person or relevant emergency service officer to prevent a dangerous situation;
- (e) the transport of dangerous goods in a rail vehicle if—
- (i) the dangerous goods are in packaging that is—
 - (A) designed for, and forming part of, the fuel or electrical system of the rail vehicle’s propulsion engine or auxiliary engine; or
 - (B) part of, and necessary for, the operation of an appliance, plant or refrigeration system forming part of or attached to the rail vehicle; or
 - (ii) the dangerous goods are in equipment carried in, fitted to or installed in the rail vehicle and designed for the safety or protection of an occupant of the rail vehicle, the rail vehicle or its load, including, for example, a fire extinguisher or self-contained breathing apparatus.
- (2) In this section—
- type*, of dangerous goods, means a class or division of dangerous goods provided for in the ADG Code.

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

- (1) This section applies in relation to dangerous goods that—
- (a) are not transported in the course of a business of transporting goods but are transported by a person who intends to use them, or so they may be used, for a commercial purpose; and
 - (b) are transported as part of a load that includes—
 - (i) an aggregate quantity of dangerous goods of less than 500 but does not include dangerous goods of UN division 2.1 (other than aerosols), UN division 2.3 or packing group I; or
 - (ii) an aggregate quantity of dangerous goods of less than 250 that includes dangerous goods of UN division 2.1 (other than aerosols), UN division 2.3 or packing group I, provided that the dangerous goods of UN division 2.3 and packing group I together make up less than 100 of the aggregate quantity.

Note—

An aggregate quantity in relation to a load containing dangerous goods mentioned in subsection (1)(b) is worked out in the way provided for under schedule 3, definition *aggregate quantity*.

- (2) This regulation, other than subsections (3) to (5), does not apply to the transport of the dangerous goods.
- (3) A person must not transport the dangerous goods unless each package in the load including the goods—
- (a) complies with the packaging requirements appropriate to the quantity of dangerous goods under part 4; and
 - (b) is marked and labelled as required under part 5, division 1; and
 - (c) is loaded, secured, segregated, unloaded and otherwise transported in a way that ensures—
 - (i) its packaging remains fit for its purpose; and

- (ii) risks are eliminated or, if it is not practicable to eliminate risks, are minimised to the greatest practicable extent.

Maximum penalty—40 penalty units.

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

Maximum penalty—40 penalty units.

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

Maximum penalty—40 penalty units.

Division 2 Interpretation

6 Definitions

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

7 Applying ADG Code to this regulation

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

8 References to codes, standards and rules

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

(2) In this section—

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

9 Inconsistency between regulation and other instruments

(1) This section applies if—

(a) this regulation applies, adopts or incorporates an instrument; and

(b) there is an inconsistency between a provision of this regulation and the instrument as applied, adopted or incorporated.

(2) The provision of this regulation prevails to the extent of the inconsistency.

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

(4) In this section—

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

10 References to determinations, exemptions or approvals

In this regulation, a reference to—

(a) a determination, exemption or approval; or

- (b) a corresponding determination, corresponding exemption or corresponding approval;

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

11 References to amendment of particular instruments

In this regulation, a reference to an amendment of—

- (a) a determination, exemption or approval; or
- (b) a corresponding determination, corresponding exemption or corresponding approval;

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

Example of an amendment—

the addition of a new condition to an existing administrative determination

12 References to load

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

13 Meaning of *bulk container*

- (1) ***Bulk container*** means a container, with or without a liner or coating, that—
 - (a) has a capacity of 1m³ or more; and
 - (b) is intended for the transport of solid dangerous goods that are in direct contact with the container.
- (2) However, none of the following is a bulk container—
 - (a) large packaging that complies with the requirements of chapter 6.6 of the ADG Code;
 - (b) an IBC;

[s 14]

- (c) a tank;
- (d) a tank vehicle;
- (e) other packaging complying with the requirements of chapter 6.1 or 6.3 of the ADG Code.

14 Meaning of *intermediate bulk container*

- (1) *Intermediate bulk container* means a rigid or flexible portable packaging for the transport of dangerous goods that complies with the requirements of chapter 6.5 of the ADG Code and that—
- (a) has a capacity of not more than—
 - (i) for solids of packing group I packed in a composite, fibreboard, flexible, wooden, or rigid plastics container—1,500L; or
 - (ii) for solids of packing group I packed in a metal container—3,000L; or
 - (iii) for solids or liquids of packing groups II and III—3,000L; and
 - (b) is designed for mechanical handling.
- (2) However, rigid or flexible portable packaging complying with the requirements of chapter 6.1, 6.3 or 6.6 of the ADG Code is not an intermediate bulk container.

15 Meaning of *multiple-element gas container*

Multiple-element gas container means—

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

16 Meaning of *tank*

- (1) *Tank* means—
- (a) a receptacle for dangerous goods; and
 - (b) service equipment or structural equipment that enables the receptacle to transport the goods.
- (2) However, a receptacle for dangerous goods of UN class 2 is not a tank unless it has a capacity of more than 450L.
- (3) Also, none of the following is a tank—
- (a) packaging complying with the requirements of chapter 6.1, 6.3 or 6.6 of the ADG Code;

Notes—

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

17 When dangerous goods are *packed in limited quantities*

Dangerous goods are *packed in limited quantities* if—

- (a) the goods are packed in accordance with chapter 3.4 of the ADG Code; and
- (b) the quantity of dangerous goods in each inner packaging or in each article is not more than the quantity stated, or referred to, in column 7a of the dangerous goods list for the goods.

17A **When dangerous goods are *packed in excepted quantities***

Dangerous goods are *packed in excepted quantities* if—

- (a) the goods are assigned to code E1, E2, E3, E4 or E5 in column 7b of the dangerous goods list; and
- (b) the goods are packed in accordance with chapter 3.5 of the ADG Code; and
- (c) the quantity of dangerous goods does not exceed the quantity specified in section 3.5.1.2 of the ADG Code.

Division 3 **Instruction and training**

18 **Instruction and training**

- (1) This section applies in relation to a task involved in the transport of dangerous goods, including the following—
 - (a) packing dangerous goods;
 - (b) consigning dangerous goods;
 - (c) loading dangerous goods;
 - (d) unloading dangerous goods;
 - (e) handling a fumigated cargo transport unit;
 - (f) marking a package containing dangerous goods;
 - (g) placarding a placard load;
 - (h) preparing transport documentation;
 - (i) maintaining rail vehicles and equipment used in the transport of dangerous goods;
 - (j) driving a rail vehicle transporting dangerous goods;
 - (k) being the consignee of dangerous goods;
 - (l) following the procedures required under part 14 in a dangerous situation.

-
- (2) A person who is responsible for managing or controlling the task must not employ, engage or permit someone else (the *worker*) to perform the task unless the worker—
- (a) has received instruction, and has satisfactorily finished training, specific to the task; or
 - (b) is—
 - (i) receiving instruction and training specific to the task; and
 - (ii) appropriately supervised in doing the task by a person who has received instruction, and has satisfactorily finished training, specific to the task;to enable the worker to do the task safely and in compliance with this regulation.

Maximum penalty—40 penalty units.

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

Maximum penalty—40 penalty units.

- (4) Subsection (5) applies if a person responsible for managing or controlling the task claims that—

- (a) a person employed, engaged or permitted to do the task; or
- (b) a person who supervised a person employed, engaged or permitted to do the task;

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

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

[s 19]

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

Maximum penalty—15 penalty units.

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

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

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

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

Maximum penalty—40 penalty units.

Division 5 Determinations

20 Determinations about dangerous goods and packaging

- (1) The chief executive may decide that goods are or are not—
- (a) dangerous goods; or
 - (b) dangerous goods of a particular UN class, UN division or category; or
 - (c) dangerous goods with a particular subsidiary hazard; or

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

Note—

A notice under subsection (3)(b) is declared to be subordinate legislation under the *Statutory Instruments Regulation 2012*, section 2(3) and schedule 1.

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

Note—

See also section 167(1).

21 Determinations about vehicles, routes, areas and other matters

- (1) The chief executive may decide that particular dangerous goods may, must or must not be transported—
- (a) using a stated vehicle, or kind of vehicle; or
 - (b) on a stated route; or
 - (c) in or through a stated area; or
 - (d) at a stated time; or

[s 22]

- (e) in quantities more than a stated amount; or
 - (f) in stated packaging.
- (2) A decision under subsection (1)—
- (a) is a determination for this regulation; and
 - (b) must be made by written notice.

Note—

A notice under subsection (2)(b) is declared to be subordinate legislation under the *Statutory Instruments Regulation 2012*, section 2(3) and schedule 1.

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

Note—

See also section 167(1).

22 Administrative determinations

A determination is an *administrative determination* if—

- (a) the determination—
 - (i) is made on the application of a person; and
 - (ii) applies to the person or the person and other persons named in the application; or
- (b) the determination—
 - (i) is made on the initiative of the chief executive; and
 - (ii) applies to 1 or more persons named in the determination; and
 - (iii) does not impose an obligation on a person, other than a condition that applies if action is taken on the basis of the determination.

Notes—

- 1 See part 17 for provisions about administrative determinations, including applications for, and amendment of, administrative determinations.
- 2 See also chapter 14, part 3 of the Act.

23 Determinations may be subject to conditions

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

Maximum penalty—40 penalty units.

24 Effect of determinations on contrary obligations under this regulation

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

25 Register of determinations

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

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

26 Records of determinations

The record of a determination in the register kept under section 25(1)(a) must include—

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

27 Offence to do anything prohibited or regulated by determinations

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

Maximum penalty—40 penalty units.

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

Division 6 Non-participating jurisdictions

28 **Declaration of non-participating dangerous goods jurisdictions**

- (1) A State is not a participating dangerous goods jurisdiction if—
 - (a) the Transport and Infrastructure Council decides the law of the State does not include provisions having the same, or substantially the same, effect as the model legislation; and
 - (b) the Minister, by gazette notice, declares the State is not a participating dangerous goods jurisdiction.
- (2) In this section—

model legislation means—

 - (a) the ‘Model Act on the Transport of Dangerous Goods by Road or Rail’, as amended and approved by the Transport and Infrastructure Council from time to time; and
 - (b) the ‘Model Subordinate Instrument on the Transport of Dangerous Goods by Road or Rail’, as amended and approved by the Transport and Infrastructure Council from time to time.

Editor’s note—

The model legislation is available on the Australasian Parliamentary Counsel’s Committee website.

Part 2 Key concepts

29 **Dangerous goods—Act, sch 6, definition *dangerous goods***

- (1) For schedule 6 of the Act, definition *dangerous goods*, goods are dangerous goods if—

[s 30]

- (a) the chief executive has made a determination that the goods are dangerous goods; or
 - (b) the goods satisfy the criteria stated, or referred to, in part 2 of the ADG Code.
- (2) However, goods that satisfy the criteria stated, or referred to, in part 2 of the ADG Code are not dangerous goods if—
- (a) the chief executive has made a determination that the goods are not dangerous goods; or
 - (b) the goods are described as not subject to the ADG Code in a special provision in chapter 3.3 of the ADG Code that is applied to the goods under column 6 of the dangerous goods list.

30 Goods too dangerous to be transported—Act, sch 6, definition *goods too dangerous to be transported*

For schedule 6 of the Act, definition *goods too dangerous to be transported*, goods are goods too dangerous to be transported if—

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

31 UN classes, UN divisions and categories of dangerous goods

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

- (a) if a determination that the goods are of a particular UN class, UN division or category is in effect—the UN class, UN division or category stated in the determination; or

- (b) otherwise—the UN class, UN division or category for the goods worked out using the ADG Code.

Notes—

- 1 There are 9 classes of dangerous goods under the UN classification system and some of the classes are divided into divisions and some of the divisions are divided into categories. For example, UN division 6.2 (infectious substances) is divided into—
 - (a) category A (substances transported in a form that, if exposure occurs, can cause permanent disability or life-threatening or fatal disease to humans or animals); and
 - (b) category B (infectious substance which does not meet the criteria for inclusion in category A).
- 2 For the UN class or UN division for dangerous goods listed in the dangerous goods list, see column 3 of the list and any special provision of chapter 3.3 of the ADG Code applied to the goods under column 6 of the list.
- 3 For the category of dangerous goods listed in the dangerous goods list, see part 2 of the ADG Code and any special provision of chapter 3.3 of the code applied to the goods under column 6 of the list.

32 Subsidiary hazards

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

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

Notes—

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

33 Packing groups

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

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

Notes—

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

34 Incompatibility

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

likely to come into contact with the dangerous goods during transport—

- (a) is likely to interact with the dangerous goods and increase risk because of the interaction; and
- (b) is not protected from contact under foreseeable circumstances by a protective coating or by another effective way.

Part 3 Transport of dangerous goods to which special provisions apply

35 Application of part

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

36 Definition for part

In this part—

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

37 Duty of consignors

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

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

Maximum penalty—20 penalty units.

38 Duty of packers

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

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

Maximum penalty—20 penalty units.

39 Duty of loaders

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

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

Maximum penalty—20 penalty units.

40 Duty of prime contractors and rail operators

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

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

Maximum penalty—20 penalty units.

Part 4 Packaging

Division 1 General

41 Packing of dangerous goods in limited quantities or excepted quantities

- (1) This part does not apply to dangerous goods that are—
 - (a) goods packed in limited quantities; or
 - (b) goods packed in excepted quantities.
- (2) To remove any doubt, it is declared that this part applies to—
 - (a) dangerous goods that are purported to be packed in limited quantities but do not comply with the requirements of section 17; and
 - (b) dangerous goods that are purported to be packed in excepted quantities but do not comply with the requirements of section 17A.

Note—

Sections 17(a) and 17A(b) respectively require compliance with chapter 3.4 and 3.5 of the ADG Code.

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

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

Division 2 Suitability and design of packaging

43 Unsuitability of packaging for transport

- (1) Packaging is *unsuitable* for the transport of dangerous goods if—
 - (a) it must undergo a performance test under part 6 of the ADG Code and it is not approved packaging; or
 - (b) it does not meet a relevant standard or requirement of part 4 or 6 of the ADG Code, including a requirement about inspection, maintenance or repair; or
 - (c) its use, or re-use, for the transport of the goods does not comply with part 4 or 6 of the ADG Code; or
 - (d) its use for the transport of the goods is prohibited by, or does not comply with, a determination; or
 - (e) it is incompatible with the goods; or
 - (f) it is damaged or defective to the extent that it is not safe to use to transport the goods; or
 - (g) for dangerous goods purported to be packed in limited quantities—the packaging does not comply with chapter 3.4 of the ADG Code; or
 - (h) for dangerous goods purported to be packed in excepted quantities—the packaging does not comply with chapter 3.5 of the ADG Code.
- (2) A freight container is also unsuitable for use as a bulk container for the transport of dangerous goods if it does not have affixed to it a safety approval plate as required under the International Convention for Safe Containers 1972.
- (3) In this section—

approved packaging means—

 - (a) packaging of a design that is approved under section 46; or
 - (b) foreign approved packaging.

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

44 Marking packaging

- (1) A person must not apply a marking required under part 6 of the ADG Code on packaging if the packaging is not of a design approved under section 46.

Maximum penalty—40 penalty units.

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

Maximum penalty—40 penalty units.

45 Applications for approval of packaging designs

- (1) This section applies in relation to packaging that must undergo a performance test under part 6 of the ADG Code.

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

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

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

drop, leakproofness, hydraulic and stacking tests

- (2) A person may apply to the chief executive for the approval of a design of the packaging for use in the transport of dangerous goods.
- (3) The application must—
 - (a) be made under section 166; and
 - (b) include sufficient information to enable the chief executive to decide the matters mentioned in section 46(1).

46 Approval of packaging designs

- (1) The chief executive may, on application under section 45, approve a design of packaging for use in the transport of dangerous goods if satisfied a packaging of the design—
 - (a) will comply with, or is permitted by, part 6 of the ADG Code; and
 - (b) satisfies the relevant testing and inspection requirements of part 6 of the ADG Code.
- (2) In deciding whether packaging of a particular design satisfies a particular testing requirement, the chief executive may rely on a test certificate or report given by a recognised testing facility for the design type and complying with section 48.
- (3) In giving an approval under subsection (1), the chief executive may impose on the approval any condition about the construction, packing, maintenance or use of packaging manufactured in accordance with the design necessary for the safe use of the packaging to transport dangerous goods.
- (4) A person must not construct, pack or fail to maintain packaging for use in the transport of dangerous goods, or use packaging to transport dangerous goods, if the person knows, or ought reasonably to know, that—
 - (a) a condition about the construction, packing, maintenance or use of the packaging was imposed on the approval of the design for the packaging; and
 - (b) the construction, packing, failure to maintain or use is in contravention of the condition.

Maximum penalty—40 penalty units.

47 Recognised testing facilities

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

- (a) a testing facility registered by NATA to conduct performance tests under part 6 of the ADG Code for the packaging design type;

- (b) if NATA has not registered a testing facility to conduct performance tests of a kind mentioned in paragraph (a)—a testing facility in Australia capable of conducting the tests;
- (c) a facility in a foreign country approved by a public authority of the country to conduct performance tests of a kind mentioned in paragraph (a).

48 Test certificates and reports

- (1) A recognised testing facility for a packaging design type may certify in writing that the packaging design type has passed particular performance tests for particular dangerous goods.
- (2) If a performance test is conducted by a testing facility registered by NATA, a test certificate, or report on the test, must—
 - (a) contain the details required under the relevant chapter of part 6 of the ADG Code; and
 - (b) be in the appropriate form used by testing facilities registered by NATA.
- (3) If a performance test is conducted in Australia by a recognised testing facility that is not registered by NATA—
 - (a) the test must be observed by or for the chief executive; and
 - (b) a test certificate, or report on the test, must contain the details required under the relevant chapter of part 6 of the ADG Code.

49 Approval of overpack preparation methods

- (1) The chief executive may, on application under section 166, approve a method of preparing an overpack for transport that does not comply with section 5.1.2 of the ADG Code if the chief executive considers that the risk involved in using the method is not greater than the risk involved in using a method complying with the section.

[s 50]

- (2) In giving an approval under subsection (1), the chief executive may impose on the approval any condition about the use of the overpack necessary for the safe use of the overpack to transport dangerous goods.
- (3) A person must not use an overpack to transport dangerous goods if the person knows, or ought reasonably to know, that—
 - (a) a condition about the use of the overpack was imposed on the approval of the method of preparing the overpack; and
 - (b) the use is in contravention of the condition.

Maximum penalty—40 penalty units.

50 Authorised entity may give approvals

- (1) The chief executive may authorise an entity to give approvals under section 46 or 49.
- (2) In giving an authorisation under subsection (1), the chief executive may impose on the authorisation any condition the chief executive considers appropriate for the giving of approvals by the entity.
- (3) In giving an approval, the entity must—
 - (a) comply with a condition imposed under subsection (2); and
 - (b) comply with the relevant requirements of part 6 of the ADG Code about the giving of the approval; and
 - (c) give the chief executive all of the information mentioned in section 173(b) about the approval.
- (4) If an entity is authorised to give approvals under this section—
 - (a) sections 45, 46 and 49 apply as if a reference in the sections to the chief executive were a reference to the entity; and

-
- (b) part 17, division 1, to the extent it deals with approvals, applies as if a reference in the division to the chief executive were a reference to the entity.
 - (5) An approval given by an entity under this section—
 - (a) is taken to be an approval given by the chief executive; and
 - (b) may be amended, suspended or cancelled by the chief executive under the Act.

Note—

See chapter 14, part 3 of the Act.

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

Division 3 Prohibition on the sale or supply of noncompliant packaging

51 Offence to sell or supply noncompliant packaging

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

- (a) the packaging is of a design that has been approved under section 46 and both of the following apply—
 - (i) the packaging is marked in accordance with part 6 or, if applicable, chapter 3.4 or 3.5 of the ADG Code;
 - (ii) according to the marking, the packaging's use is appropriate for the goods; or
- (b) the packaging complies with the relevant requirements of parts 4 and 6 or, if applicable, chapter 3.4 or 3.5 of

[s 52]

the ADG Code (including any relevant marking requirements) and its use is appropriate for the goods.

Maximum penalty—40 penalty units.

Division 4 Offences about general packaging

52 Definition for division

In this division—

general packaging means packaging other than a portable tank, demountable tank, MEGC, bulk container, freight container, tank on a tank vehicle or overpack.

53 Duty of consignors

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

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

Maximum penalty—40 penalty units.

54 Duties of packers

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

Maximum penalty—40 penalty units.

- (2) A person must not pack dangerous goods for transport in general packaging in a way that the person knows, or ought

reasonably to know, does not comply with a relevant provision of part 4 of the ADG Code.

Maximum penalty—40 penalty units.

55 Duty of loaders

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

Maximum penalty—40 penalty units.

56 Duty of prime contractors and rail operators

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

Maximum penalty—40 penalty units.

Division 5 Offences about other packaging

57 Definitions for division

In this division—

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

other packaging means a portable tank, demountable tank, MEGC, bulk container, freight container or tank on a tank vehicle.

58 Attaching compliance plates to particular packaging

A person must not attach a compliance plate, or something that purports to be a compliance plate, to a tank, MEGC or tank vehicle unless the design of the tank, MEGC or tank vehicle is approved under section 46.

Maximum penalty—30 penalty units.

59 Duties of manufacturers about compliance plates for portable tanks, MEGCs and tank vehicles

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

Maximum penalty—40 penalty units.

- (2) Subsection (1) does not apply to a person who manufactures a portable tank if—
- (a) chapter 6.7 of the ADG Code permits the marking of the tank instead of the attachment of a compliance plate; and
 - (b) the tank is marked as required by that chapter.
- (3) A person who manufactures a tank vehicle for use in the transport of dangerous goods must attach a compliance plate to the vehicle in accordance with section 6.9.2.2 of the ADG Code.

Maximum penalty—40 penalty units.

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

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

Maximum penalty—40 penalty units.

61 Duties of consignors

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

Maximum penalty—40 penalty units.

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

Maximum penalty—40 penalty units.

62 Duties of packers

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

Maximum penalty—40 penalty units.

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

Maximum penalty—40 penalty units.

63 Duty of loaders

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

Maximum penalty—40 penalty units.

64 Duties of prime contractors and rail operators

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

Maximum penalty—40 penalty units.

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

Maximum penalty—40 penalty units.

65 Duties of drivers

- (1) A person must not drive a rail vehicle transporting dangerous goods in bulk by rail in a bulk container or freight container if the person knows, or ought reasonably to know, that the

container is damaged or defective to the extent that it is not safe to use it to transport the goods.

Maximum penalty—20 penalty units.

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

Maximum penalty—20 penalty units.

Division 6 Offences about overpacks

66 Duty of consignors

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

- (a) section 5.1.2 of the ADG Code; or
- (b) an approval under section 49.

Maximum penalty—20 penalty units.

67 Duty of packers

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

- (a) section 5.1.2 of the ADG Code; or
- (b) an approval under section 49.

Maximum penalty—20 penalty units.

68 Duty of loaders

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

- (a) section 5.1.2 of the ADG Code; or
- (b) an approval under section 49.

Maximum penalty—20 penalty units.

69 Duty of prime contractors and rail operators

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

- (a) section 5.1.2 of the ADG Code; or
- (b) an approval under section 49.

Maximum penalty—20 penalty units.

70 Duty of drivers

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

- (a) section 5.1.2 of the ADG Code; or
- (b) an approval under section 49.

Maximum penalty—15 penalty units.

Division 7 Chief executive's performance testing powers

71 Requiring packaging for testing

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

Maximum penalty—15 penalty units.

72 Requiring evidence of performance tests

- (1) This section applies in relation to a person who is—
 - (a) a manufacturer of packaging used, or intended to be used, to transport dangerous goods; or
 - (b) a consignor for the transport of packaged dangerous goods.
- (2) The chief executive may, by written notice, ask the person to give written evidence that a packaging design type

[s 73]

manufactured or used by the person has passed performance tests required under part 6 of the ADG Code.

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

Maximum penalty—15 penalty units.

- (4) A test certificate or report under section 48 is evidence for this section.

Part 5 Consignment procedures

Division 1 Marking and labelling

73 Meaning of *appropriately marked*

- (1) A receptacle for dangerous goods, other than a cargo transport unit or an overpack, that has a capacity of more than 500 kilograms or litres is *appropriately marked* if it is marked and labelled in accordance with chapter 5.2 and section 5.3.3 of the ADG Code.
- (2) Another package of dangerous goods, other than an overpack, is *appropriately marked* if it is marked and labelled in accordance with chapter 5.2 of the ADG Code.
- (3) An overpack for dangerous goods is *appropriately marked* if it is marked and labelled in accordance with section 5.1.2 of the ADG Code.
- (4) A package of dangerous goods packed in limited quantities is also *appropriately marked* if it is marked and labelled in accordance with chapter 3.4 of the ADG Code.
- (5) A package of dangerous goods packed in excepted quantities is also *appropriately marked* if it is marked and labelled in accordance with chapter 3.5 of the ADG Code.

74 Reference to label includes placard

In this division, a reference to a label includes a reference to a placard.

75 Duties of consignors

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

Maximum penalty—

- (a) for large packaging or an overpack—20 penalty units; or
- (b) otherwise—7½ penalty units.

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

Maximum penalty—

- (a) for large packaging or an overpack—20 penalty units; or
- (b) otherwise—7½ penalty units.

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

Maximum penalty—

- (a) for large packaging or an overpack—20 penalty units; or
- (b) otherwise—7½ penalty units.

- (4) However, subsection (3) does not apply if the marking or labelling of the package complies with the requirements for the contents of the package in—

- (a) the ICAO technical instructions; or
- (b) the IMDG Code.

76 Duties of packers

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

Maximum penalty—

- (a) for large packaging or an overpack—20 penalty units; or
 - (b) otherwise—7½ penalty units.
- (2) A person who packs dangerous goods for transport in a package must not mark or label the package with a marking or label about its contents that the person knows, or ought reasonably to know, is false or misleading in a material particular.

Maximum penalty—

- (a) for large packaging or an overpack—20 penalty units; or
 - (b) otherwise—7½ penalty units.
- (3) A person who packs goods for transport in a package must not mark or label the package as if it contained dangerous goods if the person knows, or ought reasonably to know, that it does not contain dangerous goods.

Maximum penalty—

- (a) for large packaging or an overpack—20 penalty units; or
 - (b) otherwise—7½ penalty units.
- (4) However, subsection (3) does not apply if the marking or labelling of the package complies with the requirements for the contents of the package in—
 - (a) the ICAO technical instructions; or
 - (b) the IMDG Code.

77 Duties of prime contractors and rail operators

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

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

Maximum penalty—

- (a) for large packaging or an overpack—20 penalty units; or
- (b) otherwise—7½ penalty units.

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

Maximum penalty—

- (a) for large packaging or an overpack—20 penalty units; or
- (b) otherwise—7½ penalty units.

(3) A prime contractor or rail operator must not transport goods in a package that is marked or labelled as if it contained dangerous goods if the prime contractor or the rail operator knows, or ought reasonably to know, that the package does not contain dangerous goods.

Maximum penalty—

- (a) for large packaging or an overpack—20 penalty units; or
- (b) otherwise—7½ penalty units.

(4) However, subsection (3) does not apply if the marking or labelling of the package complies with the requirements for the contents of the package in—

- (a) the ICAO technical instructions; or
- (b) the IMDG Code.

Division 2 Placarding

78 When loads must be placarded

- (1) A load that contains dangerous goods must be placarded if—
 - (a) it contains—
 - (i) dangerous goods in a receptacle with a capacity of more than 500L; or
 - (ii) more than 500kg of dangerous goods in a receptacle; or
 - (b) it contains an aggregate quantity of dangerous goods of 250 or more, other than specified goods, and the goods include—
 - (i) dangerous goods of UN division 2.1 that are not aerosols; or
 - (ii) dangerous goods of UN division 2.3; or
 - (iii) dangerous goods of packing group I; or
 - (c) it contains dangerous goods of category A of UN division 6.2; or
 - (d) it contains an aggregate quantity of dangerous goods of UN division 6.2 (other than category A) of 10 or more; or
 - (e) it contains an aggregate quantity of dangerous goods of 1,000 or more, other than specified goods.
- (2) A load that contains dangerous goods must be placarded if the load contains specified goods and—
 - (a) the specified goods include an aggregate quantity of 2,000 or more of a dangerous good of a particular UN number from a single place of consignment; or
 - (b) the total gross mass of the specified goods is 8 tonnes or more.

Note—

This subsection applies separately and in addition to subsection (1). See table 5.3 of the ADG Code.

- (3) A load that contains dangerous goods, other than a load required to be placarded under subsection (1) or (2), must be placarded if—
- (a) the load contains a mixture of specified goods and other dangerous goods; and
 - (b) either of the following calculations apply—
 - (i) if the load contains dangerous goods mentioned in subsection (1)(b)(i), (ii) or (iii)—the aggregate quantity of the goods, plus 10% of the total gross mass of the specified goods, is 250 or more;
 - (ii) otherwise—the aggregate quantity of the other dangerous goods, plus 25% of the total gross mass of the specified goods, is 1,000 or more.

- (4) Subsection (1)(a) does not apply to a dangerous good that is an article.

- (5) In this section—

specified goods means—

- (a) dangerous goods packed in limited quantities; or
- (b) without limiting paragraph (a), any of the following dangerous goods—
 - (i) fireworks that are bon bons, party poppers or sparklers;
 - (ii) domestic smoke detectors containing radioactive material;
 - (iii) lighters or lighter refills containing flammable gas;
 - (iv) fire extinguishers containing a net mass of not more than 23kg of compressed or liquefied gas; or
- (c) a combination of any of the dangerous goods mentioned in paragraphs (a) and (b).

[s 79]

UN number, for a dangerous good, means the UN number, within the meaning of the ADG Code, for the good.

Note—

An aggregate quantity in relation to a load containing dangerous goods mentioned in this section is worked out in the way provided for under schedule 3, definition *aggregate quantity*.

79 **Meaning of *placards* and *appropriately placarded***

- (1) A person ***placards*** a load that contains dangerous goods if the person affixes, stencils, prints or places a placard about the load on any thing that is being, or that is to be, used to transport the load.
- (2) A placard load is ***appropriately placarded*** if it is placarded in accordance with chapter 5.3 of the ADG Code.

80 **Duties of consignors**

- (1) A person must not consign a placard load for transport if the load is not appropriately placarded.
Maximum penalty—40 penalty units.
- (2) A person must not consign a placard load for transport if the placarding of the load is false or misleading in a material particular.
Maximum penalty—40 penalty units.
- (3) A person must not consign goods for transport in or on a cargo transport unit that does not contain a placard load but is placarded as if it contained a placard load.
Maximum penalty—40 penalty units.
- (4) However, subsection (3) does not apply if the placarding of the cargo transport unit complies with the requirements for the contents of the cargo transport unit in—
 - (a) the ICAO technical instructions; or
 - (b) the IMDG Code.

81 Duties of loaders

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

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

Maximum penalty—40 penalty units.

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

Maximum penalty—40 penalty units.

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

Maximum penalty—40 penalty units.

(4) However, subsection (3) does not apply if the placarding of the load complies with the requirements for the contents of the load in—

- (a) the ICAO technical instructions; or
- (b) the IMDG Code.

82 Duties of prime contractors and rail operators

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

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

Maximum penalty—40 penalty units.

(2) A prime contractor or rail operator must not transport a placard load if the prime contractor or the rail operator knows,

[s 83]

or ought reasonably to know, that the placarding of the load is false or misleading in a material particular.

Maximum penalty—40 penalty units.

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

Maximum penalty—40 penalty units.

- (4) However, subsection (3) does not apply if the placarding of the cargo transport unit complies with the requirements for the contents of the cargo transport unit in—
- (a) the ICAO technical instructions; or
 - (b) the IMDG Code.

Part 6 Safety standards for vehicles and equipment

83 Duty of owners

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

Maximum penalty—40 penalty units.

84 Duty of consignors

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

Maximum penalty—40 penalty units.

85 Duty of loaders

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

Maximum penalty—20 penalty units.

86 Duty of prime contractors and rail operators

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

Maximum penalty—40 penalty units.

Part 7 Transport operations for particular dangerous goods

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

87 Application of division

This division applies to the following types of dangerous goods—

- (a) gases of UN class 2;
- (b) self-reactive substances of UN division 4.1;
- (c) organic peroxides of UN division 5.2;
- (d) other substances for which—
 - (i) the proper shipping name, within the meaning of the ADG Code, contains the word ‘stabilised’; and

[s 88]

- (ii) the self-accelerating decomposition temperature (as worked out under part 2 of the ADG Code) when presented for transport in a packaging is 50°C or lower;
- (e) toxic substances of UN division 6.1 or subsidiary hazard 6.1;
- (f) infectious substances of UN division 6.2;
- (g) dangerous when wet substances of UN division 4.3.

88 Duty of consignors

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

Maximum penalty—20 penalty units.

89 Duty of loaders

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

Maximum penalty—20 penalty units.

90 Duties of prime contractors and rail operators

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

Maximum penalty—20 penalty units.

- (2) A prime contractor or rail operator responsible for the transport of 1 or more packages of infectious substances of UN division 6.2 who becomes aware of damage to, or leakage

from, the package or any of the packages must comply with section 7.1.7.2.2 of the ADG Code.

Maximum penalty—20 penalty units.

Division 2 Goods too dangerous to be transported

91 Application of division

This division applies in relation to goods too dangerous to be transported.

Note—

See also section 458B of the Act.

92 Duty of loaders

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

Maximum penalty—20 penalty units.

93 Duty of prime contractors and rail operators

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

Maximum penalty—20 penalty units.

94 Duty of drivers

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

Maximum penalty—13 penalty units.

Part 7A **Nominally empty storage vessels**

94A **Definition for part**

In this part—

nominally empty storage vessel means a tank or hopper in relation to which section 7.2.7.1 of the ADG Code applies.

94B **Duty of consignors**

A person must not consign a nominally empty storage vessel for transport in a cargo transport unit if the person knows, or ought reasonably to know, that the vessel is not loaded or stowed, or can not be transported or unloaded, in accordance with chapter 7.2 of the ADG Code.

Maximum penalty—20 penalty units.

94C **Duty of loaders**

A person must not load a nominally empty storage vessel for transport in a cargo transport unit other than in accordance with chapter 7.2 of the ADG Code.

Maximum penalty—20 penalty units.

94D **Duty of prime contractors and rail operators**

A prime contractor or rail operator must not transport a nominally empty storage vessel if the contractor or operator knows, or ought reasonably to know, that the transport does not comply with chapter 7.2 of the ADG Code.

Maximum penalty—20 penalty units.

Part 8 Stowage and restraint

95 Duties of consignors

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

Maximum penalty—20 penalty units.

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

Maximum penalty—20 penalty units.

96 Duties of loaders

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

Maximum penalty—20 penalty units.

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

Maximum penalty—20 penalty units.

97 Duties of prime contractors and rail operators

- (1) A prime contractor or rail operator must not transport dangerous goods in or on a rail vehicle if the prime contractor or the rail operator knows, or ought reasonably to know, that the goods or their packaging have not been loaded or stowed,

[s 98]

or are not restrained, in accordance with chapter 8.1 of the ADG Code.

Maximum penalty—20 penalty units.

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

Maximum penalty—20 penalty units.

Part 9 Segregation, separation and marshalling

Division 1 Application

98 Application of part

- (1) This part applies in relation to—
- (a) the transport of a placard load; and
 - (b) the transport of a load that contains dangerous goods, but is not a placard load, if—
 - (i) the load contains dangerous goods of UN division 2.3, UN class 6 or UN class 8, or dangerous goods that have a subsidiary hazard of 6.1 or 8; and
 - (ii) the load is being transported, or is to be transported, with food or food packaging.
- (2) However, this part does not apply to the transport of dangerous goods packed in limited quantities.

99 Exception for particular goods for driver's personal use

- (1) Despite sections 101 to 105, food and food packaging may be transported in or on a rail vehicle with dangerous goods if the food or packaging is in the driver's cab of the vehicle and is for the driver's personal use.
- (2) Despite sections 101 to 105, a fire-risk substance may be transported in or on a rail vehicle with dangerous goods if the fire-risk substance is in the driver's cab of the vehicle and is for the driver's personal use.
- (3) In this section—

fire-risk substance means a readily ignitable solid substance.

Examples—

hay, sawdust, wastepaper, woodchips

Division 2 Segregation

100 Loads on rail wagons

- (1) If dangerous goods and other goods that are incompatible with the dangerous goods are transported in separate closed freight containers, bulk containers or tanks on a rail wagon, or on separate load platforms or in separate wells of an articulated rail wagon, the dangerous goods and the other goods are taken to be segregated in accordance with part 9 of the ADG Code.
- (2) However, the dangerous goods and other goods are taken not to be segregated in accordance with part 9 of the ADG Code if, under that part or a determination, the dangerous goods are too dangerous to be transported on the same rail wagon as other goods.

101 Duty of consignors

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

[s 102]

- (a) the vehicle is, in the same journey, transporting goods that are incompatible with the dangerous goods; and
- (b) the dangerous goods will not be segregated from the incompatible goods in accordance with either—
 - (i) part 9 of the ADG Code; or
 - (ii) an approval under section 106.

Maximum penalty—40 penalty units.

102 Duty of loaders

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

- (a) the vehicle is, in the same journey, transporting goods that are incompatible with the dangerous goods; and
- (b) the dangerous goods will not be segregated from the incompatible goods in accordance with either—
 - (i) part 9 of the ADG Code; or
 - (ii) an approval under section 106.

Maximum penalty—40 penalty units.

103 Duty of prime contractors

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

- (a) the vehicle is, in the same journey, transporting goods that are incompatible with the dangerous goods; and
- (b) the dangerous goods are not segregated from the incompatible goods in accordance with either—
 - (i) part 9 of the ADG Code; or
 - (ii) an approval under section 106.

Maximum penalty—40 penalty units.

104 Duty of rail operators

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

- (a) the vehicle is, in the same journey, transporting goods that are incompatible with the dangerous goods; and
- (b) the dangerous goods are not segregated from the incompatible goods in accordance with either—
 - (i) part 9 of the ADG Code; or
 - (ii) an approval under section 106.

Maximum penalty—40 penalty units.

105 Duty of drivers

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

- (a) the vehicle is, in the same journey, transporting goods that are incompatible with the dangerous goods; and
- (b) the dangerous goods are not segregated from the incompatible goods in accordance with either—
 - (i) part 9 of the ADG Code; or
 - (ii) an approval under section 106.

Maximum penalty—13 penalty units.

106 Approval of methods of segregation

- (1) The chief executive may, on application under section 166, approve a method of segregation, not complying with part 9 of the ADG Code, for transporting dangerous goods and goods that are incompatible with the dangerous goods, if the chief executive considers that—

[s 107]

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

Maximum penalty—40 penalty units.

107 Approval of design of type II segregation devices

- (1) This section provides for the approval of the design of a type II segregation device for chapter 6.11 of the ADG Code.
- (2) A person may apply to the chief executive for the approval of a design for a type II segregation device for use in the transport of dangerous goods.
- (3) An application for approval must—
 - (a) be made under section 166; and
 - (b) include sufficient information to enable the chief executive to decide whether the design complies with chapter 6.11 of the ADG Code.
- (4) The chief executive may, on application under subsection (2), approve a design for a type II segregation device if the design complies with chapter 6.11 of the ADG Code.
- (5) In giving an approval under subsection (4), the chief executive may impose on the approval any condition necessary for the safe transport of dangerous goods.
- (6) A person to whom an approval has been given under this section must not contravene a condition of the approval.

Maximum penalty—40 penalty units.

Division 3 Separation and marshalling

108 Duties of rail operators

- (1) A rail operator must not transport dangerous goods in or on a train with other goods if the rail operator knows, or ought reasonably to know—
 - (a) the other goods are incompatible with the dangerous goods; and
 - (b) the dangerous goods have not been separated from the other goods by the minimum distances stated in either—
 - (i) part 9 of the ADG Code; or
 - (ii) an approval under section 110.

Maximum penalty—30 penalty units.

- (2) A rail operator must not transport dangerous goods in or on a rail vehicle if the rail operator knows, or ought reasonably to know, the rail wagons comprising the rail vehicle have not been marshalled in accordance with either—
 - (a) part 9 of the ADG Code; or
 - (b) an approval under section 110.

Maximum penalty—30 penalty units.

109 Duties of loaders

- (1) A person must not load dangerous goods in or on a rail vehicle with other goods if the person knows, or ought reasonably to know—
 - (a) the other goods are incompatible with the dangerous goods; and
 - (b) the dangerous goods have not been separated from the other goods by the minimum distances stated in either—

[s 110]

- (i) part 9 of the ADG Code; or
- (ii) an approval under section 110.

Maximum penalty—15 penalty units.

- (2) A person must not load dangerous goods in or on a rail vehicle if the person knows, or ought reasonably to know, the rail wagons comprising the rail vehicle have not been marshalled in accordance with either—
 - (a) part 9 of the ADG Code; or
 - (b) an approval under section 110.

Maximum penalty—15 penalty units.

110 Separation and marshalling approvals

- (1) The chief executive may, on application under section 166, approve a way of separating goods, or a way of marshalling of rail wagons, not complying with part 9 of the ADG Code for the transporting of dangerous goods and other goods that are incompatible with the dangerous goods, if the chief executive decides—
 - (a) use of the way would not increase risk; or
 - (b) it is impracticable to separate the goods or marshal the rail wagons by a way of separation or marshalling stated in the part.
- (2) In giving an approval under subsection (1), the chief executive may impose on the approval any condition necessary for the safe transport of dangerous goods.
- (3) A person to whom an approval has been given under this section must not contravene a condition of the approval.

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

Part 10

Carriage of dangerous goods on passenger trains

111 Duty of prime contractors and rail operators

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

- (a) the prime contractor or the rail operator knows, or ought reasonably to know, the quantity exceeds the quantity of dangerous goods of that type that may be transported in or on a passenger train as stated in part 9 of the ADG Code; and
- (b) the goods are not being transported in or on a part of the train used solely for the carriage of baggage, parcels or freight.

Maximum penalty—30 penalty units.

112 Duties of passengers

(1) A passenger on a train must not transport dangerous goods in a part of the train to which passengers have access, unless—

- (a) the transport of the goods is authorised by the relevant rail operator; or
- (b) the goods are reasonably necessary for use by the passenger on the passenger's journey.

Maximum penalty—30 penalty units.

(2) A passenger on a train must not transport dangerous goods of a particular type in a part of the train used solely for the carriage of baggage, parcels or freight, unless—

- (a) the quantity is not more than the quantity of dangerous goods of that type that may be transported in or on a passenger train as stated in part 9 of the ADG Code; and
- (b) the transport of the goods is authorised by the relevant rail operator.

Maximum penalty—30 penalty units.

Part 11 Bulk transfer of dangerous goods

Division 1 General

113 Definition for part

In this part—

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

- (a) by gravity, pump or pressure differential; and
- (b) using pipework or a hose; and
- (c) into or out of—
 - (i) a tank vehicle; or
 - (ii) a portable tank, demountable tank, bulk container, pressure drum, tube, MEGC or IBC that is on a tank vehicle.

Division 2 Equipment and transfer

114 Definitions for division

In this division—

prescribed dangerous goods means—

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

prescribed way means—

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

115 Duties of transferors—hose assemblies

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

Maximum penalty—30 penalty units.

- (2) A person must not use a hose assembly for the bulk transfer of dangerous goods if the person knows, or ought reasonably to know, that the hose assembly—
 - (a) has not been constructed, assembled or maintained in accordance with chapter 10.1 of the ADG Code; or
 - (b) has not been inspected or tested at the intervals, or in the way, required under that chapter; or
 - (c) did not satisfy a test under that chapter.

Maximum penalty—40 penalty units.

116 Duties of transferors—general

- (1) A person must not bulk transfer dangerous goods unless the goods are transferred—
 - (a) in the prescribed way; and
 - (b) in a way that eliminates risk or, if it is not possible to eliminate risk, that minimises risk to the greatest practicable extent.

Maximum penalty—20 penalty units.

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

Maximum penalty—20 penalty units.

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

Maximum penalty—20 penalty units.

- (4) It is a defence to a prosecution for an offence against subsection (1) that the person complied with that subsection as far as practicable.

- (5) Subsection (4) does not apply in relation to a contravention of a requirement mentioned in section 114, definition *prescribed way*, paragraph (a)(ii).

117 Duties of occupiers

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

Maximum penalty—20 penalty units.

- (2) The occupier of premises at which the bulk transfer of dangerous goods happens must not transfer the goods, or permit the goods to be transferred, other than—
- (a) in the prescribed way; and
 - (b) in a way that eliminates risk or, if it is not possible to eliminate risk, that minimises risk to the maximum extent that is practicable.

Maximum penalty—40 penalty units.

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

Maximum penalty—7½ penalty units.

- (4) It is a defence to a prosecution for an offence against subsection (2) that the person complied with that subsection as far as practicable.

[s 118]

- (5) Subsection (4) does not apply in relation to a contravention of a requirement mentioned in section 114, definition *prescribed way*, paragraph (a)(ii).

118 Duties of prime contractors

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

Maximum penalty—20 penalty units.

- (2) A prime contractor must not bulk transfer, or permit to be bulk transferred, dangerous goods unless the goods are transferred—
- (a) in the prescribed way; and
 - (b) in a way that eliminates risk or, if it is not possible to eliminate risk, that minimises risk to the greatest practicable extent.

Maximum penalty—40 penalty units.

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

Maximum penalty—7½ penalty units.

- (4) It is a defence to a prosecution for an offence against subsection (2) that the prime contractor complied with that subsection as far as practicable.

- (5) Subsection (4) does not apply in relation to a contravention of a requirement mentioned in section 114, definition *prescribed way*, paragraph (a)(ii).

119 Duty of rail operators

A rail operator must not use, or permit to be used, a hose assembly for the bulk transfer of the dangerous goods (other than a hose assembly for which the rail operator is not responsible) that—

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

Maximum penalty—40 penalty units.

Division 3 Filling ratio and ullage

120 Application of division

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

121 Duties of transferors

- (1) A person must not bulk transfer dangerous goods into a tank or a tank vehicle if—
- (a) for dangerous goods of UN class 2 that are not in the form of refrigerated liquid—the quantity of the goods in the tank or tank of the tank vehicle is more than the maximum permitted filling ratio stated in section 10.3.2 of the ADG Code; or

[s 122]

- (b) otherwise—the ullage in the tank or tank of the tank vehicle does not comply with section 10.3.1 of the ADG Code.

Maximum penalty—20 penalty units.

- (2) A person must not bulk transfer other goods into a tank (the *other goods tank*) of a tank vehicle if—
 - (a) the person knows, or ought reasonably to know, that the other goods tank or another tank of the tank vehicle—
 - (i) is carrying dangerous goods; or
 - (ii) is likely to carry dangerous goods before the other goods tank is emptied; and
 - (b) the ullage in the other goods tank would not comply with section 10.3.1 of the ADG Code if the other goods were dangerous goods.

Maximum penalty—20 penalty units.

122 Duties of prime contractors and rail operators

- (1) A prime contractor or rail operator must not transport dangerous goods in a tank or a tank vehicle if—
 - (a) for dangerous goods of UN class 2 that are not in the form of refrigerated liquid—the quantity of goods in the tank or tank of the tank vehicle is more than the maximum permitted filling ratio stated in section 10.3.2 of the ADG Code; or
 - (b) otherwise—the ullage in the tank or tank of the tank vehicle does not comply with section 10.3.1 of the ADG Code.

Maximum penalty—20 penalty units.

- (2) Also, a prime contractor or rail operator must not transport other goods in a tank (the *other goods tank*) of a tank vehicle if—

-
- (a) the prime contractor or rail operator uses the other goods tank to transport dangerous goods at the same time; and
 - (b) the ullage in the other goods tank would not comply with section 10.3.1 of the ADG Code if the other goods were dangerous goods.

Maximum penalty—20 penalty units.

123 Duties of drivers

- (1) A person must not drive a rail vehicle that is transporting dangerous goods in a tank or a tank vehicle if the person knows, or ought reasonably to know, that—
 - (a) for dangerous goods of UN class 2 that are not in the form of refrigerated liquid—the quantity of goods in the tank or tank of the tank vehicle is more than the maximum permitted filling ratio stated in section 10.3.2 of the ADG Code; or
 - (b) otherwise—the ullage in the tank or tank of the tank vehicle does not comply with section 10.3.1 of the ADG Code.

Maximum penalty—20 penalty units.

- (2) A person must not drive a rail vehicle if—
 - (a) the vehicle is transporting—
 - (i) goods (the *other goods*) that are not dangerous goods in a tank (the *other goods tank*), including in a tank vehicle; and
 - (ii) dangerous goods in the other goods tank or another tank, including in another tank vehicle, at the same time; and
 - (b) the person knows, or ought reasonably to know, that the ullage in the other goods tank would not comply with section 10.3.1 of the ADG Code if the other goods were dangerous goods.

Maximum penalty—20 penalty units.

Part 12 Documentation

Division 1 Transport documentation

Subdivision 1 False or misleading information

124 False or misleading information

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

Example of false information in transport documentation—

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

Maximum penalty—40 penalty units.

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

Subdivision 2 Requirements about transport documentation

125 Duty of consignors

- (1) A person must not consign dangerous goods for transport unless the prime contractor or the rail operator has transport documentation complying with chapter 11.1 of the ADG Code for the goods.

Maximum penalty—40 penalty units.

- (2) For subsection (1), the prime contractor or the rail operator is to be taken to have transport documentation if the contents of the documentation have been communicated to the prime contractor or the rail operator by means of electronic data processing or electronic data interchange.

126 Duties of prime contractors

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

Maximum penalty—40 penalty units.

- (2) For subsection (1), the person is to be taken to have been given the transport documentation if the contents of the documentation have been communicated to the person by means of electronic data processing or electronic data interchange.
- (3) Also, the prime contractor must—
 - (a) keep the transport documentation, or a copy of the documentation, in a legible form for at least 3 months after the prime contractor transports the goods; and
 - (b) produce the documentation or copy during the 3 months if asked by an authorised officer.

Maximum penalty—40 penalty units.

127 Duty of rail operators

- (1) A rail operator must not transport dangerous goods unless the driver of the rail vehicle transporting the goods has been given transport documentation complying with chapter 11.1 of the ADG Code for the goods.

Maximum penalty—20 penalty units.

- (2) For subsection (1), the driver is to be taken to have been given the transport documentation if the contents of the

[s 128]

documentation have been communicated to the driver by means of electronic data processing or electronic data interchange.

128 Duties of drivers

- (1) A person must not drive a rail vehicle that the person knows, or ought reasonably to know, is transporting dangerous goods, if the person does not have transport documentation complying with chapter 11.1 of the ADG Code for the goods.

Maximum penalty—40 penalty units.

- (2) A relevant emergency service officer or an authorised person may ask the driver of a rail vehicle transporting dangerous goods to give the transport documentation for the goods for inspection by the officer or person.

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

Maximum penalty—40 penalty units.

- (4) This section does not apply to a person driving a rail vehicle transporting dangerous goods if the driver is in a depot or yard, or is engaged in shunting operations, and the transport documentation for the goods is readily available elsewhere in the immediate vicinity of the depot, yard, or the operations.

Division 2 Emergency information

129 Definition for division

In this division—

required emergency information, for dangerous goods, means—

- (a) emergency information complying with chapter 11.2 of the ADG Code for the goods; or
- (b) emergency information approved under section 134 for the goods.

130 Duty of consignors

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

Maximum penalty—13 penalty units.

131 Duty of prime contractors

A prime contractor must not use a rail vehicle to transport a placard load if the required emergency information for the dangerous goods in the load is not in the driver's cab of the rail vehicle.

Maximum penalty—20 penalty units.

132 Duty of rail operators

- (1) A rail operator must not transport a placard load in or on a rail vehicle if the required emergency information for the dangerous goods in the load is not in the driver's cab of the rail vehicle.

Maximum penalty—20 penalty units.

- (2) Subsection (1) does not apply if—
- (a) a rail vehicle transporting a placard load is involved in shunting operations; and
 - (b) the required emergency information for the dangerous goods in the load is readily available elsewhere in the immediate vicinity of the operations.

133 Duties of drivers

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

[s 134]

Maximum penalty—13 penalty units.

- (2) A relevant emergency service officer or an authorised person may ask the driver transporting a placard load to produce the required emergency information for the dangerous goods in the load for inspection by the officer or person.
- (3) The driver must comply with the request, unless the driver has a reasonable excuse.

Maximum penalty—6½ penalty units.

- (4) Subsections (1) and (2) do not apply to a person driving a rail vehicle transporting a placard load if—
 - (a) the person is in a depot or yard, or is engaged in shunting operations; and
 - (b) the required emergency information for the goods is readily available elsewhere in the immediate vicinity of the depot, yard or the operations.

134 Approval of emergency information

The chief executive may, on application under section 166 or on the chief executive's own initiative, approve emergency information that does not comply with chapter 11.2 of the ADG Code if the chief executive considers that use of the information would be as accurate, and at least as convenient and efficient, as information complying with the chapter.

Division 2A Dangerous goods packed in limited quantities

134A Duty of consignors

A person must not consign dangerous goods packed in limited quantities for transport unless the person has provided the prime contractor with the information required by section 3.4.12.1 of the ADG Code in the form required by that section.

Maximum penalty—40 penalty units.

134B Duty of prime contractors

A prime contractor who receives information under section 134A must ensure the information is readily ascertainable during transport of the dangerous goods.

Maximum penalty—40 penalty units.

134C False or misleading information

A person must not, under section 134A, give a prime contractor information the person knows, or ought reasonably to know, is false or misleading in a material particular.

Maximum penalty—40 penalty units.

Division 3 Prior notice for specific dangerous goods

135 Duty of consignors

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

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

Maximum penalty—30 penalty units.

136 Duty of rail operators

A rail operator must, if required by the owner of the track on which dangerous goods of UN class 1, UN division 6.2 or UN

[s 137]

class 7 are to be transported, give notice to the owner about the transport of the goods on the track before the goods are transported on the track.

Maximum penalty—30 penalty units.

137 Duty of prime contractors

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

Maximum penalty—30 penalty units.

Part 13 Procedures during transport

Division 1 Immobilised rail vehicles

138 Duty of drivers

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

Maximum penalty—7½ penalty units.

139 Duty of rail operators

If a rail vehicle transporting a placard load fails or is otherwise immobilised, the rail operator must, as soon as practicable—

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

Maximum penalty—15 penalty units.

Division 2 Unloading at unattended places

140 Duty of rail operators

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

Maximum penalty—15 penalty units.

- (2) In this section—

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

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

Part 14 Emergencies

Division 1 Emergencies generally

141 Duties of drivers and rail operators for dangerous situation

- (1) This section applies if a rail vehicle transporting dangerous goods is involved in an incident resulting in a dangerous situation.
- (2) The driver of the rail vehicle must—
 - (a) notify the rail operator of the incident as soon as practicable; and
 - (b) provide any reasonable assistance required by an authorised person, or a relevant emergency service officer, to deal with the situation.

Maximum penalty—13 penalty units.

- (3) On being notified by the driver of the incident, the rail operator must—
 - (a) notify the prime contractor, the chief executive, and the Queensland Police Service or the Queensland Fire and Rescue Service, of the incident as soon as practicable, but not more than 24 hours after the incident; and
 - (b) provide any reasonable assistance required by an authorised person, or a relevant emergency service officer, to deal with the situation.

Maximum penalty—13 penalty units.

142 Duties of prime contractors and rail operators—food or food packaging

- (1) This section applies if—
 - (a) an incident involving a rail vehicle transporting dangerous goods results in the leakage, spillage or

escape of the dangerous goods, or in a fire or explosion;
and

(b) there is food or food packaging in the vicinity of the incident that is within the control of a prime contractor or rail operator.

(2) The prime contractor must not remove, or permit to be removed, the food or food packaging from the site of the incident unless the chief executive has given permission to the prime contractor to transport the food or food packaging from the site.

Maximum penalty—40 penalty units.

(3) The rail operator must—

(a) notify the chief executive of the incident as soon as is practicable after the incident; and

(b) deal with the food or food packaging as directed by the chief executive.

Maximum penalty—13 penalty units.

(4) A permission under subsection (2) or a direction under subsection (3)—

(a) must be in writing; and

(b) must state the name of the person to whom it is given; and

(c) must identify the relevant incident; and

(d) must identify the food or food packaging to which it relates; and

(e) must take into consideration any requirements of the appropriate food and health authorities; and

(f) may contain any other information that the chief executive considers necessary.

143 Duties of prime contractors and rail operators to inform chief executive

- (1) This section applies if a rail vehicle transporting dangerous goods is involved in an incident resulting in a dangerous situation.
- (2) As soon as practicable, but not more than 24 hours after becoming aware of the incident, the prime contractor or the rail operator for the transport of the goods must provide the chief executive and the owner of the track on which the incident happened with the following details about the incident—
 - (a) where the incident happened;
 - (b) the time and day of the incident;
 - (c) the nature of the incident;
 - (d) the dangerous goods being transported when the incident happened;
 - (e) any other details the chief executive may reasonably require.

Maximum penalty—20 penalty units.

- (3) Within 21 days after the day the incident happens, the prime contractor or the rail operator must give to the chief executive a written report about the incident stating the following—
 - (a) where the incident happened;
 - (b) the time and day of the incident;
 - (c) the nature of the incident;
 - (d) what the driver of the rail vehicle believes to be the likely cause of the incident;
 - (e) what the prime contractor or the rail operator believes to be the likely cause of the incident;
 - (f) the dangerous goods being transported when the incident happened;

- (g) the measures taken to control a leak, spill or escape of dangerous goods and a fire or explosion, arising out of the incident;
- (h) the measures taken after the incident in relation to the dangerous goods involved in the incident.

Maximum penalty—20 penalty units.

Division 2 Emergencies involving placard loads

144 Telephone advisory service

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

Maximum penalty—40 penalty units.

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

Maximum penalty—40 penalty units.

- (3) For subsection (1) or (2), a telephone advisory service may be provided by the prime contractor, rail operator or consignor, or someone else for the prime contractor, rail operator or consignor.
- (4) In this section—

[s 145]

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

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

145 Emergency plans

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

Maximum penalty—40 penalty units.

- (2) A prime contractor or rail operator transporting a placard load who becomes aware of a dangerous situation involving the load must do everything that the emergency plan for the transport of the load requires the prime contractor or rail operator to do that is relevant to the situation.

Maximum penalty—40 penalty units.

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

Maximum penalty—40 penalty units.

- (4) A consignor of a placard load who becomes aware of a dangerous situation involving the load must do everything that the emergency plan for the transport of the load requires the consignor to do that is relevant to the situation.

Maximum penalty—40 penalty units.

-
- (5) The chief executive may, by written notice, ask the prime contractor, rail operator or consignor of a placard load to give the chief executive the emergency plan for the transport of the load.
 - (6) The prime contractor, rail operator or consignor must give the emergency plan to the chief executive within 14 days after the day the notice is given.

Maximum penalty—15 penalty units.

- (7) In this section—

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

Editor's note—

A copy of the guidelines is available on the website of the National Transport Commission.

146 Duties of consignors—information and resources

- (1) This section applies if the consignor of dangerous goods in a placard load becomes aware that the rail vehicle transporting the load has been involved in an incident resulting in a dangerous situation.
- (2) The consignor must, unless the consignor has a reasonable excuse—
 - (a) give the prescribed person information about the following—
 - (i) the properties of the goods;
 - (ii) the construction and properties of packaging used to transport the goods;
 - (iii) safe methods of handling the goods;
 - (iv) safe methods of containing and controlling the goods in a dangerous situation; and

[s 147]

- (b) provide the equipment and other resources necessary for the following—
 - (i) controlling the dangerous situation;
 - (ii) containing, controlling, recovering or disposing of dangerous goods that have leaked, spilled or escaped.

Maximum penalty—20 penalty units.

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

prescribed person means—

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

147 Duties of prime contractors—information and resources

- (1) This section applies if the prime contractor for the transport of dangerous goods in a placard load becomes aware that the vehicle transporting the load has been involved in an incident resulting in a dangerous situation.
- (2) The prime contractor must, unless the prime contractor has a reasonable excuse—
 - (a) give the prescribed person information about the following—

- (i) the vehicle's construction, properties and equipment;
 - (ii) the construction and properties of packaging used to transport the goods; and
- (b) provide the equipment and other resources for the following—
- (i) controlling the dangerous situation;
 - (ii) recovering a vehicle involved in the situation or its equipment.

Maximum penalty—20 penalty units.

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

prescribed person means—

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

148 Duties of rail operators—information and resources

- (1) This section applies if the rail operator for the transport of dangerous goods in a placard load becomes aware that the vehicle transporting the load has been involved in an incident resulting in a dangerous situation.

[s 148]

- (2) The rail operator must, unless the rail operator has a reasonable excuse—
- (a) give the prescribed person information about the following—
 - (i) the vehicle’s construction, properties and equipment;
 - (ii) the construction and properties of packaging used to transport the goods; and
 - (b) provide the equipment and other resources for the following—
 - (i) controlling the dangerous situation;
 - (ii) recovering a vehicle involved in the situation or its equipment.

Maximum penalty—20 penalty units.

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

prescribed person means—

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

Part 15 Administrative matters

Division 1 Provisions about registers

149 Registers to which this division applies

This division applies in relation to the following registers—

- (a) the register of determinations kept under section 25(1)(a);
- (b) the register of exemptions kept under section 161(1)(a);
- (c) the register of approvals kept under section 172(1)(a).

150 Registers may be kept by computer

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

151 Inspection of registers

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

Division 2 Recommendations by chief executive and dangerous goods authorities

152 Recommendations by chief executive

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

corresponding administrative determination means a corresponding determination—

 - (a) made by a dangerous goods authority on the application of a person; and
 - (b) that applies to the person or the person and other persons named in the application.

153 Recommendations by dangerous goods authorities

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

-
- (a) amend or cancel a determination;
 - (b) amend, suspend or cancel an administrative determination;
 - (c) amend, suspend or cancel an approval or exemption.
- (2) Subject to sections 163(2)(b) and 174(2)(b), if the recommendation is about a determination (other than an administrative determination), approval or exemption that has effect in 1 or more other participating jurisdictions, the chief executive need not take any action on the recommendation until the competent authorities panel has considered the recommendation.
- (3) In any other case, the chief executive must have regard to the recommendation.

Division 3 Mutual recognition of determinations, exemptions and approvals

154 Chief executive may refer corresponding decisions to competent authorities panel

- (1) This section applies if—
- (a) the chief executive considers any of the following (each a *corresponding decision*) should have effect in all participating jurisdictions or this jurisdiction and 1 or more other participating jurisdictions—
 - (i) a decision to which section 155(1)(a) and (b) apply;
 - (ii) an exemption to which section 156(1)(a) and (b) apply;
 - (iii) an approval to which section 157(1)(a) and (b) apply; and
 - (b) the competent authorities panel has not considered whether the corresponding decision should have effect

[s 155]

in all participating jurisdictions or this jurisdiction and 1 or more other participating jurisdictions.

- (2) The chief executive may refer the corresponding decision to the competent authorities panel for considering whether the corresponding decision should have effect in—
 - (a) all participating jurisdictions; or
 - (b) this jurisdiction and 1 or more other participating jurisdictions.

155 Corresponding determinations

- (1) This section applies to a decision, however called, made by a dangerous goods authority if—
 - (a) the decision is made under a provision of the law of another jurisdiction corresponding to a provision (the *relevant provision*) of section 20 or 21; and
 - (b) the decision has effect in the other jurisdiction; and
 - (c) either of the following applies—
 - (i) the competent authorities panel has decided that the decision should have effect in all participating jurisdictions, or 1 or more participating jurisdictions including this jurisdiction, and the panel has not reversed its decision;
 - (ii) the decision is an administrative determination under a provision of the law of the other jurisdiction corresponding to section 22.
- (2) Other than for circumstances that do not exist in this jurisdiction, the decision has effect in this jurisdiction as if it were a determination made by the chief executive under the relevant provision.

156 Corresponding exemptions

- (1) This section applies to an exemption granted by a dangerous goods authority if—

-
- (a) the exemption is granted for a provision of the law in another jurisdiction corresponding to a provision (the *relevant provision*) of this regulation; and
 - (b) the exemption has effect in the other jurisdiction; and
 - (c) the competent authorities panel has decided that the exemption should have effect in all participating jurisdictions, or 1 or more participating jurisdictions including this jurisdiction, and the panel has not reversed its decision.
- (2) Other than for circumstances that do not exist in this jurisdiction, the exemption has effect in this jurisdiction as if it were an exemption granted by the chief executive for the relevant provision.

157 Corresponding approvals

- (1) This section applies to an approval granted in another jurisdiction if—
- (a) the approval is granted under a provision of the law of the other jurisdiction corresponding to a provision (the *relevant provision*) of any of the following sections—
 - (i) section 46;
 - (ii) section 50;
 - (iii) section 106;
 - (iv) section 107;
 - (v) section 134; and
 - (b) the approval has effect in the other jurisdiction; and
 - (c) the competent authorities panel has decided that the approval should have effect in all participating jurisdictions, or 1 or more participating jurisdictions including this jurisdiction, and the panel has not reversed its decision.
- (2) Other than for circumstances that do not exist in this jurisdiction, the approval has effect in this jurisdiction as if it

were an approval given by the chief executive under the relevant provision.

Part 16 Exemptions

Division 1 Purpose of part

158 Purpose of part

This part provides for the following matters in relation to an exemption under section 443 of the Act—

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

Division 2 General matters about exemptions

159 Applications for exemptions

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

-
- (g) state why, in the applicant's opinion, compliance with the provisions mentioned in paragraph (e) is not reasonably practicable; and
 - (h) state why, in the applicant's opinion, the exemption is not likely to involve a greater risk than the risk involved in complying with the provisions mentioned in paragraph (e); and
 - (i) if the application relates to a rail vehicle, equipment, packaging or other thing—describe the vehicle, equipment, packaging or thing; and
 - (j) state the period for which the exemption is sought; and
 - (k) state the geographical area within which the exemption is to have effect; and
 - (l) if a fee is stated for the application under section 180—be accompanied by the stated fee.
- (2) The chief executive may, by written notice given to the applicant, ask the applicant to give to the chief executive the additional information reasonably necessary to decide the application.

160 Exemption notice to be kept

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

Maximum penalty— $7\frac{1}{2}$ penalty units.

- (2) Subsection (1) does not apply if a copy of the exemption is available at an office of the holder.
- (3) If an exemption is being relied on by a member of the class of persons to which the exemption applies, the member must keep a copy of the exemption in the rail vehicle or on the premises to which the exemption applies.

Maximum penalty— $7\frac{1}{2}$ penalty units.

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

161 Register of exemptions

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

- (5) In this section—

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

162 Records of exemptions

The record of an exemption in the register kept under section 161(1)(a) must include—

- (a) the terms of the exemption; or
- (b) the following information—
 - (i) the name of the person to whom, or the name or a description of the class of persons to which, the exemption applies;
 - (ii) the day the exemption was granted;

- (iii) the provisions of this regulation, and of the ADG Code, to which the exemption relates;
- (iv) the period for which the exemption has effect;
- (v) the dangerous goods, rail vehicle, equipment, packaging or other thing to which the exemption relates;
- (vi) the geographical area for which the exemption has effect.

Division 3 Referring matters to the competent authorities panel

163 Referring matters to the competent authorities panel

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

164 Effect of competent authorities panel decisions about exemptions

- (1) This section applies if—
 - (a) an exemption, or an application for an exemption, is referred to the competent authorities panel under section 163(1); and

- (b) the competent authorities panel decides that the exemption—
 - (i) should have been, or should be, granted, what the terms of the exemption should be, and that the exemption should have effect in all participating jurisdictions or this jurisdiction and 1 or more other participating jurisdictions; or
 - (ii) should not have effect in this jurisdiction.
- (2) The chief executive must have regard to the competent authorities panel's decision.

165 Effect of the competent authorities panel decisions about amending, suspending or cancelling exemptions

- (1) This section applies if—
 - (a) an exemption is referred to the competent authorities panel under section 163(2); and
 - (b) the competent authorities panel decides that the exemption—
 - (i) should be amended (whether or not the panel's decision is the same as the amendment proposed by the chief executive or recommended by the dangerous goods authority), and should have effect as amended in all participating jurisdictions or this jurisdiction and 1 or more other participating jurisdictions; or
 - (ii) should not be amended; or
 - (iii) should, or should not, be suspended or cancelled.
- (2) The chief executive must have regard to the competent authorities panel's decision.

Part 17 **Administrative determinations and approvals**

Division 1 **General**

166 **Applications**

- (1) An application for an administrative determination or approval, or for the amendment of an administrative determination or approval, must—
 - (a) be made to the chief executive in writing; and
 - (b) if a fee is stated for the application under section 180—be accompanied by the stated fee.
- (2) An application for the amendment of an administrative determination or approval must have the determination or approval with it.
- (3) The chief executive may, by written notice given to the applicant, ask the applicant to give to the chief executive the additional information reasonably necessary to decide the application.

167 **Form of administrative determinations and approvals**

- (1) An administrative determination, or an approval on application, must be given by written notice to the applicant.
- (2) An approval under section 134 on the chief executive's initiative is given by recording it in the register kept under section 172(1)(a).

168 **When administrative determinations and approvals not to be made**

The chief executive must not make an administrative determination on the application of, or give an approval under

this regulation to, a person who is prohibited by a court order from involvement in the transport of dangerous goods.

169 Reasons for refusal of applications

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

170 Periods and conditions

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

171 Replacement administrative determinations and approvals

The chief executive must give a person to whom an administrative determination applies, or an approval is granted, 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.

Division 2 Register of approvals

172 Register of approvals

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

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

173 Records of approvals

The record of an approval in the register kept under section 172(1)(a) must include—

- (a) the terms of the approval; or
- (b) the following information—
 - (i) the name of the person to whom the approval was given;
 - (ii) the day the approval was given;
 - (iii) the provisions of this regulation, and of the ADG Code, to which the approval relates;
 - (iv) the period for which the approval has effect;

[s 174]

- (v) the dangerous goods, equipment, packaging, rail vehicle or other thing to which the approval relates;
- (vi) the conditions of the approval.

Division 3 Referring matters to the competent authorities panel

174 Referring matters to the competent authorities panel

- (1) The chief executive must refer any of the following matters or applications to the competent authorities panel if the chief executive considers the matter or decision on the application should have effect in all participating jurisdictions or this jurisdiction and 1 or more other participating jurisdictions—
 - (a) an approval;
 - (b) an application for an approval;
 - (c) an administrative determination;
 - (d) an application for an administrative determination.
- (2) The chief executive must refer to the competent authorities panel an approval or administrative determination having effect in this jurisdiction, and 1 or more other participating jurisdictions, if—
 - (a) the chief executive considers that the approval should be amended, suspended or cancelled; or
 - (b) a dangerous goods authority recommends to the chief executive in writing that the approval should be amended, suspended or cancelled.

175 Effect of competent authorities panel decisions about particular matters

- (1) This section applies if—
 - (a) a matter is referred to the competent authorities panel under section 174(1); and

-
- (b) the competent authorities panel decides—
 - (i) that the approval or determination should have been, or should be, given, what the terms of the approval or determination should be, and that the approval or determination should have effect in all participating jurisdictions or this jurisdiction and 1 or more other participating jurisdictions; or
 - (ii) that the approval or determination should not have effect in this jurisdiction.
 - (2) The chief executive must have regard to the competent authorities panel's decision.

176 Effect of competent authorities panel decisions about amending, suspending or cancelling approvals or administrative determinations

- (1) This section applies if—
 - (a) an approval or administrative determination is referred to the competent authorities panel under section 174(2); and
 - (b) the competent authorities panel decides that the approval or administrative determination—
 - (i) should be amended (whether or not the panel's decision is the same as the amendment proposed by the chief executive or recommended by the dangerous goods authority), and should have effect as amended in all participating jurisdictions or this jurisdiction and 1 or more other participating jurisdictions; or
 - (ii) should not be amended; or
 - (iii) should, or should not, be suspended or cancelled.
- (2) The chief executive must have regard to the competent authorities panel's decision.

Division 4 Amendment, suspension or cancellation of administrative determinations

177 Amending, suspending or cancelling administrative determinations

- (1) The chief executive may amend, suspend or cancel an administrative determination on a ground mentioned in section 444 of the Act as if it were an approval.
- (2) Sections 445 and 447 to 449 of the Act apply for amending, suspending or cancelling an administrative determination as if the administrative determination were an approval.

Part 18 Review of decisions

178 Internal review of decisions

- (1) A person whose interests are affected by a decision described in schedule 1 (the *original decision*) may ask the chief executive to review the decision.
- (2) The person is entitled to receive a statement of reasons for the original decision whether or not the provision under which the decision is made requires that the person be given a statement of reasons for the decision.
- (3) The *Transport Planning and Coordination Act 1994*, part 5, division 2—
 - (a) applies to the review; and
 - (b) provides—
 - (i) for the procedure for applying for the review and the way it is to be carried out; and
 - (ii) that the person may apply to QCAT to have the original decision stayed.

179 External review of decisions

- (1) If a reviewed decision is not the decision sought by the applicant for the review, the chief executive must give the applicant a QCAT information notice for the reviewed decision.
- (2) The applicant may apply, as provided under the QCAT Act, to QCAT for a review of the reviewed decision.

Note—

The QCAT Act, section 22(3) provides that QCAT may stay the operation of the reviewed decision, either on application by a person or on its own initiative.

- (3) In this section—

reviewed decision means the chief executive's decision on a review under section 178.

Part 19 Miscellaneous

180 Fees

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

180A Particular provision for ADG Code, edition 7.7

- (1) This section applies if—
 - (a) during the period starting on 1 October 2020 and ending on 30 September 2021, a person does an act, or omits to do an act, that would, but for this section, constitute an offence against a provision of this regulation; and
 - (b) the act or omission would, but for this section, constitute an offence against the provision only because, for applying the provision, a reference in this regulation to the ADG Code is a reference to edition 7.7 of the ADG Code rather than edition 7.6 of the ADG Code.

[s 181]

- (2) The act or omission does not constitute an offence against the provision.

Part 20 Repeal and transitional provisions

Division 1 Repeal

181 Repeal

The Transport Infrastructure (Dangerous Goods by Rail) Regulation 2008, SL No. 426 is repealed.

Division 2 Transitional provisions

Subdivision 1 General provisions

182 Definition for division

In this division—

repealed regulation means the *Transport Infrastructure (Dangerous Goods by Rail) Regulation 2008*.

183 References to repealed regulation

In this part, unless otherwise stated, a reference to the repealed regulation is a reference to the repealed regulation as in force before the commencement.

184 Lawful conduct under previous law

A person does not commit an offence against this regulation if, within 12 months after the commencement, the person transports dangerous goods in accordance with the Act,

including the repealed regulation, as in force immediately before the commencement.

Subdivision 2 Determinations

185 Continuing effect of particular determinations

- (1) This section applies to a determination that—
 - (a) was made under the repealed regulation; and
 - (b) was in force in this jurisdiction immediately before the commencement; and
 - (c) is a determination in relation to something that may be decided under a provision (the *relevant provision*) of section 20 or 21.
- (2) This section also applies to a determination, made under the repealed regulation following a review under subdivision 9, that is in relation to something that may be decided under a provision (the *relevant provision*) of section 20 or 21.
- (3) The determination is taken to be a determination under the relevant provision, subject to the same conditions and restrictions.
- (4) To remove any doubt, it is declared that the determination was made when it was made under the repealed regulation.
- (5) Without limiting subsection (3), the chief executive may record the determination in the register of determinations kept under section 25(1)(a).

186 Existing applications for administrative determinations

- (1) This section applies to an application that—
 - (a) is for an administrative determination in relation to something that may be decided under a provision (the *relevant provision*) mentioned in section 185(1)(c); and

[s 187]

- (b) was made under section 165 of the repealed regulation; and
 - (c) had not been finally decided before the commencement.
- (2) On the commencement, the application is taken to be an application made under section 166 for an administrative determination under the relevant provision.

187 Existing applications for amendments of administrative determinations

- (1) This section applies to an application that—
- (a) is for an amendment of an administrative determination in relation to something that may be decided under a provision (the *relevant provision*) mentioned in section 185(1)(c); and
 - (b) was made under section 165 of the repealed regulation; and
 - (c) had not been finally decided before the commencement.
- (2) On the commencement, the application is taken to be an application made under section 166 for an amendment of the administrative determination under the relevant provision.

Subdivision 3 Approvals

188 Continuing effect of particular approvals

- (1) This section applies to an approval that—
- (a) was given under the repealed regulation; and
 - (b) was in force in this jurisdiction immediately before the commencement; and
 - (c) is an approval of something that may be approved under a provision (the *relevant provision*) of any of the following sections—
 - (i) section 46;

- (ii) section 49;
 - (iii) section 106;
 - (iv) section 107;
 - (v) section 110;
 - (vi) section 134.
- (2) This section also applies to an approval, given under the repealed regulation following a review under subdivision 9, that is an approval of something that may be approved under a provision (the *relevant provision*) mentioned in subsection (1)(c).
- (3) The approval is taken to be an approval given by the chief executive under the relevant provision subject to the same conditions and restrictions.
- (4) To remove any doubt, it is declared that the approval was given when it was given under the repealed regulation.
- (5) Without limiting subsection (3), the chief executive may record the approval in the register of approvals kept under section 172(1)(a).
- (6) If the approval does not have an expiry day, the approval expires 5 years after the commencement.

189 Existing applications for particular approvals

- (1) This section applies to an application that—
- (a) is for an approval of something that may be approved under a provision (the *relevant provision*) mentioned in section 188(1)(c); and
 - (b) was made under section 165 of the repealed regulation; and
 - (c) had not been finally decided before the commencement.
- (2) On the commencement, the application is taken to be an application made under section 166 for an approval under the relevant provision.

190 Existing applications for amendments of particular approvals

- (1) This section applies to an application that—
 - (a) is for an amendment of an approval of something that may be approved under a provision (the *relevant provision*) mentioned in section 188(1)(c); and
 - (b) was made under section 165 of the repealed regulation; and
 - (c) had not been finally decided before the commencement.
- (2) On the commencement, the application is taken to be an application made under section 166 for an amendment of an approval under the relevant provision.

Subdivision 4 Exemptions

191 Existing exemptions

- (1) This section applies to an exemption granted by the chief executive under section 443 of the Act that—
 - (a) exempts a person or class of persons from complying with a provision of the repealed regulation that is substantially the same as a provision (the *relevant provision*) of this regulation; and
 - (b) was in effect immediately before the commencement.
- (2) This section also applies to an exemption made under section 443 of the Act after the commencement—
 - (a) following a review under section 485 or 485A of the Act; and
 - (b) that exempts a person or class of persons from complying with a provision of the repealed regulation that is substantially the same as a provision (the *relevant provision*) of this regulation.

- (3) A reference in the exemption to the provision of the repealed regulation is taken to be a reference to the relevant provision of this regulation.

192 Existing applications for exemptions

- (1) This section applies to an application made under section 158 of the repealed regulation that—
- (a) is for an exemption from complying with a provision of the repealed regulation that is substantially the same as a provision (the *relevant provision*) of this regulation; and
 - (b) had not been finally decided before the commencement.
- (2) On the commencement, the application is taken to be an application made under section 159 for an exemption from complying with the relevant provision.

Subdivision 5 Particular existing requirements

193 Particular existing requirements continue

- (1) This section applies if—
- (a) before the commencement, a requirement was made of a person, or a person was required to do something, under any of the following sections of the repealed regulation—
 - (i) section 19(5);
 - (ii) section 72(2);
 - (iii) section 73(2);
 - (iv) section 126(3);
 - (v) section 128(2);
 - (vi) section 133(2);
 - (vii) section 136;
 - (viii) section 137;

[s 194]

- (ix) section 145(5);
 - (x) section 146(2);
 - (xi) section 147(2);
 - (xii) section 148(2); and
- (b) the requirement had not been complied with before the commencement.
- (2) The requirement continues to apply in relation to the person as if this regulation had not been made.
- (3) The repealed regulation as in force immediately before the commencement continues to apply in relation to the requirement as if this regulation had not been made.

194 Requirements relating to particular incidents continue

- (1) This section applies if—
- (a) an incident to which section 141, 142 or 143 of the repealed regulation applies happened before the commencement; and
 - (b) the section required something to be done or not done in relation to the incident; and
 - (c) the thing had not been done, or had been done, before the commencement.
- (2) The repealed regulation as in force immediately before the commencement continues to apply in relation to the incident as if this regulation had not been made.

Subdivision 6 Permissions and directions

195 Continuing effect of particular permissions

- (1) This section applies if, before the commencement—
- (a) the chief executive gave a permission to a prime contractor under section 142(2) of the repealed

regulation to transport food or food packaging from a site; and

- (b) the food or food packaging had not been removed from the site.
- (2) The permission is taken to be a permission given by the chief executive under section 142(2) of this regulation.
- (3) To remove any doubt, it is declared that the permission was given when it was given under the repealed regulation.

196 Continuing effect of particular directions

- (1) This section applies if, before the commencement—
 - (a) the chief executive gave a direction to a rail operator under section 142(3) of the repealed regulation to deal with food or food packaging; and
 - (b) the food or food packaging had not been dealt with under the direction.
- (2) The direction is taken to be a direction given by the chief executive under section 142(3) of this regulation.
- (3) To remove any doubt, it is declared that the direction was given when it was given under the repealed regulation.

Subdivision 7 Existing recommendations

197 Existing recommendations by chief executive

- (1) This section applies if, before the commencement—
 - (a) the chief executive made a recommendation under section 152(2) of the repealed regulation that a dangerous goods authority take a proposed action; and
 - (b) the dangerous goods authority had not taken the proposed action.

[s 198]

- (2) On the commencement, the recommendation is taken to have been made by the chief executive under section 152(2) of this regulation.

198 Existing recommendations by dangerous goods authority

- (1) This section applies if, before the commencement—
 - (a) a dangerous goods authority made a recommendation under the repealed regulation, section 153(1) that the chief executive do a thing stated in the repealed regulation, section 153(1); and
 - (b) the chief executive had not done the thing.
- (2) On the commencement, the recommendation is taken to have been made by the dangerous goods authority under section 153(1) of this regulation.

Subdivision 8 Existing referrals

199 Existing referrals by chief executive

- (1) This section applies if, before the commencement—
 - (a) the chief executive had referred a matter to the competent authorities panel under—
 - (i) section 153A(2) of the repealed regulation; or
 - (ii) section 162(1) or (2) of the repealed regulation; or
 - (iii) section 173(1) or (2) of the repealed regulation; and
 - (b) the competent authorities panel had not made a decision in relation to the referral.
- (2) On the commencement, the referral is taken to have been made by the chief executive under—
 - (a) if the referral was made under section 153A(2) of the repealed regulation—section 154(2); or

- (b) if the referral was made under section 162(1) or (2) of the repealed regulation—section 163(1) or (2); or
- (c) if the referral was made under section 173(1) or (2) of the repealed regulation—section 174(1) or (2).

Subdivision 9 Reviews

200 Definition for subdivision

In this subdivision—

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

201 Internal reviews about particular decisions

- (1) Subsection (2) applies if, before the commencement—
 - (a) a person made an application under section 177 of the repealed regulation for a review of a reviewable decision; and
 - (b) a decision on the application for review had not been made.
- (2) The decision (the *review decision*) on the application for review must be made under the repealed regulation as in force immediately before the commencement.
- (3) Subsections (4) and (5) apply if—
 - (a) immediately before the commencement, a person could have applied under section 177 of the repealed regulation for a review of a reviewable decision; and
 - (b) the person had not made the application before the commencement.
- (4) The person may apply for a review of the decision under the repealed regulation as in force immediately before the commencement.

[s 201]

- (5) If the person applies for a review of the decision, the decision (also the *review decision*) on the application must be made under the repealed regulation as in force immediately before the commencement.
- (6) If the review decision is an amendment or substitution of the reviewable decision, the review decision must be given effect under the repealed regulation.

Example—

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

- (7) If the review decision is a confirmation of the reviewable decision, despite the repeal of the repealed regulation—
 - (a) the matter to which the reviewable decision relates continues to be a matter to be dealt with under the repealed regulation as in force immediately before the commencement; and

Example—

If the reviewable decision relates to an application for an administrative determination, the application continues to be an application for an administrative determination under the repealed regulation as in force immediately before the commencement.

- (b) any further decision about the matter must be made under the repealed regulation as in force immediately before the commencement; and
 - (c) the person in relation to whom the review decision is made may apply to QCAT for a review of the review decision under the repealed regulation as in force immediately before the commencement.
- (8) For subsections (2) and (4) to (7), the repealed regulation continues to have effect as if this regulation had not been made.

202 External reviews about particular decisions

- (1) Subsection (2) applies if—
 - (a) a person had applied to QCAT under section 177A of the repealed regulation to review a decision made under section 177A of the Act confirming a reviewable decision; and
 - (b) the review has not been decided before the commencement.
- (2) QCAT must review, or continue to review, the application under the repealed regulation as in force immediately before the commencement.
- (3) Subsection (5) applies if—
 - (a) immediately before the commencement, a person could have applied to QCAT under section 177A of the repealed regulation to review a decision mentioned in subsection (1)(a); and
 - (b) the person had not made the application before the commencement.
- (4) Subsection (5) also applies in relation to a decision made under section 201(2) or (5) of this regulation.
- (5) The person may apply to QCAT for a review of the decision under the repealed regulation as in force immediately before the commencement.
- (6) If the person applies for a review of the decision, QCAT must review the decision under the repealed regulation as in force immediately before the commencement.
- (7) If QCAT decides in favour of the applicant, the chief executive must give effect to QCAT's decision under the repealed regulation as in force immediately before the commencement.

Example—

If QCAT decides that an administrative determination the subject of the appeal must be made, the administrative determination must be made under the repealed regulation as in force immediately before the commencement.

[s 202]

- (8) If QCAT refers the matter to the chief executive with directions—
- (a) the matter must be dealt with under the repealed regulation as in force immediately before the commencement; and
 - (b) the chief executive must follow QCAT's directions to the extent possible.
- (9) If QCAT confirms the decision being reviewed, despite the repeal of the repealed regulation—
- (a) the matter to which the decision relates continues to be a matter to be dealt with under the repealed regulation as in force immediately before the commencement; and
- Example—*
- If the decision being reviewed relates to an application for an administrative determination, the application continues to be an application for an administrative determination under the repealed regulation as in force immediately before the commencement.
- (b) any further decision about the matter must be made under the repealed regulation as in force immediately before the commencement.
- (10) For subsections (2) and (5) to (9), the repealed regulation continues to have effect as if this regulation had not been made.

Schedule 1 Reviewable decisions

section 178

Section	Description of decision
20 or 23	refusing to make an administrative determination under section 20(1) or (2) or making an administrative determination on conditions under section 23(1)
21 or 23	refusing to make an administrative determination under section 21(1) or making an administrative determination on conditions under section 23(1)
46	refusing to approve, or amend an approval of, a design of packaging or approving a design, or amending an approval, on conditions
49	refusing to approve, or amend an approval of, a method of preparing an overpack or approving a method, or amending an approval, on conditions
106	refusing to approve, or amend an approval of, a method of segregation or approving a method, or amending an approval, on conditions
107	refusing to approve, or amend an approval of, a design of a type II segregation device or approving a design, or amending an approval, on conditions
110	refusing to approve, or amend an approval of, a way of separating or marshalling or approving a way, or amending an approval, on conditions
134	refusing to approve, or amend an approval of, emergency information
177	refusing to amend an administrative determination, or amending an administrative determination on conditions, under section 177(1)

Section	Description of decision
177	suspending or cancelling an administrative determination under section 177(1)

Schedule 2 Fees

section 180

\$

Application for approval of a design of packaging to which section 45 applies for use in the transport of dangerous goods

52.40

Schedule 3 Dictionary

section 6

ADG Code means the code called ‘Australian Code for the Transport of Dangerous Goods by Road and Rail’, seventh edition, published by the National Transport Commission, as amended from time to time.

Note—

See also section 180A in relation to the ADG Code, edition 7.7.

Editor’s note—

A copy of the ADG Code is available on the website of the National Transport Commission.

administrative determination means a determination that is an administrative determination under section 22.

ADR, ICAO, IMO, RID or UN approved, for packaging, means approved in accordance with any of the following documents—

- (a) the Agreement concerning the International Carriage of Dangerous Goods by Road published by the Inland Transport Committee of the United Nations Economic Commission for Europe;
- (b) the ICAO technical instructions;
- (c) the IMDG code;
- (d) the Regulations concerning the International Carriage of Dangerous Goods by Rail published by the Intergovernmental Organisation for International Carriage by Rail;
- (e) the Recommendations on the Transport of Dangerous Goods: Model Regulations published by the United Nations.

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

- (a) the number of kilograms of the following in the load—

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

appropriately marked see section 73.

appropriately placarded see section 79.

approval means an approval that—

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

article means a manufactured item, other than a fluid or particle, that—

- (a) is formed into a particular shape or design during manufacture; and
- (b) has hazardous properties and a function that are wholly or partly dependent on the shape or design.

Examples—

battery, aerosol dispenser, lighter, refrigeration device

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

authorised entity means an entity authorised under section 50 to issue approvals under section 46 or 49.

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

bulk container see section 13.

bulk transfer, for part 11, see section 113.

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

cargo transport unit means any of the following—

- (a) a rail vehicle;
- (b) a portable tank;
- (c) a bulk container;
- (d) a freight container;
- (e) an MEGC.

category, for dangerous goods, means the category to which the dangerous goods belongs under section 31.

competent authorities panel means the entity—

- (a) whose members include—
 - (i) the chief executive; and
 - (ii) dangerous goods authorities; and
- (b) established by the Competent Authorities Panel Rules made by the National Transport Commission on 16 June 2008, as amended from time to time.

compliance plate, for part 4, division 5, see section 57.

corresponding approval means an approval to which section 157 applies.

corresponding determination means a decision to which section 155 applies.

corresponding exemption means an exemption to which section 156 applies.

dangerous goods means goods that are dangerous goods under section 29.

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

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

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

design, of a tank, includes the design of—

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

determination means a decision made by the chief executive under section 20 or 21 that is in effect.

exemption means an exemption given under section 443 of the Act that is in effect.

Note—

Part 16 provides for matters relating to exemptions under section 443 of the Act.

food includes—

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

food packaging means—

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

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

general packaging, for part 4, division 4, see section 52.

goods too dangerous to be transported means goods that are goods too dangerous to be transported under section 30.

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

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

IBC means an intermediate bulk container.

ICAO technical instructions means the document called ‘Technical Instructions for the Safe Transport of Dangerous Goods by Air’, published by the International Civil Aviation Organization, as amended from time to time.

IMDG code means the document called ‘International Maritime Dangerous Goods Code’, published by the International Maritime Organization, as amended from time to time.

incompatible—

- (a) in relation to dangerous goods or other goods, see section 34(1); or
- (b) in relation to packaging or equipment, see section 34(2).

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

- (a) the reasons for the decision; and
- (b) that the person may—
 - (i) under section 178—ask for the decision to be reviewed by the chief executive; and

- (ii) under the *Transport Planning and Coordination Act 1994*, part 5, division 2—apply to QCAT for the decision to be stayed; and
- (iii) under section 179—ask for the chief executive’s decision on the review to be reviewed by QCAT; and
- (iv) under the QCAT Act—apply to QCAT for the chief executive’s decision on the review to be stayed.

inner packaging means packaging for which outer packaging is required for the transport of dangerous goods under the ADG Code.

intermediate bulk container see section 14.

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

jurisdiction means the Commonwealth or a State.

large packaging means outer packaging that—

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

MEGC means multiple-element gas container.

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

multiple-element gas container see section 15.

NATA means the National Association of Testing Authorities, Australia.

nominally empty storage vessel, for part 7A, see section 94A.

other packaging, for part 4, division 5, see section 57.

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

necessary for the purposes of transport to contain and protect—

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

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

Examples—

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

owner, of a rail wagon, means the person—

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

owner, of track, means the person who is responsible because of ownership, control or management, for—

- (a) the construction and maintenance of the track and associated civil engineering or electric traction infrastructure; or
- (b) the construction, operation or maintenance of train control and communication systems for the transport of dangerous goods on the track.

packaging includes inner packaging, outer packaging, an overpack, large packaging, an IBC, an MEGC, a tank (including the tank of a tank vehicle), a bulk container, a freight container, a drum, a jerry can, a box and a bag.

packed in excepted quantities see section 17A.

packed in limited quantities see section 17.

packing group, for dangerous goods, means the packing group to which the dangerous goods belong under section 33.

participating jurisdiction means—

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

placard, when used as a noun, means—

- (a) a label within the meaning of the ADG Code; or
- (b) an emergency information panel within the meaning of the ADG Code.

placard load means a load that contains dangerous goods and must be placarded under section 78.

placards, when used as a verb, see section 79(1).

portable tank means a multimodal tank that—

- (a) is designed primarily to be loaded onto a vehicle, a rail vehicle or ship; and
- (b) has a capacity of more than 450L; and
- (c) is equipped with skids, mountings, stabilisers and accessories to facilitate mechanical handling; and
- (d) is capable of being loaded and unloaded without removing its service equipment or structural equipment; and
- (e) is capable of being lifted when full.

prescribed dangerous goods, for part 11, division 2, see section 114.

prescribed way, for part 11, division 2, see section 114.

pressure drum means a welded transportable pressure receptacle with a water capacity of more than 150L but not more than 1,000L.

Examples of a welded transportable pressure receptacle—

a cylindrical receptacle equipped with a rolling hoop, a sphere on skids

prime contractor, in relation to the transport of dangerous goods, means the person who, in conducting a business for or

involving the transport of dangerous goods, has undertaken to be responsible for, or is responsible for, the transport of the goods.

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

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

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

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

- (a) for receiving and holding the substance or article (including anything that enables the container to be closed); and
- (b) in contact with the substance or article.

recognised testing facility, for a packaging design type, see section 47.

required emergency information, for dangerous goods, for part 12, division 2, see section 129.

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

service equipment has the meaning given by—

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

special provision, for part 3, see section 36.

structural equipment has the meaning given by—

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

subsidiary hazard, for dangerous goods, means the subsidiary hazard to which the dangerous goods belong under section 32.

tank see section 16.

tank vehicle means a unit of rolling stock—

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

this jurisdiction means the State.

track means railway track.

train means 2 or more units of rolling stock (at least 1 unit of which is a locomotive or self-propelled unit) that are coupled together.

Examples of units of rolling stock—

rail wagon, rail tank wagon, locomotive, guard's van, crew or passenger carriage, track maintenance vehicle

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

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

Note—

The Transport and Infrastructure Council was previously known as the Australian Transport Council.

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

UN class, for dangerous goods, means the class to which the dangerous goods belong under section 31.

UN division, for dangerous goods, means the division to which the dangerous goods belong under section 31.

unsuitable, in relation to packaging, see section 43.