

Australian Capital Territory

Magistrates Court (Dangerous Goods Road Transport Infringement Notices) Regulation 2010

Subordinate law SL2010–42

made under the

***Magistrates Court Act 1930*, section 119 (Regulations about infringement notice offences)**

EXPLANATORY STATEMENT

Overview

This regulation is made under section 119 of the *Magistrates Court Act 1930* (the Act). Part 3.8 of the Act creates a scheme for dealing with certain offences by infringement notice instead of prosecution, and section 119 allows for offences to be prescribed as infringement notice offences for part 3.8 of the Act.

The offences to which this regulation applies are certain strict liability offences in the *Dangerous Goods (Road Transport) Act 2009* and the *Dangerous Goods (Road Transport) Regulation 2010* (collectively referred to as the dangerous goods legislation). The dangerous goods legislation implements the national model legislation for the transport of dangerous goods developed by the National Transport Commission in 2007, which has been endorsed by the Australian Transport Council. The legislation gives legal effect to the Australian Dangerous Goods Code, which in turn reflects the United Nations Model Regulation on the Transport of Dangerous Goods.

CLAUSE NOTES

Clause 1 Name of Regulation

This clause is a formal provision to set out the name of the regulation.

Clause 2 Commencement

This clause is a formal provision, which provides that the regulation commences on the day after it is notified.

Clause 3 Dictionary

This clause explains that the dictionary is part of the regulation.

Clause 4 Notes

This clause explains that the notes are explanatory only and do not form part of the regulation.

Clause 5 Purpose of regulation

This clause explains the purpose of the regulation, which is to set up an infringement notice scheme for dangerous goods legislation offences.

Clause 6 Administering authority

This clause provides that the administering authority for the infringement notice scheme is the competent authority appointed under section 20 of the *Dangerous Goods (Road Transport) Act 2009*.

Notifiable instrument NI2010–233 made under the Dangerous Goods (Road Transport) Act, section 20 (Competent authorities) provides that the person occupying the position of chief executive of the administrative unit responsible for regulatory services is the competent authority for the Act. Under the administrative arrangements that have been established for the dangerous goods legislation, the competent authority functions are exercised by the Office of Regulatory Services.

Clause 7 Infringement notice offences

This clause explains that part 3.8 of the Act applies to the offence provisions of the dangerous goods legislation that are listed in schedule 1, column 2. Those provisions contain straightforward strict liability offences involving breaches of specific duties relating to the safe and accountable transportation of dangerous goods by road.

Clause 8 Penalties

This clause explains that the penalties payable under an infringement notice are specified in schedule 1, column 4. Higher penalties are payable where the offence is committed by a corporation. The cost of serving a reminder notice for an infringement notice offence is \$34.

Clause 9 Contents of infringement notices - identifying authorised person- Act, s 121 (1) (g)

This clause sets out the information that an infringement notice must contain to identify the person serving the infringement notice.

Clause 10 Contents of infringement notices - other information- Act, s 121 (1) (h)

This clause requires that an infringement notice served on a company must include the company's ACN.

**Clause 11 Contents of reminder notice - identifying authorised person-
Act s 130 (f)**

This clause sets out the information that a reminder notice must contain regarding the authorised person who served the infringement notice.

**Clause 12 Authorised person for infringement notice offences -
Act, s 134A (2)**

This clause explains that a person who has been appointed by the competent authority as an authorised person under section 23 of the *Dangerous Goods (Road Transport) Act 2009* may serve an infringement notice, or a reminder notice, for an infringement notice offence under the dangerous goods legislation.

**Schedule 1 Dangerous goods legislation infringement notice offences
and penalties**

Part 1.1

Column 2 of the table in this part sets out the offences from the *Dangerous Goods (Road Transport) Act 2009* that are infringement notice offences under the regulation, and column 4 sets out the corresponding infringement penalty for those offences.

Part 1.2

Column 2 of the table in this part sets out the offences from the *Dangerous Goods (Road Transport) Regulation 2010* that are infringement notice offences under the regulation, and column 4 sets out the infringement penalty for those offences.