



Australian Capital Territory

# **Dangerous Goods (Road Transport) Regulation 2010**

**Subordinate Law SL2010-12**

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The Australian Capital Territory Executive makes the following regulation under the *Dangerous Goods (Road Transport) Act 2009*.

Dated 30 March 2010.

JON STANHOPE  
Minister

ANDREW BARR  
Minister

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Australian Capital Territory

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**Dangerous Goods (Road Transport) Act 2009**

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## Chapter 1 Preliminary

### Part 1.1 Introduction

#### 1 Name of regulation

This regulation is the *Dangerous Goods (Road Transport) Regulation 2010*.

#### 2 Commencement

This regulation commences on the commencement of the *Dangerous Goods (Road Transport) Act 2009*, section 196.

*Note* The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

#### 3 Dictionary

The dictionary at the end of this regulation is part of this regulation.

*Note 1* The dictionary at the end of this regulation defines certain terms used in this regulation, and includes references (*signpost definitions*) to other terms defined elsewhere in this regulation.

For example, the signpost definition '*general packaging*, for part 6.3 (Offences—general packaging)—see section 57.' means that the term 'general packaging' is defined in that section for part 6.3.

*Note 2* A definition in the dictionary (including a signpost definition) applies to the entire regulation unless the definition, or another provision of the regulation, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

#### 4 Notes

A note included in this regulation is explanatory and is not part of this regulation.

*Note* See the Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

## 5 Offences against regulation—application of Criminal Code etc

Other legislation applies in relation to offences against this regulation.

*Note 1 Criminal Code*

The Criminal Code, ch 2 applies to all offences against this regulation (see Code, pt 2.1).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the code applies (eg *conduct*, *intention*, *recklessness* and *strict liability*).

*Note 2 Penalty units*

The Legislation Act, s 133 deals with the meaning of offence penalties that are expressed in penalty units.

## 6 Objects of regulation

The main objects of this regulation are as follows:

- (a) to set out the obligations of people involved in the transport of dangerous goods by road;
- (b) to reduce as far as practicable the risks of personal injury, death, property damage and environmental harm arising from the transport of dangerous goods by road;
- (c) to give effect to the standards, requirements and procedures of the ADG code so far as they apply to the transport of dangerous goods by road.

## 7 Application of regulation—exemptions

- (1) This regulation does not apply to the transport of dangerous goods by, or at the direction of, an authorised person or a member of an emergency service, to the extent necessary to avoid, eliminate or minimise a dangerous situation.

- (2) This regulation does not apply to the transport by a person of a load of dangerous goods if—
- (a) the load does not contain—
    - (i) dangerous goods in a receptacle with a capacity of more than 500L; or
    - (ii) more than 500kg of dangerous goods in a receptacle; and
  - (b) the goods are not, and do not include, designated dangerous goods; and
  - (c) the aggregate quantity of the dangerous goods in the load is less than 25% of a placard load; and
  - (d) the goods are not being transported by the person in the course of a business of transporting goods by road.
- (3) This regulation does not apply to the transport by a vehicle of UN class 1 (explosives) or UN class 7 (radioactive) dangerous goods except when being transported with other dangerous goods.
- (4) This regulation does not apply to the transport by a vehicle of dangerous goods—
- (a) in a consignment where the aggregate quantity of dangerous goods is less than the quantity for which an inner package is required by the ADG code to be marked with a proper shipping name or the technical name of the substance; or
  - (b) in the vehicle's fuel tank; or
  - (c) in an appliance or plant that forms part of the vehicle and that is necessary for its operation; or
  - (d) that are portable fire fighting equipment or other portable safety equipment and that are part of the vehicle's safety equipment.

(5) In this section:

*designated dangerous goods* means dangerous goods of the following:

- (a) UN class 1 (explosives), except dangerous goods of UN division 1.4S;
- (b) category A of UN division 6.2 (infectious substances);
- (c) UN class 7 (radioactive material).

## **8 Special provisions for tools of trade and dangerous goods for private use**

(1) This section applies to a load if—

(a) the load includes—

- (i) an aggregate quantity of dangerous goods of less than 500 that does not include any dangerous goods of UN division 2.1 (that are not aerosols) or UN division 2.3 or packing group I; or
- (ii) an aggregate quantity of dangerous goods of less than 250 that does include dangerous goods of UN division 2.1 (that are not aerosols) or UN division 2.3 or packing group I, provided that dangerous goods of UN division 2.3 and packing group I together constitute less than 100 of that aggregate quantity; and

(b) the goods are not being transported in the course of a business of transporting goods; but

(c) the goods are being transported—

- (i) by a person who intends to use them; or
- (ii) so that they can be used for a commercial purpose.

(2) A person transporting the load is exempt from all obligations imposed by this regulation other than those imposed by this section.

- (3) A person must not transport the load unless each package in the load—
- (a) complies with the packaging requirements appropriate to the quantity of dangerous goods under chapter 5; and
  - (b) is labelled and marked in accordance with division 7.1; and
  - (c) is loaded, secured, segregated, unloaded and otherwise transported in such a way as to ensure that—
    - (i) its packaging remains fit for its purpose; and
    - (ii) the risks are eliminated, or if it is not practicable to eliminate the risks, that the risks are minimised to the maximum extent that is practicable.
- (4) If the load contains an aggregate quantity of dangerous goods of UN class 3, 4, 5 or 6 of more than 250, 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.
- (5) If the load contains an aggregate quantity of dangerous goods of UN division 2.1, UN division 2.3 or packing group I of more than 50, a person must not transport the load—
- (a) in the passenger compartment of a vehicle; or
  - (b) in any other enclosed space in the vehicle.
- (6) A person commits an offence if the person fails to comply with subsection (3), (4) or (5).

Maximum penalty: 40 penalty units.

## Part 1.2 Interpretation

### Division 1.2.1 Key concepts

#### 9 Dangerous goods—Act, dict

- (1) Goods are *dangerous goods* if the goods—
  - (a) are determined under section 29 (1) (a) (Determinations—dangerous goods and packaging) to be dangerous goods; or
  - (b) satisfy the dangerous goods classification criteria mentioned in the ADG code, part 2.
- (2) However, goods that satisfy the criteria mentioned in the ADG code, part 2 are not *dangerous goods* if the goods are—
  - (a) determined under section 29 (1) (a) not to be dangerous goods; or
  - (b) described as not subject to the ADG code in a special provision in the ADG code, chapter 3.3 that is applied to the goods by the dangerous goods list, column 6.

## **10 Goods too dangerous to be transported—Act, dict**

The following are *goods too dangerous to be transported*:

- (a) goods mentioned in the ADG code, appendix A;
- (b) goods determined under section 29 (2) (a) (Determinations—dangerous goods and packaging) to be too dangerous to be transported;
- (c) goods (other than goods mentioned in paragraph (a) or (b)) that are so sensitive or unstable that they cannot be safely transported even if the relevant requirements of this regulation and the ADG code are complied with.

*Note* A person must not consign for transport goods that this regulation identifies as being too dangerous to be transported (see Act, s 30).

## **11 UN classes, divisions and categories of dangerous goods**

For this regulation, a *UN class*, *UN division* or *UN category* of dangerous goods is—

- (a) if a determination under section 29 (1) (b) (Determinations—dangerous goods and packaging) that the goods are of a stated UN class, division or category is in effect—the stated class, division or category; or
- (b) if there is no determination under section 29 (1) (b) in effect in relation to the goods—the class, division or category determined for the goods in accordance with the ADG code.

*Note 1* Under the UN classification system there are 9 classes of dangerous goods. Some classes are further divided into divisions, and some divisions are divided into categories.

### **Example**

UN div 6.2 infectious substances are 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 (others).

*Note 2* Under the ADG code, if dangerous goods are mentioned in the dangerous goods list, their UN class or division is that mentioned in the list, col 2 opposite the name and description of those goods, unless the code, ch 3.3 provides for those goods to be assigned to a different class or division. If applicable, the code, ch 2 describes how the UN category of dangerous goods is to be determined. The category may be changed under the code, ch 3.3.

## **12 Subsidiary risk**

For this regulation, the *subsidiary risk*, of dangerous goods is—

- (a) if a determination under section 29 (1) (c) (Determinations—dangerous goods and packaging) that the goods have a stated subsidiary risk is in effect—the stated subsidiary risk; or
- (b) if there is no determination under section 29 (1) (c) in effect in relation to the goods—the subsidiary risk determined for the goods in accordance with the ADG code.

*Note* Dangerous goods that are able to be assigned to more than 1 UN class or division are assigned a subsidiary risk. This subsidiary risk is any other UN class or division to which the goods also belong. Under the ADG code, if dangerous goods are mentioned in the dangerous goods list, their subsidiary risk is mentioned in the list, col 4 opposite the name and description of those goods, unless the code, ch 3.3 provides for those goods to be assigned a different subsidiary risk.



## 13 Packing group

For this regulation, the *packing group*, of dangerous goods is—

- (a) if a determination under section 29 (1) (d) (Determinations—dangerous goods and packaging) that the goods are of a stated packing group is in effect—the stated packing group; or
- (b) if there is no determination under section 29 (1) (d) in effect in relation to the goods—the packing group determined for the goods in accordance with the ADG code.

*Note* The assignment of dangerous goods to a packing group indicates the degree of danger of, and the level of containment required for, the goods. The packing groups, and the degree of danger they indicate, are as follows:

- packing group I (substances presenting high danger);
- packing group II (substances presenting medium danger);
- packing group III (substances presenting low danger).

The packing group of a substance can be determined from the dangerous goods list, although in some cases it is also necessary to refer to the ADG code, ch 3.3 (the list identifies those cases).

## 14 Incompatibility

- (1) For this regulation, dangerous or other goods are *incompatible* with dangerous goods if—
  - (a) the goods are incompatible under the ADG code, chapter 9.1; or
  - (b) the goods are determined under section 29 (1) (e) (Determinations—dangerous goods and packaging) to be incompatible with the dangerous goods; or
  - (c) when the goods are mixed, or otherwise brought into contact, with the dangerous goods, the goods are likely to interact with the dangerous goods and increase risk because of the interaction.

- (2) Packaging or equipment for use in the transport of dangerous goods is *incompatible* with the goods if any component of the packaging or equipment that is intended or likely to come into contact with the goods during transport—
- (a) is likely to interact with the goods and increase risk because of the interaction; and
  - (b) is not protected from contact under foreseeable circumstances by a protective coating or other effective means.

## Division 1.2.2 Other important concepts

### 15 Meaning of *packaging*—Act, s 11

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

*Note* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).

### 16 Meaning of *bulk container*

- (1) For this regulation, a *bulk container* means a container (with or without a liner or coating) that—
- (a) has a capacity of 1m<sup>3</sup> or more; and
  - (b) is intended for the transport of solid dangerous goods that are in direct contact with the container.
- (2) To remove any doubt, the following are not bulk containers even if they have a capacity of 1m<sup>3</sup> or more and are intended for the transport of solid dangerous goods:
- (a) large packaging that complies with the ADG code, chapter 6.6;
  - (b) an IBC;

- (c) a tank;
- (d) a tank vehicle;
- (e) any other packaging that complies with the ADG code, chapter 6.1 or chapter 6.3.

**17**      **Meaning of *intermediate bulk container* (or *IBC*)**

- (1) For this regulation, *intermediate bulk container* (or *IBC*) means a rigid or flexible portable packaging for the transport of dangerous goods that complies with the specifications the ADG code, chapter 6.5 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; and
    - (ii) for solids of packing group I packed in a metal container—3 000L; and
    - (iii) for solids or liquids of packing groups II and III—3 000L; and
    - (iv) for any other dangerous goods—3 000L; and
  - (b) is designed for mechanical handling.
- (2) However, rigid or flexible portable packaging that complies with the ADG code, chapter 6.1, chapter 6.3 or chapter 6.6 is not an IBC.

**18**      **Meaning of *multiple-element gas container* (or *MEGC*)**

For this regulation, *multiple-element gas container* (or *MEGC*) means—

- (a) multimodal assemblies of cylinders, tubes and bundles of cylinders that are interconnected by a manifold and assembled within a framework; and

- (b) service or structural equipment necessary for the transport of gases in the cylinders and tubes.

**19 Meaning of dangerous goods *packed in limited quantities***

For this regulation, dangerous goods are *packed in limited quantities* if—

- (a) the goods are packed in accordance with the ADG code, chapter 3.4; and
- (b) the quantity of dangerous goods in each inner packaging or in each article does not exceed the quantity mentioned in the dangerous goods list, column 7 for the goods.

**20 Meaning of *tank***

- (1) For this regulation, *tank* means—
  - (a) a receptacle for receiving and holding dangerous goods; and
  - (b) any service or structural equipment that enables the receptacle to transport those goods.
- (2) However, a receptacle for receiving and holding dangerous goods of UN class 2 is not a tank unless it has a capacity of more than 450L.
- (3) Also, the following are not tanks:
  - (a) packaging that complies with the ADG code, chapter 6.1, chapter 6.3 or chapter 6.6;
  - (b) an IBC;
  - (c) an MEGC;
  - (d) a cylinder;
  - (e) a pressure drum;
  - (f) a tube;

(g) a bulk container that complies with the ADG code, chapter 6.8.

*Note* The kinds of packaging dealt with under the ADG code, ch 6.8 include drums, barrels, jerry cans, boxes, bags and composite packaging. The code, ch 6.3 deals with packaging for infectious substances.

## **21 References to loads**

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

## **Division 1.2.3 Certain references and inconsistency between regulation and codes etc**

### **22 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 regulation, unless the contrary intention appears, a reference to an instrument is a reference to the instrument as amended from time to time.
- (3) In this section:

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

### **23 Disapplication of Legislation Act, s 47 (6)**

The Legislation Act, section 47 (6) does not apply to the ADG code.

*Note* The ADG code is accessible at [www.ntc.gov.au](http://www.ntc.gov.au).

### **24 Inconsistency between this regulation and codes etc**

- (1) If all or part of a code, standard or rule (whether made in or outside Australia) relating to dangerous goods or to transport by road is applied or adopted by, or is incorporated in, this regulation and the

code, standard or rule is inconsistent with this regulation, this regulation prevails to the extent of the inconsistency.

- (2) However, if any provision that is applied, adopted by or incorporated in this regulation uses a term that is defined in both the relevant code, standard or rule, and in this regulation, the term is to have the meaning set out in the code, standard or rule, unless the contrary intention appears.

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

In this regulation, a reference to—

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

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

## **26 References to variation of determinations etc**

In this regulation, a reference to the variation of—

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

includes a reference to a variation by addition, omission or substitution.

**Example**

the addition of a new condition to an existing administrative determination

*Note* An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

## Chapter 2 Training and competency

### 27 Offence—instruction and training

- (1) This section applies to a person who is responsible for the management or control of a transport of dangerous goods activity.
- (2) The person commits an offence if the person—
  - (a) manages, controls or supervises the activity; and
  - (b) has not received instruction and training to enable him or her to manage, control or supervise another person to perform the activity safely and in accordance with this regulation.

Maximum penalty: 40 penalty units.

- (3) The person commits an offence if—
  - (a) the person employs, engages or permits someone else to perform the activity; and
  - (b) the other person—
    - (i) has not received, or is not receiving, appropriate instruction and training to ensure that he or she is able to perform the activity safely and in accordance with this regulation; or
    - (ii) is not appropriately supervised in performing the activity to ensure that he or she is able to perform the activity safely and in accordance with this regulation.

Maximum penalty: 40 penalty units.



(4) In this section:

*transport of dangerous goods activity* means an activity involved in the transport of dangerous goods and includes any of the following done in relation to the transport of dangerous goods:

- (a) packing;
- (b) consigning;
- (c) loading;
- (d) unloading;
- (e) marking packages;
- (f) placarding placard loads;
- (g) preparing transport documentation;
- (h) maintaining vehicles and equipment;
- (i) driving a vehicle;
- (j) being a consignee;
- (k) following the procedures under this regulation in a dangerous situation.

## **28 Approvals—tests and training courses for drivers**

- (1) The competent authority may, on application in accordance with section 175, approve—
- (a) a test of competence for drivers of road vehicles transporting dangerous goods; or
  - (b) a training course for drivers of road vehicles transporting dangerous goods.

- (2) However, the competent authority may approve a test of competence or training course only if the authority considers that a person who passes the test, or completes the course, will have the skills and knowledge to perform the activity to which the test or course relates safely and in accordance with this regulation.

## Chapter 3 Determinations

### 29 Determinations—dangerous goods and packaging

- (1) The competent authority may determine that goods are or are not—
  - (a) dangerous goods; or
  - (b) dangerous goods of a particular UN class, UN division or UN category; or
  - (c) dangerous goods with a particular subsidiary risk; or
  - (d) dangerous goods of a particular packing group; or
  - (e) incompatible with particular dangerous goods.
- (2) The competent authority may determine that—
  - (a) particular dangerous goods are or are not too dangerous to be transported; or

*Note* Goods determined to be goods too dangerous to be transported for par (a) are goods too dangerous to be transported for the Act (see Act, dict, def *goods too dangerous to be transported*, par (b)).
  - (b) particular dangerous goods must not be or may be transported in or on the same transport unit or freight container as other goods, whether or not dangerous goods; or
  - (c) particular dangerous goods may or may not be transported in any packaging despite any prohibition or authorisation in the dangerous goods list.
- (3) A determination is a notifiable instrument.

*Note* A notifiable instrument must be notified under the Legislation Act.
- (4) Subsection (3) does not apply to an administrative determination.

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

- (1) The competent authority may determine that dangerous goods may be or must or must not be transported—
  - (a) using a stated vehicle, or kind of vehicle; or
  - (b) on a stated route; or
  - (c) in or through a stated area; or
  - (d) at a stated time; or
  - (e) in quantities in excess of a stated amount; or
  - (f) in stated packaging.
- (2) A determination is a notifiable instrument.

*Note* A notifiable instrument must be notified under the Legislation Act.
- (3) Subsection (2) does not apply to an administrative determination.

**31 Administrative determinations**

For this regulation, a determination is an *administrative determination* if the determination—

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

*Note* For provisions dealing with administrative determinations, including applications, cancellation and variation, see ch 19.

**32 Determination may be subject to conditions**

The competent authority may make a determination subject to any condition necessary for the safe transport of dangerous goods.

**33 Offence—contravention of determination condition**

- (1) A person commits an offence if—
  - (a) a determination applies to the person; and
  - (b) the person contravenes a condition of the determination.Maximum penalty: 40 penalty units.
- (2) An offence against this section is a strict liability offence.

**34 Effect of determinations on contrary obligations under regulation**

- (1) This section applies if—
  - (a) this regulation imposes an obligation on a person; and
  - (b) the person is authorised or permitted to act contrary to the obligation by a determination made under this chapter.
- (2) The obligation is to be read as if it stated that the person could fulfil the obligation by acting in accordance with the determination.

**35 Register of determinations**

- (1) The competent authority must—
  - (a) keep a register of determinations; or
  - (b) with other competent authorities, keep a central register of determinations.
- (2) The register may have separate divisions for different kinds of determinations.
- (3) The competent authority must record in the register—
  - (a) each determination made under this regulation that is not an administrative determination; and
  - (b) each corresponding determination.

- (4) The competent authority must include in the register—
- (a) the revocation of a determination made under this regulation; and
  - (b) a decision of CAP reversing a decision that a corresponding determination should have effect in all participating jurisdictions or participating jurisdictions including the ACT.

### 36 Records of determinations

The record of a determination in the register must include—

- (a) the provisions of the determination; or
- (b) the following information:
  - (i) the date the determination is notified;
  - (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.

*Note* A reference to the **notification** of a legislative instrument is a reference to the instrument having been notified in the ACT legislation register or gazette (see Legislation Act, s 63).

### 37 Offences—doing of thing prohibited or regulated by determination

- (1) A person commits an offence if—
- (a) a determination under this chapter prohibits the doing of a thing; and
  - (b) the determination applies to the person; and
  - (c) the person does the thing.

Maximum penalty: 40 penalty units.

- (2) A person commits an offence if—
- (a) a determination under this chapter regulates the doing of a thing; and
  - (b) the determination applies to the person; and
  - (c) the person does the thing contrary to the determination.

Maximum penalty: 40 penalty units.

- (3) It is a defence to a prosecution for an offence against this section if the person did not know, and could not reasonably have been expected to know, about the determination, or that the determination applied to the person.

*Note* The defendant has a legal burden in relation to the matters mentioned in s (3) (see Criminal Code, s 59).

## Chapter 4 Transport of dangerous goods to which special provisions apply

### 38 Application—ch 4

This chapter applies if—

- (a) a special provision applies to dangerous goods in the dangerous goods list; and
- (b) the special provision prohibits the transport of the goods by road or imposes a restriction on the way the goods are to be transported by road.

*Note* The dangerous goods list, col 6 specifies whether a special provision applies to dangerous goods, and the code, pt 3.3 lists the special provisions that apply.

### 39 Offence—consignor—special provision applies

A person commits an offence if—

- (a) the person consigns dangerous goods for transport; and
- (b) a special provision applies to the transport of the goods; and
- (c) the person knows, or ought reasonably to know, that—
  - (i) the special provision applies to the transport of the goods; and
  - (ii) the transport of the goods does not, or will not, comply with the special provision.

Maximum penalty: 20 penalty units.



**40 Offence—packer—special provision applies**

A person commits an offence if—

- (a) the person packs dangerous goods for transport; and
- (b) a special provision applies to the transport of the goods; and
- (c) the person knows, or ought reasonably to know, that—
  - (i) the special provision applies to the transport of the goods; and
  - (ii) the transport of the goods does not, or will not, comply with the special provision.

Maximum penalty: 20 penalty units.

**41 Offence—loader—special provision applies**

A person commits an offence if—

- (a) the person loads dangerous goods in a vehicle for transport; and
- (b) a special provision applies to the transport of the goods; and
- (c) the person knows, or ought reasonably to know, that—
  - (i) a special provision applies to the transport of the goods; and
  - (ii) the transport of the goods does not, or will not, comply with the special provision.

Maximum penalty: 20 penalty units.

**42 Offence—prime contractor—special provision applies**

A prime contractor commits an offence if—

- (a) the contractor transports dangerous goods; and
- (b) a special provision applies to the transport of the goods; and

- (c) the contractor knows, or ought reasonably to know, that—
  - (i) the special provision applies to the transport of the goods;  
and
  - (ii) the transport of the goods does not, or will not, comply with the special provision.

Maximum penalty: 20 penalty units.

**43 Offence—driver—special provision applies**

A person commits an offence if—

- (a) the person drives a road vehicle transporting dangerous goods;  
and
- (b) a special provision applies to the transport of the goods; and
- (c) the person knows, or ought reasonably to know, that—
  - (i) the special provision applies to the transport of the goods;  
and
  - (ii) the transport of the goods does not, or will not, comply with the special provision.

Maximum penalty: 10 penalty units.

## **Chapter 5            Packaging**

### **Part 5.1            Packaging—general**

#### **44            Packing of dangerous goods in limited quantities**

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

#### **45            References to ADG code, pt 4 include dangerous goods list requirements**

In this chapter, a reference to dangerous goods being packed in accordance with any relevant provision of the ADG code, part 4 includes a reference to the goods being packed in accordance with any packing requirement stated in relation to the goods in the dangerous goods list.

## Part 5.2 Suitability and design of packaging

### 46 Meaning of *recognised testing facility*—pt 5.2

For this part, 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 the ADG code, part 6 for the packaging design type;
- (b) if NATA has not registered a testing facility to conduct performance tests of that kind—a testing facility in Australia capable of conducting the tests;
- (c) a facility in a foreign country approved by a public authority of the country to conduct performance tests of that kind.

### 47 Suitability of packaging for transport

- (1) Packaging is unsuitable for the transport of dangerous goods if—
  - (a) it is required to undergo performance tests under the ADG code, part 6 and it is not approved packaging; or
  - (b) it does not meet any relevant standards or requirements stated in the ADG code, part 4 or part 6 (including requirements with respect to inspection, maintenance and repair); or
  - (c) its use, or reuse, for the transport of the goods does not comply with the ADG code, part 4 or part 6; or
  - (d) its use for the transport of the goods is prohibited by a determination made under chapter 3 (Determinations); or
  - (e) it is incompatible with the goods; or

- (f) it is damaged or defective to the extent that it is not safe to use to transport the goods.
- (2) A freight container is also unsuitable for use as a bulk container for the transport of dangerous goods if it does not have affixed to it a Safety Approval Plate as required under the International Convention for Safe Containers 1972.

#### **48 Offences—marking packaging**

- (1) A person commits an offence if—
  - (a) the person applies marking mentioned in the ADG code, part 6 on packaging; and
  - (b) the packaging is not of a design approved under section 50 (Approvals—packaging designs).

Maximum penalty: 40 penalty units.

- (2) A person commits an offence if—
  - (a) the person applies marking mentioned in the ADG code, part 6 on packaging; and
  - (b) the marking is not appropriate for the packaging.

Maximum penalty: 40 penalty units.

- (3) An offence against this section is a strict liability offence.

## 49 Applications for approval of packaging design

- (1) This section applies to packaging that is required to undergo tests under the ADG code, part 6 (*relevant packaging*).
- (2) A person may apply to the competent authority for the approval of a design of relevant packaging for use in the transport of dangerous goods.

### Examples

Portable tanks, MEGCs, tanks on tank vehicles, pressure receptacles, aerosol dispensers, IBCs, bulk containers and drums, barrels, jerry cans, boxes, bags and composite packaging are some of the kinds of packaging required to undergo tests under the ADG code, pt 6. Performance tests include drop, leakproofness, hydraulic and stacking tests.

*Note* An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (3) An application for approval must—
  - (a) be made in accordance with section 175; and
  - (b) include the information required under the ADG code, part 6.

*Note* A fee may be determined under the Act, s 194 for this provision.

## 50 Approvals—packaging designs

- (1) The competent authority may, on application in accordance with section 49, approve a design for a packaging for use in the transport of dangerous goods if it is satisfied that a packaging of the design—
  - (a) will comply with, or is permitted by, the ADG code, part 6; and
  - (b) satisfies all the relevant testing and inspection requirements set out in the part.

- (2) In deciding whether packaging of a particular design satisfies any particular testing requirement, the competent authority may rely on any test certificate issued by a recognised testing facility that complies with section 52 (Test certificates).
- (3) The competent authority may put a condition on the approval about the construction, packing, maintenance or use of a packaging manufactured in accordance with the approved design.
- (4) However, the condition must be necessary for the safe use of the packaging to transport dangerous goods.

**51 Offence—contravention of condition about approval of packaging design**

A person commits an offence if—

- (a) the person—
  - (i) constructs, packs or fails to maintain packaging for use in the transport of dangerous goods; or
  - (ii) uses packaging to transport dangerous goods; and
- (b) the approval of the design for the packaging has a condition about the construction, packing, maintenance or use of the packaging; and
- (c) the person knows, or ought reasonably to know, that—
  - (i) the approval of the design for the packaging has the condition; and
  - (ii) the construction, packing, failure to maintain or use contravenes the condition.

Maximum penalty: 40 penalty units.

## **52 Test certificates**

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

## **53 Approvals—overpack preparation method**

- (1) The competent authority may, on application in accordance with section 175, approve a method of preparing an overpack for transport that does not comply with the ADG code, section 5.1.2 if the authority considers that the risk involved in using the method is not greater than the risk involved in using a method complying with the section.
- (2) The competent authority may give an approval subject to any condition about the use of the overpack necessary for the safe use of the overpack to transport dangerous goods.



**54 Offence—contravention of condition about overpack’s use**

A person commits an offence if—

- (a) the person uses an overpack to transport dangerous goods; and
- (b) a method of preparing the overpack for transport is approved under section 53; and
- (c) the approval is subject to a condition about the overpack’s use; and
- (d) the person knows, or ought reasonably to know, that—
  - (i) the approval is subject to the condition; and
  - (ii) the use contravenes the condition.

Maximum penalty: 40 penalty units.

**55 Authorised body may issue approvals**

- (1) The competent authority may authorise an entity to issue an approval under section 50 (Approvals—packaging designs) or section 53 (Approvals—overpack preparation method).
- (2) The competent authority may impose any condition on the authorisation it considers appropriate in relation to the issuing of approvals by the entity.
- (3) In issuing an approval, in addition to complying with any condition imposed under subsection (2), the entity must also—
  - (a) comply with any relevant requirements of the ADG code, part 6 in relation to the issuing of the approval; and
  - (b) give the competent authority, in relation to the approval, all of the information mentioned in section 184.

- (4) If an entity is authorised to issue approvals under this section—
  - (a) section 49 (Applications for approval of packaging design), section 50 (Approvals—packaging designs) and section 53 (Approvals—overpack preparation method) apply as if a reference in those sections to the competent authority were a reference to the entity; and
  - (b) part 19.1 and part 19.4, to the extent that they deal with approvals, apply as if a reference in those divisions to the competent authority were a reference to the entity; and
  - (c) a reference in this regulation to an approval under section 50 or section 53 includes a reference to an approval given by the entity under either of those sections as applied under paragraph (a).
- (5) The competent authority may withdraw an authorisation given under this section at any time.
- (6) The withdrawal of an authorisation does not affect any approval issued by the entity before the withdrawal took effect.

## **Chapter 6            Offences**

### **Part 6.1            Goods suspected of being dangerous goods**

#### **56            Offence—goods suspected of being dangerous goods**

A person commits an offence if—

- (a) it is not clear whether the goods are dangerous goods; and
- (b) the person suspects, or ought reasonably to suspect, that goods are dangerous goods; and
- (c) the person consigns or transports them before—
  - (i) the goods have been classified in accordance with the ADG code; or
  - (ii) a determination has been made under section 29 (1) (a) (Determinations—dangerous goods and packaging) in relation to the goods.

Maximum penalty: 40 penalty units.

## **Part 6.2                      Prohibition on the sale or supply of non-compliant packaging**

### **57                      Offence—sell or supply non-compliant packaging**

- (1) A person commits an offence if the person sells, supplies, or offers to sell or supply, packaging for use in the transport of dangerous goods.

Maximum penalty: 40 penalty units.

- (2) Subsection (1) does not apply if the packaging—
- (a) is of a design that has been approved under section 50 (Approvals—packaging designs), and it is marked in accordance with the ADG code, part 6 (or, if applicable, chapter 3.4) and, according to the marking, its use is appropriate for the goods; or
  - (b) complies with the relevant requirements of the ADG code, part 4 or part 6 (or, if applicable, chapter 3.4) (including any relevant marking requirements) and its use is appropriate for the goods.

*Note*                      The defendant has an evidential burden in relation to the matters mentioned in s (2) (see Criminal Code, s 58).

- (3) An offence against this section is a strict liability offence.

## Part 6.3 Offences—general packaging

### 58 Meaning of *general packaging*—pt 6.3

In this part:

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

### 59 Offence—consign dangerous goods—unsuitable general packaging or goods not packed properly

A person commits an offence if—

- (a) the person consigns dangerous goods for transport in general packaging; and
- (b) either—
  - (i) the packaging is unsuitable for the transport of the goods; or
  - (ii) the goods have not been packed in the packaging in accordance with the ADG code, part 4; and
- (c) the person knows, or ought reasonably to know, that—
  - (i) the packaging is unsuitable for the transport of the goods; or
  - (ii) the goods have not been packed in the packaging in accordance with the ADG code, part 4.

Maximum penalty: 40 penalty units.

**60 Offence—pack dangerous goods—unsuitable general packaging or goods not packed properly**

A person commits an offence if—

- (a) the person packs dangerous goods for transport in general packaging; and
- (b) either—
  - (i) the packaging is unsuitable for the transport of the goods; or
  - (ii) the way the person packs the goods does not comply with the ADG code, part 4; and
- (c) the person knows, or ought reasonably to know, that—
  - (i) the packaging is unsuitable for the transport of the goods; or
  - (ii) the way the person packs the goods does not comply with the ADG code, part 4.

Maximum penalty: 40 penalty units.

**61 Offence—load dangerous goods—damaged or defective packaging**

A person commits an offence if—

- (a) the person loads dangerous goods that are in general packaging in a vehicle for transport; and
- (b) the packaging is damaged or defective to the extent that it is not safe to use to transport the goods; and
- (c) 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.

**62 Offence—prime contractor transports dangerous goods—damaged or defective packaging**

A prime contractor commits an offence if—

- (a) the contractor transports dangerous goods in general packaging; and
- (b) the packaging is damaged or defective to the extent that it is not safe to use to transport the goods; and
- (c) the contractor knows, or ought reasonably to know, that the packaging is damaged or defective to the extent that it is not safe to use to transport the goods.

Maximum penalty: 40 penalty units.

**63 Offence—drive vehicle transporting dangerous goods—damaged or defective packaging**

A person commits an offence if—

- (a) the person drives a vehicle transporting dangerous goods in general packaging; and
- (b) the packaging is damaged or defective to the extent that it is not safe to use to transport the goods; and
- (c) the person knows, or ought reasonably to know, that the packaging is damaged or defective to the extent that it is not safe to use to transport the goods.

Maximum penalty: 20 penalty units.

## Part 6.4 Offences—other packaging

### 64 Meaning of *other packaging*—pt 6.4

In this part:

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

### 65 Offences—manufacturer fails to attach compliance plate to portable tank, MEGC or tank vehicle

- (1) A person commits an offence if the person—
- (a) manufactures a portable tank or MEGC for use in the transport of dangerous goods; and
  - (b) fails to attach a compliance plate to the tank or MEGC in accordance with the ADG code, chapter 6.7.

Maximum penalty: 40 penalty units.

- (2) Subsection (1) does not apply to a person in relation to a portable tank if the ADG code, chapter 6.7 permits the marking of the tank instead of the attachment of a compliance plate, and if the tank is marked as required by the chapter.

*Note* The defendant has an evidential burden in relation to the matters mentioned in s (2) (see Criminal Code, s 58).

- (3) A person commits an offence if the person—
- (a) manufactures a tank vehicle for use in the transport of dangerous goods; and
  - (b) fails to attach a compliance plate to the vehicle in accordance with the ADG code, section 6.9.2.2.

Maximum penalty: 40 penalty units.

- (4) An offence against this section is a strict liability offence.



**66 Offence—owner uses unsuitable tank or MEGC to transport dangerous goods**

- (1) A person commits an offence if—
- (a) the person owns a portable tank, demountable tank or MEGC; and
  - (b) the person uses the tank or MEGC to transport dangerous goods; and
  - (c) the tank or MEGC is unsuitable for the transport of the goods.
- Maximum penalty: 40 penalty units.
- (2) An offence against this section is a strict liability offence.

**67 Offences—consign dangerous goods—unsuitable other packaging or goods not packed properly**

- (1) A person commits an offence if—
- (a) the person consigns dangerous goods for transport in other packaging; and
  - (b) the packaging is provided by the person; and
  - (c) either—
    - (i) the packaging is unsuitable for the transport of the goods; or
    - (ii) the goods have not been packed in the packaging in accordance with the ADG code, part 4.
- Maximum penalty: 40 penalty units.
- (2) An offence against subsection (1) is a strict liability offence.
- (3) A person commits an offence if—
- (a) the person consigns dangerous goods for transport in other packaging; and

- (b) the packaging is provided by someone else; and
- (c) either—
  - (i) the packaging is unsuitable for the transport of the goods;  
or
  - (ii) the goods have not been packed in the packaging in accordance with the ADG code, part 4; and
- (d) the person knows, or ought reasonably to know, that—
  - (i) the packaging is unsuitable for the transport of the goods;  
or
  - (ii) the goods have not been packed in the packaging in accordance with the ADG code, part 4.

Maximum penalty: 40 penalty units.

**68 Offence—pack dangerous goods—unsuitable other packaging or goods not packed properly**

A person commits an offence if—

- (a) the person packs dangerous goods for transport in other packaging; and
- (b) either—
  - (i) the packaging is unsuitable for the transport of the goods;  
or
  - (ii) the way the person packs the goods does not comply with the ADG code, part 4; and
- (c) the person knows, or ought reasonably to know, that—
  - (i) the packaging is unsuitable for the transport of the goods;  
or

- (ii) the way the person packs the goods does not comply with the ADG code, part 4.

Maximum penalty: 40 penalty units.

**69 Offence—load dangerous goods—unsuitable other packaging**

A person commits an offence if—

- (a) the person loads dangerous goods that are in other packaging in a vehicle for transport; and
- (b) the packaging is unsuitable for the transport of the goods; and
- (c) the person knows, or ought reasonably to know, that the packaging is unsuitable for the transport of the goods.

Maximum penalty: 40 penalty units.

**70 Offences—prime contractor transports dangerous goods—unsuitable other packaging or goods not packed properly**

(1) A prime contractor commits an offence if—

- (a) the contractor transports dangerous goods in other packaging; and
- (b) the packaging is provided by the contractor; and
- (c) either—
  - (i) the packaging is unsuitable for the transport of the goods; or
  - (ii) the goods have not been packed in the packaging in accordance with the ADG code, part 4.

Maximum penalty: 40 penalty units.

(2) An offence against subsection (1) is a strict liability offence.

- (3) A prime contractor commits an offence if—
- (a) the contractor transports dangerous goods in other packaging;  
and
  - (b) the packaging is provided by someone else; and
  - (c) either—
    - (i) the packaging is unsuitable for the transport of the goods;  
or
    - (ii) the goods have not been packed in the packaging in  
accordance with the ADG code, part 4; and
  - (d) the contractor knows, or ought reasonably to know, that—
    - (i) the packaging is unsuitable for the transport of the goods;  
or
    - (ii) the goods have not been packed in the packaging in  
accordance with the ADG code, part 4.

Maximum penalty: 40 penalty units.

**71 Offence—drive vehicle transporting dangerous goods—  
unsuitable other packaging or goods not packed properly**

A person commits an offence if—

- (a) the person drives a vehicle transporting dangerous goods in  
other packaging; and
- (b) either—
  - (i) the packaging is unsuitable for the transport of the goods;  
or
  - (ii) the goods have not been packed in the packaging in  
accordance with the ADG code, part 4; and

- (c) the person knows, or ought reasonably to know, that—
  - (i) the packaging is unsuitable for the transport of the goods;  
or
  - (ii) the goods have not been packed in the packaging in accordance with the ADG code, part 4.

Maximum penalty: 15 penalty units.

## Part 6.5 Offences—overpacks

### 72 Offence—consign dangerous goods in non-compliant overpack

- (1) A person commits an offence if—
- (a) the person consigns dangerous goods for transport in an overpack; and
  - (b) the overpack and its contents do not comply with either—
    - (i) the ADG code, section 5.1.2; or
    - (ii) an approval under section 53 (Approvals—overpack preparation method).

Maximum penalty: 20 penalty units.

- (2) An offence against this section is a strict liability offence.

### 73 Offence—pack dangerous goods—non-compliant packing or preparation of overpack

A person commits an offence if—

- (a) the person packs dangerous goods for transport in an overpack; and
- (b) the packing of the overpack, or the preparation of the overpack or its contents, does not comply with either—
  - (i) the ADG code, section 5.1.2; or
  - (ii) an approval under section 53 (Approvals—overpack preparation method); and

- (c) the person knows, or ought reasonably to know, that the packing of the overpack, or the preparation of the overpack or its contents, does not comply with—
  - (i) the ADG code, section 5.1.2; or
  - (ii) an approval under section 53.

Maximum penalty: 20 penalty units.

**74 Offence—load dangerous goods—non-compliant preparation of overpack**

A person commits an offence if—

- (a) the person loads dangerous goods in an overpack in a vehicle for transport; and
- (b) the preparation of the overpack or its contents does not comply with either—
  - (i) the ADG code, section 5.1.2; or
  - (ii) an approval under section 53 (Approvals—overpack preparation method); and
- (c) the person knows, or ought reasonably to know, that the preparation of the overpack or its contents does not comply with—
  - (i) the ADG code, section 5.1.2; or
  - (ii) an approval under section 53.

Maximum penalty: 20 penalty units.

**75 Offence—prime contractor transports dangerous goods—non-compliant preparation of overpack**

A prime contractor commits an offence if—

- (a) the contractor transports dangerous goods in an overpack; and
- (b) the preparation of the overpack or its contents does not comply with either—
  - (i) the ADG code, section 5.1.2; or
  - (ii) an approval under section 53 (Approvals—overpack preparation method); and
- (c) the contractor knows, or ought reasonably to know, that the preparation of the overpack or its contents does not comply with—
  - (i) the ADG code, section 5.1.2; or
  - (ii) an approval under section 53.

Maximum penalty: 20 penalty units.

**76 Offence—drive vehicle transporting dangerous goods—non-compliant preparation of overpack**

A person commits an offence if—

- (a) the person drives a vehicle transporting dangerous goods in an overpack; and
- (b) preparation of the overpack or its contents does not comply with either—
  - (i) the ADG code, section 5.1.2; or
  - (ii) an approval under section 53 (Approvals—overpack preparation method); and



- (c) the person knows, or ought reasonably to know, that the preparation of the overpack or its contents does not comply with—
- (i) the ADG code, section 5.1.2; or
  - (ii) an approval under section 53.

Maximum penalty: 10 penalty units.

## Chapter 7      Consignment procedures

### Part 7.1      Marking and labelling

#### 77      **Meaning of *appropriately marked*—pt 7.1**

- (1) For this part, a receptacle (other than a transport unit or overpack) that has a capacity of more than 500kg or 500L is ***appropriately marked*** if it is marked and labelled in accordance with the ADG code, chapter 5.2 and section 5.3.3.
- (2) For this part, any other package of dangerous goods (other than an overpack) is ***appropriately marked*** if it is marked and labelled in accordance with the ADG code, chapter 5.2.
- (3) For this part, an overpack is ***appropriately marked*** if it is marked and labelled in accordance with the ADG code, section 5.1.2.
- (4) For this part, a package of dangerous goods that is packed in limited quantities is also ***appropriately marked*** if it is marked and labelled in accordance with the ADG code, chapter 3.4.
- (5) For this part, a package of dangerous goods that is to be transported as a retail distribution load in accordance with the ADG code, chapter 7.3 is also ***appropriately marked*** if it is marked and labelled in accordance with the chapter.

#### 78      **Offences—consign dangerous goods—package inappropriately marked or labelled**

- (1) A person commits an offence if—
  - (a) the person consigns dangerous goods for transport in a package; and

- (b) the package is not appropriately marked.

Maximum penalty:

- (a) if the package is large packaging or an overpack—20 penalty units; and
- (b) in any other case—10 penalty units.

- (2) A person commits an offence if—

- (a) the person consigns dangerous goods for transport in a package; and
- (b) a mark or label on the package about its contents is false or misleading in a material particular.

Maximum penalty:

- (a) if the package is large packaging or an overpack—20 penalty units; and
- (b) in any other case—10 penalty units.

- (3) An offence against this section is a strict liability offence.

**79 Offence—consign goods—package marked or labelled as if contains dangerous goods**

- (1) A person commits an offence if—

- (a) the person consigns goods for transport in a package; and
- (b) the package does not contain dangerous goods; and
- (c) the package is marked or labelled as if it contains dangerous goods.

Maximum penalty:

- (a) if the package is large packaging or an overpack—20 penalty units; and
- (b) in any other case—10 penalty units.

- (2) An offence against this section is a strict liability offence.

**80 Offences—pack dangerous goods—package inappropriately marked or labelled**

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

Maximum penalty:

- (a) if the package is large packaging or an overpack—20 penalty units; and
- (b) in any other case—10 penalty units.

- (2) A person commits an offence if—
- (a) the person packs dangerous goods for transport in a package; and
  - (b) the person marks or labels the package with a marking or label about its contents; and
  - (c) the mark or label is false or misleading in a material particular; and
  - (d) the person knows, or ought reasonably to know, that the mark or label is false or misleading in a material particular.

Maximum penalty:

- (a) if the package is large packaging or an overpack—20 penalty units; and
- (b) in any other case—10 penalty units.

**81 Offence—pack dangerous goods—mark or label as if contains dangerous goods**

A person commits an offence if—

- (a) the person packs goods for transport in a package; and
- (b) the package does not contain dangerous goods; and
- (c) the person marks or labels the package as if it contains dangerous goods; and
- (d) the person knows, or ought reasonably to know, that the package does not contain dangerous goods.

Maximum penalty:

- (a) if the package is large packaging or an overpack—20 penalty units; and
- (b) in any other case—10 penalty units.

**82 Offences—prime contractor transports dangerous goods—package inappropriately marked or labelled**

(1) A prime contractor commits an offence if—

- (a) the contractor transports dangerous goods in a package; and
- (b) the package is not appropriately marked; and
- (c) the contractor knows, or ought reasonably to know, that—
  - (i) the goods are dangerous goods; and
  - (ii) the package is not appropriately marked.

Maximum penalty:

- (a) if the package is large packaging or an overpack—20 penalty units; and
- (b) in any other case—10 penalty units.

- (2) A prime contractor commits an offence if—
- (a) the contractor transports dangerous goods in a package; and
  - (b) a mark or label on the package about its contents is false or misleading in a material particular; and
  - (c) the contractor knows, or ought reasonably to know, that the mark or label is false or misleading in a material particular.

Maximum penalty:

- (a) if the package is large packaging or an overpack—20 penalty units; and
- (b) in any other case—10 penalty units.

**83      Offence—prime contractor transports goods—package marked or labelled as if contains dangerous goods**

A prime contractor commits an offence if—

- (a) the contractor transports goods in a package; and
- (b) the package is marked or labelled as if it contains dangerous goods; and
- (c) the contractor knows, or ought reasonably to know, that the package does not contain dangerous goods.

Maximum penalty:

- (a) if the package is large packaging or an overpack—20 penalty units; and
- (b) in any other case—10 penalty units.

## Part 7.2 Placarding

### 84 Meaning of *placards* and *appropriately placarded*—pt 7.2

- (1) For this part, a person *placards* a load of dangerous goods if the person affixes, stencils, prints or places a label or an emergency information panel in relation to the load on any thing that is being, or that is to be, used to transport the load.
- (2) For this part, a placard load is *appropriately placarded* if it is placarded in accordance with the ADG code, chapter 5.3.
- (3) In this section:  
*emergency information panel*—see the ADG code, section 5.3.1.3.  
*label*—see the ADG code, section 5.2.2.

### 85 When load must be placarded

- (1) A load of dangerous goods must be placarded if—
  - (a) it contains—
    - (i) dangerous goods in a receptacle with a capacity of more than 500L; or
    - (ii) more than 500kg of dangerous goods in a receptacle; or
  - (b) it contains an aggregate quantity of dangerous goods of 250 or more and those goods include—
    - (i) dangerous goods of UN division 2.1 that are not aerosols; or
    - (ii) dangerous goods of UN division 2.3; or
    - (iii) dangerous goods of packing group I; or
  - (c) it contains dangerous goods of UN division 6.2, category A; 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.
- (2) However, a retail distribution load that complies with the ADG code, chapter 7.3 is not a load that must be placarded.

**86 Offences—consign placard load—load inappropriately placarded**

- (1) A person commits an offence if—
- (a) the person consigns a placard load for transport; and
  - (b) the person knows, or ought reasonably to know, that the load is a placard load; and
  - (c) the load is not appropriately placarded.

Maximum penalty: 40 penalty units.

- (2) A person commits an offence if—
- (a) the person consigns a placard load for transport; and
  - (b) the placarding of the load is false or misleading in a material particular; and
  - (c) the person knows, or ought reasonably to know, that the placarding is false or misleading in a material particular.

Maximum penalty: 40 penalty units.



**87 Offence—consign goods—transport unit inappropriately placarded**

A person commits an offence if—

- (a) the person consigns goods for transport in or on a transport unit; and
- (b) the transport unit does not contain dangerous goods; and
- (c) the person knows, or ought reasonably to know, that the transport unit does not contain dangerous goods; and
- (d) the transport unit is placarded as if it were a placard load.

Maximum penalty: 40 penalty units.

**88 Offences—load placard load—load inappropriately placarded**

(1) A person commits an offence if—

- (a) the person loads dangerous goods in a vehicle for transport; and
- (b) the goods are a placard load; and
- (c) the person knows, or ought reasonably to know, that the goods are a placard load; and
- (d) the person fails to ensure that the load is appropriately placarded.

Maximum penalty: 40 penalty units.

(2) A person commits an offence if—

- (a) the person loads a placard load in a vehicle for transport; and
- (b) the person placards the load with placarding; and
- (c) the placarding is false or misleading in a material particular; and

- (d) the person knows, or ought reasonably to know, that the placarding is false or misleading in a material particular.

Maximum penalty: 40 penalty units.

**89 Offence—load goods—load inappropriately placarded**

A person commits an offence if—

- (a) the person loads goods in a vehicle for transport; and
- (b) the person placards the load as if it were a placard load; and
- (c) the load does not contain dangerous goods; and
- (d) the person knows, or ought reasonably to know, that the load does not contain dangerous goods.

Maximum penalty: 40 penalty units.

**90 Offences—prime contractor—placard load inappropriately placarded**

- (1) A prime contractor commits an offence if—

- (a) the contractor transports dangerous goods; and
- (b) the goods are a placard load; and
- (c) the load is not appropriately placarded; and
- (d) the contractor knows, or ought reasonably to know, that—
  - (i) the goods are a placard load; and
  - (ii) the load is not appropriately placarded.

Maximum penalty: 40 penalty units.

- (2) A prime contractor commits an offence if—

- (a) the contractor transports a placard load; and

- (b) the load's placarding is false or misleading in a material particular; and
- (c) the contractor knows, or ought reasonably to know, that the placarding is false or misleading in a material particular.

Maximum penalty: 40 penalty units.

**91 Offence—prime contractor—transport unit inappropriately placarded**

A prime contractor commits an offence if—

- (a) the contractor uses a transport unit that does not contain dangerous goods; and
- (b) the transport unit is placarded as if it were a placard load; and
- (c) the contractor knows, or ought reasonably to know, that the transport unit does not contain dangerous goods.

Maximum penalty: 40 penalty units.

**92 Offences—driver—placard load inappropriately placarded**

- (1) A person commits an offence if—
  - (a) the person drives a vehicle transporting dangerous goods; and
  - (b) the goods are a placard load; and
  - (c) the load is not appropriately placarded; and
  - (d) the person knows, or ought reasonably to know, that—
    - (i) the goods are a placard load; and
    - (ii) the load is not appropriately placarded.

Maximum penalty: 20 penalty units.

- (2) A person commits an offence if—
  - (a) the person drives a vehicle transporting a placard load; and

- (b) the load's placarding is false or misleading in a material particular; and
- (c) the person knows, or ought reasonably to know, that the placarding is false or misleading in a material particular.

Maximum penalty: 20 penalty units.

**93 Offence—driver—transport unit inappropriately placarded**

A person commits an offence if—

- (a) the person drives a vehicle that is, or that incorporates, a transport unit; and
- (b) the transport unit is placarded as if it were a placard load; and
- (c) the person knows, or ought reasonably to know, that the vehicle does not contain dangerous goods.

Maximum penalty: 20 penalty units.

## Chapter 8            Safety standards—vehicles and equipment

### 94            Offence—owner—non-compliance with safety standards

- (1) A person commits an offence if—
- (a) the person owns a vehicle; and
  - (b) the person uses the vehicle, or permits it to be used, to transport dangerous goods; and
  - (c) the vehicle or its equipment does not comply with the ADG code, chapter 4.4 and chapter 6.9.

Maximum penalty: 40 penalty units.

- (2) An offence against this section is a strict liability offence.

### 95            Offence—consignor—non-compliance with safety standards

A person commits an offence if—

- (a) the person consigns dangerous goods for transport in a vehicle; and
- (b) the vehicle or its equipment does not comply with the ADG code, chapter 4.4 and chapter 6.9; and
- (c) the person knows, or ought reasonably to know, that the vehicle or its equipment does not comply with the chapters.

Maximum penalty: 40 penalty units.

**96 Offence—loader—non-compliance with safety standards**

A person commits an offence if—

- (a) the person loads dangerous goods in a vehicle for transport; and
- (b) the vehicle or its equipment does not comply with the ADG code, chapter 4.4 and chapter 6.9; and
- (c) the person knows, or ought reasonably to know, that the vehicle or its equipment does not comply with the chapters.

Maximum penalty: 40 penalty units.

**97 Offence—prime contractor—non-compliance with safety standards**

(1) A prime contractor commits an offence if—

- (a) the contractor uses a vehicle to transport dangerous goods; and
- (b) the vehicle or its equipment does not comply with the ADG code, chapter 4.4 and chapter 6.9.

Maximum penalty: 40 penalty units.

(2) An offence against this section is a strict liability offence.

**98 Offence—driver—non-compliance with safety standards**

A person commits an offence if—

- (a) the person drives a vehicle transporting dangerous goods; and
- (b) the vehicle or its equipment does not comply with the ADG code, chapter 4.4 and chapter 6.9; and
- (c) the person knows, or ought reasonably to know, that the vehicle or its equipment does not comply with the chapters.

Maximum penalty: 20 penalty units.

## **Chapter 9                      Transport operations—certain dangerous goods**

### **Part 9.1                      Self-reactive substances, organic peroxides and certain other substances**

#### **99                      Application—pt 9.1**

This part applies to the transport of 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 contains the word ‘STABILIZED’; and
  - (ii) the self-accelerating decomposition temperature (as determined in accordance with the ADG code, part 2) when presented for transport in a packaging is 50°C or lower;
- (e) toxic substances of UN division or Subsidiary Risk 6.1;
- (f) infectious substances of UN division 6.2;
- (g) dangerous when wet substances of UN division 4.3.

**100 Offence—consignor—non-compliance with ADG code**

A person commits an offence if the person—

- (a) consigns dangerous goods to which this part applies for transport in or on a transport unit; and
- (b) knows, or ought reasonably to know, that the goods are not loaded or stowed, or cannot be transported or unloaded, in accordance with the ADG code, chapter 7.1.

Maximum penalty: 20 penalty units.

**101 Offence—loader—non-compliance with ADG code**

(1) A person commits an offence if the person—

- (a) loads dangerous goods to which this part applies that are in or on a transport unit in a vehicle; and
- (b) loads the goods other than in accordance with the ADG code, chapter 7.1.

Maximum penalty: 20 penalty units.

(2) An offence against this section is a strict liability offence.

**102 Offences—prime contractor—non-compliance with ADG code**

(1) A prime contractor commits an offence if the contractor—

- (a) transports dangerous goods to which this part applies; and
- (b) knows, or ought reasonably to know, that the transport is not in accordance with the ADG code, chapter 7.1.

Maximum penalty: 20 penalty units.

(2) A prime contractor commits an offence if the contractor—

- (a) is responsible for the transport of 1 or more packages of infectious substances of UN division 6.2; and



- (b) becomes aware of damage to, or leakage from, the package or any of the packages; and
- (c) fails to comply with the ADG code, section 7.1.7.2.2.

Maximum penalty: 20 penalty units.

**103 Offence—driver—non-compliance with ADG code**

A person commits an offence if the person—

- (a) drives a vehicle transporting dangerous goods to which this part applies; and
- (b) knows, or ought reasonably to know, that the goods are not being transported in accordance with the ADG code, chapter 7.1.

Maximum penalty: 15 penalty units.

## **Part 9.2 Goods too dangerous to be transported**

*Note* The Act, s 10 and s 30 provide for the duties of consignors of goods too dangerous to be transported, prescribes the people to be regarded as the consignors of the goods and provides for the offence and penalty for consigning them for transport.

### **104 Offence—loader—goods too dangerous to be transported**

A person commits an offence if the person—

- (a) loads goods for transport in or on a transport unit; and
- (b) knows, or ought reasonably to know, that the goods are goods too dangerous to be transported.

Maximum penalty: 20 penalty units.

### **105 Offence—prime contractor—goods too dangerous to be transported**

A prime contractor commits an offence if the contractor—

- (a) transports goods; and
- (b) knows, or ought reasonably to know, that the goods are goods too dangerous to be transported.

Maximum penalty: 20 penalty units.

### **106 Offence—driver—goods too dangerous to be transported**

A person commits an offence if the person—

- (a) drives a vehicle transporting goods; and

- (b) knows, or ought reasonably to know, that the goods are goods too dangerous to be transported.

Maximum penalty: 15 penalty units.

## Chapter 10 Stowage, loading and restraint

### 107 Offences—consignor—unlawful stowage, loading and restraint

- (1) A person commits an offence if the person—
  - (a) consigns for transport in a vehicle a placard load; and
  - (b) knows, or ought reasonably to know, that the dangerous goods or their packaging are not, or will not be, stowed, loaded and restrained in accordance with the ADG code, chapter 8.1.

Maximum penalty: 20 penalty units.

- (2) A person commits an offence if the person—
  - (a) consigns a load of dangerous goods for transport in or on a transport unit; and
  - (b) knows, or ought reasonably to know, that the transport unit is not, or will not be, restrained in accordance with the ADG code, chapter 8.2.

Maximum penalty: 20 penalty units.

### 108 Offences—loader—unlawful stowage, loading and restraint

- (1) A person commits an offence if the person—
  - (a) loads for transport in a vehicle a placard load ; and
  - (b) fails to ensure that the load is stowed, loaded and restrained in accordance with the ADG code, chapter 8.1.

Maximum penalty: 20 penalty units.

- (2) A person commits an offence if the person—
- (a) loads for transport in a vehicle dangerous goods that are in or on a transport unit; and
  - (b) fails to ensure that the transport unit is restrained in accordance with the ADG code, chapter 8.2.

Maximum penalty: 20 penalty units.

- (3) An offence against subsection (1) is a strict liability offence.

**109 Offences—prime contractor—unlawful stowage, loading and restraint**

- (1) A prime contractor commits an offence if the contractor—
- (a) transports in a vehicle a placard load; and
  - (b) knows, or ought reasonably to know, that the dangerous goods or their packaging have not been stowed or loaded, or are not restrained, in accordance with the ADG code, chapter 8.1.

Maximum penalty: 20 penalty units.

- (2) A prime contractor commits an offence if the contractor—
- (a) transports dangerous goods in or on a transport unit; and
  - (b) knows, or ought reasonably to know, that the goods or their packaging are not restrained in accordance with the ADG code, chapter 8.2.

Maximum penalty: 20 penalty units.

**110 Offences—driver—unlawful stowage, loading and restraint**

- (1) A person commits an offence if the person—
- (a) drives a vehicle transporting a placard load; and

- (b) knows, or ought reasonably to know, that the dangerous goods or their packaging have not been stowed or loaded, or are not restrained, in accordance with the ADG code, chapter 8.1.

Maximum penalty: 15 penalty units.

- (2) A person commits an offence if the person—
  - (a) drives a vehicle transporting dangerous goods in or on a transport unit; and
  - (b) knows, or ought reasonably to know, that the goods or their packaging are not restrained in accordance with the ADG code, chapter 8.2.

Maximum penalty: 15 penalty units.

## Chapter 11 Segregation

### 111 Application—ch 11

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

### 112 Exception—certain goods for driver's personal use

Despite sections 113 to 116, food or food packaging may be transported on a vehicle with dangerous goods if it is in the vehicle's cabin and is for the driver's personal use.

### 113 Offence—consignor—incompatible goods

A person commits an offence if the person—

- (a) consigns dangerous goods for transport in a vehicle; and
- (b) knows, or ought reasonably to know, that—
  - (i) the vehicle is, in the same journey, transporting incompatible goods; and
  - (ii) the dangerous goods will not be segregated from the incompatible goods in accordance with—
    - (A) the ADG code, part 9; or

- (B) any approval under section 118 (Approvals—methods of segregation).

Maximum penalty: 40 penalty units.

**114 Offence—loader—incompatible goods**

A person commits an offence if the person—

- (a) loads dangerous goods for transport in a vehicle; and
- (b) knows, or ought reasonably to know, that—
  - (i) the vehicle is, in the same journey, transporting incompatible goods; and
  - (ii) the dangerous goods will not be segregated from the incompatible goods in accordance with—
    - (A) the ADG code, part 9; or
    - (B) any approval under section 118 (Approvals—methods of segregation).

Maximum penalty: 40 penalty units.

**115 Offence—prime contractor—incompatible goods**

A prime contractor commits an offence if the contractor—

- (a) uses a vehicle to transport dangerous goods; and
- (b) knows, or ought reasonably to know, that—
  - (i) the vehicle is, in the same journey, transporting incompatible goods; and
  - (ii) the dangerous goods are not segregated from the incompatible goods in accordance with—
    - (A) the ADG code, part 9; or



(B) any approval under section 118 (Approvals—methods of segregation).

Maximum penalty: 40 penalty units.

**116 Offence—driver—incompatible goods**

A person commits an offence if the person—

- (a) drives a vehicle transporting dangerous goods; and
- (b) knows, or ought reasonably to know, that—
  - (i) the vehicle is, in the same journey, transporting incompatible goods; and
  - (ii) the dangerous goods are not segregated from the incompatible goods in accordance with—
    - (A) the ADG code, part 9; or
    - (B) any approval under section 118 (Approvals—methods of segregation).

Maximum penalty: 15 penalty units.

**117 Approvals—segregation devices**

- (1) An application for approval of a design for a type II segregation device for use in the transport of dangerous goods must include any information required under the ADG code, chapter 6.11.

*Note* A fee may be determined under the Act, s 194 for this provision.

- (2) The competent authority may, on application in accordance with subsection (1) and section 175, approve a design for a type II segregation device if the design complies with the ADG code, chapter 6.11.

- (3) In this section:

*type II segregation device* means a device for the segregation of goods mentioned and described as a type II segregation device in the ADG code, chapter 6.11.

**118 Approvals—methods of segregation**

- (1) The competent authority may, on application made in accordance with section 175, approve a method of segregation not complying with the ADG code, part 9 for transporting dangerous and incompatible goods, if the authority considers that—
- (a) it is impracticable to segregate the goods by a segregation device, or method of segregation, complying with the 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 the part to transport the goods.
- (2) The competent authority may impose any condition on the approval it considers necessary for the safe transport of dangerous goods.

**119 Offence—contravene condition of approval**

- (1) A person commits an offence if the person—
- (a) is given an approval under section 118; and
  - (b) contravenes a condition of the approval.

Maximum penalty: 40 penalty units.

- (2) An offence against this section is a strict liability offence.

## **Chapter 12      Bulk transfer of dangerous goods**

### **Part 12.1      Bulk transfer of dangerous goods—general**

#### **120      Meaning of *bulk transfer*—ch 12**

In this chapter:

*bulk transfer* means the transfer by gravity, pump or pressure differential of liquid, solid or gaseous dangerous goods, by the use of pipework or hose, into or out of a tank vehicle, or into or out of a portable tank, demountable tank, bulk container, pressure drum, tube, MEGC or IBC that is in a vehicle.

## **Part 12.2 Equipment and transfer**

### **121 Offences—transferor—damaged etc hose assembly**

- (1) A person commits an offence if the person—
- (a) uses a hose assembly for the bulk transfer of dangerous goods; and
  - (b) knows, or ought reasonably to know, that the hose assembly is damaged or defective to the extent that it is not safe to use to transfer the goods.

Maximum penalty: 20 penalty units.

- (2) A person commits an offence if the person—
- (a) uses a hose assembly for the bulk transfer of dangerous goods; and
  - (b) knows, or ought reasonably to know, that the hose assembly—
    - (i) has not been constructed, assembled or maintained in accordance with the ADG code, chapter 10.1; or
    - (ii) has not been inspected or tested at the intervals, or in the way, required under the chapter; or
    - (iii) did not satisfy a test under the chapter.

Maximum penalty: 40 penalty units.

### **122 Offences—transferor—duties in relation to bulk transfer**

- (1) A person commits an offence if the person—
- (a) is engaged in the bulk transfer of dangerous goods; and
  - (b) fails to ensure that the goods are transferred—
    - (i) in the prescribed way; and

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

Maximum penalty: 20 penalty units.

- (2) A person commits an offence if the person—
  - (a) is engaged in the bulk transfer of dangerous goods; and
  - (b) knows, or ought reasonably to know, that—
    - (i) the receiving receptacle or the transfer equipment is incompatible with the dangerous goods; or
    - (ii) the receptacle contains incompatible goods.

Maximum penalty: 20 penalty units.

- (3) A person commits an offence if—
  - (a) the person is engaged in the bulk transfer of dangerous goods; and
  - (b) during the transfer, dangerous goods leak, spill or accidentally escape; and
  - (c) the person fails to—
    - (i) immediately stop transferring the goods; or
    - (ii) take all practicable steps to avoid, eliminate or minimise risk; or
    - (iii) not start transferring the goods again until the conditions causing the leak, spill or escape have been rectified.

Maximum penalty: 20 penalty units.

- (4) An offence against subsection (1) or (3) is a strict liability offence.
- (5) It is a defence to a prosecution for an offence against subsection (1) if the defendant proves that the defendant complied with the subsection as far as practicable.

- (6) However, subsection (5) does not apply in relation to a contravention of the requirement mentioned in subsection (7), definition of *prescribed way*, paragraph (b).

*Note* The defendant has a legal burden in relation to the matters mentioned in s (4) (see Criminal Code, s 59).

- (7) In this section:

*prescribed way*, for the bulk transfer of dangerous goods, means a way that—

- (a) subject to paragraph (b), complies with the ADG code, chapter 10.2; and
- (b) ensures the distance between a source of ignition and any hose connection point is at least—
  - (i) for dangerous goods of UN division 2.1 or subsidiary risk 2.1—10m; or
  - (ii) for dangerous goods of UN class 3 or subsidiary risk 3—8m.

### **123 Offence—occupier—duties in relation to hose assembly**

- (1) A person commits an offence if the person—
- (a) is the occupier of premises where the bulk transfer of dangerous goods happens; and
  - (b) fails to ensure that any hose assembly on the premises that is used, or that is intended to be used, for the transfer (other than a hose assembly brought onto the premises on the vehicle involved in the transfer)—
    - (i) has been constructed, assembled and maintained in accordance with the ADG code, chapter 10.1; and
    - (ii) has been inspected and tested at the intervals, and in the way, required under the chapter; and

(iii) satisfies each test under the chapter.

Maximum penalty: 20 penalty units.

(2) An offence against this section is a strict liability offence.

### **124 Offence—occupier—duties in relation to bulk transfer**

(1) A person commits an offence if the person—

(a) is the occupier of premises where the bulk transfer of dangerous goods happens; and

(b) fails to ensure that the goods are transferred—

(i) in the prescribed way; and

(ii) in a way that avoids, eliminates or minimises risk.

Maximum penalty: 40 penalty units.

(2) An offence against this section is a strict liability offence.

(3) It is a defence to a prosecution for an offence against this section if the defendant proves that the defendant complied with the section as far as practicable.

*Note* The defendant has a legal burden in relation to the matters mentioned in s (2) (see Criminal Code, s 59).

(4) However, subsection (3) does not apply in relation to a contravention of the requirement mentioned in subsection (5), definition of *prescribed way*, paragraph (b).

(5) In this section:

*prescribed way*, for the bulk transfer of dangerous goods, means a way that—

(a) subject to paragraph (b), complies with the ADG code, chapter 10.2; and

- (b) ensures the distance between a source of ignition and any hose connection point is at least—
  - (i) for dangerous goods of UN division 2.1 or subsidiary risk 2.1—10m; or
  - (ii) for dangerous goods of UN class 3 or subsidiary risk 3—8m.

**125 Offence—occupier—fail to keep records**

- (1) A person commits an offence if the person—
  - (a) is the occupier of premises where the bulk transfer of dangerous goods happens; and
  - (b) fails to keep, in accordance with the ADG code, section 10.1.3.4 accurate records of all maintenance work, and each inspection and test, carried out on any hose assembly on the premises that is used, or that is intended to be used, for the transfer (other than a hose assembly brought onto the premises on the vehicle involved in the transfer).

Maximum penalty: 10 penalty units.

- (2) An offence against this section is a strict liability offence.

**126 Offence—prime contractor—duties in relation to hose assembly**

- (1) A prime contractor commits an offence if the contractor—
  - (a) is engaged in the bulk transfer of dangerous goods; and
  - (b) fails to ensure that any hose assembly that is used, or that is intended to be used, for the transfer of the dangerous goods (other than a hose assembly for which the prime contractor is not responsible)—
    - (i) has been constructed, assembled and maintained in accordance with the ADG code, chapter 10.1; and



- (ii) has been inspected and tested at the intervals, and in the way, required under the chapter; and
- (iii) satisfies each test under the chapter.

Maximum penalty: 20 penalty units.

- (2) An offence against this section is a strict liability offence.

**127 Offence—prime contractor—duties in relation to bulk transfer**

- (1) A prime contractor commits an offence if the contractor—
  - (a) is engaged in the bulk transfer of dangerous goods; and
  - (b) fails to ensure that the goods are transferred—
    - (i) in the prescribed way; and
    - (ii) in a way that avoids, eliminates or minimises risk.

Maximum penalty: 40 penalty units.

- (2) An offence against this section is a strict liability offence.
- (3) It is a defence to a prosecution for an offence against this section if the defendant proves that the defendant complied with the section as far as practicable.

*Note* The defendant has a legal burden in relation to the matters mentioned in s (2) (see Criminal Code, s 59).

- (4) However, subsection (3) does not apply in relation to a contravention of the requirement mentioned in subsection (5), definition of *prescribed way*, paragraph (b).
- (5) In this section:

*prescribed way*, for the bulk transfer of dangerous goods, means a way that—

- (a) subject to paragraph (b), complies with the ADG code, chapter 10.2; and

- (b) ensures the distance between a source of ignition and any hose connection point is at least—
  - (i) for dangerous goods of UN division 2.1 or subsidiary risk 2.1—10m; or
  - (ii) for dangerous goods of UN class 3 or subsidiary risk 3—8m.

**128 Offence—prime contractor—fail to keep records**

- (1) A prime contractor commits an offence if the contractor—
  - (a) is engaged in the bulk transfer of dangerous goods; and
  - (b) fails to keep, in accordance with the ADG code, section 10.1.3.4 accurate records of all maintenance work, and each inspection and test, carried out on any hose assembly that is used, or that is intended to be used, for the transfer of dangerous goods (other than a hose assembly for which the prime contractor is not responsible).

Maximum penalty: 10 penalty units.

- (2) An offence against this section is a strict liability offence.

## **Part 12.3 Filling ratio and ullage**

### **129 Application—pt 12.3**

This part applies in relation to bulk transfer into a tank vehicle.

### **130 Offence—transferor—filling ratio and ullage**

- (1) A person commits an offence if the person—
  - (a) is engaged in the bulk transfer of dangerous goods into a tank vehicle; and
  - (b) fails to ensure that—
    - (i) for dangerous goods of UN class 2 that are not in the form of refrigerated liquid—the quantity of the goods in the tank to which the goods are transferred does not exceed the maximum permitted filling ratio set out in the ADG code, section 10.3.2; and
    - (ii) in any other case—the ullage in the tank complies with the ADG code, section 10.3.1.

Maximum penalty: 20 penalty units.

- (2) An offence against this section is a strict liability offence.
- (3) It is a defence to a prosecution for an offence against this section if the defendant proves that the defendant complied with the section as far as practicable.

*Note* The defendant has a legal burden in relation to the matters mentioned in s (2) (see Criminal Code, s 59).

### **131 Offence—prime contractor—filling ratio and ullage**

- (1) A prime contractor commits an offence if—
  - (a) the prime contractor transports dangerous goods in a tank; and

- (b) either of the following applies:
  - (i) for dangerous goods of UN class 2 that are not in the form of refrigerated liquid—the quantity of goods in the tank exceeds the maximum permitted filling ratio set out in the ADG code, section 10.3.2;
  - (ii) in any other case—the ullage in the tank does not comply with the ADG code, section 10.3.1.

Maximum penalty: 20 penalty units.

- (2) An offence against this section is a strict liability offence.

**132 Offence—driver—filling ratio and ullage**

- (1) A person commits an offence if the person—
  - (a) drives a tank vehicle that is transporting dangerous goods; and
  - (b) knows, or ought reasonably to know, that—
    - (i) for dangerous goods of UN class 2 that are not in the form of refrigerated liquid—the quantity of goods in the tank exceeds the maximum permitted filling ratio set out in the ADG code, section 10.3.2; or
    - (ii) in any other case—the ullage in the tank does not comply with the ADG code, section 10.3.1.

Maximum penalty: 20 penalty units.

## Chapter 13 Documentation

### Part 13.1 Transport documentation

#### 133 Offence—false or misleading transport documentation

- (1) A person commits an offence if—
- (a) the person includes information in transport documentation for dangerous goods; and
  - (b) the documentation is false or misleading; and
  - (c) the person knows, or ought reasonably to know, that the documentation is false or misleading.

Maximum penalty: 40 penalty units.

- (2) Subsection (1) (b) and (c) does not apply if the document is not false or misleading in a material particular.

#### **Example—false information**

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

*Note 1* Giving false or misleading information is an offence against the Criminal Code, s 338.

*Note 2* An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

#### 134 Offences—consignor—transport without proper documentation

- (1) A person commits an offence if—
- (a) the person consigns dangerous goods for transport in a vehicle; and

- (b) the prime contractor or driver of the vehicle does not have transport documentation that complies with the ADG code, chapter 11.1 for the goods.

Maximum penalty: 15 penalty units.

- (2) An offence against subsection (1) is a strict liability offence.
- (3) A person commits an offence if—
  - (a) the person consigns dangerous goods for transport; and
  - (b) the person knows, or ought reasonably to know, that the goods will be divided into, and transported in, separate loads; and
  - (c) the prime contractor, or the driver of each vehicle transporting the load, has not been given separate transport documentation that complies with the ADG code, chapter 11.1 for each load.

Maximum penalty: 15 penalty units.

- (4) Strict liability applies to subsection (3) (c).

**135 Offence—prime contractor—transport without proper documentation**

- (1) A prime contractor commits an offence if—
  - (a) the contractor fails to ensure that someone else does not drive a vehicle used by the prime contractor to transport dangerous goods; and
  - (b) the person has not been given transport documentation that complies with the ADG code, chapter 11.1 for the goods.

Maximum penalty: 20 penalty units.

- (2) An offence against this section is a strict liability offence.

**136 Offence—driver—fail to carry transport documentation**

- (1) A person commits an offence if the person—
- (a) is the driver of a vehicle transporting dangerous goods; and
  - (b) fails to carry transport documentation that complies with the ADG code, chapter 11.1 for the goods.

Maximum penalty: 15 penalty units.

- (2) A person commits an offence if the person—
- (a) is the driver of a vehicle transporting dangerous goods; and
  - (b) fails to produce the transport documentation that complies with the ADG code, chapter 11.1 for the goods when asked by an authorised person, or a member of an emergency service, to produce the documentation for inspection.

Maximum penalty: 15 penalty units.

- (3) An offence against this section is a strict liability offence.

## Part 13.2 Emergency information

### 137 Meaning of *required emergency information*—pt 13.2

In this part:

*required emergency information* means—

- (a) emergency information that complies with the ADG code, chapter 11.2; or
- (b) emergency information that is approved under section 141.

### 138 Offence—consignor—missing required emergency information

A person commits an offence if the person—

- (a) consigns a placard load for transport in a vehicle; and
- (b) knows, or ought reasonably to know, that the required emergency information for the dangerous goods in the load is not on the vehicle.

Maximum penalty: 15 penalty units.

### 139 Offence—prime contractor—emergency information holder and required emergency information

- (1) A prime contractor commits an offence if—
  - (a) the contractor uses a vehicle to transport a placard load; and
  - (b) either of the following applies:
    - (i) the vehicle is not equipped with an emergency information holder that complies with the ADG code, chapter 11.2;



- (ii) the required emergency information for the dangerous goods in the load is not in the holder.

Maximum penalty: 20 penalty units.

- (2) An offence against this section is a strict liability offence.

**140 Offences—driver—emergency information holder and required emergency information**

- (1) A person commits an offence if—
  - (a) the person drives a vehicle transporting a placard load; and
  - (b) either of the following applies:
    - (i) the vehicle is not equipped with an emergency information holder that complies with the ADG code, chapter 11.2;
    - (ii) the required emergency information for the dangerous goods in the load provided by the consignor of the goods, or by the prime contractor for the transport of the goods, is not in the holder.

Maximum penalty: 15 penalty units.

- (2) A person commits an offence if the person—
  - (a) is the driver of a vehicle transporting a placard load; and
  - (b) fails to ensure that the vehicle's emergency information holder contains only—
    - (i) the required emergency information for the dangerous goods in the load; and
    - (ii) the transport documentation for the goods.

Maximum penalty: 15 penalty units.

- (3) A person commits an offence if the person—
- (a) is the driver of a vehicle transporting a placard load; and
  - (b) fails to produce the required emergency information for the dangerous goods in the load for inspection by an authorised person, or a member of an emergency service, if the person or member asks the driver to produce the information for inspection.

Maximum penalty: 15 penalty units.

- (4) An offence against this section is a strict liability offence.

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

The competent authority may, on application in accordance with section 175 or on the authority's own initiative, approve emergency information that does not comply with the ADG code, chapter 11.2 if the authority considers that use of the information would be as accurate, and at least as convenient and efficient, as information that complies with the chapter.

## Chapter 14 Safety equipment

### 142 Offence—owner—safety equipment

- (1) The owner of a road vehicle commits an offence if—
  - (a) the owner uses the vehicle, or permits the vehicle to be used, to transport a placard load; and
  - (b) the vehicle is not equipped with—
    - (i) fire extinguishers and portable warning devices that comply with the ADG code, part 12; and
    - (ii) any other equipment required under the part.

Maximum penalty: 40 penalty units.

- (2) An offence against this section is a strict liability offence.

### 143 Offence—prime contractor—safety equipment

- (1) A prime contractor commits an offence if—
  - (a) the prime contractor uses a road vehicle to transport a placard load; and
  - (b) the vehicle is not equipped with—
    - (i) fire extinguishers and portable warning devices that comply with the ADG code, part 12; and
    - (ii) any other equipment required under the part.

Maximum penalty: 40 penalty units.

- (2) An offence against subsection (1) is a strict liability offence.
- (3) A prime contractor commits an offence if the prime contractor—
  - (a) uses a road vehicle to transport a placard load; and

- (b) knows, or ought reasonably to know, that the equipment mentioned in subsection (1) (b) for the vehicle—
  - (i) has not been inspected or tested in accordance with the ADG code, part 12; or
  - (ii) is not in good repair or is not in proper working order.

Maximum penalty: 40 penalty units.

**144 Offence—driver—safety equipment**

- (1) A person commits an offence if—
  - (a) the person drives a road vehicle transporting a placard load; and
  - (b) the vehicle is not equipped with—
    - (i) fire extinguishers and portable warning devices that comply with the ADG code, part 12; and
    - (ii) any other equipment required under the part.

Maximum penalty: 15 penalty units.

- (2) An offence against subsection (1) is a strict liability offence.
- (3) A person commits an offence if the person—
  - (a) drives a road vehicle transporting a placard load; and
  - (b) knows, or ought reasonably to know, that the equipment mentioned in subsection (1) (b) for the vehicle—
    - (i) is not stowed in accordance with the ADG code, part 12; or
    - (ii) has not been inspected or tested in accordance with the part; or
    - (iii) is not in good repair or is not in proper working order.

Maximum penalty: 15 penalty units.

## **Chapter 15      Procedures during transport**

### **Part 15.1      Immobilised and stopped vehicles**

#### **145      Offence—driver—immobilised or stopped vehicle**

- (1) This section applies if a road vehicle transporting a placard load—
  - (a) is broken down or otherwise immobilised, or has stopped, on a road; and
  - (b) is a traffic hazard.
- (2) The driver of the road vehicle must alert other road users of the hazard in accordance with the ADG code, part 13.  
Maximum penalty: 10 penalty units.
- (3) An offence against this section is a strict liability offence.

#### **146      Offences—prime contractor—immobilised or stopped vehicle**

- (1) A prime contractor commits an offence if—
  - (a) the prime contractor knows, or ought reasonably to know, that a road vehicle transporting a placard load has broken down or is otherwise immobilised on a road; and
  - (b) the prime contractor fails to ensure, as soon as practicable, that the vehicle is—
    - (i) repaired so that it can be driven safely off the road; or

(ii) towed to a place where it can be repaired.

Maximum penalty: 20 penalty units.

- (2) A prime contractor commits an offence if—
- (a) the prime contractor knows, or ought reasonably to know, that a road vehicle transporting a placard load has broken down or is otherwise immobilised on a road; and
  - (b) the prime contractor fails to—
    - (i) remove the dangerous goods from the vehicle before the road vehicle is repaired or towed; and
    - (ii) transport the dangerous goods from the place of the breakdown or immobilisation.

Maximum penalty: 20 penalty units.

- (3) Subsection (2) does not apply if the risk involved in complying with subsection (2) (b) is greater than the risk involved in not complying with it.

*Note* The defendant has an evidential burden in relation to the matters mentioned in s (3) (see Criminal Code, s 58).

## **Part 15.2 Vehicles—duties of drivers**

### **147 Offence—allowing other person to ride**

- (1) A person commits an offence if the person—
  - (a) is the driver of a road vehicle transporting a placard load; and
  - (b) allows someone else to ride in the vehicle other than in accordance with the ADG code, part 13.

Maximum penalty: 10 penalty units.

- (2) An offence against this section is a strict liability offence.

### **148 Offence—parking**

- (1) A person commits an offence if the person—
  - (a) is the driver of a road vehicle transporting a placard load; and
  - (b) parks the vehicle, or leaves the vehicle standing, in a public or private place other than in accordance with the ADG code, part 13.

Maximum penalty: 15 penalty units.

- (2) An offence against this section is a strict liability offence.

### **149 Offence—ignition sources**

- (1) This section applies to a road vehicle transporting—
  - (a) a load that contains—
    - (i) dangerous goods in a receptacle with a capacity of more than 500L; or
    - (ii) more than 500kg of dangerous goods in a receptacle; and

- (b) the dangerous goods are UN division 2.1, UN class 3, 4 or 5 dangerous goods or dangerous goods that have a subsidiary risk of 2.1, 3, 4 or 5.1.
- (2) The driver of the vehicle commits an offence if the driver has matches or a cigarette lighter in his or her possession in the road vehicle.  
Maximum penalty: 40 penalty units.
- (3) The driver of the vehicle commits an offence if the driver smokes in the road vehicle.  
Maximum penalty: 40 penalty units.
- (4) The driver of the vehicle must do everything practicable to ensure that anyone else in the road vehicle does not—
  - (a) have matches or a cigarette lighter in his or her possession; or
  - (b) smoke.Maximum penalty: 40 penalty units.
- (5) An offence against this section is a strict liability offence.

**150 Offence—unloading**

- (1) A person commits an offence if the person—
  - (a) drives a road vehicle transporting a placard load; and
  - (b) allows dangerous goods to be unloaded from the vehicle other than in accordance with the ADG code, part 13.Maximum penalty: 40 penalty units.
- (2) An offence against this section is a strict liability offence.



**151 Offence—detaching trailer**

- (1) A person commits an offence if the person—
- (a) is the driver of a road vehicle that has attached to it a trailer transporting a placard load; and
  - (b) detaches the trailer or allows the trailer to be detached from the vehicle other than in accordance with the ADG code, part 13.

Maximum penalty: 40 penalty units.

- (2) An offence against this section is a strict liability offence.

**152 Offence—road tank vehicle with burner**

- (1) A person commits an offence if—
- (a) the person drives a road tank vehicle transporting a placard load; and
  - (b) the vehicle is equipped with a burner to heat the load; and
  - (c) the person operates the burner or allows the burner to be operated other than in accordance with the ADG code, part 13.

Maximum penalty: 40 penalty units.

- (2) An offence against this section is a strict liability offence.

## **Chapter 16 Emergencies**

### **Part 16.1 Emergencies generally**

#### **153 Offence—driver—dangerous situation**

- (1) This section applies if a road vehicle transporting dangerous goods is involved in an incident resulting in a dangerous situation.
- (2) The driver of the vehicle must tell the prime contractor, the competent authority, and the police or fire service, about the incident as soon as practicable.

Maximum penalty: 15 penalty units.

- (3) The driver of the vehicle must give the reasonable assistance required by an authorised person, or a member of an emergency service, to deal with the situation.

Maximum penalty: 15 penalty units.

- (4) An offence against this section is a strict liability offence.

#### **154 Offence—prime contractor—food or food packaging**

- (1) This section applies if—
  - (a) an incident involving a vehicle transporting dangerous goods results in the leakage, spillage or accidental escape of the dangerous goods, or in a fire or explosion; and
  - (b) there is food or food packaging in the vicinity of the incident that is within the control of a prime contractor.
- (2) The prime contractor commits an offence if—
  - (a) the food or food packaging is transported from the site of the incident; and

- (b) the competent authority has not given permission to the prime contractor to transport the food or food packaging from the site.

Maximum penalty: 40 penalty units.

- (3) For subsection (2) (b), the competent authority may give permission to a prime contractor to transport food or food packaging from the site.
- (4) The permission—
  - (a) must be in writing; and
  - (b) must state the name of the prime contractor; and
  - (c) must identify the 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 competent authority considers necessary.
- (5) An offence against this section is a strict liability offence.

**155 Offence—prime contractor—fail to tell competent authority**

- (1) This section applies if a vehicle transporting dangerous goods is involved in an incident resulting in a dangerous situation.
- (2) The prime contractor responsible for the transport of the goods commits an offence if the prime contractor fails to give the competent authority the following details about the incident, as soon as practicable after becoming aware of the incident:
  - (a) where the incident happened;

- (b) the time and date of the incident;
- (c) the nature of the incident;
- (d) the dangerous goods being transported when the incident happened;
- (e) any other details that the competent authority requires.

Maximum penalty: 20 penalty units.

- (3) The prime contractor responsible for the transport of the goods commits an offence if the prime contractor fails to give the competent authority a written report about the incident, stating the following information, not later than 21 days after the day when the incident happens:

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

Maximum penalty: 20 penalty units.

- (4) An offence against this section is a strict liability offence.

## **Part 16.2**                      **Emergencies involving placard loads**

### **156**                      **Offences—telephone advisory service**

- (1) A prime contractor commits an offence if—
  - (a) the prime contractor transports a load that contains—
    - (i) dangerous goods in a receptacle with a capacity of more than 500L; or
    - (ii) more than 500kg of dangerous goods in a receptacle; and
  - (b) a telephone advisory service for the transport of dangerous goods is not available during the journey.

Maximum penalty: 40 penalty units.

- (2) A person commits an offence if—
  - (a) the person consigns a load that contains—
    - (i) dangerous goods in a receptacle with a capacity of more than 500L; or
    - (ii) more than 500kg of dangerous goods in a receptacle; and
  - (b) a telephone advisory service for the transport of dangerous goods is not available during the journey.

Maximum penalty: 40 penalty units.

- (3) An offence against this section is a strict liability offence.
- (4) To remove any doubt, a telephone advisory service may be provided by the prime contractor or consignor, or someone else.

(5) In this section:

*telephone advisory service*, for the transport of dangerous goods, means a service providing access by a continuously monitored telephone not located on the carrying vehicle 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 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.

**157 Offences—emergency plans**

(1) A prime contractor commits an offence if the prime contractor—

- (a) transports a placard load; and
- (b) does not have an emergency plan for the transport of the load.

Maximum penalty: 40 penalty units.

(2) A person commits an offence if the person—

- (a) consigns a placard load for transport; and
- (b) does not have an emergency plan for the transport of the load.

Maximum penalty: 40 penalty units.

(3) An offence against this section is a strict liability offence.

- (4) In this section:

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

**158 Offence—consignor—information and resources**

- (1) This section applies if a vehicle transporting a placard load is involved in an incident resulting in a dangerous situation.
- (2) As soon as practicable after being asked by an authorised person or a member of an emergency service, the consignor of the goods must—
- (a) give to the person or member the information that he or she requires about—
    - (i) the properties of the dangerous goods being transported; and
    - (ii) safe methods of handling the goods; and
    - (iii) safe methods of containing and controlling the goods in a dangerous situation; and
  - (b) provide the equipment and other resources necessary—
    - (i) to control the dangerous situation; and
    - (ii) to contain, control, recover and dispose of dangerous goods that have leaked, spilled or accidentally escaped.

Maximum penalty: 20 penalty units.

- (3) An offence against this section is a strict liability offence.
- (4) If the prime contractor and the consignor of the dangerous goods are asked to give the same information or provide the same resources for the incident, it is sufficient if the consignor or the prime contractor gives the information or provides the resources.

**159 Offence—prime contractor—information and resources**

- (1) This section applies if a vehicle transporting a placard load is involved in an incident resulting in a dangerous situation.
- (2) As soon as practicable after being asked by an authorised person or a member of an emergency service, the prime contractor must give to the person or member the information that he or she requires about the vehicle's construction, properties and equipment.

Maximum penalty: 20 penalty units.

- (3) As soon as practicable after being asked by an authorised person or a member of an emergency service, the prime contractor must provide the equipment and other resources necessary—
  - (a) to control the dangerous situation; and
  - (b) to recover a vehicle involved in the situation or its equipment.

Maximum penalty: 20 penalty units.

- (4) An offence against this section is a strict liability offence.
- (5) If the prime contractor and the consignor of the dangerous goods are asked to give the same information or provide the same resources for the incident, it is sufficient if the consignor gives the information or provides the resources.



## **Chapter 17 Mutual recognition**

### **Part 17.1 Registers of determinations, exemptions, approvals and licences**

#### **160 Registers**

For this regulation, each of the following is a *register*:

- (a) the register of determinations kept under section 35;
- (b) the register of exemptions kept under section 170;
- (c) the register of approvals kept under section 183;
- (d) the register of dangerous goods driver licences kept under section 225;
- (e) the register of dangerous goods vehicle licences kept under section 225.

#### **161 Registers may be kept electronically**

A register may be kept electronically.

##### **Example**

A register may be kept in the form of, or as part of, 1 or more computer databases.

*Note* An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see s 126 and s 132).

#### **162 Inspection of registers**

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

- (2) The competent authority is taken to comply with subsection (1) in relation to a register by ensuring that there is reasonable access to—
- (a) copies of information in the register; or
  - (b) a computer terminal to inspect the register.

## Part 17.2 Recommendations by competent authority and corresponding authorities

### 163 Recommendations by competent authority

- (1) This section applies if the competent authority considers that a ground exists for a corresponding authority to do any of the following (the *proposed action*):
  - (a) revoke or vary a corresponding determination that is not a corresponding administrative determination;
  - (b) cancel or vary a corresponding administrative determination;
  - (c) cancel or vary a corresponding approval or exemption;
  - (d) cancel, suspend or vary a corresponding dangerous goods driver licence or dangerous goods vehicle licence.
- (2) The competent authority may recommend, in writing, that the corresponding authority take the proposed action.
- (3) The competent authority must give to the corresponding authority written reasons for the recommendation.
- (4) If the recommendation is about a determination (except an administrative determination), approval or exemption that has effect in 1 or more other participating jurisdictions, the competent authority must also refer the recommendation to CAP.

**164 Recommendations by corresponding authorities**

- (1) This section applies if a corresponding authority recommends to the competent authority in writing that the competent authority do any of the following:
  - (a) revoke or vary a determination that is not an administrative determination;
  - (b) cancel or vary an administrative determination;
  - (c) cancel or vary an approval or exemption;
  - (d) cancel, suspend or vary a dangerous goods driver licence or dangerous goods vehicle licence.
- (2) If the recommendation is about a determination (except an administrative determination), approval or exemption that has effect in 1 or more other participating jurisdictions, the competent authority need not take any action on the recommendation until CAP has considered the recommendation.
- (3) In any other case the competent authority must have regard to the recommendation.

## Part 17.3 Mutual recognition of determinations, exemptions, approvals and licences

### 165 Corresponding determinations

- (1) This section applies to a determination made by a corresponding authority if—
  - (a) the determination is made under a provision of the law of the other jurisdiction corresponding to 1 of the following (the *relevant provision*):
    - (i) section 29 (Determinations—dangerous goods and packaging);
    - (ii) section 30 (Determinations—vehicles, routes, areas and times); and
  - (b) the determination has effect in the other jurisdiction; and
  - (c) either of the following applies:
    - (i) CAP has decided that the determination should have effect in all participating jurisdictions or participating jurisdictions including the ACT and CAP has not reversed the decision;
    - (ii) the determination is an administrative determination.
- (2) The determination has effect in the ACT as if it were a determination made by the competent authority under the relevant provision.
- (3) The determination is a notifiable instrument.

*Note* A notifiable instrument must be notified under the Legislation Act.
- (4) Subsection (3) does not apply to an administrative determination.

## 166 Corresponding exemptions

- (1) This section applies to an exemption granted by a corresponding authority if—
  - (a) the exemption is granted for a provision of the law of the other jurisdiction corresponding to a provision (the *relevant provision*) of this regulation; and
  - (b) the exemption has effect in the other jurisdiction; and
  - (c) CAP has decided that the exemption should have effect in all participating jurisdictions or participating jurisdictions including the ACT, and CAP has not reversed the decision.
- (2) The exemption has effect in the ACT as if it were an exemption granted by the competent authority for the relevant provision for 10 years after the day on which CAP made its decision unless—
  - (a) the decision is sooner reversed by CAP; or
  - (b) the exemption is sooner cancelled or varied by the corresponding authority; or
  - (c) the exemption sooner expires or otherwise ceases to have effect.

## 167 Corresponding approvals

- (1) This section applies to an approval given in another jurisdiction by a corresponding authority if—
  - (a) the approval is given under a provision of the law of the other jurisdiction corresponding to a provision (the *relevant provision*) of any of the following:
    - (i) section 28 (Approvals—tests and training courses for drivers);
    - (ii) section 50 (Approvals—packaging designs);
    - (iii) section 53 (Approvals—overpack preparation method);

- (iv) section 117 (Approvals—segregation devices);
  - (v) section 118 (Approvals—methods of segregation);
  - (vi) section 141 (Approvals—emergency information);
  - (vii) section 239 (Approvals—insurance); and
  - (b) the approval has effect in the other jurisdiction; and
  - (c) CAP has decided that the approval should have effect in all participating jurisdictions or participating jurisdictions including the ACT, and CAP has not reversed the decision.
- (2) The approval has effect in the ACT as if it were an approval given by the competent authority under the relevant provision.

## **168 Corresponding licences**

- (1) This section applies to a licence granted for road transport in another jurisdiction if—
- (a) the licence is a licence granted under a provision of the law of the other jurisdiction corresponding to section 202 (Grant of dangerous goods driver licences), or section 213 (Grant of dangerous goods vehicle licences), (the *relevant provision*); and
  - (b) the licence has effect in the other jurisdiction.
- (2) Except for circumstances that do not exist in the ACT, the licence has effect in the ACT as if it were a licence granted by the competent authority under the relevant provision.

## **Chapter 18 Exemptions**

### **Part 18.1 Exemptions—general**

#### **169 Applications for exemptions**

- (1) An application for an exemption must—
  - (a) be made in writing to the competent authority; 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 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; and
  - (i) if the application relates to a vehicle, equipment, packaging or other thing—describe the 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.

*Note* A fee may be determined under the Act, s 194 for this provision.



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

### **170 Register of exemptions**

- (1) The competent authority must keep a register of exemptions.
- (2) The register may have separate divisions for different kinds of exemptions.
- (3) The competent authority must record in the register—
  - (a) each exemption granted by the authority; and
  - (b) each corresponding exemption.
- (4) The competent authority must note in the register—
  - (a) the cancellation or variation of an exemption granted by the authority; and
  - (b) a decision of CAP reversing a decision that a corresponding exemption should have effect in all participating jurisdictions or participating jurisdictions including the ACT.

### **171 Records of exemptions**

The record of an exemption in the register must include—

- (a) the terms of the exemption; or
- (b) the following information:
  - (i) if the exemption was published in a participating jurisdiction (including the ACT)—details of the publication including the date of publication;
  - (ii) the name of the person to whom, or the name, or a description, of the class of persons to which, the exemption applies;

- (iii) the date when the exemption was granted;
- (iv) the provisions of this regulation, and of the ADG code, to which the exemption relates;
- (v) the period for which the exemption has effect;
- (vi) the dangerous goods, equipment, packaging, vehicle or other thing to which the exemption relates.

**Examples—par (i)**

- notification on the ACT legislation register
- publication in the government gazette of a participating jurisdiction

*Note* An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

## Part 18.2 Reference of matters to CAP

### 172 References to CAP—applications

- (1) The competent authority must refer an application for an exemption to CAP if the Authority considers that the exemption should have effect in all participating jurisdictions or participating jurisdictions including the ACT.
- (2) The competent authority must refer to CAP an exemption having effect in the ACT and 1 or more other participating jurisdictions if—
  - (a) the authority considers that the exemption should be cancelled or varied; or
  - (b) a corresponding authority recommends to the competent authority in writing that the exemption should be cancelled or varied.

### 173 Effect of CAP decisions about applications

- (1) This section applies if—
  - (a) an application for an exemption is referred to CAP under section 172 (1); and
  - (b) CAP decides—
    - (i) that the exemption should be granted, what the terms of the exemption should be, and that the exemption should have effect in all participating jurisdictions or participating jurisdictions including the ACT; or
    - (ii) that the exemption should not have effect in the ACT.
- (2) The competent authority must have regard to CAP's decision.

**174 Effect of CAP decisions about cancelling or varying exemptions**

- (1) This section applies if—
  - (a) an exemption is referred to CAP under section 172 (2); and
  - (b) CAP decides that the exemption—
    - (i) should, or should not, be cancelled; or
    - (ii) should be varied (whether or not CAP's decision is the same as the variation proposed by the authority), and should have effect as varied in all participating jurisdictions or participating jurisdictions including the ACT; or
    - (iii) should not be varied (whether or not CAP's decision is the same as the variation proposed by the authority).
- (2) The competent authority must have regard to CAP's decision.

## **Chapter 19      Administrative determinations and approvals**

### **Part 19.1      Administrative determinations and approvals—general**

#### **175      Applications**

- (1) An application for an administrative determination or approval, or for the variation of an administrative determination or approval, must be made to the competent authority in writing.

*Note 1* If a form is approved under the Act, s 195 for this provision, the form must be used.

*Note 2* A fee may be determined under the Act, s 194 for this provision.

- (2) An application for the variation of an administrative determination or approval must have the determination or approval with it.
- (3) The competent authority may, in writing, require an applicant to give to the authority any additional information necessary for a proper consideration of the application.

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

An administrative determination, or an approval given on application, must be in writing.

#### **177      When administrative determinations and approvals not to be made**

The competent authority 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.

**178 Reasons for refusal of applications**

- (1) This section applies if the competent authority refuses an application to—
  - (a) make or vary an administrative determination; or
  - (b) give or vary an approval.
- (2) The competent authority must tell the applicant in writing about the refusal and give reasons for the refusal.

**179 Periods and conditions**

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

**180 Replacement administrative determinations and approvals**

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

- (a) the determination or approval is varied; or
- (b) the authority is satisfied that the determination or approval has been defaced, destroyed, lost or stolen.

**181 Grounds for cancelling administrative determinations and approvals**

- (1) An administrative determination or approval may be cancelled if the application for the determination or approval—
  - (a) did not comply with this regulation; or

(b) was false or misleading in a material respect.

*Note* Giving false or misleading information is an offence against the Criminal Code, s 338.

- (2) An administrative determination or approval may be cancelled if—
- (a) a relevant change has happened since the determination was made or the approval was given; and
  - (b) if the change had happened earlier—
    - (i) the determination would not have been made; or
    - (ii) the approval would not have been given.
- (3) An administrative determination or approval may be cancelled if the person on whose application the determination was made, or to whom the approval was given, is unsuitable to continue to be a person to whom the determination applies, or the approval was given, because the person has contravened—
- (a) a provision of the Act; or
  - (b) a provision of the law in force in another participating jurisdiction corresponding to a provision of the Act.

*Note* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including this regulation (see Legislation Act, s 104).

- (4) In this section:

***relevant change***, for a determination or approval, means a change about something that the competent authority may or must consider in deciding whether to make the determination or give the approval.

## **182 Grounds for varying administrative determinations and approvals**

- (1) An administrative determination or approval may be varied if the application for the determination or approval—
- (a) did not comply with this regulation; or
  - (b) was false or misleading in a material respect.

*Note* Giving false or misleading information is an offence against the Criminal Code, s 338.

- (2) An administrative determination or approval may be varied if—
- (a) a relevant change has happened since the determination was made or the approval was given; and
  - (b) if the change had happened earlier—
    - (i) the determination would have been made in the way in which it is proposed to be varied; or
    - (ii) the approval would have been given in the way in which it is proposed to be varied.
- (3) An administrative determination or approval may be varied if the person on whose application the determination was made, or to whom the approval was given, is unsuitable to continue to be a person to whom the determination applies, or the approval was given, without variation because the person has contravened—
- (a) a provision of the Act; or
  - (b) a provision of the law in force in another participating jurisdiction corresponding to a provision of the Act.

*Note* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including this regulation (see Legislation Act, s 104).



(4) In this section:

*relevant change*, for a determination or approval, means a change about something that the competent authority may or must consider in deciding whether to make the determination or give the approval.

## **Part 19.2 Register of approvals**

### **183 Register**

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

### **184 Records of approvals**

The record of an approval in the register must include—

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

## **Part 19.3**                      **Reference of approval matters to CAP**

### **185**                      **References to CAP—approvals**

- (1) The competent authority must refer an application for an approval to CAP if the authority considers that the approval should have effect in all participating jurisdictions or participating jurisdictions including the ACT.
- (2) The competent authority must refer to CAP an approval having effect in the ACT, and at least 1 other participating jurisdiction, if—
  - (a) the authority considers that the approval should be cancelled or varied; or
  - (b) a corresponding authority recommends to the competent authority in writing that the approval should be cancelled or varied.

### **186**                      **Effect of CAP decisions about applications**

- (1) This section applies if—
  - (a) an application for an approval is referred to CAP under section 185 (1); and
  - (b) CAP decides—
    - (i) that the approval should be given, what the terms of the approval should be, and that the approval should have effect in all participating jurisdictions or participating jurisdictions including the ACT; or
    - (ii) that the approval should not have effect in the ACT.
- (2) The competent authority must have regard to the decision.

**187 Effect of CAP decisions about cancelling or varying approvals**

- (1) This section applies if—
  - (a) an approval is referred to CAP under section 185 (2); and
  - (b) CAP decides that the approval—
    - (i) should, or should not, be cancelled; or
    - (ii) should be varied (whether or not CAP's decision is the same as the variation proposed by the authority), and should have effect as varied in all participating jurisdictions or in participating jurisdictions including the ACT; or
    - (iii) should not be varied.
- (2) The competent authority must have regard to the decision.

## **Part 19.4 Cancellation and variation**

### **188 Cancellation and variation in dangerous situations**

The competent authority must cancel or vary an administrative determination or an approval if the competent authority reasonably believes that—

- (a) a ground exists to cancel or vary the determination or approval; and
- (b) it is necessary to do so to avoid, eliminate or minimise a dangerous situation.

### **189 Cancellation giving effect to court orders**

- (1) The competent authority must cancel an administrative determination or an approval if the person to whom the determination or approval applies is prohibited by a court order from involvement in the transport of dangerous goods.
- (2) If an approval applies to more than 1 person, subsection (1) only requires the competent authority to ensure that the approval no longer applies to the person who is the subject of the prohibition.

### **190 Variation of administrative determinations and approvals on application**

- (1) This section applies if—
  - (a) an application is made to vary an administrative determination or an approval; and
  - (b) the application is made in accordance with section 175 by the person to whom the determination applies or to whom the approval is given.

- (2) The competent authority may vary the determination or approval in accordance with the application.

**191 Cancellation and variation in other circumstances**

- (1) This section applies if—
  - (a) the competent authority considers that a ground exists to cancel or vary an administrative determination or an approval (the *proposed action*); and
  - (b) section 188, section 189 and section 190 do not apply to the proposed action.
- (2) The competent authority must give to the person to whom the determination applies or the approval was given a written notice that—
  - (a) states what the proposed action is; and
  - (b) if the proposed action is to vary the determination or approval—sets out the proposed variation; and
  - (c) sets out the ground for the proposed action; and
  - (d) outlines the facts and other circumstances forming the basis for the ground; and
  - (e) invites the person to state in writing, within a stated period of at least 28 days after the day when the notice is given to the person, why the proposed action should not be taken.
- (3) If, after considering any written statement made within the stated period, the competent authority reasonably believes that a ground exists to take the proposed action, the authority may—
  - (a) cancel or vary the determination or approval; or
  - (b) if the proposed action is to vary the determination or approval in a stated way—vary the determination or approval in that way.

**192 When cancellation or variation takes effect**

The cancellation or variation of an administrative determination or an approval by the competent authority takes effect on—

- (a) the day when the person to whom the determination applies, or the approval is given, is given written notice by the authority of the cancellation or variation and of the reasons for the cancellation or variation; or
- (b) if a later day is stated in the notice—the later day.

## Chapter 20 Licences

### Part 20.1 Licences—general

#### 193 Meaning of *licensing authority*—ch 20

In this chapter:

*licensing authority* means—

- (a) the competent authority; or
- (b) a person or body authorised by the competent authority to issue licences under this chapter.

#### 194 Application—ch 20

Despite anything else in this chapter, this chapter does not apply to the transport by road of dangerous goods on a vehicle if—

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

#### 195 Relationship to other laws—ch 20

This chapter is in addition to any other law in force in the Territory about—

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



## **Part 20.2                      Vehicles and drivers to be licensed**

### **196                      Offence—vehicle to be licensed**

- (1) A person commits an offence if—
  - (a) the person uses a road vehicle to transport dangerous goods that are in a receptacle with a capacity of more than 500L or 500kg; and
  - (b) the vehicle is not licensed under this chapter to transport the goods.

Maximum penalty: 40 penalty units.

- (2) An offence against this section is a strict liability offence.

### **197                      Offence—driver to be licensed**

- (1) A person commits an offence if the person—
  - (a) drives a road vehicle transporting dangerous goods that are in a receptacle with a capacity of more than 500L or 500kg; and
  - (b) does not hold a dangerous goods driver licence that authorises the person to drive the vehicle with those goods.

Maximum penalty: 40 penalty units.

- (2) An offence against this section is a strict liability offence.

## Part 20.3 Dangerous goods driver licences

*Note* For the carriage of security sensitive substances under the *Dangerous Substances (General) Regulation 2004*, a carrying licence under that regulation is also required.

### 198 Application for licence

- (1) A person resident in the Territory who is not the holder of a dangerous goods driver licence or a corresponding dangerous goods driver licence may apply to the licensing authority for a dangerous goods driver licence.
- (2) The application must be accompanied by—
  - (a) the driver licence evidence required under section 199; and
  - (b) the competency evidence required by section 200; and
  - (c) the medical fitness evidence required by section 201; and
  - (d) 2 photographs of the applicant of a size suitable for passports that were taken not more than 6 months before the day when the application is made.

*Note* A fee may be determined under the Act, s 194 for this provision.

### 199 Driver licence—evidence

- (1) The following documents are required as driver licence evidence for an application for the grant or renewal of a dangerous goods driver licence:
  - (a) a current certified extract of entries about the applicant in the driving licences register kept by the driver licensing authority in each jurisdiction where the applicant has held a licence to drive;

- (b) either—
  - (i) the document mentioned in subsection (3); or
  - (ii) the authorisation mentioned in subsection (4).
- (2) For subsection (1) (a), a current certified extract is an extract certified by the driver licensing authority not more than 6 months before the day when the application is made.
- (3) For subsection (1) (b) (i), the document is a copy, certified by the appropriate authority of the jurisdiction where the applicant was convicted, of the records of any conviction of the applicant for a driving offence.
- (4) For subsection (1) (b) (ii), the authorisation is the authorisation by the applicant for the licensing authority to have access to—
  - (a) entries about the applicant in the driver licences register of any State or Territory; and
  - (b) records of any conviction of the applicant for a driving offence in any State or Territory.

## **200 Required competency evidence**

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

**201 Required medical fitness evidence**

- (1) The certificate mentioned in subsection (2) is required as medical fitness evidence for an application for the grant or renewal of a dangerous goods driver licence.
- (2) The certificate must be—
  - (a) about the medical fitness of the applicant to drive a road vehicle; and
  - (b) issued by a registered medical practitioner who, not more than 6 months before the day when the application is made, examined and passed the applicant in accordance with the standards in *Assessing Fitness to Drive—Medical Standards for Licensing and Clinical Management Guidelines* published by Austroads and the National Road Transport Commission in September 2003, as in force at the time of the examination.

**202 Grant of dangerous goods driver licences**

- (1) The licensing authority must grant a dangerous goods driver licence if—
  - (a) an application is made to the authority for the licence; and
  - (b) the application complies with section 198.
- (2) However, the licensing authority must not grant the licence if—
  - (a) in the 5 years before the day when the application is made—
    - (i) the applicant has been found guilty by a court in Australia of an offence that makes the applicant unsuitable to be the driver of a vehicle transporting dangerous goods; or
    - (ii) the applicant's driver licence has been cancelled or suspended on a ground that makes the applicant unsuitable to be the driver of a vehicle transporting dangerous goods; or

- (b) the applicant is subject to a court order prohibiting the applicant from involvement in the transport of dangerous goods by road.
- (3) If the licensing authority refuses to grant a dangerous goods driver licence, it must tell the applicant in writing of the refusal and of the reasons for the refusal.

### **203 Applications for renewal of licences**

- (1) A person who holds a dangerous goods driver licence may apply to the licensing authority for the renewal of the licence.
- (2) The application must be accompanied by—
  - (a) the driver licence evidence required under section 199; and
  - (b) the competency evidence required by section 200; and
  - (c) the medical fitness evidence required by section 201; and
  - (d) 2 photographs of the applicant of a size suitable for passports that were taken not more than 6 months before the day when the application is made.

*Note* A fee may be determined under the Act, s 194 for this provision.

### **204 Renewal of driver licences**

- (1) The licensing authority must renew a dangerous goods driver licence if—
  - (a) an application is made to it for renewal of the licence; and
  - (b) the application complies with section 203.
- (2) However, the licensing authority must not renew the licence if—
  - (a) while the licence had effect—
    - (i) the applicant was found guilty by a court in Australia of an offence that makes the applicant unsuitable to be the driver of a vehicle transporting dangerous goods; or

- (ii) the applicant's driver licence has been cancelled or suspended on a ground that makes the applicant unsuitable to be the driver of a vehicle transporting dangerous goods; or
  - (b) the applicant is subject to a court order prohibiting the applicant from involvement in the transport of dangerous goods by road.
- (3) If the licensing authority refuses to renew a dangerous goods driver licence, it must tell the applicant in writing of the refusal and of the reasons for the refusal.

## **205 Driver licence periods**

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

## **206 Driver licence conditions**

- (1) The licensing authority may grant or renew a dangerous goods driver licence subject to conditions mentioned in subsections (3) and (4).
- (2) A condition to which the licence is subject must be stated in the licence.
- (3) The licence may be subject to conditions about—
  - (a) the dangerous goods that may or may not be transported in a road vehicle driven by the licensee; and

- (b) the packaging that may or may not be used to transport dangerous goods in a road vehicle driven by the licensee; and
- (c) the road vehicles that may be driven by the licensee in transporting dangerous goods; and
- (d) the areas where the licensee may or may not drive a road vehicle transporting dangerous goods or particular dangerous goods; and
- (e) the supervision of the licensee when driving a road vehicle transporting dangerous goods.

*Note*     **In** a vehicle includes on the vehicle (see Act, dict).

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

## **207     Additional condition**

- (1) It is a condition of a dangerous goods driver licence that the licensing authority may, by written notice given to the licensee, require the licensee to produce to the authority a certificate—
  - (a) about the medical fitness of the licensee to drive a road vehicle; and
  - (b) issued by a registered medical practitioner who, not more than 6 months before the day when the certificate is given to the authority, examined and passed the licensee in accordance with the standards in *Assessing Fitness to Drive — Medical Standards for Licensing and Clinical Management Guidelines* published by Austroads and the National Road Transport Commission in September 2003, as in force at the time of the examination.
- (2) The written notice must state a period of at least 2 months after the day when the notice is received by the licensee within which the licensee must produce the certificate.

- (3) The licensing authority must not give written notice under this section if the period of validity of the dangerous goods driver licence is less than 4 months.

**208 Grounds for cancelling, suspending or varying licence**

- (1) A dangerous goods driver licence may be cancelled, suspended or varied if the application for the licence or an application for its renewal—
- (a) did not comply with this regulation; or
  - (b) was false or misleading in a material respect.

*Note* Giving false or misleading information is an offence against the Criminal Code, s 338.

- (2) A dangerous goods driver licence may be cancelled or varied if the licensee is unsuitable to continue to be the driver of a road vehicle transporting dangerous goods because—
- (a) the licensee has contravened—
    - (i) the Act; or
    - (ii) a provision of the law in force in another participating jurisdiction corresponding to a provision of the Act; or

*Note* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including this regulation (see Legislation Act, s 104).

- (b) the licensee has been found guilty by a court in Australia of an offence; or
- (c) the licensee's driver licence is cancelled; or
- (d) the licensee is suffering from a medical condition, or has a physical or mental disability.



**209 Offence—licence to be carried**

- (1) The holder of a dangerous goods driver licence must carry his or her dangerous goods driver licence when driving a road vehicle transporting dangerous goods that are in a receptacle with a capacity of more than 500L or 500kg.

Maximum penalty: 10 penalty units.

- (2) An offence against this section is a strict liability offence.

## Part 20.4 Dangerous goods vehicle licences

### 210 Meaning of *vehicle*—pt 20.4

- (1) In this part:

*vehicle* does not include—

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

- (2) In this section:

*converter dolly*—see the *Road Transport (Vehicle Registration) Regulation 2000*, dictionary.

*Note* *Converter dolly* is defined as a trailer with 1 axle group or single axle and a fifth wheel coupling, designed to convert a semi-trailer into a dog trailer.

*prime mover* means a road vehicle that is designed to tow a trailer but does not include a vehicle that has a load carrying capacity in addition to a trailer.

### 211 Applications for licences

- (1) A person may apply to the licensing authority for a dangerous goods vehicle licence for a road vehicle—

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

- (2) The application must include the following information:

- (a) the registration number, make and type of the road vehicle;

- (b) the type of dangerous goods intended to be transported in the vehicle;
- (c) if the applicant holds a dangerous goods vehicle licence for another vehicle—the number of the other licence.

*Note 1* **In** a vehicle includes on the vehicle (see Act, dict).

*Note 2* A fee may be determined under the Act, s 194 for this provision.

## **212 Additional information and inspections**

- (1) The licensing authority may, by written notice, require an applicant for a dangerous goods vehicle licence, or for the renewal of a dangerous goods vehicle licence, for a vehicle—
  - (a) to give to the authority, or to someone nominated by the authority, any additional information necessary for a proper consideration of the application; and
  - (b) to make the vehicle available for inspection by the authority, or by someone nominated by the authority, at a stated place and time.
- (2) A person who inspects a vehicle for the licensing authority must give a report of the inspection to the authority as soon as practicable after the inspection.
- (3) The licensing authority must give a copy of any report of an inspection to the applicant if the applicant asks for it.

## **213 Grant of dangerous goods vehicle licences**

- (1) The licensing authority must grant a dangerous goods vehicle licence for a road vehicle if—
  - (a) an application is made to the authority for the licence; and
  - (b) the application complies with section 211; and
  - (c) the applicant has complied with any requirement made under section 212 in relation to the application; and

- (d) the vehicle is suitable to transport each type of dangerous goods intended to be transported in the vehicle.

*Note* **In** a vehicle includes on the vehicle (see Act, dict).

- (2) Without limiting subsection (1) (d), if a road vehicle is intended for use in the transport of dangerous goods in the form of a liquid or gas using a tank that will form part of the vehicle or be attached to it, the vehicle is suitable only if—
  - (a) the tank is an approved tank; and
  - (b) the vehicle complies with the ADG code, chapter 4.4 and chapter 6.9 applying to road vehicles for use in transporting dangerous goods in the form of a liquid or gas.
- (3) However, the licensing authority must not grant the licence if the applicant is subject to a court order prohibiting the applicant from involvement in the transport of dangerous goods by road.
- (4) The licensing authority may issue a single dangerous goods vehicle licence for more than 1 road vehicle.
- (5) If the licensing authority refuses to grant a dangerous goods vehicle licence, the authority must tell the applicant in writing of the refusal and of the reasons for the refusal.

## **214 Applications for renewal of licences**

- (1) A person who holds a dangerous goods vehicle licence for a road vehicle may apply to the licensing authority for the renewal of the licence.
- (2) The application must include the information required under section 211 (2) for an application for the grant of a dangerous goods vehicle licence for the road vehicle.

*Note* A fee may be determined under the Act, s 194 for this provision.

## 215 Renewal of vehicle licences

- (1) The licensing authority must renew a dangerous goods vehicle licence for a road vehicle if—
  - (a) an application is made to the authority for the renewal of the licence; and
  - (b) the application complies with section 214; and
  - (c) the applicant has complied with any requirement made under section 212 in relation to the application; and
  - (d) the vehicle is suitable to transport each type of dangerous goods intended to be transported in the vehicle.

*Note* **In** a vehicle includes on the vehicle (see Act, dict).

- (2) Without limiting subsection (1) (d), if a road vehicle is intended for use in the transport of dangerous goods in the form of a liquid or gas using a tank that will form part of the vehicle or be attached to it, the vehicle is suitable only if—
  - (a) the tank is an approved tank; and
  - (b) the vehicle complies with the ADG code, chapter 4.4 and chapter 6.9 applying to road vehicles for use in transporting dangerous goods in the form of a liquid or gas.
- (3) However, the licensing authority must not renew the licence if the applicant is subject to a court order prohibiting the applicant from involvement in the transport of dangerous goods by road.
- (4) The licensing authority may issue a single dangerous goods vehicle licence for more than 1 road vehicle.
- (5) If the licensing authority refuses to renew a dangerous goods vehicle licence, the authority must tell the applicant in writing of the refusal and of the reasons for the refusal.

## 216 Vehicle licence periods

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

## 217 Vehicle licence conditions

- (1) The licensing authority may grant or renew a dangerous goods vehicle licence subject to conditions.
- (2) A condition to which the licence is subject must be stated in the licence.
- (3) The licence may be subject to conditions about—
  - (a) the dangerous goods that may or may not be transported in the vehicle; and
  - (b) the areas where the vehicle may or may not be used to transport dangerous goods or particular dangerous goods; and
  - (c) the inspections of the vehicle (if any) that are required.

*Note* **In** a vehicle includes on the vehicle (see Act, dict).

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

## 218 Offences—disposal or transfer of licensed vehicle

- (1) Before transferring possession or otherwise disposing of a licensed vehicle (the *disposed vehicle*), the person who holds the licence for the vehicle must remove the licence label from the vehicle and—
  - (a) attach it to the notice of the disposal of the vehicle; or

- (b) destroy it and, if required by the licensing authority, provide sufficient evidence to show that this has been done.

Maximum penalty: 10 penalty units.

- (2) The person who holds the licence for the vehicle must attach the licence to the notice of the disposal.

Maximum penalty: 10 penalty units.

- (3) If the licence for the vehicle does not relate to another vehicle, the person who holds the licence must—

- (a) attach it to the notice of the disposal; or
- (b) destroy it, and, if required by the licensing authority, provide sufficient evidence to show that this has been done.

Maximum penalty: 10 penalty units.

- (4) Within the 21 days after transferring possession or otherwise disposing of the disposed vehicle, the person who holds the licence for the vehicle must give, to the licensing authority, notice of the disposal.

Maximum penalty: 10 penalty units.

- (5) On receipt of a licence for a disposed vehicle, the licensing authority must—

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

- (6) An offence against subsection (1), (2), (3) or (4) is a strict liability offence.

## 219 Grounds for cancelling, suspending or varying licences

- (1) A dangerous goods vehicle licence may be cancelled, suspended or varied if the application for the licence or an application for its renewal—
  - (a) did not comply with this regulation; or
  - (b) was false or misleading in a material respect.

*Note* Giving false or misleading information is an offence against the Criminal Code, s 338.

- (2) A dangerous goods vehicle licence for a road vehicle may be cancelled, suspended or varied if the vehicle does not comply with the Act.

*Note* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including this regulation (see Legislation Act, s 104).

## 220 Offences—licence labels

- (1) The licensing authority must give to the holder of a dangerous goods vehicle licence a label (a *licence label*) for each road vehicle to which the licence relates.
- (2) A licence label must be capable of being securely attached to the road vehicle.
- (3) A person must not drive a road vehicle transporting dangerous goods if a current licence label for the vehicle is not attached to the vehicle in a conspicuous place.

Maximum penalty: 10 penalty units.

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

Maximum penalty: 10 penalty units.

- (5) An offence against subsection (3) or (4) is a strict liability offence.



## Part 20.5 Licences generally

### 221 Meaning of *licence* and *licensee*—pt 20.5

In this part:

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

*licensee* means the holder of a licence.

### 222 Replacement licences and licence labels

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

### 223 Offence—fail to comply with licence condition

- (1) A licensee commits an offence if the licensee fails to comply with a condition of his or her licence.

Maximum penalty: 40 penalty units.

- (2) An offence against this section is a strict liability offence.

### 224 Surrender of licences

- (1) A licensee may surrender his or her licence by giving notice of surrender to the licensing authority and returning the licence to the authority.

- (2) A licence ceases to have effect on its surrender.

## **225 Registers of licences**

- (1) The licensing authority must keep a register of dangerous goods driver licences.
- (2) The licensing authority must keep a register of dangerous goods vehicle licences.
- (3) A register may have separate divisions for different kinds of licences.
- (4) The licensing authority must record each licence granted under this regulation in the appropriate register.
- (5) The licensing authority must note in the register the cancellation, surrender, suspension or variation of a licence.

## **226 Records of licences**

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

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

- (f) the classes of dangerous goods for which the licence is valid;
- (g) any condition to which the licence is subject.

**227 Offence—fail to correct information given in licence applications**

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

Maximum penalty: 10 penalty units.

- (3) An offence against this section is a strict liability offence.

**228 Offence—fail to produce licence to licensing authority**

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

Maximum penalty: 10 penalty units.

- (3) An offence against subsection (2) is a strict liability offence.

**229 Return of licences**

- (1) This section applies if a licence is produced to the licensing authority or given to the authority by an authorised person.
- (2) If the licence has not been cancelled or varied and is not suspended, the licensing authority must return the licence after inspecting it.

- (3) If the licence has been suspended, the suspension has ended and a replacement licence is not issued, the licensing authority must return the licence to the licensee.
- (4) If the licence has been varied, the variation is recorded on the licence and a replacement licence is not issued, the licensing authority must return the licence to the licensee.
- (5) However, if the licence period has ended, the licensing authority is not required to return the licence to the licensee.

## Part 20.6 Cancellation, suspension and variation

### 230 Meaning of *licence* and *licensee*—pt 20.6

In this part:

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

*licensee* means the holder of a licence.

### 231 Cancellation, suspension and variation in dangerous situations

The licensing authority must cancel, suspend or vary any licence granted by it, if the licensing authority reasonably believes that—

- (a) a ground exists to cancel, suspend or vary the licence; and
- (b) it is necessary to do so to avoid, eliminate or minimise a dangerous situation.

### 232 Cancellation and suspension giving effect to court orders

The licensing authority must cancel or suspend a licence if the licensee is prohibited by a court order from involvement in the transport of dangerous goods by road.

### 233 Variation of licence on application

- (1) This section applies if—
  - (a) an application is made to vary a licence; and
  - (b) the application is made by the licensee and has the licence with it.

- (2) The licensing authority may vary the licence in accordance with the application.

**234 Cancellation, suspension and variation in other circumstances**

- (1) This section applies if—
- (a) the licensing authority considers that a ground exists to cancel, suspend or vary a licence (the *proposed action*); and
  - (b) section 231, section 232 and section 233 do not apply to the proposed action.
- (2) The licensing authority must give to the licensee a written notice that—
- (a) states what the proposed action is; and
  - (b) if the proposed action is to suspend the licence—states what the proposed suspension period is; and
  - (c) if the proposed action is to vary the licence—sets out the proposed variation; and
  - (d) sets out the ground for the proposed action; and
  - (e) outlines the facts and other circumstances forming the basis for the ground; and
  - (f) invites the licensee to state in writing, within a stated period of at least 28 days after the day when the notice is given to the licensee, why the proposed action should not be taken.
- (3) If, after considering any written statement made within the stated period, the licensing authority reasonably believes that a ground exists to take the proposed action, the licensing authority may—
- (a) cancel or vary the licence; or

- (b) suspend the licence for a period not longer than 12 months (except if the suspension is to give effect to a court order stating a longer period of suspension); or
  - (c) if the proposed action is to vary the licence in a stated way— vary the licence in that way.
- (4) The licensing authority may withdraw a suspension before the suspension is due to end if it reasonably believes that it is appropriate to do so.

**235      When cancellation, suspension and variation take effect**

The cancellation, suspension or variation of a licence by the licensing authority takes effect on—

- (a) the day when the licensee is given written notice by the licensing authority of the cancellation, suspension or variation and of the reasons for the cancellation, suspension or variation; or
- (b) if a later day is stated in the notice—the later day.

**236      When licences taken to be suspended**

- (1) A person's dangerous goods driver licence is taken to be suspended if the person's driver licence has no effect.
- (2) A person's dangerous goods vehicle licence for a road vehicle is taken to be suspended in relation to the vehicle if the vehicle is not registered.

## Chapter 21 Insurance

### 237 Requiring evidence of insurance etc

- (1) The competent authority may, by written notice, require the owner of a road vehicle used to transport a placard load to give to the competent authority—
  - (a) written evidence that the vehicle is covered by a policy of insurance or other form of indemnity mentioned in the Act, section 36 (1) (b) (Offence—vehicle not insured or approved—owner); or
  - (b) an approval under section 239 in relation to the vehicle.
- (2) The competent authority may, by written notice, require a prime contractor responsible for the condition of a road vehicle used to transport a placard load, to give to the competent authority—
  - (a) written evidence that the vehicle is covered by a policy of insurance or other form of indemnity mentioned in the Act, section 37 (1) (b) (Offence—vehicle not insured or approved—prime contractor); or
  - (b) an approval under section 239 in relation to the vehicle.

### 238 Offence—fail to comply with notice

- (1) A person commits an offence if the person—
  - (a) is given a notice under section 237; and
  - (b) fails to comply with the notice within 14 days after the day when the notice is given to the person.

Maximum penalty: 15 penalty units.

- (2) An offence against this section is a strict liability offence.



**239 Approvals—insurance**

- (1) The owner of a road vehicle used to transport placard loads may make an application under section 175 to use the vehicle even if the vehicle is not covered by a policy of insurance or other form of indemnity mentioned in the Act, section 36 (1) (b) (Offence—vehicle not insured or approved—owner).
- (2) A prime contractor responsible for the condition of a vehicle used to transport placard loads may make an application in accordance with section 175 to use the vehicle even if the vehicle is not covered by a policy of insurance or other form of indemnity mentioned in the Act, section 37 (1) (b) (Offence—vehicle not insured or approved—prime contractor).
- (3) If the competent authority is satisfied that the owner or prime contractor is adequately capable of self-insurance for the purposes of the Act, section 36 (1) (b) or section 37 (1) (b), the competent authority may give written approval for the use of the vehicle.
- (4) An approval may be given—
  - (a) for a single use or for a period not longer than 5 years; and
  - (b) subject to any other condition.

## Chapter 22 Notification and review of decisions

**240 Internally reviewable decisions—Act, s 169, def *internally reviewable decision***

A decision mentioned in schedule 1, part 1.1 or part 1.2, column 3 under a provision mentioned in column 2 in relation to the decision is prescribed.

**241 Internally reviewable decisions—notice and right of review—Act, s 170 and s 171**

A person mentioned in schedule 1, part 1.1 or part 1.2, column 4 is prescribed in relation to a decision mentioned in column 3.

## Chapter 23 Transitional

### 242 Lawful conduct under previous law

If an exemption or approval that is continued in effect because of this chapter does not have an expiry date, it expires on 5 April 2015.

### 243 Continuing effect of certain determinations

- (1) This section applies to a determination (however described) that—
  - (a) was made under a law that regulated the transport of dangerous goods; and
  - (b) was in force in the ACT immediately before the commencement of the Act; and
  - (c) is a determination in relation to something that may be determined under 1 of the following provisions (the *relevant provision*):
    - (i) section 29 (Determinations—dangerous goods and packaging);
    - (ii) section 30 (Determinations—vehicles, routes, areas and times).
- (2) The determination has effect as if it were a determination made by the competent authority under the relevant provision.
- (3) Without limiting subsection (2), the competent authority may record the determination in the register kept under section 35.
- (4) The determination is a notifiable instrument.

*Note* A notifiable instrument must be notified under the Legislation Act.
- (5) Subsections (3) and (4) do not apply to an administrative determination.

**244 Continuing effect of corresponding determinations**

- (1) This section applies to a determination (however described) that—
  - (a) was made under a law regulating the transport of dangerous goods made by a State that has passed or has indicated that it intends to pass a corresponding law; and
  - (b) was in force in the other State immediately before the commencement of the Act; and
  - (c) is a determination about something that may be determined under a provision of the law of the other State (the *corresponding provision*) that corresponds to a provision of a section mentioned in section 243 (1) (c).
- (2) Except for circumstances that do not exist in the ACT, the determination has effect for this regulation as if it were a determination made by a corresponding authority under the corresponding provision.

**245 Continuing effect of certain exemptions**

- (1) This section applies to an exemption (however described) that—
  - (a) was granted under a law regulating the transport of dangerous goods; and
  - (b) was in force in the ACT immediately before the commencement of the Act; and
  - (c) is an exemption from compliance with a provision of that law corresponding to a provision (the *relevant provision*) of this regulation.
- (2) The exemption has effect for this regulation as if it were an exemption granted by the competent authority from compliance with the relevant provision.
- (3) Without limiting subsection (2), the competent authority may record the exemption in the register of exemptions kept under section 170.

**246 Continuing effect of corresponding exemptions**

- (1) This section applies to an exemption (however described) that—
  - (a) was granted under a law regulating the transport of dangerous goods made by a State that has passed or has indicated that it intends to pass a corresponding law; and
  - (b) was in force in the other State immediately before the commencement of the Act; and
  - (c) is an exemption from compliance with a provision of the law of the other State (the *corresponding provision*) corresponding to a provision of the Act.
- (2) Except for circumstances that do not exist in the ACT, the exemption has effect for the Act as if it were an exemption granted by a corresponding authority from compliance with the corresponding provision.

*Note* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including this regulation (see Legislation Act, s 104).

**247 Continuing effect of certain approvals**

- (1) This section applies to an approval (however described) if the approval—
  - (a) was given under a law regulating the transport of dangerous goods by road; and
  - (b) was in force in the ACT immediately before the commencement of the Act; and
  - (c) is an approval of something that may be approved under a provision (the *relevant provision*) of any of the following:
    - (i) section 28 (Approvals—tests and training courses for drivers);
    - (ii) part 5.2 (Suitability and design of packaging);

- (iii) section 117 (Approvals—segregation devices);
  - (iv) section 118 (Approvals—methods of segregation);
  - (v) section 141 (Approval—emergency information).
- (2) The approval has effect for this regulation as if it were an approval given by the competent authority under the relevant provision.
- (3) Without limiting subsection (2), the competent authority may record the approval in the register of approvals kept under section 183.

#### **248 Continuing effect of corresponding approvals**

- (1) This section applies to an approval (however described) that—
- (a) was given under a law regulating the transport of dangerous goods made by a State that has passed or has indicated that it intends to pass a corresponding law; and
  - (b) was in force in the other State immediately before the commencement of the Act; and
  - (c) is an approval of something that may be approved under a provision of the law of the other State (the *corresponding provision*) corresponding to a provision mentioned in section 247 (1) (c).
- (2) Except for circumstances that do not exist in the ACT, the approval has effect for this regulation as if it were an approval given by a corresponding authority under the corresponding provision.

#### **249 Continuing effect of certain licences**

- (1) This section applies to a licence (however described) that—
- (a) was granted under a law regulating the transport of dangerous goods by road; and
  - (b) was in force in the ACT immediately before the commencement of the Act; and

- (c) is a licence that may be granted under either of the following provisions (the *relevant provision*):
  - (i) section 202 (Grant of dangerous goods driver licences);
  - (ii) section 213 (Grant of dangerous goods vehicle licences).
- (2) The licence has effect for this regulation as if it were a licence granted by the competent authority under the relevant provision.
- (3) Without limiting subsection (2), the competent authority may record the licence in the relevant register of licences kept under section 225.

## **250 Continuing effect of corresponding licences**

- (1) This section applies to a licence (however described) that—
  - (a) was granted under a law regulating the transport of dangerous goods made by a State that has passed or has indicated that it intends to pass a corresponding law; and
  - (b) was in force in the other State immediately before the commencement of the Act; and
  - (c) is a licence that may be granted under a provision of the law of the other State (the *corresponding provision*) corresponding to a provision mentioned in section 249 (1) (c).
- (2) Except for circumstances that do not exist in the ACT, the licence has effect for this regulation as if it were a licence granted by a corresponding authority under the corresponding provision.

**251 Transitional—authorised people**

- (1) A person who was an authorised officer under the *Road Transport Reform (Dangerous Goods) Act 1995* (Cwlth) immediately before the commencement day, is taken to be an authorised person under the Act until the end of 3 months after the commencement day (unless the person's appointment as an authorised officer would have earlier ended).
- (2) This section expires 3 months after the commencement day.
- (3) In this section:  
*commencement day* means the day the *Dangerous Goods (Road Transport) Act 2009*, section 196 commences.

**252 Expiry—ch 23**

- (1) This chapter expires on 5 April 2015.
- (2) This chapter is a law to which the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies.



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## **Schedule 1      Reviewable decisions**

(see ch 22)

### **Part 1.1                      Internally reviewable decisions under Act**

<b>column 1 item</b>	<b>column 2 provision</b>	<b>column 3 decision</b>	<b>column 4 person</b>
1	109 (1)	give improvement notice	person given improvement notice
2	110 (2)	refuse to extend date and time for improvement notice	person given improvement notice
3	112	amend improvement notice	person given improvement notice
4	114	refuse to issue clearance certificate	person given improvement notice
5	119 (2)	give prohibition notice	person given prohibition notice
6	124 (3)	amend prohibition notice	person given prohibition notice
7	125 (1)	refuse to withdraw prohibition notice	person given prohibition notice
8	151 (2)	refuse to grant exemption	applicant
9	151 (3)	put condition on exemption	person granted exemption
10	155 (1)	cancel exemption	person granted exemption



<b>column 1 item</b>	<b>column 2 provision</b>	<b>column 3 decision</b>	<b>column 4 person</b>
8	53 (1)	refuse to approve method of preparing overpack	applicant
9	53 (2)	put condition on approval of method or preparing overpack	applicant
10	117 (2)	refuse to approve design for segregation device	applicant
11	118 (1)	refuse to approve method of segregation	applicant
12	118 (2)	put condition on approval of segregation device	applicant
13	141	refuse to approve emergency information	applicant
14	188	cancel or vary administrative determination or approval	person to whom determination or approval applies
15	190 (2)	refuse to vary administrative determination or approval	applicant
16	191 (3)	cancel or vary administrative determination or approval	person to whom determination or approval applies
17	202	refuse to issue dangerous goods driver licence	applicant
18	204	refuse to renew dangerous goods driver licence	applicant

**Schedule 1**  
**Part 1.2**

Reviewable decisions  
Internally reviewable decisions under this regulation

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<b>column 1 item</b>	<b>column 2 provision</b>	<b>column 3 decision</b>	<b>column 4 person</b>
19	206	grant or renew dangerous goods driver licence subject to condition	applicant
20	208	cancel, suspend or vary dangerous goods driver licence	licensee
21	213	refuse to issue dangerous goods vehicle licence	applicant
22	215	refuse to renew dangerous goods vehicle licence	applicant
23	217	grant or renew dangerous goods vehicle licence subject to condition	applicant
24	219	cancel, suspend or vary dangerous goods vehicle licence	licensee
25	222	refuse to issue replacement licence or licence label	licensee
26	239 (3)	refuse to give approval for use of uninsured vehicle	applicant

## Dictionary

(see s 3)

*Note 1* The Legislation Act contains definitions and other provisions relevant to this regulation.

*Note 2* For example, the Legislation Act, dict, pt 1, defines the following terms:

- entity
- State.

*Note 3* Terms used in this regulation have the same meaning that they have in the *Dangerous Goods (Road Transport) Act 2009* (see Legislation Act, s 148). For example, the following terms are defined in the *Dangerous Goods (Road Transport) Act 2009*, dict:

- another jurisdiction
- Australian Road Rules
- authorised person
- consignor
- consigns
- corresponding authority
- corresponding law
- dangerous situation
- driver licence
- exemption
- in, a vehicle
- involvement in the transport of dangerous goods
- jurisdiction
- loader
- loads
- owner, of a vehicle
- package
- packaging
- packer
- packs
- placard load

- premises
- prime contractor
- tank vehicle
- trailer
- transport
- vehicle.

**ADG code** means the Australian Code for the Transport of Dangerous Goods by Road and Rail, 7<sup>th</sup> edition, approved by the Australian Transport Council as in force from time to time.

*Note 1* The Legislation Act, s 47 (6) is disappplied in relation to the ADG code by s 23.

*Note 2* The ADG code is accessible at [www.ntc.gov.au](http://www.ntc.gov.au).

**administrative determination**—see section 31.

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

**aggregate quantity**, for a load containing dangerous goods, means the total of—

- (a) the number of kilograms of the following in the load—
  - (i) solid dangerous goods; and
  - (ii) articles (including aerosols); and
- (b) the number of litres or kilograms (as used in the transport documentation for the load to describe 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 (except aerosols).

**appropriately marked**, for part 7.1 (Marking and labelling)—see section 77.

**appropriately placarded**, for part 7.2 (Placarding)—see section 84.

**approval** means an approval by the competent authority or an authorised body that is in effect.

**approved packaging** means—

- (a) packaging of a design that is approved under section 50; or
- (b) foreign approved packaging.

**approved tank** means—

- (a) a tank of a design that is approved under section 50; or
- (b) a foreign approved tank.

**approved test** means a test that is approved under section 28.

**approved training course** means a training course that is approved under section 28.

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

**authorised body** means an entity authorised to issue approvals under section 55.

**bulk container**—see section 15.

**bulk transfer**, for chapter 12 (Bulk transfer of dangerous goods—general)—see section 120.

**CAP**—see *competent authorities panel*.

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

***competent authorities panel*** (or ***CAP***) means the body established by the competent authorities panel rules made by the National Transport Commission on 13 June 2008 and approved by the Australian Transport Council.

***competent authority*** means the entity declared to be the competent authority for this regulation under the Act, section 20.

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

***corresponding approval*** means an approval to which section 167 applies.

***corresponding dangerous goods driver licence*** means a licence to which section 168 applies that has effect in the ACT as a dangerous goods driver licence.

***corresponding dangerous goods vehicle licence*** means a licence to which section 168 applies that has effect in the ACT as a dangerous goods vehicle licence.

***corresponding determination*** means a determination to which section 165 applies.

***corresponding exemption*** means an exemption to which section 166 applies.

***dangerous goods***—see section 9.

***dangerous goods driver licence*** means a licence that is in force under part 20.3.

***dangerous goods list*** means the list set out in the ADG code, section 3.2.3.

*Note* The ADG code, s 3.2.3 lists goods that are dangerous goods because they satisfy the criteria mentioned in the ADG code, pt 2.

***dangerous goods vehicle licence*** means a licence that is in force under part 20.4.



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***demountable tank*** means a tank, other than a portable tank, that is designed to be carried on a vehicle but that does not form part of and is not permanently attached to the vehicle and is designed to be removable.

***determination*** means a determination that is made by the competent authority under chapter 3 that is in effect.

***emergency service*** means—

- (a) an ambulance, fire, police or other emergency service of a participating jurisdiction; or
- (b) a unit of the defence force corresponding to a service mentioned in paragraph (a).

***food*** includes—

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

***food packaging*** means—

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

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

*Note* Types of foreign approved packaging include, but are not limited to bulk containers, IBCs, large packagings, MEGCs, portable tanks, pressure drums and tubes that are ADR, ICAO, IMO, RID or UN approved.

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

**general packaging**, for part 6.3 (Offences—general packaging)—see section 58.

**goods too dangerous to be transported**—see section 10.

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

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

**IBC**—see *intermediate bulk container*.

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

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

**incompatible**—see section 14.

**inner packaging**, for goods for which outer packaging is required if the goods are to be transported, means any packaging that is, or that is to be, contained or protected by the outer packaging.

**intermediate bulk container** (or **IBC**)—see section 17.

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

**large packaging** means outer packaging that—

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

**licence**—

- (a) for part 20.5 (Licences generally)—see section 221; and
- (b) for part 20.6 (Cancellation, suspension and variation)—see section 230.

**licence label**—see section 220.

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

**licensee**—

- (a) for part 20.5 (Licences generally)—see section 221; and
- (b) for part 20.6 (Cancellation, suspension and variation)—see section 230.

**licensing authority**, for chapter 20 (Licences)—see section 193.

**load** (noun)—see section 21.

*Note* **Load** (verb) and **loader**—see the Act, s 13.

**MEGC**—see **multiple-element gas container**.

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

**multiple-element gas container** (or **MEGC**)—see section 18.

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

**other packaging**, for part 6.4 (Offences—other packaging)—see section 64.

**outer packaging** means external packaging (including absorbent materials, cushioning and any other components) necessary for the purpose of transport to contain and protect—

- (a) articles; or
- (b) receptacles in composite packaging (as defined in the ADG code, section 1.2.1.1); or
- (c) inner packaging in combination packaging (as defined in the ADG code, section 1.2.1.1).

**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

*Note* An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

**packaging**—see section 15.

*Note* **Package, packs** and **packer**—see the Act, dict.

**packed in limited quantities**—see section 19.

**packing group**—see section 13.

**participating jurisdiction** means—

- (a) this jurisdiction; or
- (b) another State that has a corresponding law.

**placard** means a label or emergency information panel that is displayed in accordance with the ADG code, chapter 5.3 on—

- (a) a transport unit; or
- (b) a container having 1 or more receptacles with a capacity of more than 500kg or 500L.

**placards**, for part 7.2 (Placarding)—see section 84.

**portable tank** means a multimodal tank that—

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

**pressure drum** means a welded transportable pressure receptacle of a water capacity exceeding 150L and of not more than 1 000L.

**Examples—transportable receptacle**

- cylindrical receptacles equipped with rolling hoops
- spheres on skids

*Note* An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

**receptacle**, for 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 part 5.2 (Suitability and design of packaging)—see section 46.

**register**—see section 160.

**registered** means registered under a Commonwealth, State or Territory law.

**required emergency information**, for part 13.2 (Emergency information)—see section 137.

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

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

**service equipment**, for a tank or MEGC, has the meaning given in the ADG code, section 6.7.2.1, 6.7.3.1, 6.7.4.1 or 6.7.5.1 for the tank or MEGC.

**structural equipment**, for a tank or MEGC, has the meaning given in the ADG code, section 6.7.2.1, 6.7.3.1, 6.7.4.1 or 6.7.5.1 for the tank or MEGC.

**subsidiary risk**—see section 12.

**tank**—see section 20.

**transport unit** means—

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

**tube** means a seamless transportable pressure receptacle of a water capacity exceeding 150L but not more than 3 000L.

*UN approved* means approved outside Australia under the United Nations Model Regulations for the Transport of Dangerous Goods published by the United Nations.

*UN category*—see section 11.

*UN class*—see section 11.

*UN division*—see section 11.

*vehicle*, for part 20.4 (Dangerous goods vehicle licences)—see section 210.

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## Endnotes

**1 Notification**

Notified under the Legislation Act on 1 April 2010.

**2 Republications of amended laws**

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

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