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RSNL1990 CHAPTER D-1

DANGEROUS GOODS TRANSPORTATION ACT

Amended:

1995 cP-31.1 s53; 1997 c13 s13; 2004 c36 s9; 2006 c40 s21; 2013 c16 s25

CHAPTER D-1

**AN ACT TO PROMOTE PUBLIC SAFETY IN THE TRANSPORTATION
OF DANGEROUS GOODS**

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Short title

1. This Act may be cited as the *Dangerous Goods Transportation Act*.

1982 c45 s1

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Definitions

2. In this Act

- (a) "analyst" means a person designated as an analyst under the *Transportation of Dangerous Goods Act (Canada)*;
- (b) "container" means an article of transport equipment, including equipment that is carried on a chassis, that is strong enough to be suitable for repeated use and is designed to facilitate the transportation of goods without intermediate reloading, but does not include a vehicle;
- (c) "dangerous goods" means a product, substance or organism included by its nature or by the regulations in a class listed in the Schedule;
- (d) "handling" means loading, packing or placing, unloading, unpacking or removing or reloading, repacking or replacing dangerous goods in or from a container, package or vehicle or at a facility for the purpose of, in the course of or following transportation and includes storing dangerous goods in the course of transportation;
- (e) "highway" means a highway as defined in the *Highway Traffic Act*;
- (f) "inspector" means a person designated as an inspector by the minister under this Act;
- (g) "minister" means the minister appointed under the *Executive Council Act* to administer this Act;
- (h) "packaging" means a receptacle or enveloping material used to contain or protect goods, but does not include a container or a means of transport;
- (i) "safety mark" includes a design, symbol, device, sign, label, placard, letter, word, number, abbreviation or a combination of these that is to be displayed on dangerous goods, packaging or containers or vehicles used in the handling, offering for transport or transporting of dangerous goods;
- (j) "safety requirements" means requirements for the handling, offering for transport or transporting of dangerous goods, the reporting of those activities, the training of persons engaged in those activities and the inspection of those activities;
- (k) "safety standards" means standards regulating the design, construction, equipping, functioning or performance of containers, packaging, vehicles or facilities used in the handling, offering for transport or transporting of dangerous goods;

- (l) "shipping document" means a document that accompanies dangerous goods being handled, offered for transport or transported and that describes or contains information relating to the goods and includes a bill of lading, cargo manifest, shipping order or way-bill;
- (m) "trailer" means a trailer as defined in the *Highway Traffic Act*;
- (n) "*Transportation of Dangerous Goods Act (Canada)*" means the *Transportation of Dangerous Goods Act (Canada)* and includes the regulations made under that Act; and
- (o) "vehicle" means a vehicle as defined in the *Highway Traffic Act*.

1982 c45 s2; 1989 c33 Sch B; [2006 c40 s21](#)

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Where Act does not apply

3. (1) This Act does not apply to the handling, offering for transport or transporting of dangerous goods in a vehicle,

- (a) to the extent that they are exempted by the regulations;
- (b) while under the sole direction or control of the Minister of National Defence for Canada ; or
- (c) for which a permit is issued under subsection (2) while there is compliance with the permit.

(2) The minister or a person designated by the minister may issue a permit exempting from the application of this Act the handling, offering for transport or transportation of dangerous goods in a vehicle.

(3) A permit issued under subsection (2) is subject to the terms and conditions which the issuer considers appropriate and are contained in the permit.

(4) The minister may designate in writing a person as a person authorized to issue a permit referred to in subsection (2).

1982 c45 s3

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Crown bound

4. This Act binds the Crown.

1982 c45 s4

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Offences

5. (1) A person shall not handle, offer for transport or transport dangerous goods unless,

- (a) all applicable prescribed safety requirements are complied with; and
- (b) all containers, packaging and vehicles comply with all applicable prescribed safety standards and display all applicable prescribed safety marks.

(2) A person shall not

- (a) put a prescribed safety mark on a container, packaging or vehicle used or intended for use in handling or transporting dangerous goods; or
- (b) sell, offer for sale, deliver or distribute a container, packaging or vehicle used or intended for use in handling or transporting dangerous goods, or on which a prescribed safety mark is displayed,

unless the container, packaging or vehicle complies with all applicable prescribed safety standards.

1982 c45 s5

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Penalty

6. (1) A person who contravenes section 5 is guilty of an offence and is liable on the 1st conviction to a fine of not more than \$50,000 and on each subsequent conviction to a fine of not more than \$100,000.

(2) A person who contravenes a provision of this Act or the regulations for which no other penalty is provided by this Act is guilty of an offence and is liable on summary conviction to a fine of not more than \$10,000.

(3) The Lieutenant-Governor in Council may by regulation designate an offence under this Act as an offence for which a ticket may be issued under Part II of the *Provincial Offences Act*.

(4) No proceedings under this section may be instituted after 2 years from the day the offence was committed.

1982 c45 s6; 1990 c49 s1; [1997 c13 s13](#)

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Defence

7. It is a defence to a charge under this Act for the accused to establish that the accused took all reasonable measures to comply with this Act.

1982 c45 s7

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Offences by employee or agent

8. In a prosecution for an offence under this Act, it is sufficient proof of the offence to establish that it was committed by an employee or agent of the accused whether or not the employee or agent is identified or has been prosecuted for the offence, but it is a defence for the accused to establish that the offence was committed without his or her knowledge and that he or she took all reasonable measures to prevent its commission.

1982 c45 s8

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Officers, etc. of corporation

9. An officer, director or agent of a corporation who directed, authorized, assented to, acquiesced in or participated in the commission of an offence is a party to and guilty of the offence and is liable on summary conviction to the penalty provided for the offence whether or not the corporation has been prosecuted or convicted.

1982 c45 s9

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Certificate of inspector, etc.

10. (1) A certificate or report appearing to have been signed by an inspector or analyst stating that he or she has made an inspection or analyzed or examined a vehicle, product, substance or organism and stating the results of the inspection, analysis or examination is admissible in evidence in a prosecution for an offence under this Act without proof of the signature or official character of the person appearing to have signed the certificate or report and, in the absence of evidence to the contrary, is proof of the statements contained in the certificate or report.

(2) A copy or an extract made by an inspector under paragraph 13(1)(d) and appearing to have been certified under his or her signature as a true copy or extract is admissible in evidence in a prosecution for an offence under this Act without proof of the signature or official character of the person appearing to have signed the copy or extract and, in the absence of evidence to the contrary, has the same probative force as the original document would have if it had been proved in the ordinary way.

(3) Notwithstanding subsections (1) and (2), the party against whom a certificate or report is produced under subsection (1) or against whom a copy or an extract is produced under subsection (2) may require the attendance of the inspector or analyst who signed or appears to have signed the certificate, report, copy or extract for the purposes of cross-examination.

(4) Notwithstanding subsections (1) and (2), a certificate, report, copy or extract referred to in subsection (1) or (2) shall not be received in evidence unless the party intending to produce it has served on the party against whom it is intended to be produced a notice of that intention together with a duplicate of the certificate, report, copy or extract.

1982 c45 s10; 1990 c62 s8

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Designation of inspector

11. (1) The minister may designate a person as an inspector for the purpose of this Act.

(2) An inspector shall be furnished with a certificate of his or her designation and, on inspecting a container, packaging or vehicle, the inspector shall, if so required, produce the certificate to the person in charge of that container, packaging or vehicle.

1982 c45 s11

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Certificate of inspection

12. (1) Where an inspector inspects or seizes or takes a sample of anything under this Act the inspector shall, where the thing is sealed or closed up, provide the person in charge of it with a certificate in the prescribed form evidencing the inspection, seizure or taking of the sample.

(2) A certificate provided under subsection (1) relieves the person to whom or for whose benefit it is provided of liability with respect to the inspection, seizure or taking of a sample evidenced by the certificate, but does not otherwise exempt that person from compliance with this Act and the regulations.

1982 c45 s12

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Powers of inspectors

13. (1) An inspector may, so long as it is reasonably necessary to determine compliance with this Act and the regulations, at a reasonable time

- (a) enter and inspect a building, place or vehicle and its load where the inspector believes on reasonable grounds that dangerous goods are being handled, offered for transport or transported;
- (b) request the opening and inspection of or open and inspect a container, packaging or vehicle where the inspector believes on reasonable grounds that the dangerous goods are being handled, offered for transport or transported;
- (c) for the purpose of analysis, take samples of anything found that the inspector believes on reasonable grounds to be dangerous goods;
- (d) examine and remove for the purpose of making copies and extracts books, records, shipping documents or other documents or papers that the inspector believes on reasonable grounds contain information relevant to the administration or enforcement of this Act and the regulations; and
- (e) may stop a vehicle on a highway for the purposes of inspection.

(2) The owner or person in charge of the buildings, places, vehicles, containers or packaging referred to in this section and a person found in the buildings, places or vehicles shall give an inspector all reasonable assistance to enable the inspector to carry out his or her duties and functions under this section and shall furnish information which the inspector may reasonably require.

(3) A person who contravenes subsection (2) is guilty of an offence and liable on summary conviction to a fine of not more than \$600 or 30 days' imprisonment for a 1st offence and not more than \$1,000 or imprisonment for a term not exceeding 1 year for a subsequent offence.

1985 c11 s40; 1990 c49 s2

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Power to seize samples

14. (1) Where an inspector believes on reasonable grounds that a person has contravened this Act or the regulations, the inspector may, with a warrant issued under subsection (2), at a reasonable time enter a building, place or vehicle, container or packaging and may examine and remove for the purpose of making copies books, documents, correspondence and records that the inspector believes on reasonable grounds contain information relevant to the enforcement of this Act and the regulations.

(2) A Provincial Court judge who is satisfied by information upon oath or affirmation that there are reasonable grounds for believing that there is in a building, place, vehicle container or packaging anything that will afford evidence with respect to an offence under this Act may issue a warrant authorizing an inspector named in the warrant to enter and search those buildings, places, vehicles, containers or packaging and to make those inquiries and copies of books, documents, correspondence and records that are considered necessary, subject to those conditions that may be specified in the warrant.

(3) The owner or person in charge of the buildings, places, vehicles, containers or packaging referred to in this section and every person found in the buildings, places or vehicles shall give an inspector all reasonable assistance to enable the inspector to carry out his or her duties and functions under this section and shall furnish information which the inspector may reasonably require.

(4) A person who fails to comply with a reasonable request of an inspector is guilty of an offence and liable on summary conviction to a fine of not more than \$600 or 30 days' imprisonment for a 1st offence and not more than \$1,000 or imprisonment for a term of not more than 1 year for a subsequent offence.

(5) Notwithstanding subsection (1), an inspector may exercise the power of search referred to in that subsection without a warrant issued under subsection (2) where the conditions for obtaining the warrant exist but by reason of exigent circumstances it would not be practical to obtain

the warrant.

(6) For the purpose of subsection (4), "exigent circumstances" include circumstances in which the delay necessary to obtain the warrant would result in danger to human life or safety or the loss or destruction of evidence.

[1985 c11 s40](#); [1990 c49 s3](#); [2004 c36 s9](#)

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Seizure and removal

15. (1) Where an inspector is satisfied on reasonable grounds that

- (a) there is occurring or has occurred a discharge, emission or escape of dangerous goods from a container, packaging or means of transport by means of which the goods are being handled or transported;
- (b) there exists a serious and imminent danger of a discharge, emission or escape referred to in paragraph (a) by reason of a condition; or
- (c) a provision of this Act or the regulations is being or has been contravened,

the inspector may take measures prescribed in subsection (2) where the inspector considers it necessary to do so in order to prevent or reduce serious and imminent danger to life, health, property or the environment.

(2) An inspector may

- (a) seize dangerous goods, a container, packaging or vehicle by means of or in relation to which the inspector believes on reasonable grounds the discharge, emission, escape or condition has arisen or the contravention has occurred;
- (b) remove or direct the removal of the seized goods, container, packaging or vehicle to an appropriate place; and
- (c) take other measures that are practicable to protect persons and property.

(3) Dangerous goods that on reasonable grounds appear to an inspector to be abandoned or to have deteriorated and to be a danger to persons, property or the environment may be destroyed or otherwise disposed of by the inspector in a manner that is appropriate in the circumstances.

(4) Property seized under this section shall be returned to the person from whom the seizure was made or another person who appears on reasonable grounds to be entitled to the property

- (a) after this Act and the regulations have, in the opinion of an inspector, been complied with;
- (b) after the danger to life, health, property or the environment has, in the opinion of an inspector, been prevented or adequately reduced; or
- (c) not later than 30 days from the day of seizure,

whichever first occurs, unless before that time proceedings are instituted in respect of an offence under this Act or the regulations in relation to the property seized, in which case the property may be detained until the proceedings are finally concluded, unless the prosecutor agrees otherwise.

(5) Where proceedings referred to in subsection (4) have been instituted, a person from whom property that is the subject matter of the proceedings was seized or another person who appears on reasonable grounds to be entitled to that property may apply to the court before which the proceedings were instituted for an order that the property be returned to the applicant, and where the court is satisfied that

- (a) sufficient evidence for the purposes of the proceedings exists or may reasonably be produced without detaining the property; and
- (b) no danger to life, health, property or the environment would be occasioned by the release of the property,

it may grant the application and order the immediate return of the property to the applicant, subject to those terms and conditions that appear necessary or desirable to ensure that the property is safeguarded and preserved for a purpose for which it may subsequently be required.

(6) Where a person has been convicted of an offence under this Act, in addition to a punishment imposed on summary conviction, property seized under this section by means of or in relation to which the offence was committed may be forfeited to the Crown by order of the convicting court, whether or not it has been returned under this section, and on the making of the order the property shall be forfeited and may be disposed of as the minister directs.

(7) Where property is seized under this section and proceedings referred to in subsection (4) are instituted but no forfeiture is ordered at the conclusion of the proceedings, the property, if not earlier returned under this section, shall be returned to the person from whom the seizure was made or another person who appears on reasonable grounds to be entitled to the property, unless that person has been convicted of an offence under this Act, in which case the property may be detained until a fine imposed on conviction has been paid, or sold under execution in satisfaction of the fine or a part of the fine.

1982 c45 s14

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Application by person claiming interest

16. (1) Where property has been destroyed or otherwise disposed of under subsection 15(3) or ordered to be forfeited under subsection 15(6), a person who claims an interest in the property as owner, mortgagee, lien holder or holder of a like interest may, within 30 days after the destruction or disposition or the making of the order of forfeiture, apply by originating application to the Trial Division for an order under subsection (4).

(2) An applicant for an order under subsection (4) shall, at least 30 days before the day fixed for the hearing of the application, serve a notice of the application and of the hearing on the minister and all other persons whom the applicant knows to be claiming an interest as owner, mortgagee, lien holder or holder of a like interest in the property that is the subject matter of the application.

(3) A person, other than the minister, who is served with a notice under subsection (2) or who intends to appear at the hearing of the application to which the notice relates shall, at least 10 days before the day fixed for the hearing, file an appropriate notice of intervention with the court and serve a copy of the notice on the minister and on the applicant.

(4) Where, on the hearing of an application under this section, the court is satisfied that the applicant or the interveners

- (a) are innocent of conduct or complicity in conduct that caused the property to be subject to destruction or disposition or to forfeiture and of collusion in relation to that conduct; and
- (b) exercised all reasonable care in respect of the persons permitted to obtain possession and use of the property to satisfy themselves that it was not likely to be used contrary to this Act and the regulations or, in the case of a mortgagee or lien holder, other than the holder of a maritime lien or statutory right against the world at large, that they exercised that care with respect to the mortgagor or the lien giver,

those of the applicant and the interveners in respect of whom the court is so satisfied are entitled to an order declaring that their interests are not affected by the destruction, disposition or forfeiture and declaring the nature and extent of each of their interests and the priorities among them, and the court may, in addition, order that the property to which the interests relate be delivered by the minister to 1 or more of the persons found to have an interest in the property or that an amount equal to the value

of each of the interests so declared be paid by the minister to the persons found to have those interests.

1982 c45 s15; [2013 c16 s25](#)

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Reports and remedial measures

17. (1) Where there is a discharge, emission or escape of dangerous goods from a container, packaging or vehicle, the persons who at the time have the charge, management or control of the dangerous goods shall, in the manner and circumstances set out in the regulations, report the discharge, emission or escape to an inspector or to another person who is prescribed by the regulations.

(2) A person required to make a report under subsection (1) shall, as soon as possible in the circumstances, take all reasonable emergency measures consistent with public safety to repair or remedy a dangerous condition or reduce or mitigate danger to life, health, property or the environment that results or may reasonably be expected to result from the discharge, emission or escape.

(3) Where an inspector is satisfied on reasonable grounds that a discharge, emission or escape referred to in subsection (1) has occurred and that immediate action is necessary in order to carry out reasonable emergency measures referred to in subsection (2), the inspector may request that the measures be taken by a person the inspector considers qualified to do so or take them himself or herself.

(4) An inspector or other person required, requested or authorized to take reasonable emergency measures under subsection (2) or (3) may enter without a warrant and have access to a place or property and may do all reasonable things in order to comply with those subsections or either of them.

(5) A person requested to act under subsection (3) is not personally liable either civilly or criminally in respect of an act or omission in the course of complying with the request unless it is shown that he or she did not act reasonably in the circumstances.

1982 c45 s16

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Recovery of costs and expenses

18. (1) The Crown may recover the costs and expenses of and incidental to the taking of measures under subsection 15(3) or section 17 jointly and individually from persons who, through their fault or negligence or that of others for whom they are by law responsible, caused or contributed to the causation of a discharge, emission or escape referred to in subsection 17(1), to the extent that the costs and expenses can be established to have been reasonably incurred in the circumstances.

(2) For the purposes of proceedings under this section, a defendant engaged in an activity to which this Act applies is considered to have been at fault or negligent unless he or she establishes, on a balance of probabilities, that the defendant and others for whom he or she is by law responsible took all reasonable measures to comply with this Act and the regulations.

(3) All claims under this section may be sued for and recovered by the Crown in the Trial Division.

(4) Nothing in this section shall be construed as limiting or restricting a right of recourse or indemnity that a person who is liable under subsection (1) may have against another person.

(5) A civil remedy for an act or omission is not suspended or affected by reason only that the act or omission is an offence under this Act or gives rise to liability under this section.

(6) Nothing in this section relieves an operator within the meaning of the *Nuclear Liability*

Act (Canada) from a duty or liability imposed on that operator under that Act.

(7) A proceeding in respect of a claim under this section may not be instituted after 2 years from the day the events in respect of which the proceedings are brought or taken occurred or became evident.

(8) This section does not apply in a case where a person who otherwise would be liable to proceedings is liable to proceedings by or on behalf of the Crown for the recovery of costs and expenses in respect of the same occurrence under an Act other than this Act.

1982 c45 s17

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Stop orders

19. Where the minister or a person designated by the minister considers it to be necessary for the protection of public safety, property or the environment in a case not provided for by this Act and the regulations, he or she may, subject to regulations made under paragraph 22(o), direct a person engaged in handling, offering for transport or transporting dangerous goods to cease an activity with respect to the handling, offering for transport or transporting or to carry it on in the manner directed.

1982 c45 s18

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Evidence of financial responsibility

20. The minister may require a person who engages or proposes to engage in handling, offering for transport or transporting dangerous goods or a class of dangerous goods to provide evidence of financial responsibility in the form of insurance or an indemnity bond satisfactory to the minister or in another form satisfactory to the minister.

1982 c45 s19

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Inquiries

21. (1) Where a discharge, emission or escape of dangerous goods has resulted in death or injury to a person, danger to the health or safety of the public or damage to property, the minister may order that a public inquiry be made in the manner indicated in the order and may appoint a person the minister considers qualified to conduct the inquiry.

(2) A person appointed under subsection (1) has all of the powers of a commissioner appointed under the *Public Inquiries Act*.

1982 c45 s20

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Regulations

22. (1) The Lieutenant-Governor in Council may make regulations

- (a) prescribing products, substances and organisms to be included in the classes listed in the Schedule;
- (b) establishing divisions, subdivisions and groups of dangerous goods and classes of dangerous goods;
- (c) specifying, for each product, substance and organism prescribed under paragraph (a), the class listed in the Schedule and the division, subdivision or group into which it falls;

- (d) determining, or providing the manner of determining, the class listed in the Schedule and the division, subdivision or group into which dangerous goods not prescribed under paragraph (a) fall;
- (e) exempting from the application of this Act and the regulations the transporting of dangerous goods in the quantities or concentrations, in the circumstances, for the purposes or in the vehicles that are specified in the regulations;
- (f) prescribing the manner of identifying quantities or concentrations of dangerous goods exempted under paragraph (e);
- (g) prescribing the manner in which a permit under subsection 3(2) shall be applied for and issued;
- (h) prescribing safety marks, safety requirements and safety standards of general or particular application;
- (i) prescribing shipping documents and other documents to be used in respect of the transporting of dangerous goods in a vehicle on a highway, the information to be included in those documents and the persons by whom and the manner in which those documents are to be used and retained;
- (j) prescribing forms for the purpose of this Act and the regulations;
- (k) amending the Schedule;
- (l) fixing the form, amount, nature, class, terms and conditions of insurance or bond that shall be provided and carried by persons or classes of persons while transporting dangerous goods in a vehicle or class of vehicle on a highway;
- (m) prohibiting the transporting of dangerous goods under the circumstances which are prescribed;
- (n) prohibiting the transporting of dangerous goods which are prescribed;
- (o) governing the notification of persons directed to do anything under section 19 and the effect, duration and appeal or review of those directions; and
- (p) designating a violation of a federal regulation that has been adopted by the province as an offence for which a ticket may be issued under the *Provincial Offences Act*.

(2) A regulation made under subsection (1) may adopt by reference, in whole or in part, with the changes which the Lieutenant-Governor in Council considers necessary, a code or standard, or regulation made by the Government of Canada, and may require compliance with a code, standard or regulation that is so adopted.

1982 c45 s21; 1990 c62 s8; [1995 cP-31.1 s53](#)

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Agreements respecting enforcement

23. (1) The minister may, with the approval of the Lieutenant-Governor in Council, enter into an agreement with the Government of Canada with respect to the administration and enforcement of

- (a) this Act and the regulations; and
- (b) the *Transportation of Dangerous Goods Act* (Canada).

(2) An agreement entered into under subsection (1) may provide for matters necessary for or incidental to the implementation, administration or enforcement agreed on and for the apportionment of costs, expenses or revenues which arise as a result.

1982 c45 s22

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Inconsistent provisions

24. In the event of an inconsistency between this Act or the regulations made under this Act and another Act or orders, rules or regulations made under another Act, this Act and the regulations made under this Act prevail to the extent of the inconsistency.

1982 c45 s23

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Schedule

- Class 1 - Explosives, including explosives within the meaning of the *Explosives Act* (Canada)
- Class 2 - Gases compressed, deeply refrigerated, liquefied or dissolved under pressure
- Class 3 - Flammable and combustible liquids
- Class 4 - Flammable solids, substances liable to spontaneous combustion, substance that on contact with water emit flammable gases
- Class 5 - Oxidizing substances, organic peroxides
- Class 6 - Poisonous (toxic) and infectious substances
- Class 7 - Radioactive materials and prescribed substances within the meaning of the *Atomic Energy Control Act* (Canada)
- Class 8 - Corrosives
- Class 9 - Miscellaneous products, substances or organisms considered by the Lieutenant-Governor in Council to be dangerous to life, health, property or the environment when transported in a vehicle on a highway and prescribed to be included in this class.

1982 c45 Sch

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