

# Dangerous Goods (Road and Rail Transport) Regulation 2014

As at 14 January 2018

## Part 1 – Preliminary

### Division 1 – Introductory and application

#### 1 Name of Regulation

This Regulation is the *Dangerous Goods (Road and Rail Transport) Regulation 2014*.

#### 2 Commencement

This Regulation takes effect on 1 July 2014 and is required to be published on the NSW legislation website.

This Regulation replaces the *Dangerous Goods (Road and Rail Transport) Regulation 2009*.

#### 3 Main objects

The main objects of this Regulation are:

- (a) to set out the obligations of persons involved in the transport of dangerous goods by land transport, and
- (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 land transport, and
- (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 land transport, and
- (d) to promote consistency between the standards, requirements and procedures applying to the transport of dangerous goods by land transport and other modes of transport.

#### 4 Dangerous situations

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

#### 5 Exempt transport

- (1) In this clause: "**designated dangerous goods**" means dangerous goods of:
  - (a) UN Class 1 (explosives), except:
    - (i) dangerous goods of UN Division 1.4S, and
    - (ii) detonators carried in a unit of rolling stock or a road vehicle for the safety of persons working in rail transport, or
  - (b) Category A of UN Division 6.2 (infectious substances), or
  - (c) UN Class 7 (radioactive material).
- (2) This Regulation does not apply to the transport by a person of a load that contains dangerous goods if:
  - (a) the load does not contain:
    - (i) dangerous goods in a receptacle with a capacity of more than 500 litres, or
    - (ii) more than 500 kilograms 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, and

(e) in relation to transport by rail--the goods are not being transported by the person on a passenger train.

## **6 Further exemptions**

(1) This Regulation does not apply to the transport by road or rail, or both road and rail, of dangerous goods of UN Class 1 (explosives) or UN Class 7 (radioactive material) except when being transported with other dangerous goods.

(2) This Regulation does not apply to the transport by a vehicle of dangerous goods:

(a) that are not UN Division 6.2 infectious substances and that are in a consignment where the aggregate quantity of dangerous goods is less than the quantity set out in subclause (3) (a) of the note to section 1.1.1.2 of the ADG Code, 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 personal protective equipment or personal safety equipment and that are part of the safety equipment of the vehicle.

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

(1) This clause applies to a load if the following conditions are met:

(a) for loads not including any dangerous goods of UN Division 2.1 (other than aerosols), UN Division 2.3 or Packing Group I--the load includes an aggregate quantity of dangerous goods of less than 500,

(b) for loads including any dangerous goods of UN Division 2.1 (other than aerosols), UN Division 2.3 or Packing Group I:

(i) the load includes an aggregate quantity of dangerous goods of less than 250, and

(ii) any dangerous goods of UN Division 2.3 or Packing Group I in that load together constitute less than 100 of that aggregate quantity,

(c) the goods in the load are not being transported in the course of a business of transporting goods but are being transported:

(i) by a person who intends to use them, or

(ii) so that they may be used for a commercial purpose.

(2) A person transporting a load to which this clause applies is exempt from all obligations imposed by this Regulation other than those imposed by this clause.

(3) A person must not transport a load to which this clause applies unless each package in the load:

(a) complies with the packaging requirements appropriate to the quantity of dangerous goods, as specified in Part 4, and

(b) is labelled and appropriately marked as specified in clause 74, 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 to any person, property or the environment are eliminated, or if it is not practicable to eliminate the risks, are minimised to the maximum extent that is practicable.

Maximum penalty: 40 penalty units for an individual or 200 penalty units for a corporation.

(4) If a load to which this clause applies contains an aggregate quantity of dangerous goods of UN Class 3, 4, 5 or 6 in the load of more than 25% of a placard load, a person must not transport the load:

(a) in the passenger compartment of a vehicle, or

(b) in an enclosed space that is not separated from the passenger compartment of a vehicle.

Maximum penalty: 40 penalty units for an individual or 200 penalty units for a corporation.

(5) If a load to which this clause applies contains an aggregate quantity of dangerous goods of UN Division 2.1, UN Division 2.3 or Packing Group I in the load of more than 25% of a placard load, 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, if that space is not sufficiently ventilated to prevent an accumulation of vapours or fumes that is likely to cause risk.

Maximum penalty: 40 penalty units for an individual or 200 penalty units for a corporation.

## **8 Goods suspected of being dangerous goods**

If it is not clear whether goods are dangerous goods, but a person suspects, or reasonably ought to suspect, that they are, the person must not consign or transport them until:

(a) the goods have been classified in accordance with the ADG Code, or

(b) a determination has been made under clause 24 (1) (a) in respect of the goods.

Maximum penalty: 40 penalty units for an individual or 200 penalty units for a corporation.

## **Division 2 – Interpretation**

### **9 Definitions**

(1) In this Regulation, unless the contrary intention appears: "**ADG Code**" means the *Australian Code for the Transport of Dangerous Goods by Road and Rail*, approved by the Transport and Infrastructure Council, as in force or remade from time to time. If that document is amended or remade, a reference in this Regulation to a provision of that document extends to the corresponding provision (if any) of the amended or remade document. "**administrative determination**" --see clause 26. "**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**", in relation to a load containing dangerous goods, means the total of:

(a) the number of kilograms of:

(i) solid dangerous goods, and

(ii) articles (including aerosols),

in the load, and

(b) the number of litres or kilograms, being whichever is 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**" --see clause 74. "**approval**" means an approval by the Competent Authority or an authorised body under this Regulation and that is in effect. "**approved packaging**" means:

(a) packaging of a design that is approved under clause 49, or

(b) foreign approved packaging.

"**approved tank**" means:

(a) a tank of a design that is approved under clause 49, or

(b) a foreign approved tank.

"**approved test**" means a test that is approved under clause 23 (1) (a). "**approved training course**" means a training course that is approved under clause 23 (1)

(b). "**article**" means a manufactured item, other than a fluid or particle, that:

(a) is formed into a particular shape or design during manufacture, and

(b) has hazard properties and a function that are wholly or partly dependent on that shape or design,  
and includes batteries, aerosols, gas-filled lighters, seat belt pre-tensioners and refrigerating machines. "**authorised body**" means a person or body authorised to issue approvals under clause 53. "**bulk container**" --see clause 14. "**capacity**" means the total internal volume of a form of packaging at a temperature of 15Â° Celsius, expressed in litres or cubic metres. "**cargo transport unit**" means:

- (a) a road transport tank or freight vehicle, or
- (b) a railway transport tank or freight wagon, or
- (c) a portable tank, or
- (d) a bulk container, or
- (e) a freight container, or
- (f) an MEGC.

"**Category**", for dangerous goods--see clause 34. "**Competent Authorities Panel**" or "**CAP**" --means the body established by the Competent Authorities Panel Rules made by the National Transport Commission on 16 June 2008 and approved by the Australian Transport Council on 15 August 2008, as amended by the National Transport Commission, and approved by the Transport and Infrastructure Council, from time to time. "**compliance plate**" means a plate that must be attached to a portable tank, MEGC or tank vehicle under Part 6 of the ADG Code, and includes identification plates. "**corresponding administrative determination**" means a determination to which clause 160 applies that is of an administrative character. "**corresponding approval**" means an approval to which clause 162 applies. "**corresponding authority**" means a Competent Authority of a participating jurisdiction. "**corresponding dangerous goods driver licence**" means a licence to which clause 163 applies that has effect in this jurisdiction under that clause as a dangerous goods driver licence. "**corresponding dangerous goods vehicle licence**" means a licence to which clause 163 applies that has effect in this jurisdiction under that clause as a dangerous goods vehicle licence. "**corresponding determination**" means a determination to which clause 160 applies. "**corresponding exemption**" means an exemption to which clause 161 applies. "**dangerous goods**" --see clause 32. "**dangerous goods driver licence**" means a licence that is in force under Division 3 of Part 18. "**Dangerous Goods List**" means the list set out in section 3.2.3 of the ADG Code. "**dangerous goods vehicle licence**" means a licence that is in force under Division 4 of Part 18. "**dangerous situation**" means a situation that is causing or is likely to cause imminent risk of serious injury to a person, significant harm to the environment or significant damage to property. "**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 Division 4 of this Part, and that is in effect. "**driver licence**" means a licence (other than a provisional or learner licence) issued under a State or Territory law authorising the licensee to drive a road vehicle. "**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).

"**exemption**" means an exemption in force under section 42 of the Act. "**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 Part 6 of the ADG Code for packaging of its type, in confirmation that the packaging is ADR, ICAO, IMO, RID or UN approved. 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 Freight containers* that is designed for repeated use for the transport of goods by one or more modes of transport. **"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"** or **"intermediate bulk container"** --see clause 15. **"ICAO approved"** means approved in accordance with the ICAO Technical Instructions. **"ICAO Technical Instructions"** means the *Technical Instructions for the Safe Transport of Dangerous Goods by Air* published by the International Civil Aviation Organisation. **"IMDG Code"** means the *International Maritime Dangerous Goods Code* published by the International Maritime Organisation. **"IMO approved"** means approved in accordance with the IMDG Code. **"incompatible"** --see clause 37. **"inner packaging"**, in relation to 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. **"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 3 cubic metres, and
- (c) is intended to contain articles or inner packaging with:
  - (i) a net mass of more than 400 kilograms, or
  - (ii) capacities totalling more than 450 litres.

**"licensed vehicle"** means a vehicle for which a dangerous goods vehicle licence is in force. **"load"** (noun)--see clause 20. **"load"** (verb) and **"loader"** --see clause 20. **"MEGC"** or **"multiple-element gas container"** --see clause 16. **"motor vehicle"** does not include a unit of rolling stock, but does include a vehicle designed to operate both on and off rails when the vehicle is operating on a road. **"multimodal"** means applicable to, or suitable for use on, more than one mode of transport. **"NATA"** means the National Association of Testing Authorities. **"outer packaging"** means external packaging (including absorbent materials, cushioning and any other components) necessary for the purposes of transport to contain and protect:

- (a) articles, or
- (b) receptacles in composite packaging (as that packaging is defined in section 1.2.1.1 of the ADG Code), or
- (c) inner packaging in combination packaging (as that packaging is defined in section 1.2.1.1 of the ADG Code).

**"overpack"** means packaging (other than large packaging) used to hold and consolidate packages of goods into a single unit for easier handling and stowage. A pallet, together with strapping or shrink wrapping, designed to hold packages. A box or crate into which packages are placed. **"owner"**, of a vehicle, has the same meaning as in the *Road Transport Act 2013*. **"pack"** and **"packer"** --see clause 17. **"package"**, in relation to goods, means the

complete product of the packing of the goods for transport, and consists of the goods and their packaging. "**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. "**packed in limited quantities**" --see clause 18. "**Packing Group**" --see clause 36. "**participating jurisdiction**" means:

- (a) this jurisdiction, and
- (b) any other State or Territory that has a corresponding law within the meaning of the Act.

"**placard load**" means a load that contains dangerous goods that must be placarded under clause 78. "**placards**" --see clause 79 (1). "**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 450 litres, 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 drums**" are welded transportable pressure receptacles of a water capacity exceeding 150 litres and of not more than 1,000 litres, (for example, cylindrical receptacles equipped with rolling hoops or spheres on skids). "**prime mover**" means a motor 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. "**provisional licence**" means a provisional or probationary licence (but not a learner licence) issued under a State or Territory law authorising a person who is a novice driver to drive a road vehicle. "**rail infrastructure manager**" has the same meaning as in the *Rail Safety National Law* (NSW). "**receptacle**", in relation to a substance or article, means a container that is:

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

"**register**" --see clause 155. "**registered**" means registered under a Commonwealth, State or Territory law. "**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. "**road vehicle**" means:

- (a) a motor vehicle, or
- (b) a trailer.

"**service equipment**", in relation to a tank or MEGC, has the meaning given in section 6.7.2.1, 6.7.3.1, 6.7.4.1 or 6.7.5.1, as the case requires, of the ADG Code. "**structural equipment**", in relation to a tank or MEGC, has the meaning given in section 6.7.2.1, 6.7.3.1, 6.7.4.1 or 6.7.5.1, as the case requires, of the ADG Code. "**subsidiary risk**" --see clause 35. "**tank**" --see clause 19. "**tank vehicle**" means a road vehicle or unit of rolling stock:

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

"**the Act**" means the *Dangerous Goods (Road and Rail Transport) Act 2008*. "**trailer**" means a vehicle that is designed to be towed, or is towed, by a motor vehicle but does not include a vehicle propelled by a motor that forms part of the vehicle. "**Transport and Infrastructure Council**" means the Ministerial Council called the Transport and Infrastructure Council and established with the authority of the Council of Australian

Governments. "**transport documentation**" means documentation that complies with Chapter 11.1 of the ADG Code. "**tubes**" are seamless transportable pressure receptacles of a water capacity exceeding 150 litres but not more than 3,000 litres. "**UN approved**" means approved in accordance with the United Nations Model Regulations for the Transport of Dangerous Goods published by the United Nations. "**UN Class**", for dangerous goods, means the class to which dangerous goods belong in accordance with clause 34. "**UN Division**", for dangerous goods, means the division to which dangerous goods of a particular UN Class belong in accordance with clause 34. The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Regulation.

(2) Notes and examples included in this Regulation do not form part of this Regulation.

#### **10 References to codes, standards and rules**

(1) In this clause: "**instrument**" means a code, standard or rule (whether made in or outside Australia) relating to dangerous goods or to transport by road or rail, and includes a provision of an instrument.

(2) 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.

(3) 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.

#### **11 Inconsistency between this Regulation and codes etc**

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 or rail 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.

#### **12 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.

#### **13 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.

The addition of a new condition to an existing determination.

#### **14 Meaning of "bulk container"**

(1) "**Bulk container**" means a container (with or without a liner or coating) that:

(a) has a capacity of 1.0 cubic metres or more, and

(b) is intended for the transport of solid dangerous goods that are in direct contact with the container.

(2) To avoid doubt, the following are not bulk containers even if they have a capacity of 1.0 cubic metres or more and are intended for the transport of solid dangerous goods:

- (a) a large packaging that complies with the requirements of Chapter 6.6 of the ADG Code,
- (b) an IBC,
- (c) a tank,
- (d) a tank vehicle,
- (e) any other packaging that complies with the requirements of Chapter 6.1 or 6.3 of the ADG Code.

### **15 Meaning of "IBC"**

- (1) Subject to subclause (2), **"IBC"** or **"intermediate bulk container"** means a rigid or flexible portable packaging for the transport of dangerous goods that complies with the specifications in Chapter 6.5 of the ADG Code and that:
- (a) has a capacity of not more than:
    - (i) for solids of Packing Group I packed in a composite, fibreboard, flexible, wooden, or rigid plastics container--1,500 litres, and
    - (ii) for solids of Packing Group I packed in a metal container--3,000 litres, and
    - (iii) for solids or liquids of Packing Groups II and III--3,000 litres, and
  - (b) is designed for mechanical handling.
- (2) Rigid or flexible portable packaging that complies with the requirements of Chapter 6.1, 6.3 or 6.6 of the ADG Code cannot be an IBC.

### **16 Meaning of "MEGC"**

In this Regulation, **"MEGC"** or **"multiple-element gas container"** means:

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

### **17 Meaning of "pack" and "packer"**

A person **"packs"** dangerous or other goods for transport, and is a **"packer"** of the goods, if the person:

- (a) puts the goods in a packaging (even if that packaging is already on a vehicle), or
- (b) assembles, places or secures packages in packaging designed to hold, enclose or otherwise contain more than one package (even if that packaging is already on a vehicle), or
- (c) supervises an activity mentioned in paragraph (a) or (b), or
- (d) manages or controls an activity mentioned in paragraph (a), (b) or (c).

A person who uses a hose to fill the tank of a tank vehicle with petrol packs the petrol for transport for the purposes of this Regulation.

### **18 Dangerous goods "packed in limited quantities"**

Dangerous goods are **"packed in limited quantities"** if:

- (a) the goods are packed in accordance with Chapter 3.4 of the ADG Code, and
- (b) the quantity of dangerous goods in each inner packaging or in each article does not exceed the quantity specified, or referred to, in Column 7 of the Dangerous Goods List for those goods.

### **19 Meaning of "tank"**

- (1) Subject to subclauses (2) and (3), **"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) A receptacle for receiving and holding dangerous goods of UN Class 2 is not a tank unless it has a capacity of more than 450 litres.

(3) The following are not tanks:

- (a) packaging that complies with the requirements of Chapter 6.1, 6.3 or 6.6 of the ADG Code,
- (b) an IBC,
- (c) an MEGC,
- (d) a cylinder,
- (e) a pressure drum,
- (f) a tube,
- (g) a bulk container that complies with the requirements of Chapter 6.8 of the ADG Code.

The kinds of packaging dealt with under Chapter 6.1 of the ADG Code include drums, barrels, jerry cans, boxes, bags and composite packaging. Chapter 6.3 of the ADG Code deals with packaging for infectious substances.

## **20 Meaning of "loads" (verb), "loader" and load (noun)**

(1) A person **"loads"** dangerous or other goods for transport, and is a **"loader"** of the goods, if the person:

- (a) loads one or more packages of the goods in or on a vehicle, or
- (b) places or secures one or more packages of the goods on a vehicle, or
- (c) supervises an activity mentioned in paragraph (a) or (b), or
- (d) manages or controls an activity mentioned in paragraph (a), (b) or (c).

(2) Subclause (1) does not apply to the loading of goods into packaging that is already on a vehicle, nor to the placing or securing of packages in or on a further packaging that is already on a vehicle.

(3) For the purposes of this Regulation:

- (a) all the goods in or on a road vehicle are a single load, even if the vehicle is transporting more than one cargo transport unit, and
- (b) all the goods in a cargo transport unit being transported on a rail vehicle are a single load.

## **21 Meaning of "consign"**

A person **"consigns"** goods if they are the consignor of the goods.

**"Consignor"** of goods is defined in section 4 of the Act to mean a person who:

- (a) with the person's authority, is named or otherwise identified as the consignor of the goods in the transport documentation relating to the transport of the goods, or
- (b) if paragraph (a) does not apply to the person or anyone else:
  - (i) engages a prime contractor or rail operator, either directly or indirectly or through an agent or other intermediary, to transport the goods, or
  - (ii) has possession of, or control over, the goods immediately before the goods are transported, or
  - (iii) loads a vehicle with the goods, for transport, at a place where the goods are awaiting collection and that is unattended (except by the driver) during loading, or
- (c) if paragraphs (a) and (b) do not apply to the person or anyone else, and the goods are imported into Australia--imports the goods.

## **Division 3 – Training**

### **22 Instruction and training**

(1) This clause applies to any task involved in the transport of dangerous goods, including the following:

- (a) packing dangerous goods,
- (b) consigning dangerous goods,
- (c) loading dangerous goods,
- (d) unloading dangerous goods,
- (e) handling fumigated cargo transport units,

- (f) marking packages,
- (g) placarding placard loads,
- (h) preparing transport documentation,
- (i) maintaining vehicles and equipment used in the transport of dangerous goods,
- (j) driving a vehicle transporting dangerous goods,
- (k) being the consignee of dangerous goods,
- (l) following the appropriate procedures in accordance with this Regulation in a dangerous situation.

- (2) A person who is responsible for management or control of a task must not employ, engage or permit someone else to perform the task if the other person:
- (a) has not received, or is not receiving, appropriate instruction and training to ensure that he or she is able to perform the task safely and in accordance with this Regulation, or
  - (b) is not appropriately supervised in performing the task to ensure that he or she is able to perform the task safely and in accordance with this Regulation.

Maximum penalty: 40 penalty units for an individual or 200 penalty units for a corporation.

- (3) A person must not manage, control or supervise a task unless the person has received instruction and training to enable him or her to manage, control or supervise another person to perform the task safely and in accordance with this Regulation. Maximum penalty: 40 penalty units.

### **23 Approvals--tests and training courses for drivers**

- (1) The Competent Authority may, on its own initiative or in response to an application made in accordance with clause 170, approve:
- (a) a test of competence for drivers of motor vehicles transporting dangerous goods, or
  - (b) a training course for drivers of motor vehicles transporting dangerous goods.
- (2) The Competent Authority may approve a test of competence or a 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 task to which the test or course relates safely and in accordance with this Regulation.

### **Division 4 – Determinations**

#### **24 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 Category, or
  - (c) dangerous goods with a particular subsidiary risk, or
  - (d) substances 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
  - (b) particular dangerous goods must not be or may be transported in or on the same cargo 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.

#### **25 Determinations--vehicles, routes, areas and times**

The Competent Authority may determine that particular dangerous goods may be or must or must not be transported:

- (a) using a specified vehicle, or kind of vehicle, or
- (b) on a specified route, or
- (c) in or through a specified area, or

- (d) at a specified time, or
- (e) in quantities in excess of a specified amount, or
- (f) in specified packaging.

## **26 Administrative determinations**

- (1) 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, or to the person and to other people named in the application.
- (2) A determination is also an administrative determination if it:
  - (a) is made at the initiative of the Competent Authority, and
  - (b) applies to one or more people named in the determination, and
  - (c) does not impose any obligation on any person, other than conditions that apply if action is taken on the basis of the determination.
- (3) A determination made at the initiative of the Competent Authority may be varied at the initiative of the Competent Authority.

Part 17 contains provisions dealing with administrative determinations, including applications for administrative determinations and their cancellation and variation.

## **27 Determinations may be subject to conditions**

- (1) In making a determination, the Competent Authority may impose in relation to the determination any condition necessary for the safe transport of dangerous goods.
- (2) A person to whom a determination applies must not contravene a condition of the determination. Maximum penalty: 40 penalty units for an individual or 200 penalty units for a corporation.

## **28 Effect of determinations on contrary obligations under this Regulation**

If this Regulation imposes an obligation on a person, and the person is authorised or permitted to act contrary to that obligation by a determination made under this Division, the obligation is to be read as if it stated that the person could fulfil the obligation by acting in accordance with the determination.

## **29 Register of determinations**

- (1) The Competent Authority must keep a register of determinations.
- (2) The register may have separate divisions for different kinds of determinations.
- (3) The Competent Authority must record in the register each determination made under this Regulation that is not an administrative determination.
- (4) The Competent Authority must note in the register the revocation of a determination made under this Regulation.

A register of corresponding determinations is kept on the website of the Competent Authorities Panel

([http://www.infrastructure.gov.au/transport/australia/dangerous/competent\\_authorities.aspx](http://www.infrastructure.gov.au/transport/australia/dangerous/competent_authorities.aspx)).

## **30 Records of determinations**

The record of a determination in the register must include:

- (a) the provisions of the determination, or
- (b) the following information:
  - (i) the title of the Government Gazette where the determination was notified or published and the date of notification or publication,
  - (ii) the provisions of this Regulation, and of the ADG Code, to which the determination relates,
  - (iii) the dangerous goods, equipment, packaging, vehicle or other thing to which the determination relates.

## **31 Offence to do any thing prohibited or regulated by a determination**

(1) If a determination under this Division prohibits or regulates the doing of any thing, a person to whom the determination applies must not do that thing contrary to the determination. Maximum penalty: 40 penalty units for an individual or 200 penalty units for a corporation.

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

## **Part 2 – Key concepts**

### **32 Dangerous goods**

(1) Goods are "**dangerous goods**" if:

- (a) the goods are determined under clause 24 (1) (a) to be dangerous goods, or
- (b) the goods satisfy the dangerous goods classification criteria set out, or referred to, in Part 2 of the ADG Code.

(2) However, goods that satisfy the criteria set out, or referred to, in Part 2 of the ADG Code are not dangerous goods if the goods are:

- (a) determined under clause 24 (1) (a) not to be dangerous goods, or
- (b) described as not subject to the ADG Code in a special provision in Chapter 3.3 of the ADG Code that is applied to the goods by Column 6 of the Dangerous Goods List.

### **33 Goods too dangerous to be transported**

Dangerous goods are too dangerous to be transported if they are:

- (a) goods set out or described in Appendix A to the ADG Code, or
- (b) goods determined under clause 24 (2) (a) to be too dangerous to be transported, or
- (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.

Section 8 of the Act provides that a person must not consign for transport goods that this Regulation identifies as being too dangerous to be transported.

### **34 UN Classes, UN Divisions and Categories of dangerous goods**

The UN Class, Division or Category of particular dangerous goods for the purposes of this Regulation is:

- (a) if a determination under clause 24 (1) (b) that the goods are of a particular UN Class, Division or Category is in effect in relation to the goods--the Class, Division or Category specified in the determination, or
- (b) if no such determination is in effect--the Class, Division or Category determined for the goods in accordance with the ADG Code.

1 Under the UN classification system there are 9 classes of dangerous goods. Under that system some Classes are further divided into Divisions, and some Divisions are divided into Categories. Example --UN Division 6.2 infectious substances is divided into:

- (a) Category A (substances transported in a form that, if exposure occurs, can cause permanent disability or life-threatening or fatal disease to humans or animals), and
- (b) Category B (others).

2 Under the ADG Code, if particular dangerous goods are listed in the Dangerous Goods List, their UN Class or Division is that listed in Column 2 of that list opposite the name and description of those goods, unless Chapter 3.3 of that Code provides for those goods to be assigned to a different Class or Division. If applicable, Chapter 2 of that Code describes how the UN Category of dangerous goods is to be determined. Once again the Category may be changed under Chapter 3.3 of that Code.

### **35 Subsidiary risk**

The subsidiary risk, if any, of particular dangerous goods for the purposes of this Regulation is:

- (a) if a determination under clause 24 (1) (c) that the goods have a particular subsidiary risk is in effect--the subsidiary risk specified in the determination, or
- (b) if no such determination is in effect--the subsidiary risk determined for the goods in accordance with the ADG Code.

Dangerous goods that are able to be assigned to more than one UN Class or Division are assigned a subsidiary risk. This subsidiary risk is the other UN Class/es or Division/s to which the goods also belong. Under the ADG Code, if particular dangerous goods are listed in the Dangerous Goods List, their subsidiary risk is that listed in Column 4 of that list opposite the name and description of those goods, unless Chapter 3.3 of that Code provides for those goods to be assigned a different subsidiary risk.

### **36 Packing Groups**

The Packing Group, if any, of particular dangerous goods for the purposes of this Regulation is:

- (a) if a determination under clause 24 (1) (d) that the goods are of a particular Packing Group is in effect--the Packing Group specified in the determination, or
- (b) if no such determination is in effect--the Packing Group determined for the goods in accordance with the ADG Code.

The assignment of particular dangerous goods to a Packing Group indicates the degree of danger, and the level of containment required for, the goods. The Packing Groups, and the degree of danger they indicate, are:

- (a) Packing Group I (substances presenting high danger), and
- (b) Packing Group II (substances presenting medium danger), and
- (c) 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 Chapter 3.3 of the ADG Code (the List identifies those cases).

### **37 Incompatibility**

- (1) Dangerous or other goods are **"incompatible"** with dangerous goods if:
  - (a) the goods are incompatible under Chapter 9.1 of the ADG Code, or
  - (b) the goods are determined under clause 24 (1) (e) 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.

## **Part 3 – Transport of dangerous goods to which special provisions apply**

### **38 Application of this Part**

This Part applies if a special provision applies to dangerous goods in the Dangerous Goods List and that special provision prohibits the transport of the goods by road or rail, or imposes a restriction on the way the goods are to be transported by road or rail.

Column 6 of the Dangerous Goods List specifies whether a special provision applies to dangerous goods and Chapter 3.3 of the ADG Code lists the special provisions that apply.

### **39 Duty on consignors**

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

(a) that a special provision applies to the transport of the goods, and

(b) that the transport of the goods does not, or will not, comply with the special provision.

Maximum penalty: 20 penalty units for an individual or 100 penalty units for a corporation.

#### **40 Duty on packers**

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

(a) that a special provision applies to the transport of the goods, and

(b) that the transport of the goods does not, or will not, comply with the special provision.

Maximum penalty: 20 penalty units for an individual or 100 penalty units for a corporation.

#### **41 Duty on loaders**

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

(a) that a special provision applies to the transport of the goods, and

(b) that the transport of the goods does not, or will not, comply with the special provision.

Maximum penalty: 20 penalty units for an individual or 100 penalty units for a corporation.

#### **42 Duty on prime contractors and rail operators**

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

(a) that a special provision applies to the transport of the goods, and

(b) that the transport of the goods does not comply with the special provision.

Maximum penalty: 20 penalty units for an individual or 100 penalty units for a corporation.

#### **43 Duty on drivers**

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

(a) that a special provision applies to the transport of the goods, and

(b) that the transport of the goods does not comply with the special provision.

Maximum penalty: 10 penalty units.

### **Part 4 – Packaging**

#### **Division 1 – 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 Part.

##### **45 References to Part 4 of the ADG Code include Dangerous Goods List requirements**

In this Part, a reference to dangerous goods being packed in accordance with any relevant provision in Part 4 of the ADG Code is to be read as including a reference to the goods being packed in accordance with any packing requirement specified in relation to the goods in the Dangerous Goods List.

#### **Division 2 – Suitability and design of packaging**

##### **46 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 Part 6 of the ADG Code, and it is not approved packaging, or

- (b) it does not meet any relevant standards or requirements specified by Part 4 or 6 of the ADG Code (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 Part 4 or 6 of the ADG Code, or
- (d) its use for the transport of the goods is prohibited by, or does not comply with, a determination made under Division 4 of Part 1, 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*.

#### **47 Marking packaging**

- (1) A person must not apply any marking required by Part 6 of the ADG Code on packaging if the packaging is not of a design approved under clause 49. Maximum penalty: 40 penalty units for an individual or 200 penalty units for a corporation.
- (2) A person must not apply a marking mentioned in Part 6 of the ADG Code on packaging if the marking is not appropriate for the packaging. Maximum penalty: 40 penalty units for an individual or 200 penalty units for a corporation.

#### **48 Applications for approval of packaging design**

- (1) This clause applies to packaging that is required to undergo performance tests under Part 6 of the ADG Code.
- (2) A person may apply to the Competent Authority for the approval of a design of packaging to which this clause applies for use in the transport of dangerous goods. 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 Part 6 of the ADG Code. Performance tests include drop, leakproofness, hydraulic and stacking tests.
- (3) An application for approval must:
  - (a) be made in accordance with clause 170, and
  - (b) include the information required under Part 6 of the ADG Code.

#### **49 Approval of packaging designs**

- (1) The Competent Authority may, on application in accordance with clause 48, approve a design for a packaging for use in the transport of dangerous goods if it is satisfied that a packaging of that design:
  - (a) will comply with, or is permitted by, Part 6 of the ADG Code, and
  - (b) satisfies all the relevant testing and inspection requirements set out in that Part.
- (2) In determining 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 (as defined by clause 50) that complies with clause 51.
- (3) In giving its approval, the Competent Authority may impose in relation to the approval any condition about the construction, packing, use or maintenance of a packaging manufactured in accordance with the design necessary for the safe use of the packaging to transport dangerous goods.
- (4) A person must not construct, pack or fail to maintain packaging for use in the transport of dangerous goods, or use packaging to transport dangerous goods, if the person knows, or ought reasonably to know, that:
  - (a) a condition about the construction, packing, maintenance or use of the packaging, as the case may be, was imposed in relation to the approval of the design for the packaging, and
  - (b) the construction, packing, failure to maintain, or use is in contravention of the

condition.

Maximum penalty: 40 penalty units for an individual or 200 penalty units for a corporation.

## **50 Recognised testing facilities**

The following testing facilities are recognised testing facilities for a packaging design type:

- (a) a testing facility registered by NATA to conduct performance tests under Part 6 of the ADG Code for the packaging design type,
- (b) if NATA has not registered a testing facility to conduct performance tests of 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.

## **51 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 Part 6 of the ADG Code, and

(b) be in the appropriate form used by NATA registered testing facilities.

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

(a) the test must be observed by or for the Competent Authority, and

(b) any test certificate, or report on the test, must contain any details required under the relevant Chapter of Part 6 of the ADG Code.

## **52 Approval of overpack preparation method**

(1) The Competent Authority may, on application in accordance with clause 170, approve a method of preparing an overpack for transport that does not comply with section 5.1.2 of the ADG Code 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) In giving its approval, the Competent Authority may impose in relation to the approval any condition about the use of the overpack necessary for the safe use of the overpack to transport dangerous goods.

(3) A person must not use an overpack to transport dangerous goods if the person knows, or ought reasonably to know, that:

(a) a condition about the use of the overpack was imposed in relation to the approval of the method of preparing the overpack, and

(b) the use is in contravention of the condition.

Maximum penalty: 40 penalty units for an individual or 200 penalty units for a corporation.

## **53 Authorised body may issue approvals**

(1) The Competent Authority may authorise a person or body to issue approvals under clauses 49 and 52.

(2) In giving its authorisation, the Competent Authority may impose in relation to the authorisation any condition it considers appropriate in relation to the issuing of approvals by the person or body.

(3) In issuing an approval, in addition to complying with any condition imposed under subclause (2), the person or body must also:

(a) comply with any relevant requirements imposed by Part 6 of the ADG Code in relation to the issuing of the approval, and

(b) give the Competent Authority, in relation to the approval, all of the information listed in clause 179.

(4) If a person or body is authorised to issue approvals under this clause:

(a) clauses 48, 49 and 52 apply as if a reference in those clauses to the Competent



Authority were a reference to the person or body, and

(b) Divisions 1 and 4 of Part 17, 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 person or body, and

(c) a reference in this Regulation to an approval under clause 49 or 52 includes a reference to an approval given by the body or other person under clause 49 or 52 as applied under paragraph (a), and

(d) clause 232 (e), (f) and (i) apply as if a reference in clause 232 to the Competent Authority were a reference to the person or body.

(5) The Competent Authority may withdraw an authorisation granted under this clause at any time.

(6) The withdrawal of an authorisation does not affect any approval issued by the person or body before the withdrawal took effect.

### **Division 3 – Prohibition on the sale or supply of non-compliant packaging**

#### **54 Offence to sell or supply non-compliant packaging**

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

(a) it is packaging of a design that has been approved under clause 49 and it is marked in accordance with Part 6 (or, if applicable, Chapter 3.4) of the ADG Code and, according to the marking, its use is appropriate for those goods, or

(b) it complies with the relevant requirements of Parts 4 and 6 (or, if applicable, Chapter 3.4) of the ADG Code (including any relevant marking requirements) and its use is appropriate for those goods.

Maximum penalty: 40 penalty units for an individual or 200 penalty units for a corporation.

### **Division 4 – Offences relating to general packaging**

#### **55 Meaning of "general packaging" in this Division**

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

#### **56 Duty on consignors**

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

(a) the packaging is unsuitable for the transport of the goods, or

(b) the goods have not been packed in the packaging in accordance with any relevant provision in Part 4 of the ADG Code.

Maximum penalty: 40 penalty units for an individual or 200 penalty units for a corporation.

#### **57 Duty on packers**

(1) A person must not pack dangerous goods for transport in any general packaging if the person knows, or ought reasonably to know, that the packaging is unsuitable for the transport of the goods. Maximum penalty: 40 penalty units for an individual or 200 penalty units for a corporation.

(2) A person must not pack dangerous goods for transport in any general packaging in a way that the person knows, or ought reasonably to know, does not comply with any relevant provision in Part 4 of the ADG Code. Maximum penalty: 40 penalty units for an individual or 200 penalty units for a corporation.

#### **58 Duty on loaders**

A person must not load dangerous goods that are in any general packaging on to a vehicle for transport if the person knows, or ought reasonably to know, that the packaging is damaged or

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

Maximum penalty: 40 penalty units for an individual or 200 penalty units for a corporation.

### **59 Duty on prime contractors and rail operators**

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

Maximum penalty: 40 penalty units for an individual or 200 penalty units for a corporation.

### **60 Duty on drivers**

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

Maximum penalty: 20 penalty units.

## **Division 5 – Offences relating to other packaging**

### **61 Meaning of "other packaging" in this Division**

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

### **62 Duty on manufacturers--compliance plates on portable tanks, MEGCs and tank vehicles**

(1) A person who manufactures a portable tank or an MEGC for use in the transport of dangerous goods must attach a compliance plate to the tank or MEGC in accordance with Chapter 6.7 of the ADG Code. Maximum penalty: 40 penalty units for an individual or 200 penalty units for a corporation.

(2) Subclause (1) does not apply to a person in relation to a portable tank if Chapter 6.7 of the ADG Code permits the marking of the tank instead of the attachment of a compliance plate and if the tank is marked as required by that Chapter.

(3) A person who manufactures a tank vehicle for use in the transport of dangerous goods must attach a compliance plate to the vehicle in accordance with section 6.9.2.2 of the ADG Code. Maximum penalty: 40 penalty units for an individual or 200 penalty units for a corporation.

### **63 Duty on owners--portable tanks, demountable tanks, MEGCs and tank vehicles**

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

Maximum penalty: 40 penalty units for an individual or 200 penalty units for a corporation.

### **64 Duty on consignors**

(1) A person must not consign dangerous goods for transport in any other packaging provided by the person if:

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

Maximum penalty: 40 penalty units for an individual or 200 penalty units for a corporation.

(2) A person must not consign dangerous goods for transport in any other packaging that was provided by any other person if:

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

Maximum penalty: 40 penalty units for an individual or 200 penalty units for a corporation.

## **65 Duty on packers**

(1) A person must not pack dangerous goods for transport in any other packaging if the person knows, or reasonably ought to know, that the packaging is unsuitable for the transport of the goods. Maximum penalty: 40 penalty units for an individual or 200 penalty units for a corporation.

(2) A person must not pack dangerous goods for transport in any other packaging in a way that the person knows, or ought reasonably to know, does not comply with any relevant provision in Part 4 of the ADG Code. Maximum penalty: 40 penalty units for an individual or 200 penalty units for a corporation.

## **66 Duty on loaders**

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

Maximum penalty: 40 penalty units for an individual or 200 penalty units for a corporation.

## **67 Duty on prime contractors and rail operators**

(1) A prime contractor or rail operator must not transport dangerous goods in any other packaging provided by the prime contractor or rail operator if:

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

Maximum penalty: 40 penalty units for an individual or 200 penalty units for a corporation.

(2) A prime contractor or rail operator must not transport dangerous goods in any other packaging provided by any other person if the prime contractor or rail operator knows, or ought reasonably to know, that:

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

Maximum penalty: 40 penalty units for an individual or 200 penalty units for a corporation.

## **68 Duty on drivers**

A person must not drive a road vehicle transporting dangerous goods in any other packaging if the person knows, or ought reasonably to know, that:

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

Maximum penalty: 40 penalty units.

## **Division 6 – Offences relating to overpacks**

### **69 Duty on consignors**

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

- (a) Part 4 and section 5.1.2 of the ADG Code, or
- (b) an approval under clause 52.

Maximum penalty: 20 penalty units for an individual or 100 penalty units for a corporation.

### **70 Duty on packers**

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

- (a) Part 4 and section 5.1.2 of the ADG Code, or
- (b) an approval under clause 52.

Maximum penalty: 20 penalty units for an individual or 100 penalty units for a corporation.

### **71 Duty on loaders**

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

- (a) Part 4 and section 5.1.2 of the ADG Code, or
- (b) an approval under clause 52.

Maximum penalty: 20 penalty units for an individual or 100 penalty units for a corporation.

### **72 Duty on prime contractors and rail operators**

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

- (a) Part 4 and section 5.1.2 of the ADG Code, or
- (b) an approval under clause 52.

Maximum penalty: 20 penalty units for an individual or 100 penalty units for a corporation.

### **73 Duty on drivers**

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

- (a) Part 4 and section 5.1.2 of the ADG Code, or
- (b) an approval under clause 52.

Maximum penalty: 15 penalty units.

## **Part 5 – Consignment procedures**

### **Division 1 – Marking and labelling**

#### **74 Meaning of "appropriately marked"**

- (1) Any receptacle (other than a cargo transport unit or an overpack) that has a capacity of more than 500 kilograms or litres is "**appropriately marked**" if it is marked and labelled in accordance with Chapters 5.2 and 5.3 of the ADG Code.
- (2) Any other package of dangerous goods (other than an overpack) is "**appropriately marked**" if it is marked and labelled in accordance with Chapter 5.2 of the ADG Code.
- (3) An overpack is "**appropriately marked**" if it is marked and labelled in accordance with section 5.1.2 of the ADG Code.
- (4) A package of dangerous goods that are packed in limited quantities is also "**appropriately marked**" if it is marked and labelled in accordance with Chapter 3.4 of the ADG Code.

#### **75 Consignor's duties**

- (1) A person must not consign dangerous goods for transport in a package if the package is not appropriately marked. Maximum penalty:
  - (a) in the case of large packaging or overpack--20 penalty units for an individual or 100 penalty units for a corporation, or
  - (b) in any other case--10 penalty units for an individual or 30 penalty units for a corporation.
- (2) A person must not consign dangerous goods for transport in a package if a marking or label on the package about its contents is false or misleading in a material particular.  
Maximum penalty:

- (a) in the case of large packaging or overpack--20 penalty units for an individual or 100 penalty units for a corporation, or
  - (b) in any other case--10 penalty units for an individual or 30 penalty units for a corporation.
- (3) A person must not consign goods for transport in a package that does not contain dangerous goods but that is marked or labelled as if it contained dangerous goods.

Maximum penalty:

- (a) in the case of large packaging or overpack--20 penalty units for an individual or 100 penalty units for a corporation, or
  - (b) in any other case--10 penalty units for an individual or 30 penalty units for a corporation.
- (4) Subclause (3) does not apply if the marking or labelling of the package complies with the requirements of the ICAO Technical Instructions or the IMDG Code with respect to the contents of the package.
- (5) A reference to a label in this clause includes a reference to a placard.

## **76 Packer's duties**

- (1) A person must not pack dangerous goods for transport in a package if the person knows, or reasonably ought to know, that the package is not, or will not be once the package is ready to be transported, appropriately marked. Maximum penalty:
- (a) in the case of large packaging or overpack--20 penalty units for an individual or 100 penalty units for a corporation, or
  - (b) in any other case--10 penalty units for an individual or 30 penalty units for a corporation.
- (2) A person who packs dangerous goods for transport in a package must not mark or label the package with a marking or label about its contents that the person knows, or reasonably ought to know, is false or misleading in a material particular. Maximum penalty:
- (a) in the case of large packaging or overpack--20 penalty units for an individual or 100 penalty units for a corporation, or
  - (b) in any other case--10 penalty units for an individual or 30 penalty units for a corporation.
- (3) A person who packs goods for transport in a package must not mark or label the package as if it contained dangerous goods if the person knows, or reasonably ought to know, that it does not contain dangerous goods. Maximum penalty:
- (a) in the case of large packaging or overpack--20 penalty units for an individual or 100 penalty units for a corporation, or
  - (b) in any other case--10 penalty units for an individual or 30 penalty units for a corporation.
- (4) Subclause (3) does not apply if the marking or labelling of the package complies with the requirements of the ICAO Technical Instructions or the IMDG Code with respect to the contents of the package.
- (5) A reference to a label in this clause includes a reference to a placard.

## **77 Prime contractor's and rail operator's duties**

- (1) A prime contractor or rail operator must not transport goods in a package if the prime contractor or rail operator knows, or reasonably ought to know, that:
- (a) the goods are dangerous goods, and
  - (b) the package is not appropriately marked.
- Maximum penalty:
- (a) in the case of large packaging or overpack--20 penalty units for an individual or 100 penalty units for a corporation, or
  - (b) in any other case--10 penalty units for an individual or 30 penalty units for a corporation.
- (2) A prime contractor or rail operator must not transport dangerous goods in a package if the prime contractor or rail operator knows, or reasonably ought to know, that a marking or label on the package about its contents is false or misleading in a material particular. Maximum penalty:
- (a) in the case of large packaging or overpack--20 penalty units for an individual or 100 penalty units for a corporation, or
  - (b) in any other case--10 penalty units for an individual or 30 penalty units for a corporation.
- (3) A prime contractor or rail operator must not transport goods in a package that is marked or labelled as if it contained dangerous goods if the prime contractor or rail operator knows, or reasonably ought to know, that the package does not contain dangerous goods. Maximum penalty:

- (a) in the case of large packaging or overpack--20 penalty units for an individual or 100 penalty units for a corporation, or
  - (b) in any other case--10 penalty units for an individual or 30 penalty units for a corporation.
- (4) Subclause (3) does not apply if the marking or labelling of the package complies with the requirements of the ICAO Technical Instructions or the IMDG Code with respect to the contents of the package.
- (5) A reference to a label in this clause includes a reference to a placard.

## **Division 2 – Placarding**

### **78 When load must be placarded**

- (1) A load that contains dangerous goods must be placarded if:
- (a) it contains:
    - (i) dangerous goods in a receptacle, other than an article, with a capacity of more than 500 litres, or
    - (ii) more than 500 kilograms of dangerous goods in a receptacle, other than an article, 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 Category A of UN Division 6.2, or
  - (d) it contains an aggregate quantity of dangerous goods of UN Division 6.2 (other than Category A) of 10 or more, or
  - (e) it contains an aggregate quantity of dangerous goods of 1,000 or more.
- (2) However, a load containing an aggregate quantity of dangerous goods of less than 2,000 that consists only of the following dangerous goods is not a load that must be placarded:
- (a) dangerous goods that are packed in limited quantities,
  - (b) the following dangerous goods:
    - (i) fireworks that are bon bons, party poppers or sparklers,
    - (ii) domestic smoke detectors containing radioactive material,
    - (iii) lighters or lighter refills containing flammable gas,
    - (iv) fire extinguishers with compressed or liquefied gas, up to a net mass of 23 kg,
  - (c) a combination of the dangerous goods referred to in paragraphs (a) and (b).

### **79 Meaning of "appropriately placarded"**

- (1) A person "**placards**" a load that contains dangerous goods if the person affixes, stencils, prints or places a label (as defined in the ADG Code) or an emergency information panel (as defined in section 5.3.1.3 of the ADG Code) in relation to the load on any thing that is being, or that is to be, used to transport the load.
- (2) In this Division, a placard load is "**appropriately placarded**" if it is placarded in accordance with Chapter 5.3 of the ADG Code.

### **80 Consignor's duties**

- (1) A person must not consign a placard load for transport if the load is not appropriately placarded. Maximum penalty: 40 penalty units for an individual or 200 penalty units for a corporation.
- (2) A person must not consign a placard load for transport if the placarding of the load is false or misleading in a material particular. Maximum penalty: 40 penalty units for an individual or 200 penalty units for a corporation.
- (3) A person must not consign goods for transport in or on a cargo transport unit that does not contain dangerous goods but that is placarded as if it were a placard load. Maximum penalty: 40 penalty units for an individual or 200 penalty units for a corporation.
- (4) Subclause (3) does not apply if the placarding of the cargo transport unit complies with the requirements of the ICAO Technical Instructions or the IMDG Code with

respect to the contents of the cargo transport unit.

(5) A person must not consign a load of dangerous goods (other than a placard load) for transport in or on a cargo transport unit if:

(a) the load is placarded, and

(b) the placarding is false or misleading in a material particular.

Maximum penalty: 40 penalty units for an individual or 200 penalty units for a corporation.

### **81 Loader's duties**

(1) A person who loads dangerous goods on to a vehicle for transport must ensure that the load is appropriately placarded if the person knows, or reasonably ought to know, that the goods are a placard load. Maximum penalty: 40 penalty units for an individual or 200 penalty units for a corporation.

(2) A person who loads a placard load on to a vehicle for transport must not placard the load with placarding that the person knows, or reasonably ought to know, is false or misleading in a material particular. Maximum penalty: 40 penalty units for an individual or 200 penalty units for a corporation.

(3) A person who loads goods on to a vehicle for transport must not placard the load as if it were a placard load if the person knows, or reasonably ought to know, that the load does not contain dangerous goods. Maximum penalty: 40 penalty units for an individual or 200 penalty units for a corporation.

(4) Subclause (3) does not apply if the placarding of the load complies with the requirements of the ICAO Technical Instructions or the IMDG Code with respect to the contents of the load.

(5) A person who loads dangerous goods (other than a placard load) into or on to a cargo transport unit for transport in or on the unit must not placard the load with placarding that the person knows, or reasonably ought to know, is false or misleading in a material particular. Maximum penalty: 40 penalty units for an individual or 200 penalty units for a corporation.

### **82 Prime contractor's and rail operator's duties**

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

(a) the goods are a placard load, and

(b) the load is not appropriately placarded.

Maximum penalty: 40 penalty units for an individual or 200 penalty units for a corporation.

(2) A prime contractor or rail operator must not transport a placard load if the prime contractor or rail operator knows, or reasonably ought to know, that the placarding of the load is false or misleading in a material particular. Maximum penalty: 40 penalty units for an individual or 200 penalty units for a corporation.

(3) A prime contractor or rail operator must not use a cargo transport unit that is placarded as if it were a placard load if the person knows or reasonably ought to know that the cargo transport unit does not contain dangerous goods. Maximum penalty: 40 penalty units for an individual or 200 penalty units for a corporation.

(4) Subclause (3) does not apply if the placarding of the cargo transport unit complies with the requirements of the ICAO Technical Instructions or the IMDG Code with respect to the contents of the cargo transport unit.

(5) A prime contractor or rail operator must not transport a load of dangerous goods (other than a placard load) in or on a cargo transport unit if:

(a) the load is placarded, and

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

Maximum penalty: 40 penalty units for an individual or 200 penalty units for a corporation.

### **83 Driver's duties**

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

(a) the goods are a placard load, and

(b) the load is not appropriately placarded.

Maximum penalty: 20 penalty units.

(2) A person must not drive a road vehicle transporting a placard load if the person knows, or reasonably ought to know, that the placarding of the load is false or misleading in a material particular. Maximum penalty: 20 penalty units.

(3) A person must not drive a road vehicle that is, or that incorporates, a cargo transport unit that is placarded as if it were a placard load if the person knows or reasonably ought to know that the vehicle does not contain dangerous goods. Maximum penalty: 20 penalty units.

(4) A person must not drive a road vehicle that is, or that incorporates, a cargo transport unit if:

(a) the unit is transporting a load of dangerous goods (other than a placard load), and

(b) the load is placarded, and

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

Maximum penalty: 20 penalty units.

## **Part 6 – Safety standards--vehicles and equipment**

### **84 Owner's duties**

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

Maximum penalty: 40 penalty units for an individual or 200 penalty units for a corporation.

### **85 Consignor's duties**

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

Maximum penalty: 40 penalty units for an individual or 200 penalty units for a corporation.

### **86 Loader's duties**

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

Maximum penalty: 20 penalty units for an individual or 100 penalty units for a corporation.

### **87 Prime contractor's and rail operator's duties**

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

Maximum penalty: 40 penalty units for an individual or 200 penalty units for a corporation.

### **88 Driver's duties**

A person must not drive a road vehicle transporting dangerous goods if the person knows, or reasonably ought to know, that the vehicle or its equipment does not comply with Chapter 4.4 of the ADG Code.

Maximum penalty: 20 penalty units.

## **Part 7 – Transport operations relating to certain dangerous goods**



## **Division 1 – Self-reactive substances, organic peroxides and certain other substances**

### **89 Application**

This Division 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 Part 2 of the ADG Code) when presented for transport in a packaging is 50Â° Celsius 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.

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

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

Maximum penalty: 20 penalty units for an individual or 100 penalty units for a corporation.

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

A person must not load dangerous goods to which this Division applies for transport by road or rail in a cargo transport unit other than in accordance with Chapter 7.1 of the ADG Code.

Maximum penalty: 20 penalty units for an individual or 100 penalty units for a corporation.

### **92 Prime contractor's and rail operator's duties**

- (1) A prime contractor or rail operator must not transport dangerous goods to which this Division applies if the contractor or rail operator knows, or reasonably ought to know, that the transport does not comply with Chapter 7.1 of the ADG Code. Maximum penalty: 20 penalty units for an individual or 100 penalty units for a corporation.
- (2) A prime contractor or rail operator responsible for the transport of one or more packages of infectious substances of UN Division 6.2 who becomes aware of damage to, or leakage from, the package or any of the packages must comply with section 7.1.7.2.2 of the ADG Code. Maximum penalty: 20 penalty units for an individual or 100 penalty units for a corporation.

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

A person must not drive a road vehicle transporting dangerous goods to which this Division applies if the person knows, or reasonably ought to know, that the dangerous goods are not being transported in accordance with Chapter 7.1 of the ADG Code.

Maximum penalty: 15 penalty units.

## **Division 2 – Goods too dangerous to be transported**

Section 8 of the Act provides for the duties of persons who consign or arrange for the transport of goods too dangerous to be transported and provides for the relevant offence and penalty for consigning them for transport or arranging their transport.

### **94 Application**

This Division applies to goods too dangerous to be transported.

### **95 Loader's duties**

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

Maximum penalty: 20 penalty units for an individual or 100 penalty units for a corporation.

### **96 Prime contractor's and rail operator's duties**

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

Maximum penalty: 20 penalty units for an individual or 100 penalty units for a corporation.

### **97 Driver's duties**

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

Maximum penalty: 15 penalty units.

## **Part 8 – Stowage and restraint**

### **98 Consignor's duties**

(1) A person must not consign for transport in or on a vehicle a load that contains dangerous goods that is a placard load if the person knows, or reasonably ought to know, that the goods or their packaging are not, or will not be, stowed, loaded and restrained in accordance with Chapter 8.1 of the ADG Code. Maximum penalty: 20 penalty units for an individual or 100 penalty units for a corporation.

(2) A person must not consign a load that contains dangerous goods for transport in or on a cargo transport unit if the person knows, or reasonably ought to know, that the cargo transport unit is not, or will not be, restrained in accordance with Chapter 8.2 of the ADG Code. Maximum penalty: 20 penalty units for an individual or 100 penalty units for a corporation.

### **99 Loader's duties**

(1) A person who loads for transport in or on a vehicle a load that contains dangerous goods that is a placard load must ensure that the goods and their packaging are stowed, loaded and restrained in accordance with Chapter 8.1 of the ADG Code. Maximum penalty: 20 penalty units for an individual or 100 penalty units for a corporation.

(2) A person who loads for transport in or on a vehicle dangerous goods that are in a cargo transport unit must ensure that the cargo transport unit is restrained in accordance with Chapter 8.2 of the ADG Code. Maximum penalty: 20 penalty units for an individual or 100 penalty units for a corporation.

### **100 Prime contractor's and rail operator's duties**

(1) A prime contractor or rail operator must not transport in or on a vehicle a load that contains dangerous goods that is a placard load if the prime contractor or rail operator knows, or reasonably ought to know, that the goods or their packaging have not been stowed or loaded, or are not restrained, in accordance with Chapter 8.1 of the ADG Code. Maximum penalty: 20 penalty units for an individual or 100 penalty units for a corporation.

(2) A prime contractor or rail operator must not transport dangerous goods in or on a cargo transport unit if the prime contractor or rail operator knows, or reasonably ought to know, that the goods or their packaging are not restrained in accordance with Chapter 8.2 of the ADG Code. Maximum penalty: 20 penalty units for an individual or 100 penalty units for a corporation.

### **101 Driver's duties**

(1) A person must not drive a road vehicle transporting a load that contains dangerous goods that is a placard load if the person knows, or reasonably ought to know, that the

goods or their packaging have not been stowed or loaded, or are not restrained, in accordance with Chapter 8.1 of the ADG Code. Maximum penalty: 15 penalty units.

(2) A person must not drive a road vehicle transporting dangerous goods in a cargo transport unit if the person knows, or reasonably ought to know, that the goods or their packaging are not restrained in accordance with Chapter 8.2 of the ADG Code. Maximum penalty: 15 penalty units.

## **Part 9 – Segregation**

### **102 Application of Part**

(1) This Part applies to:

- (a) the transport of a placard load, and
- (b) the transport of a load that contains 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) Dangerous goods packed in limited quantities do not need to comply with this Part.

### **103 Exception for certain goods for driver's personal use**

Despite clauses 104-108, food and food packaging may be transported on a road vehicle with dangerous goods if the food or packaging is in the road vehicle's cabin and is for the driver's personal use.

### **104 Consignor's duties**

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

- (a) the vehicle is, in the same journey, transporting incompatible goods, and
- (b) the dangerous goods will not be segregated from the incompatible goods in accordance with:
  - (i) Part 9 of the ADG Code, or
  - (ii) any approval under clause 110.

Maximum penalty: 40 penalty units for an individual or 200 penalty units for a corporation.

### **105 Loader's duties**

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

- (a) the vehicle is, in the same journey, transporting incompatible goods, and
- (b) the dangerous goods will not be segregated from the incompatible goods in accordance with:
  - (i) Part 9 of the ADG Code, or
  - (ii) any approval under clause 110.

Maximum penalty: 40 penalty units for an individual or 200 penalty units for a corporation.

### **106 Prime contractor's duties**

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

- (a) the road vehicle is, in the same journey, transporting incompatible goods, and
- (b) the dangerous goods are not segregated from the incompatible goods in accordance with:
  - (i) Part 9 of the ADG Code, or
  - (ii) any approval under clause 110.

Maximum penalty: 40 penalty units for an individual or 200 penalty units for a corporation.

### **107 Rail operator's duties**

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

- (a) the train is, in the same journey, transporting incompatible goods, and
- (b) the dangerous goods are not segregated from the incompatible goods in accordance with:
  - (i) Part 9 of the ADG Code, or
  - (ii) any approval under clause 110.

Maximum penalty: 40 penalty units for an individual or 200 penalty units for a corporation.

### **108 Driver's duties**

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

- (a) the road vehicle is, in the same journey, transporting incompatible goods, and
- (b) the dangerous goods are not segregated from the incompatible goods in accordance with:
  - (i) Part 9 of the ADG Code, or
  - (ii) any approval under clause 110.

Maximum penalty: 15 penalty units.

### **109 Approvals--Type II 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 Chapter 6.11 of the ADG Code.
- (2) The Competent Authority may, on application in accordance with subclause (1) and clause 170, approve a design for a Type II segregation device if the design complies with Chapter 6.11 of the ADG Code.

### **110 Approvals--methods of segregation**

- (1) The Competent Authority may, on application made in accordance with clause 170, approve a method of segregation not complying with Part 9 of the ADG Code for transporting dangerous and incompatible goods by road if the Authority considers that:
  - (a) it is impracticable to segregate the goods by a segregation device, or method of segregation, complying with that Part, and
  - (b) the risk involved in using the method to transport the goods by road is not greater than the risk involved in using a device or method complying with that Part to transport the goods by road.
- (2) In giving its approval, the Competent Authority may impose in relation to the approval any condition necessary for the safe transport of dangerous goods.
- (3) A person to whom an approval has been given must not contravene a condition of the approval. Maximum penalty: 40 penalty units for an individual or 200 penalty units for a corporation.

## **Part 10 – Bulk transfer of dangerous goods**

### **Division 1 – General**

#### **111 Meaning of "bulk transfer"**

In this Part:

"**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 on a vehicle.

## **Division 2 – Equipment and transfer**

### **112 Transferor's duties--hose assemblies**

(1) A person must not use a hose assembly for the bulk transfer of dangerous goods if the person knows, or reasonably ought to know, that the assembly is damaged or defective to the extent that it is not safe to use to transfer the goods. Maximum penalty: 20 penalty units for an individual or 100 penalty units for a corporation.

(2) A person must not use a hose assembly for the bulk transfer of dangerous goods if the person knows, or reasonably ought to know, that the hose assembly:

(a) has not been constructed, assembled or maintained in accordance with Chapter 10.1 of the ADG Code, or

(b) has not been inspected or tested at the intervals, or in the way, required under that Chapter, or

(c) did not satisfy a test under that Chapter.

Maximum penalty: 40 penalty units for an individual or 200 penalty units for a corporation.

### **113 Transferor's duties--general**

(1) A person engaged in the bulk transfer of dangerous goods must ensure that the goods are transferred:

(a) in accordance with Chapter 10.2 of the ADG Code, and

(b) 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 for an individual or 100 penalty units for a corporation.

(2) A person engaged in the bulk transfer of dangerous goods must not transfer dangerous goods if the person knows, or reasonably ought to know, that:

(a) the receiving receptacle or the transfer equipment is incompatible with the dangerous goods, or

(b) the receptacle contains incompatible goods.

Maximum penalty: 20 penalty units for an individual or 100 penalty units for a corporation.

(3) If dangerous goods leak, spill or accidentally escape during a bulk transfer, the person transferring the goods:

(a) must immediately stop transferring the goods, and

(b) must take all practicable steps to avert, eliminate or minimise risk, and

(c) must not start transferring the goods again until the conditions causing the leak, spill or escape have been rectified.

Maximum penalty: 20 penalty units for an individual or 100 penalty units for a corporation.

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

### **114 Occupier's duties**

(1) The occupier of premises where the bulk transfer of dangerous goods occurs must 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 on to the premises on the vehicle involved in the transfer):

(a) has been constructed, assembled and maintained in accordance with Chapter 10.1 of the ADG Code, and

(b) has been inspected and tested at the intervals, and in the way, required under that Chapter, and

(c) satisfies each test under that Chapter.

Maximum penalty: 20 penalty units for an individual or 100 penalty units for a corporation.

(2) The occupier of premises where the bulk transfer of dangerous goods occurs must ensure that the goods are transferred:

(a) in accordance with Chapter 10.2 of the ADG Code, and

(b) in a way that averts, eliminates or minimises risk.

Maximum penalty: 40 penalty units for an individual or 200 penalty units for a corporation.

(3) The occupier must keep, in accordance with section 10.1.3.4 of the ADG Code, accurate records of all maintenance work, and each inspection and test, carried out on the hose assembly. Maximum penalty: 10 penalty units for an individual or 50 penalty units for a corporation.

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

### **115 Prime contractor's duties**

(1) A prime contractor engaged in the bulk transfer of dangerous goods must 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):

(a) has been constructed, assembled and maintained in accordance with Chapter 10.1 of the ADG Code, and

(b) has been inspected and tested at the intervals, and in the way, required under that Chapter, and

(c) satisfies each test under that Chapter.

Maximum penalty: 20 penalty units for an individual or 100 penalty units for a corporation.

(2) A prime contractor engaged in the bulk transfer of dangerous goods must ensure that dangerous goods are transferred:

(a) in accordance with Chapter 10.2 of the ADG Code, and

(b) in a way that averts, eliminates or minimises risk.

Maximum penalty: 40 penalty units for an individual or 200 penalty units for a corporation.

(3) The prime contractor must keep, in accordance with section 10.1.3.4 of the ADG Code, accurate records of all maintenance work, and each inspection and test, carried out on the hose assembly. Maximum penalty: 10 penalty units for an individual or 50 penalty units for a corporation.

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

### **116 Rail operator's duties**

A rail operator engaged in the bulk transfer of dangerous goods must 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 rail operator is not responsible):

(a) has been constructed, assembled and maintained in accordance with Chapter 10.1 of the ADG Code, and

(b) has been inspected and tested at the intervals, and in the way, required under that Chapter, and

(c) satisfies each test under that Chapter.

Maximum penalty: 20 penalty units for an individual or 100 penalty units for a corporation.

## **Division 3 – Filling ratio and ullage**

### **117 Application of Division**

This Division applies to, and in relation to, bulk transfer into a tank vehicle.

### **118 Transferor's duties**

(1) A person engaged in the bulk transfer of dangerous goods must ensure that:

(a) for dangerous goods of UN Class 2 that are not in the form of refrigerated liquid--the quantity of the goods in the tank to which the goods are transferred does not exceed the maximum permitted filling ratio set out in section 10.3.2 of the ADG Code, and

(b) in any other case--the ullage in the tank complies with section 10.3.1 of the ADG Code.

Maximum penalty: 20 penalty units for an individual or 100 penalty units for a corporation.

(2) If:

- (a) a person is engaged in the bulk transfer of goods that are not dangerous goods to a tank ("**tank A**"), and
- (b) tank A is on, or part of, a vehicle, and
- (c) the person knows, or reasonably ought to know, that the vehicle:
  - (i) is carrying dangerous goods in another tank or in another compartment of tank A, or
  - (ii) is likely to carry dangerous goods in another tank, or in another compartment of tank A, before tank A is emptied of the non-dangerous goods,

the person must ensure that the ullage in tank A in respect of the non-dangerous goods complies with section 10.3.1 of the ADG Code as if the goods were dangerous goods.

Maximum penalty: 20 penalty units for an individual or 100 penalty units for a corporation.

(3) It is a defence to a prosecution for an offence against subclause (1) or (2) that the person complied with the subclause as far as practicable.

### **119 Prime contractor's and rail operator's duties**

- (1) A prime contractor or rail operator must not transport dangerous goods in a tank if:
  - (a) for dangerous goods of UN Class 2 that are not in the form of refrigerated liquid--the quantity of goods in the tank exceeds the maximum permitted filling ratio set out in section 10.3.2 of the ADG Code, or
  - (b) in any other case--the ullage in the tank does not comply with section 10.3.1 of the ADG Code.

Maximum penalty: 20 penalty units for an individual or 100 penalty units for a corporation.

(2) If:

- (a) a prime contractor or rail operator uses a vehicle to transport a tank ("**tank A**") containing goods that are not dangerous goods, and
- (b) at the same time uses the vehicle to also transport dangerous goods in another tank or in another compartment of tank A,

the prime contractor or rail operator must ensure that the ullage in tank A in respect of the non-dangerous goods complies with section 10.3.1 of the ADG Code as if the goods were dangerous goods. Maximum penalty: 20 penalty units for an individual or 100 penalty units for a corporation.

(3) It is a defence to a prosecution for an offence against subclause (2) that the prime contractor or rail operator complied with that subclause as far as practicable.

### **120 Driver's duties**

(1) A person must not drive a road tank vehicle that is transporting dangerous goods if the person knows, or reasonably ought to know, that:

- (a) for dangerous goods of UN Class 2 that are not in the form of refrigerated liquid--the quantity of goods in the tank exceeds the maximum permitted filling ratio set out in section 10.3.2 of the ADG Code, or
- (b) in any other case--the ullage in the tank does not comply with section 10.3.1 of the ADG Code.

Maximum penalty: 20 penalty units.

(2) A person must not drive a road vehicle if:

- (a) the vehicle has a tank ("**tank A**") containing goods that are not dangerous goods, and
- (b) the vehicle at the same time contains dangerous goods in another tank or in another compartment of tank A, and
- (c) the person knows, or reasonably ought to know, that ullage in tank A in respect of the non-dangerous goods would not comply with section 10.3.1 of the ADG Code if the goods were dangerous goods.

Maximum penalty: 20 penalty units.

## **Part 11 – Documentation**

### **Division 1 – Transport documentation**

#### **121 False or misleading information**

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

Maximum penalty: 40 penalty units for an individual or 200 penalty units for a corporation.

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

#### **122 Consignor's duties--transport by road**

(1) A person must not consign dangerous goods for transport in or on a road vehicle if the prime contractor or driver of the road vehicle does not have transport documentation that complies with Chapter 11.1 of the ADG Code for the goods. Maximum penalty: 15 penalty units for an individual or 75 penalty units for a corporation.

(2) A person must not consign dangerous goods for transport by road if:

(a) the person knows, or reasonably ought to know, that the goods will be divided into, and transported in, separate loads, and

(b) the prime contractor, or the driver of each road vehicle transporting the load, has not been given separate transport documentation that complies with Chapter 11.1 of the ADG Code for each load.

Maximum penalty: 15 penalty units for an individual or 75 penalty units for a corporation.

#### **123 Consignor's duties--transport by rail**

(1) A person must not consign dangerous goods for transport in or on a unit of rolling stock if the rail operator does not have transport documentation that complies with Chapter 11.1 of the ADG Code for the goods. Maximum penalty: 15 penalty units for an individual or 75 penalty units for a corporation.

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

#### **124 Prime contractor's duties**

A prime contractor must ensure that a person does not drive a road vehicle used by the prime contractor to transport dangerous goods if:

(a) the person has not been given transport documentation that complies with Chapter 11.1 of the ADG Code for the goods, and

(b) the documentation is not readily able to be located in the vehicle in accordance with Chapter 11.1 of the ADG Code.

Maximum penalty: 20 penalty units for an individual or 100 penalty units for a corporation.

#### **125 Rail operator's duties**

(1) A rail operator must not transport dangerous goods by rail unless the driver of the train transporting the goods has been given transport documentation that complies with Chapter 11.1 of the ADG Code for the goods. Maximum penalty: 20 penalty units for an individual or 100 penalty units for a corporation.

(2) For the purposes of subclause (1), a driver is to be taken to have transport documentation if the contents of the documentation have been communicated to him or her by means of electronic data processing or electronic data interchange.

#### **126 Driver's duties**

(1) The driver of a road vehicle transporting dangerous goods:

(a) must carry transport documentation for the goods, and

(b) must ensure that the documentation is located in the vehicle in accordance



with Chapter 11.1 of the ADG Code.

Maximum penalty: 15 penalty units.

(2) The driver of a road vehicle transporting dangerous goods must produce the transport documentation for the goods for inspection by an authorised officer, or an officer of an emergency service, if the officer asks the driver to produce the documentation for inspection. Maximum penalty: 15 penalty units.

### **127 Train driver's duties**

(1) This clause does not apply if the train driver transporting dangerous goods is in a depot or yard, or is engaged in shunting operations, and the transport documentation for the goods is readily available elsewhere in the immediate vicinity of the depot, yard or those operations.

(2) A person must not drive a train that the person knows, or reasonably ought to know, is transporting dangerous goods if the person does not have transport documentation that complies with Chapter 11.1 of the ADG Code for the goods. Maximum penalty: 15 penalty units.

(3) A train driver transporting dangerous goods must produce the transport documentation for the goods for inspection by an authorised officer or an officer of an emergency service, if the officer asks the driver to produce the documentation for inspection. Maximum penalty: 15 penalty units.

### **127A Prime contractor's duties--retention of documents**

(1) This clause applies if this Regulation or the ADG Code requires a prime contractor to create or use a document in relation to the transport of dangerous goods.

(2) The prime contractor must retain the document, or a copy of the document, for at least 3 months after the transport of the dangerous goods by the prime contractor finishes.

Maximum penalty: 20 penalty units for an individual or 100 penalty units for a corporation.

(3) It is a failure to comply with subclause (2) if:

(a) a document, or a copy of a document, is not retained on paper and is not readily legible, and

(b) a paper copy of the document or copy cannot be readily created at any time during the 3 months at the request of an authorised officer.

## **Division 2 – Emergency information**

### **128 Meaning of "required emergency information"**

In this Division:

**"required emergency information"** means:

(a) emergency information that complies with Chapter 11.2 of the ADG Code, or

(b) emergency information that is approved under clause 134.

### **129 Consignor's duties**

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

Maximum penalty: 15 penalty units for an individual or 75 penalty units for a corporation.

### **130 Prime contractor's duties**

A prime contractor must not use a road vehicle to transport a placard load if:

(a) the road vehicle is not equipped with an emergency information holder that complies with Chapter 11.2 of the ADG Code, or

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

Maximum penalty: 20 penalty units for an individual or 100 penalty units for a corporation.

### **131 Rail operator's duties**

- (1) A rail operator must not transport a placard load in a cargo transport unit on a train if the required emergency information for the dangerous goods in the load is not in the train driver's cab. Maximum penalty: 20 penalty units for an individual or 100 penalty units for a corporation.
- (2) Subclause (1) does not apply when a train transporting a placard load is involved in shunting operations and the required emergency information for the dangerous goods in the load is readily available elsewhere in the immediate vicinity of those operations.

### **132 Driver's duties**

- (1) A person must not drive a road vehicle transporting a placard load if:
  - (a) the road vehicle is not equipped with an emergency information holder that complies with Chapter 11.2 of the ADG Code, or
  - (b) 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) The driver of a road vehicle transporting a placard load must ensure that the road vehicle's emergency information holder contains only:
  - (a) the required emergency information for the dangerous goods in the load, and
  - (b) the transport documentation for the goods.

Maximum penalty: 10 penalty units.

- (3) The driver of a road vehicle transporting a placard load must produce the required emergency information for the dangerous goods in the load for inspection by an authorised officer, or an officer of an emergency service, if the officer asks the driver to produce the information for inspection. Maximum penalty: 15 penalty units.

### **133 Train driver's duties**

- (1) A person must not drive a train that is transporting a placard load if the required emergency information for the dangerous goods in the load is not in the train driver's cab. Maximum penalty: 15 penalty units.
- (2) A train driver transporting a placard load must produce the required emergency information for the dangerous goods in the load for inspection by an authorised officer or an officer of an emergency service, if the officer asks the driver to produce the information for inspection. Maximum penalty: 15 penalty units.
- (3) Subclauses (1) and (2) do not apply if the train driver transporting dangerous goods is in a depot or yard, or is engaged in shunting operations and the required emergency information for the goods is readily available elsewhere in the immediate vicinity of the depot, yard or those operations.

### **134 Approvals--emergency information**

The Competent Authority may, on application in accordance with clause 170 or on the Authority's own initiative, approve emergency information that does not comply with Chapter 11.2 of the ADG Code 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.

## **Part 12 – Safety equipment**

### **135 Owner's duties**

The owner of a road vehicle must not use the road vehicle, or permit the road vehicle to be used, to transport a placard load if the road vehicle is not equipped with:

- (a) fire extinguishers and portable warning devices that comply with Part 12 of the ADG Code, and
- (b) any other equipment required under that Part.

Maximum penalty: 40 penalty units for an individual or 200 penalty units for a corporation.

### **136 Prime contractor's duties**

(1) A prime contractor must not use a road vehicle to transport a placard load if the road vehicle is not equipped with:

- (a) fire extinguishers and portable warning devices that comply with Part 12 of the ADG Code, and
- (b) any other equipment required under that Part.

Maximum penalty: 40 penalty units for an individual or 200 penalty units for a corporation.

(2) A prime contractor must not use a road vehicle to transport a placard load if the prime contractor knows, or reasonably ought to know, that the equipment for the road vehicle mentioned in subclause (1):

- (a) has not been inspected or tested in accordance with the Part, or
- (b) is not in good repair or is not in proper working order.

Maximum penalty: 40 penalty units for an individual or 200 penalty units for a corporation.

### **137 Driver's duties**

(1) A person must not drive a road vehicle transporting a placard load if the road vehicle is not equipped with:

- (a) fire extinguishers and portable warning devices that comply with Part 12 of the ADG Code, and
- (b) any other equipment required under that Part.

Maximum penalty: 15 penalty units.

(2) A person must not drive a road vehicle transporting a placard load if the person knows, or reasonably ought to know, that the equipment for the road vehicle mentioned in subclause (1):

- (a) is not stowed in accordance with Part 12 of the ADG Code, or
- (b) has not been inspected or tested in accordance with that Part, or
- (c) is not in good repair or is not in proper working order.

Maximum penalty: 15 penalty units.

## **Part 13 – Procedures during transport**

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

#### **138 Driver's duties**

(1) This clause 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 must alert other road users of the hazard in accordance with Part 13 of the ADG Code. Maximum penalty: 10 penalty units.

(3) A driver does not commit an offence against subclause (2) with respect to a requirement under Part 13 of the ADG Code concerning the use of warning triangles on a road if the driver uses warning triangles in accordance with the requirements of rule 227 of the *Road Rules 2014* (except rule 227 (1)).

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

(1) If a 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, the prime contractor must, as soon as practicable, ensure that the road vehicle is:

- (a) repaired so that it can be driven safely off the road, or
- (b) towed to a place where it can be repaired.

Maximum penalty: 20 penalty units for an individual or 100 penalty units for a corporation.

(2) The prime contractor must:

- (a) remove the dangerous goods from the road vehicle before the road vehicle is repaired or towed, and
- (b) transport the dangerous goods from the place of the breakdown or

immobilisation,  
if the risk involved in complying with paragraphs (a) and (b) is not greater than the risk involved in not complying with the paragraphs. Maximum penalty: 20 penalty units for an individual or 100 penalty units for a corporation.

(3) If the road vehicle is towed while still carrying dangerous goods that would require the driver of the vehicle to hold a dangerous goods driver licence, the prime contractor must ensure that the driver of the tow truck towing the vehicle:

- (a) holds a dangerous goods driver licence that would authorise him or her to drive a vehicle with those dangerous goods, or
- (b) is accompanied in the cabin of the tow truck by a person who holds a dangerous goods driver licence that would authorise him or her to drive a vehicle with those dangerous goods.

Maximum penalty: 20 penalty units for an individual or 100 penalty units for a corporation.

### **140 Rail operator's duties**

If a train transporting a placard load fails or is otherwise immobilised, the rail operator must, as soon as practicable, take all appropriate steps to ensure that a dangerous situation does not arise.

Maximum penalty: 20 penalty units for an individual or 100 penalty units for a corporation.

## **Division 2 – Road vehicles--driver's duties**

### **141 Driving**

The driver of a road vehicle transporting a placard load must not allow anyone else to ride in the vehicle except in accordance with Part 13 of the ADG Code.

Maximum penalty: 10 penalty units.

### **142 Parking**

The driver of a road vehicle transporting a placard load must not park the road vehicle, or leave the road vehicle standing, in a public or private place except in accordance with Part 13 of the ADG Code.

Maximum penalty: 15 penalty units.

### **143 Control of ignition sources**

(1) This clause applies to a road vehicle transporting:

- (a) a load that contains:
  - (i) dangerous goods in a receptacle with a capacity of more than 500 litres, or
  - (ii) more than 500 kilograms 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 road vehicle must not:

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

Maximum penalty: 40 penalty units.

(3) The driver must do everything practicable to ensure that any other person 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.

### **144 Unloading**

The driver of a road vehicle transporting a placard load must not permit the dangerous goods to

be unloaded from the vehicle except in accordance with Part 13 of the ADG Code.

Maximum penalty: 40 penalty units.

#### **145 Detaching trailer**

The driver of a road vehicle that has attached to it a trailer transporting a placard load must not detach the trailer or permit it to be detached from the vehicle except in accordance with Part 13 of the ADG Code.

Maximum penalty: 40 penalty units.

#### **146 Road tank vehicle equipped with burner**

The driver of a road tank vehicle that is transporting a placard load and that is equipped with a burner to heat the load must not operate the burner or permit it to be operated except in accordance with Part 13 of the ADG Code.

Maximum penalty: 40 penalty units.

### **Part 14 – Emergencies**

#### **Division 1 – Emergencies generally**

##### **147 Duties of drivers of road vehicles**

- (1) This clause applies if a road vehicle transporting dangerous goods is involved in an incident resulting in a dangerous situation.
- (2) The driver of the road vehicle must:
  - (a) notify the prime contractor, the Competent Authority and the police or fire service of the incident as soon as practicable, and
  - (b) provide any reasonable assistance required by an authorised officer or an officer of an emergency service to deal with the situation.

Maximum penalty: 15 penalty units.

##### **148 Driver's and rail operator's duties**

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

Maximum penalty: 15 penalty units.

- (3) On being notified by the train driver of the incident, both the rail operator and the rail infrastructure manager must:

- (a) notify the police or fire service of the incident as soon as practicable, and
- (b) provide any reasonable assistance required by an authorised officer or an officer of an emergency service to deal with the situation.

Maximum penalty: 15 penalty units.

##### **149 Prime contractor's and rail operator's duties--food or food packaging**

- (1) This clause 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 or rail operator.
- (2) In the case of a prime contractor, the prime contractor must ensure that the food or

food packaging is not transported from the site of the incident unless the Competent Authority has given permission to the prime contractor to transport the food or food packaging from the site. Maximum penalty: 40 penalty units for an individual or 200 penalty units for a corporation.

(3) In the case of a rail operator, the rail operator must:

(a) notify the Competent Authority of the incident as soon as is practicable after the incident, and

(b) deal with the food or food packaging as directed by the Competent Authority.

Maximum penalty: 40 penalty units for an individual or 200 penalty units for a corporation.

(4) A permission under subclause (2) or a direction under subclause (3):

(a) must be in writing, and

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

(c) must identify the relevant incident, and

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

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

(f) may contain any other information that the Competent Authority considers necessary.

### **150 Prime contractors and rail operators to inform Competent Authority**

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

(2) As soon as practicable after becoming aware of the incident, the prime contractor or rail operator responsible for the transport of the goods must provide the Competent Authority with the following details about the incident:

(a) where the incident occurred,

(b) the time and date of the incident,

(c) the nature of the incident,

(d) the dangerous goods being transported when the incident occurred,

(e) any other details that the Competent Authority may require.

Maximum penalty: 20 penalty units for an individual or 100 penalty units for a corporation.

(3) Not later than 21 days after the day on which the incident occurs, the prime contractor or rail operator must give to the Competent Authority a written report about the incident stating the following:

(a) where the incident occurred,

(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 or rail operator believes to be the likely cause of the incident,

(f) the dangerous goods being transported when the incident occurred,

(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 for an individual or 100 penalty units for a corporation.

## **Division 2 – Emergencies involving placard loads**

### **151 Telephone advisory service**

(1) In this clause: "**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 or train 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.
- (2) A prime contractor or rail operator must not transport a load that:
- (a) contains dangerous goods in a receptacle with a capacity of more than 500 litres, or
  - (b) contains more than 500 kilograms of dangerous goods in a receptacle,
- if a telephone advisory service is not available during the journey. Maximum penalty: 40 penalty units for an individual or 200 penalty units for a corporation.
- (3) A person must not consign a load that contains:
- (a) dangerous goods in a receptacle with a capacity of more than 500 litres, or
  - (b) more than 500 kilograms of dangerous goods in a receptacle,
- if a telephone advisory service is not available during the journey. Maximum penalty: 40 penalty units for an individual or 200 penalty units for a corporation.
- (4) A telephone advisory service may be provided by the prime contractor, rail operator or consignor, or someone else for the prime contractor, rail operator or consignor.

### **152 Emergency plans**

- (1) In this clause: "**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 Standing Council on Transport and Infrastructure or by the Transport and Infrastructure Council.
- (2) A prime contractor or rail operator must not transport a placard load if the prime contractor or rail operator does not have an emergency plan for the transport of the goods. Maximum penalty: 40 penalty units for an individual or 200 penalty units for a corporation.
- (3) On becoming aware of a dangerous situation involving a placard load, the prime contractor or rail operator transporting the load must do everything that the emergency plan for the transport of the load requires the prime contractor or rail operator to do that is relevant to the situation. Maximum penalty: 40 penalty units for an individual or 200 penalty units for a corporation.
- (4) A person must not consign a placard load for transport if the person does not have an emergency plan for the transport of the goods. Maximum penalty: 40 penalty units for an individual or 200 penalty units for a corporation.
- (5) On becoming aware of a dangerous situation involving a placard load, the consignor of the load must do everything that the emergency plan for the transport of the load requires the consignor to do that is relevant to the situation. Maximum penalty: 40 penalty units for an individual or 200 penalty units for a corporation.

### **153 Consignor's duties--information and resources**

- (1) This clause 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 officer or an officer of an emergency service, the consignor of the goods must:
- (a) give to the officer the information that the officer 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 for an individual or 100 penalty units for a corporation.

(3) If the prime contractor and the consignor, or the rail operator 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, as the case may be, the prime contractor or the rail operator gives the information or provides the resources.

#### **154 Prime contractor's and rail operator's duties--information and resources**

(1) This clause 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 officer or an officer of an emergency service, the prime contractor or rail operator must:

(a) give to the officer the information that the officer requires about the vehicle's construction, properties and equipment, and

(b) provide the equipment and other resources necessary:

(i) to control the dangerous situation, and

(ii) to recover a vehicle involved in the situation or its equipment.

Maximum penalty: 20 penalty units for an individual or 100 penalty units for a corporation.

(3) If the prime contractor and the consignor, or the rail operator 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, as the case may be, the prime contractor or the rail operator gives the information or provides the resources.

### **Part 15 – Mutual recognition**

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

##### **155 Registers**

Each of the following "**registers**" is a register for this Regulation:

(a) the register of determinations kept under clause 29,

(b) the register of exemptions kept under clause 165,

(c) the register of approvals kept under clause 178,

(d) the register of dangerous goods driver licences kept under clause 220 (1),

(e) the register of dangerous goods vehicle licences kept under clause 220 (2).

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

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

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

##### **157 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 subclause (1) by ensuring that there is reasonable access to:

(a) copies of information in a register, or

(b) a computer terminal to inspect a register.

#### **Division 2 – Recommendations by Competent Authority and corresponding authorities**

##### **158 Recommendations by Competent Authority**

(1) This clause 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 provide written reasons to the corresponding authority for the recommendation.

(4) If the recommendation is about a determination (except an administrative determination), approval or exemption that has effect in one or more other participating jurisdictions, the Competent Authority must also refer the recommendation to CAP.

### **159 Recommendations by corresponding authorities**

(1) This clause 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 one 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.

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

### **160 Corresponding determinations**

(1) This clause 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 a provision (the "**relevant provision**") of any of the following clauses:

- (i) clause 24 (Determinations--dangerous goods and packagings),
- (ii) clause 25 (Determinations--vehicles, routes, areas and times), and

(b) the determination has effect in the other jurisdiction, and

(c) either of the following subparagraphs applies:

- (i) CAP has decided that the determination should have effect in all participating jurisdictions or participating jurisdictions including this jurisdiction and CAP has not reversed the decision,
- (ii) the determination is an administrative determination.

(2) The determination has effect in this jurisdiction as if it were a determination made by the Competent Authority under the relevant provision.

A register of corresponding determinations is kept on the website of the Competent Authorities Panel

([http://www.infrastructure.gov.au/transport/australia/dangerous/competent\\_authorities.aspx](http://www.infrastructure.gov.au/transport/australia/dangerous/competent_authorities.aspx)).

### **161 Corresponding exemptions**

(1) This clause 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 this jurisdiction and CAP has not reversed the decision.

(2) The exemption has effect in this jurisdiction as if it were an exemption granted by the Competent Authority for the relevant provision for a period of 10 years commencing 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.

A register of corresponding exemptions is kept on the website of the Competent Authorities Panel

([http://www.infrastructure.gov.au/transport/australia/dangerous/competent\\_authorities.aspx](http://www.infrastructure.gov.au/transport/australia/dangerous/competent_authorities.aspx)).

## **162 Corresponding approvals**

(1) This clause applies to an approval given in another jurisdiction 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 clauses:

- (i) clause 23 (Approvals--tests and training courses for drivers),
- (ii) clause 49 (Approval of packaging designs),
- (iii) clause 52 (Approval of overpack preparation method),
- (iv) clause 109 (Approvals--Type II segregation devices),
- (v) clause 110 (Approvals--methods of segregation),
- (vi) clause 134 (Approvals--emergency information),
- (vii) clause 240 (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 this jurisdiction and CAP has not reversed the decision.

(2) The approval has effect in this jurisdiction as if it were an approval given by the Competent Authority under the relevant provision.

A register of corresponding approvals is kept on the website of the Competent Authorities Panel

([http://www.infrastructure.gov.au/transport/australia/dangerous/competent\\_authorities.aspx](http://www.infrastructure.gov.au/transport/australia/dangerous/competent_authorities.aspx)).

## **163 Corresponding licences**

(1) This clause 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 clause 197 (Grant of dangerous goods driver licences), or clause 207 (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 this jurisdiction, the licence has effect in this jurisdiction as if it were a licence granted under the relevant provision.

## **163A Reference of determination, exemption or approval to CAP for the purposes of mutual recognition**

The Competent Authority may refer to CAP any determination, exemption or approval that has been made by a corresponding authority that the Competent Authority considers to be a determination, exemption or approval that should be given effect in all participating jurisdictions, or participating jurisdictions including this jurisdiction, for the purposes of clauses 160, 161 and 162.

## **Part 16 – Exemptions**

For other provisions about exemptions, see Part 6 of the Act.

### **Division 1 – General**

#### **164 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) specify the provisions of this Regulation and of the ADG Code to which the application relates, and
- (f) specify 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, and
- (l) if a fee is approved by the Competent Authority for the application--be accompanied by the approved fee.

(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.

### **165 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 each exemption granted by the Authority.
- (4) The Competent Authority must note in the register the cancellation or variation of an exemption granted by the Authority.

A register of corresponding exemptions is kept on the website of the Competent Authorities Panel

([http://www.infrastructure.gov.au/transport/australia/dangerous/competent\\_authorities.aspx](http://www.infrastructure.gov.au/transport/australia/dangerous/competent_authorities.aspx)).

### **166 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 notified in the Government Gazette of a participating jurisdiction (including this jurisdiction)--the title of the Gazette and the date of notification,
  - (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.

## **Division 2 – Reference of matters to CAP**

### **167 References to CAP**

- (1) The Competent Authority must refer an application for an exemption, or an exemption that it has granted, to CAP if the Authority considers that the exemption should have effect in all participating jurisdictions or participating jurisdictions including this jurisdiction.

- (2) The Competent Authority must refer to CAP an exemption having effect in this jurisdiction and one 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.

#### **168 Effect of CAP decisions about exemptions**

- (1) This clause applies if:
- (a) an application for an exemption, or an exemption, is referred to CAP under clause 167 (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 certain participating jurisdictions including this jurisdiction, or
    - (ii) that the exemption should not have effect in this jurisdiction.
- (2) The Competent Authority must have regard to CAP's decision.

#### **169 Effect of CAP decisions about cancelling or varying exemptions**

- (1) This clause applies if:
- (a) an exemption is referred to CAP under clause 167 (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 certain participating jurisdictions including this jurisdiction, or
    - (iii) should not be varied.
- (2) The Competent Authority must have regard to CAP's decision.

### **Part 17 – Administrative determinations and approvals**

For provisions about determinations generally see Division 4 of Part 1 of this Regulation.

#### **Division 1 – General**

##### **170 Applications**

- (1) An application for an administrative determination or approval, or for the variation of an administrative determination or approval, must:
- (a) be made to the Competent Authority in writing, and
  - (b) if a fee is approved by the Competent Authority for the application--be accompanied by the approved fee.
- (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, by written notice, require an applicant to give to the Authority any additional information necessary for a proper consideration of the application.

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

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

##### **172 When administrative determinations and approvals not to be made etc**

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 by road or rail.

##### **173 Reasons for refusal of applications**

- (1) This clause applies if the Competent Authority refuses an application to:
  - (a) make or vary an administrative determination, or
  - (b) grant or vary an approval under this Regulation.
- (2) The Competent Authority must inform the applicant in writing of the refusal and of the reasons for the refusal.

#### **174 Periods and conditions**

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

#### **175 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.

#### **176 Grounds for cancelling administrative determinations and approvals**

- (1) The Competent Authority may cancel an administrative determination or approval 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.
- (2) The Competent Authority may cancel an administrative determination or approval if:
  - (a) a relevant change has occurred since the determination was made or the approval was given, and
  - (b) if the change had occurred earlier:
    - (i) the determination would not have been made, or
    - (ii) the approval would not have been given.
- (3) The Competent Authority may cancel an administrative determination or approval 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 this Regulation, or
  - (b) a provision of the law in force in another participating jurisdiction corresponding to a provision mentioned in paragraph (a).
- (4) In subclause (2): "**relevant change**" means a change about something that the Competent Authority may or must consider in deciding whether to make the determination or give the approval.

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

- (1) The Competent Authority may vary an administrative determination or approval 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.
- (2) The Competent Authority may vary an administrative determination or approval if:
  - (a) a relevant change has occurred since the determination was made or the approval was given, and
  - (b) if the change had occurred 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) The Competent Authority may vary an administrative determination or approval 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 this Regulation, or
- (b) a provision of the law in force in another participating jurisdiction corresponding to a provision mentioned in paragraph (a).

(4) In the case of an administrative determination that applies to more than one person, the Competent Authority may vary the determination by removing the name of a person who is unsuitable as described in subclause (3), even if that person was the original applicant for the determination.

(5) In subclause (2): "**relevant change**" means a change about something that the Competent Authority may or must consider in deciding whether to make the determination or give the approval.

## **Division 1A – Reference of determinations to CAP**

### **177A References to CAP**

(1) The Competent Authority must refer an application for a determination, or a determination it has made, to CAP if the Authority considers that the determination should have effect in all participating jurisdictions or certain participating jurisdictions including this jurisdiction.

(2) The Competent Authority must refer to CAP a determination having effect in this jurisdiction and one or more other participating jurisdictions if:

- (a) the Authority considers that the determination should be cancelled or varied, or
- (b) a corresponding authority recommends to the Competent Authority in writing that the determination should be cancelled or varied.

### **177B Effect of CAP decisions about determinations**

(1) This clause applies if:

- (a) an application for a determination, or a determination, is referred to CAP under clause 177A (1), and
- (b) CAP decides:
  - (i) that the determination should be given, what the terms of the determination should be and that the determination should have effect in all participating jurisdictions or certain participating jurisdictions including this jurisdiction, or
  - (ii) that the determination should not have effect in this jurisdiction.

(2) The Competent Authority must have regard to CAP's decision.

### **177C Effect of CAP decisions about cancelling or varying determinations**

(1) This clause applies if:

- (a) a determination is referred to CAP under clause 177A (2), and
- (b) CAP decides that the determination:
  - (i) 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 this jurisdiction, or
  - (ii) should not be varied.

(2) The Competent Authority must have regard to CAP's decision.

## **Division 2 – Register of approvals**

### **178 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 each approval given in writing under this Regulation.

(4) The Competent Authority must note in the register the cancellation or variation of a written approval.

A register of corresponding approvals is kept on the website of the Competent Authorities Panel

([http://www.infrastructure.gov.au/transport/australia/dangerous/competent\\_authorities.aspx](http://www.infrastructure.gov.au/transport/australia/dangerous/competent_authorities.aspx)).

### **179 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 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.

### **Division 3 – Reference of approval matters to CAP**

#### **180 References to CAP**

(1) The Competent Authority must refer an application for an approval, or an approval that it has given, to CAP if the Authority considers that the approval should have effect in all participating jurisdictions or participating jurisdictions including this jurisdiction.

(2) The Competent Authority must refer to CAP an approval having effect in this jurisdiction and one or more other participating jurisdictions 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.

#### **181 Effect of CAP decisions about approvals**

(1) This clause applies if:

- (a) an application for an approval, or an approval, is referred to CAP under clause 180 (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 certain participating jurisdictions including this jurisdiction, or
  - (ii) that the approval should not have effect in this jurisdiction.

(2) The Competent Authority must have regard to CAP's decision.

#### **182 Effect of CAP decisions about cancelling or varying approvals**

(1) This clause applies if:

- (a) an approval is referred to CAP under clause 180 (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 this jurisdiction, or
  - (iii) should not be varied.

(2) The Competent Authority must have regard to CAP's decision.

### **Division 4 – Cancellation and variation**

#### **183 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.

#### **184 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 by road or rail.
- (2) If an approval applies to more than one person, subclause (1) only requires the Competent Authority to ensure that the approval no longer applies to the person who is the subject of the prohibition.

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

- (1) This clause applies if:
  - (a) an application is made to vary an administrative determination or an approval, and
  - (b) the application is made in accordance with clause 170 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.

#### **186 Cancellation and variation in other circumstances**

- (1) This clause 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) clauses 183, 184 and 185 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 specified period of at least 28 days after the day on which 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 specified 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 specified way--vary the determination or approval in that way.

#### **187 When cancellation and variation take effect**

The cancellation or variation of an administrative determination or an approval by the Competent Authority takes effect on:

- (a) the day on which the person to whom the determination applies or the approval was given is given written notice by the Authority of the cancellation or variation and of the reasons for the cancellation or variation, or
- (b) a later day specified in the notice.

## **Part 18 – Licences**



## **Division 1 – Preliminary**

### **188 Meaning of "licensing authority"**

In this Part:

"licensing authority" means:

- (a) the Competent Authority for road transport, or
- (b) a person or body authorised by the Competent Authority to issue licences under this Part.

### **189 Application of Part**

Despite anything to the contrary in this Part, this Part 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 packed or unpacked on the vehicle, and
- (c) the total capacity of IBCs containing dangerous goods on the vehicle is not more than 3,000 litres.

### **190 Part additional to other laws**

This Part is in addition to any other law in force in this jurisdiction about:

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

## **Division 2 – Vehicles and drivers to be licensed under this Part**

### **191 Vehicles to be licensed**

(1) A road vehicle must not be used to transport:

- (a) dangerous goods that are in a receptacle with a capacity of more than 500 litres, or
- (b) more than 500 kilograms of dangerous goods in a receptacle,

unless the vehicle is licensed under this Part to transport the goods.

(2) If the Competent Authority has determined under clause 25 that a vehicle that is not licensed under this Part may be used to transport the dangerous goods described in subclause (1), the vehicle may be used to transport the goods without complying with that subclause.

### **192 Drivers to be licensed**

A person must not drive a road vehicle transporting:

- (a) dangerous goods that are in a receptacle with a capacity of more than 500 litres, or
- (b) more than 500 kilograms of dangerous goods in a receptacle,

unless he or she holds a dangerous goods driver licence that authorises him or her to drive the vehicle with those goods.

## **Division 3 – Dangerous goods driver licences**

### **193 Applications for licences**

(1) A person resident in the State 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 if the person holds a driver licence.

(2) The application must be accompanied by:

- (a) the driver licence evidence required by clause 194, and
- (b) the competency evidence required by clause 195, and
- (c) the medical fitness evidence required by clause 196, and

- (d) 2 photographs of the applicant of a size suitable for passports that were taken not more than 6 months before the day on which the application is made, and
- (e) if a fee is approved by the Competent Authority for the application--the approved fee.

#### **194 Required 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 subclause (2), or
    - (ii) the authorisation mentioned in subclause (3).
- (2) For the purposes of subclause (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.
- (3) For the purposes of subclause (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.
- (4) For the purposes of subclause (1) (a), a "**current certified extract**" is an extract certified by the driver licensing authority not more than 6 months before the day on which the application is made.

#### **195 Required competency evidence**

- (1) A document mentioned in subclause (2) is required as competency evidence for an application for 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 on which 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 on which the application is made.

#### **196 Required medical fitness evidence**

- (1) The certificate mentioned in subclause (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 motor vehicle, and
  - (b) issued by a registered medical practitioner who, not more than 6 months before the day on which 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.

#### **197 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 is accompanied by the documents required by clause 193 and otherwise complies with the clause.

- (2) However, the licensing authority must not grant the licence if:
- (a) in the 5 years before the day on which the application is made:
    - (i) the applicant has been found guilty by a court in Australia of an offence against the Act or this Regulation 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 inform the applicant in writing of the refusal and of the reasons for the refusal.

### **198 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 by clause 194, and
  - (b) the competency evidence required by clause 195, and
  - (c) the medical fitness evidence required by clause 196, and
  - (d) 2 photographs of the applicant of a size suitable for passports that were taken not more than 6 months before the day on which the application is made, and
  - (e) if a fee is approved by the Competent Authority for the application--the approved fee.

### **199 Renewal of 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 is accompanied by the documents required by clause 198 and otherwise complies with the clause.
- (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 inform the applicant in writing of the refusal and of the reasons for the refusal.

### **200 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 on which 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.

### **201 Licence conditions**

- (1) The licensing authority may grant or renew a dangerous goods driver licence subject to conditions mentioned in subclauses (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 or on a road vehicle driven by the licensee, and
  - (b) the packaging that may or may not be used to transport dangerous goods in or on 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.
- (4) The licence may be subject to any other condition necessary for the safe transport of dangerous goods by road.

## **202 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 motor vehicle, and
  - (b) issued by a registered medical practitioner who, not more than 6 months before the day on which 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 specify a period of at least 2 months after the day on which 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 clause if the period of validity of the dangerous goods driver licence is less than 4 months.

## **203 Grounds for cancelling, suspending or varying licences**

- (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.
- (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) a provision of the Act or this Regulation, or
    - (ii) a provision of the law in force in another participating jurisdiction corresponding to a provision mentioned in subparagraph (i), or
  - (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.

## **Division 4 – Dangerous goods vehicle licences**

### **204 Meaning of "vehicle"**

In this Division:

"vehicle" does not include:

- (a) a prime mover, or
- (b) a converter dolly (within the meaning of the *Road Transport (Vehicle Registration)*)

*Regulation 2017).*

That Regulation defines a converter dolly as a trailer with one axle group or single axle and a fifth wheel coupling, designed to convert a semi-trailer into a dog trailer.

## **205 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 or on the road vehicle,
  - (c) if the applicant holds a dangerous goods vehicle licence for another vehicle--the number of the other dangerous goods vehicle licence.
- (3) If a fee is approved by the Competent Authority for the application, the application must be accompanied by the approved fee.
- (4) An application may be made for licences for 2 or more road vehicles in the same form.

## **206 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 specified 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.

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

- (1) Subject to subclause (4), 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 clause 205, and
  - (c) the applicant has complied with any requirement made under clause 206 in relation to the application, and
  - (d) the road vehicle is suitable to transport each type of dangerous goods intended to be transported in or on the road vehicle.
- (2) Without limiting subclause (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 requirements of Chapters 4.4 and 6.9 of the ADG Code 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 one road vehicle.

(5) If the licensing authority refuses to grant a dangerous goods vehicle licence, the authority must inform the applicant in writing of the refusal and of the reasons for the refusal.

### **208 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 clause 205 (2) for an application for the grant of a dangerous goods vehicle licence for the road vehicle.

(3) If a fee is approved by the Competent Authority for the application, the application must be accompanied by the approved fee.

### **209 Renewal of licences**

(1) Subject to subclause (3), 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 clause 208, and

(c) the applicant has complied with any requirement made under clause 206 in relation to the application, and

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

(2) Without limiting subclause (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 requirements of Chapters 4.4 and 6.9 of the ADG Code 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 one road vehicle.

(5) If the licensing authority refuses to renew a dangerous goods vehicle licence, the authority must inform the applicant in writing of the refusal and of the reasons for the refusal.

### **210 Licence periods**

(1) A dangerous goods vehicle licence is granted for the period specified in the licence, being a period not longer than 5 years.

(2) A dangerous goods vehicle licence takes effect on the day on which the licence is granted or a later day specified in the licence.

(3) A dangerous goods vehicle licence is renewed for the period specified in the renewed licence, being a period not longer than 5 years.

### **211 Licence conditions**

(1) The licensing authority may grant or renew a dangerous goods vehicle licence subject to conditions mentioned in subclauses (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 or on the vehicle, and

(b) the areas where the vehicle may or may not be used to transport dangerous goods or particular dangerous goods, and

(c) the inspections of the vehicle (if any) that are required.

(4) The licence may be subject to any other condition necessary for the safe transport of

dangerous goods by road.

## **212 Disposal and transfer of licensed vehicles**

(1) (Repealed)

(2) Within the 21 days after transferring possession or otherwise disposing of a licensed vehicle (otherwise than by way of a business transfer) (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 for an individual or 50 penalty units for a corporation.

(3) If the licence for the disposed vehicle also relates to another vehicle, the person who holds the licence for the vehicle must attach the licence to the notice of the disposal. Maximum penalty: 10 penalty units for an individual or 50 penalty units for a corporation.

(4) 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 for an individual or 50 penalty units for a corporation.

(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) Within the 21 days after the transfer by business transfer of a vehicle for which a dangerous goods vehicle licence has been granted, the person to whom the vehicle has been transferred must make an application to the licensing authority, accompanied by the licence and the fee approved by the Competent Authority for the application, for the transfer of the licence to that person. Maximum penalty: 10 penalty units for an individual or 50 penalty units for a corporation.

(7) On receipt of the application, licence and approved fee, the licensing authority must amend the licence to record the change in who holds the licence and return the licence.

(8) Subclause (7) does not apply if the person to whom the licence was to have been transferred is ineligible to hold the licence.

(9) In this clause: "**business transfer**", in respect of a vehicle, means a transfer of the title to the vehicle as part of a transfer in ownership of the business in which the vehicle is used and is to continue to be used.

## **213 Grounds for cancelling, suspending or varying licences**

(1) The licensing authority may cancel, suspend or vary a dangerous goods vehicle licence 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.

(2) The licensing authority may cancel, suspend or vary a dangerous goods vehicle licence for a road vehicle if the road vehicle does not comply with the Act or this Regulation.

## **214 (Repealed)**

### **Division 5 – Requirements relating to dangerous goods driver licences**

#### **215 Licences 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:

- (a) dangerous goods that are in a receptacle with a capacity of more than 500 litres, or
- (b) more than 500 kilograms of dangerous goods in a receptacle.

Maximum penalty: 10 penalty units.

(2) A driver of a road vehicle transporting dangerous goods who is required to carry a dangerous goods driver licence under subclause (1) must, on request, produce the licence for inspection by an authorised officer or an officer of an emergency service. Maximum penalty: 10 penalty units.

## **Division 6 – Licences generally**

### **216 Meaning of "licence" and "licensee"**

In this Division:

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

"**licensee**" means the holder of a licence.

### **217 Replacement licences**

(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 to a licensee if the authority is satisfied that the licence has been defaced, destroyed, lost or stolen.

### **218 Failure to comply with licence conditions**

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

Maximum penalty: 40 penalty units.

### **219 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.

### **220 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.

### **221 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 on which 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.

### **222 Change of information given in licence applications**

(1) This clause 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 inform the licensing authority about the matter and give the correct information to the authority.  
Maximum penalty: 10 penalty units for an individual or 50 penalty units for a corporation.

### **223 Production of licences 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 on which the notice is given to the person. Maximum penalty: 10 penalty units for an individual or 50 penalty units for a corporation.

### **224 Return of licences**

(1) This clause applies if a licence is produced to the licensing authority or given to the authority by an authorised officer.

(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 or been withdrawn, 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.

## **Division 7 – Cancellation, suspension and variation**

### **225 Definitions**

In this Division:

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

"**licensee**" means the holder of a licence.

### **226 Cancellation, suspension and variation in dangerous situations**

The licensing authority must cancel, suspend or vary any licence granted by it if it 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.

### **227 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.

### **228 Variation of licence on application**

(1) This clause 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.

### **229 Cancellation, suspension and variation in other circumstances**

(1) This clause applies if:

(a) the licensing authority considers that a ground exists to cancel, suspend or vary a licence (the proposed action), and

(b) clauses 226, 227 and 228 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 specified period of at least 28 days after the day on which 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 specified 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 specifying a longer period of suspension), or
  - (c) if the proposed action is to vary the licence in a specified way--vary the licence in that way.
- (4) The licensing authority may withdraw a suspension before the suspension is due to expire if it reasonably believes that it is appropriate to do so.

### **230 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 on which 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) a later day specified in the notice.

### **231 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 road vehicle if the road vehicle is not registered.

## **Part 19 – Reconsideration and review of decisions**

### **232 Application of Part**

This Part applies to the following decisions made by the Competent Authority:

- (a) a decision under clause 23 to approve or not approve a test or training course for drivers of road vehicles transporting dangerous goods,
- (b) an administrative determination under clause 24 or 25,
- (c) a decision under clause 49 to approve or not approve a design for a packaging,
- (d) a decision under clause 52 to approve or not approve a method of preparing an overpack,
- (e) a decision under clause 109 to approve or not approve a design for a segregation device,
- (f) a decision under clause 110 to approve or not approve a method of segregation,
- (g) a decision under clause 134 to approve or not approve emergency information,
- (h) a decision under clause 183, 185 or 186 to cancel, vary or refuse to vary a determination or approval,
- (i) a decision under clause 197 or 207 to grant or refuse to grant a licence,

- (j) a decision under clause 199 or 209 to renew or refuse to renew a licence,
- (k) a decision under clause 217 to issue or refuse to issue a replacement licence,
- (l) a decision under clause 226, 228 or 229 to cancel, suspend, vary or refuse to vary a licence,
- (m) a decision under clause 240 to approve or not approve the use of a vehicle that is not covered by a policy of insurance or other form of indemnity.

### **233 Who may apply for reconsideration of decisions**

A person whose interests are affected by a decision may apply in writing to the Competent Authority for reconsideration of the decision.

### **234 Applications for reconsideration**

- (1) An application must be made within:
  - (a) 28 days after the day on which the person was informed of the decision by the Competent Authority, or
  - (b) a longer period allowed by the Authority, either before or after the end of the 28 days.
- (2) The application must set out the grounds on which reconsideration of the decision is sought.

### **235 Competent Authority to reconsider decisions**

- (1) Within 28 days after receiving the application, the Competent Authority must reconsider the decision, and confirm, revoke or vary the decision.
- (2) The Competent Authority must inform the applicant in writing of the result of the reconsideration and of the reasons for the result.

### **236 Appeal to court after reconsideration of certain decisions**

- (1) A person who is not satisfied with the result of a reconsideration of a decision by the Competent Authority under clause 235 may appeal against the decision to:
  - (a) in the case of a reconsideration by the EPA--the Land and Environment Court, or
  - (b) in the case of a reconsideration by WorkCover--the Local Court constituted by an Industrial Magistrate sitting alone.
- (2) An appeal under this clause must be made within 21 days after the day on which the person was informed of the result of the reconsideration of the decision concerned.
- (3) An appeal under this clause does not operate to stay the decision the subject of the appeal except as otherwise ordered by the court concerned.
- (4) The court to which an appeal under this clause is made may, on the appeal, confirm vary or revoke the decision.

## **Part 20 – Insurance**

### **237 Owner's duties**

- (1) The owner of a road vehicle must not use the vehicle, or permit it to be used, to transport a placard load unless:
  - (a) the use of the vehicle is covered by a policy of insurance or other form of indemnity, for a sum that is not less than \$5,000,000, in respect of:
    - (i) personal injury, death, property damage and other damage (except consequential economic loss) arising out of any fire, explosion, leakage or spillage of dangerous goods in, on or from the vehicle or any packaging transported in or on the vehicle, and
    - (ii) costs incurred by or on behalf of a Commonwealth, State or Territory government authority in a clean-up resulting from such a fire, explosion, leakage or spillage, or
  - (b) the owner has an approval under clause 240 in relation to the use of the vehicle and is complying with all relevant conditions to which the approval is

subject.

Maximum penalty: 50 penalty units for an individual or 250 penalty units for a corporation.

(2) Each load bearing vehicle, whether or not a motor vehicle and whether or not it is being used in combination with another vehicle, is a vehicle for the purposes of subclause (1).

(3) If a load bearing vehicle is being used in combination with another vehicle, for the purposes of subclause (1), one policy of insurance only is required for the combination.

### **238 Prime contractor's duties**

(1) A prime contractor must not use a road vehicle to transport a placard load unless:

(a) the use of the vehicle is covered by a policy of insurance or other form of indemnity, for a sum that is not less than \$5,000,000, in respect of:

(i) personal injury, death, property damage and other damage (except consequential economic loss) arising out of any fire, explosion, leakage or spillage of dangerous goods in, on or from the vehicle or any packaging transported in or on the vehicle, and

(ii) costs incurred by or on behalf of a Commonwealth, State or Territory government authority in a clean-up resulting from such a fire, explosion, leakage or spillage, or

(b) the prime contractor has an approval under clause 240 in relation to the use of the vehicle and is complying with all relevant conditions to which the approval is subject.

Maximum penalty: 50 penalty units for an individual or 250 penalty units for a corporation.

(2) Each load bearing vehicle, whether or not a motor vehicle and whether or not it is being used in combination with another vehicle, is a vehicle for the purposes of subclause (1).

(3) If a load bearing vehicle is being used in combination with another vehicle, for the purposes of subclause (1), one policy of insurance only is required for the combination.

### **239 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, or a prime contractor responsible for the condition of the vehicle, to produce:

(a) written evidence that the vehicle is covered by a policy of insurance or other form of indemnity in accordance with clause 237 (1) (a) or 238 (1) (a), or

(b) an approval under clause 240 in relation to the vehicle.

(2) The owner or prime contractor must produce the evidence or approval to the Competent Authority within 14 days after the day on which the notice is given to the person. Maximum penalty: 15 penalty units for an individual or 75 penalty units for a corporation.

### **240 Approvals--insurance**

(1) The owner of a road vehicle used to transport placard loads, or a prime contractor responsible for the condition of the vehicle, may make an application in accordance with clause 170 to use the vehicle even if the vehicle is not covered by a policy of insurance or other form of indemnity in accordance with clause 237 (1) (a) or 238 (1) (a).

(2) If the Competent Authority is satisfied that the owner or prime contractor is adequately capable of self-insurance for the purposes of clause 237 (1) (a) or 238 (1) (a), the Competent Authority may give written approval for the use of the vehicle.

(3) An approval under subclause (2) may be given by the Competent Authority:

(a) for a single use or for a period not longer than 5 years, and

(b) subject to any other condition.

## **Part 21 – Miscellaneous**

### **241 Penalty notice offences and penalties**

(1) For the purposes of section 48 of the Act:

(a) each offence created by a provision specified in Column 1 of Schedule 1 is an offence for which a penalty notice may be served, and

(b) the penalty prescribed for each such offence is:

(i) the amount specified opposite the provision in Column 2 of the Schedule, or

(ii) if the person alleged to have committed the offence is a corporation, and if a greater amount is specified opposite the provision in Column 3 of the Schedule--the amount specified in Column 3 of the Schedule.

(2) If the reference to a provision in Column 1 of Schedule 1 is qualified by words that restrict its operation to specified kinds of offences, an offence created by the provision is a prescribed offence only if it is an offence of a kind so specified or committed in the circumstances so specified.

#### **242 Appeals to Court following certain reviews: sections 35 and 45**

(1) An appeal to a court under section 35 of the Act must be made within 21 days after the day on which the person was given notice of the result of the review concerned.

(2) An appeal to a court under section 45 of the Act must be made within 21 days after the day on which the person was given notice of the result of the internal review concerned.

#### **242A Repeal and savings**

(1) The *Dangerous Goods (Road and Rail Transport) Regulation 2009* is repealed.

(2) Any act, matter or thing that, immediately before the repeal of the *Dangerous Goods (Road and Rail Transport) Regulation 2009*, had effect under that Regulation continues to have effect under this Regulation.

(3) Until 1 July 2015, a person is taken to comply with the ADG Code for the purposes of this Regulation if the person complies with the ADG Code that had effect for the purposes of the *Dangerous Goods (Road and Rail Transport) Regulation 2009* immediately before the repeal of that Regulation.

## **Schedule 1 Penalty notice offences**

(Clause 241)

Column 1 Provision	Column 2 Penalty (Individual) (\$)	Column 3 Penalty (Corporation) (\$)
	Offences against the Act	
Section 6 (1)	800	4,000
Section 6 (2)	2,000	10,000
Section 6 (3)	2,000	2,000
Section 7 (1)	800	4,000
Section 7 (2)	2,000	-
Section 8	2,000	10,000
Section 9 (1)	2,000	10,000
Section 9 (2)	2,000	10,000
Section 19 (2)	400	-
Section 24	2,000	-
Section 27	2,000	10,000
Section 29	2,000	10,000
Section 31	2,000	10,000
Section 39 (3)	2,000	10,000
Section 40 (2)	400	2,000
Section 42 (6)	2,000	10,000

Section 53 (9)	2,000	10,000
Section 66 (2)	110	-
Section 66 (3)	110	-
	Offences against this Regulation	
Clause 7 (3)	800	4,000
Clause 7 (4)	800	4,000
Clause 7 (5)	800	4,000
Clause 8	800	4,000
Clause 22 (2)	800	4,000
Clause 22 (3)	800	-
Clause 27 (2)	800	4,000
Clause 31 (1)	800	4,000
Clause 39	400	2,000
Clause 40	400	2,000
Clause 41	400	2,000
Clause 42	400	2,000
Clause 43	200	-
Clause 47 (1)	800	4,000
Clause 47 (2)	800	4,000
Clause 49 (4)	800	4,000
Clause 52 (3)	800	4,000
Clause 54	800	4,000
Clause 56	800	4,000
Clause 57 (1)	800	4,000
Clause 57 (2)	800	4,000
Clause 58	800	4,000
Clause 59	800	4,000
Clause 60	800	-
Clause 62 (1)	800	4,000
Clause 62 (3)	800	4,000
Clause 63	800	4,000
Clause 64 (1)	800	4,000
Clause 64 (2)	800	4,000
Clause 65 (1)	800	4,000
Clause 65 (2)	800	4,000
Clause 66	800	4,000
Clause 67 (1)	800	4,000
Clause 67 (2)	800	4,000
Clause 68	800	-
Clause 69	400	2,000
Clause 70	400	2,000
Clause 71	400	2,000
Clause 72	400	2,000
Clause 73	260	-
Clause 75 (1):		
(a) in the case of large packaging or overpack	400	2,000
(b) in any other case	130	650
Clause 75 (2):		
(a) in the case of large packaging or	400	2,000

overpack		
(b) in any other case	130	650
Clause 75 (3):		
(a) in the case of large packaging or overpack	400	2,000
(b) in any other case	130	650
Clause 76 (1):		
(a) in the case of large packaging or overpack	400	2,000
(b) in any other case	130	650
Clause 76 (2):		
(a) in the case of large packaging or overpack	400	2,000
(b) in any other case	130	650
Clause 76 (3):		
(a) in the case of large packaging or overpack	400	2,000
(b) in any other case	130	650
Clause 77 (1):		
(a) in the case of large packaging or overpack	400	2,000
(b) in any other case	130	650
Clause 77 (2):		
(a) in the case of large packaging or overpack	400	2,000
(b) in any other case	130	650
Clause 77 (3):		
(a) in the case of large packaging or overpack	400	2,000
(b) in any other case	130	650
Clause 80 (1)	800	4,000
Clause 80 (2)	800	4,000
Clause 80 (3)	800	4,000
Clause 80 (5)	800	4,000
Clause 81 (1)	800	4,000
Clause 81 (2)	800	4,000
Clause 81 (3)	800	4,000
Clause 81 (5)	800	4,000
Clause 82 (1)	800	4,000
Clause 82 (2)	800	4,000
Clause 82 (3)	800	4,000
Clause 82 (5)	800	4,000
Clause 83 (1)	400	-
Clause 83 (2)	400	-
Clause 83 (3)	400	-
Clause 83 (4)	400	-
Clause 84	800	4,000
Clause 85	800	4,000
Clause 86	400	2,000
Clause 87	800	4,000
Clause 88	400	-

Clause 90	400	2,000
Clause 91	400	2,000
Clause 92 (1)	400	2,000
Clause 92 (2)	400	2,000
Clause 93	260	-
Clause 95	400	2,000
Clause 96	400	2,000
Clause 97	260	-
Clause 98 (1)	400	2,000
Clause 98 (2)	400	2,000
Clause 99 (1)	400	2,000
Clause 99 (2)	400	2,000
Clause 100 (1)	400	2,000
Clause 100 (2)	400	2,000
Clause 101 (1)	260	-
Clause 101 (2)	260	-
Clause 104	800	4,000
Clause 105	800	4,000
Clause 106	800	4,000
Clause 107	800	4,000
Clause 108	260	-
Clause 110 (3)	800	4,000
Clause 112 (1)	400	2,000
Clause 112 (2)	800	4,000
Clause 113 (1)	400	2,000
Clause 113 (2)	400	2,000
Clause 113 (3)	400	2,000
Clause 114 (1)	400	2,000
Clause 114 (2)	800	4,000
Clause 114 (3)	130	650
Clause 115 (1)	400	2,000
Clause 115 (2)	800	4,000
Clause 115 (3)	130	650
Clause 116	400	2,000
Clause 118 (1)	400	2,000
Clause 118 (2)	400	2,000
Clause 119 (1)	400	2,000
Clause 119 (2)	400	2,000
Clause 120 (1)	400	-
Clause 120 (2)	400	-
Clause 121	800	4,000
Clause 122 (1)	260	1,300
Clause 122 (2)	260	1,300
Clause 123 (1)	260	1,300
Clause 124	400	2,000
Clause 125 (1)	400	2,000
Clause 126 (1)	260	-
Clause 126 (2)	260	-
Clause 127 (2)	260	-
Clause 127A (2)	400	2,000
Clause 129	260	1,300



Clause 130	400	2,000
Clause 131 (1)	400	2,000
Clause 132 (1)	260	-
Clause 132 (2)	130	-
Clause 132 (3)	260	-
Clause 133 (1)	260	-
Clause 133 (2)	260	-
Clause 135	800	4,000
Clause 136 (1)	800	4,000
Clause 136 (2)	800	4,000
Clause 137 (1)	260	-
Clause 137 (2)	260	-
Clause 138 (2)	130	-
Clause 139 (1)	400	2,000
Clause 139 (2)	400	2,000
Clause 139 (3)	400	2,000
Clause 140	400	2,000
Clause 141	130	-
Clause 142	260	-
Clause 143 (2)	800	-
Clause 143 (3)	800	-
Clause 144	800	-
Clause 145	800	-
Clause 146	800	-
Clause 147 (2)	260	-
Clause 148 (2)	260	-
Clause 148 (3)	260	-
Clause 149 (2)	800	4,000
Clause 149 (3)	800	4,000
Clause 150 (2)	400	2,000
Clause 150 (3)	400	2,000
Clause 151 (2)	800	4,000
Clause 151 (3)	800	4,000
Clause 152 (4)	800	4,000
Clause 152 (5)	800	4,000
Clause 153 (2)	400	2,000
Clause 154 (2)	400	2,000
Clause 212 (2)	130	650
Clause 212 (3)	130	650
Clause 212 (4)	130	650
Clause 212 (6)	130	650
Clause 215 (1)	130	-
Clause 215 (2)	130	-
Clause 218	800	-
Clause 222 (2)	130	650
Clause 223 (2)	130	650
Clause 237 (1)	1,200	6,000
Clause 238 (1)	1,200	6,000
Clause 239 (2)	260	1,300

## Historical notes

The following abbreviations are used in the Historical notes:

Am	amended	LW	legislation website	Sch	Schedule
Cl	clause	No	number	Schs	Schedules
ClI	clauses	p	page	Sec	section
Div	Division	pp	pages	Secs	sections
Divs	Divisions	Reg	Regulation	Subdiv	Subdivision
GG	Government Gazette	Regs	Regulations	Subdivs	Subdivisions
Ins	inserted	Rep	repealed	Subst	substituted

Table of amending instruments *Dangerous Goods (Road and Rail Transport) Regulation 2014 (398)*. LW 27.6.2014. Date of commencement, 1.7.2014, cl 2. This Regulation has been amended as follows:

2015	(802)	<i>Dangerous Goods (Road and Rail Transport) Amendment (Model Law) Regulation 2015</i> . LW 18.12.2015. Date of commencement, 1.1.2016, cl 2.
2016	No 27	<i>Statute Law (Miscellaneous Provisions) Act 2016</i> . Assented to 7.6.2016. Date of commencement of Sch 2, 8.7.2016, sec 2 (1).
2017	(50)	<i>Dangerous Goods (Road and Rail Transport) Amendment (Revision of ADG Code) Regulation 2017</i> . LW 1.3.2017. Date of commencement, on publication on LW, cl 2.
	No 63	<i>Statute Law (Miscellaneous Provisions) Act (No 2) 2017</i> . Assented to 23.11.2017. Date of commencement of Sch 4.13, 14.1.2018, sec 2 (3).

Table of amendments

Cl 6	Am 2017 (50), Sch 1 [1].
Cl 7	Am 2017 (50), Sch 1 [2] [3].
Cl 9	Am 2015 (802), Sch 1 [1]; 2017 (50), Sch 1 [4]-[7].
Cl 16	Am 2015 (802), Sch 1 [2]-[4].
Cl 74	Subst 2017 (50), Sch 1 [8].
Cl 78	Am 2017 (50), Sch 1 [9] [10].
Cl 80	Am 2015 (802), Sch 1 [5].
Cl 81	Am 2015 (802), Sch 1 [6].
Cl 82	Am 2015 (802), Sch 1 [7].
Cl 83	Am 2015 (802), Sch 1 [8].
Cl 118	Am 2015 (802), Sch 1 [9].
Cl 119	Am 2015 (802), Sch 1 [10].
Cl 120	Am 2015 (802), Sch 1 [11].
Cl 138	Am 2015 (802), Sch 1 [12].
Cl 152	Am 2017 (50), Sch 1 [11].
Cl 163A	Ins 2015 (802), Sch 1 [13].
Cl 193	Am 2015 (802), Sch 1 [14].
Cl 204	Am 2017 No 63, Sch 4.13.
Cl 212	Am 2017 (50), Sch 1 [12].
Cl 214	Rep 2017 (50), Sch 1 [13].
Cl 217	Am 2017 (50), Sch 1 [14].
Cl 232	Am 2017 (50), Sch 1 [15].
Sch 1	Am 2015 (802), Sch 1 [15]; 2016 No 27, Sch 2.12 [1] [2]; 2017 (50), Sch 1 [16].

