

Contents (2010 - 125)

Dangerous Goods (Road and Rail Transport) Regulations 2010

Long Title

Part 1 - General, Interpretation, Training and Offence Provisions

Division 1 - Introductory and application

1. Short title
2. Commencement
3. Main objects
4. Reserved
5. Dangerous situations
6. Exempt transport
7. Further exemptions
8. Special provisions for tools of trade

Division 2 - Interpretation

9. Definitions
10. References to codes, standards and rules
11. Inconsistency between these regulations and codes &c.
12. References to determinations, exemptions, approvals and licences
13. References to variation of determinations &c.
14. Meaning of bulk container
15. Meaning of IBC
16. Meaning of MEGC
17. Dangerous goods packed in limited quantities
18. Reserved
19. Meaning of tank
20. Meaning of loads

Division 3 - Training

21. Instruction and training
22. Approvals □ tests and training courses for drivers

Division 4 - Reserved

23. Reserved

Division 5 - Provisions about offences generally

24. Goods suspected of being dangerous goods

Division 6 - Determinations

25. Determinations □ dangerous goods and packaging
26. Reserved
27. Determinations □ vehicles, routes, areas and times
28. Administrative determinations
29. Determinations may be subject to conditions
30. Effect of determinations on contrary obligations

- 31. Register of determinations
- 32. Records of determinations
- 33. Offence to do any thing prohibited or regulated by a determination

Part 2 - Key Concepts

- 34. Dangerous goods
- 35. Goods too dangerous to be transported
- 36. UN Classes, Divisions and Categories of dangerous goods
- 37. Subsidiary risk
- 38. Packing Groups
- 39. Incompatibility

Part 3 - Transport of Dangerous Goods to Which Special Provisions Apply

- 40. Application of Part
- 41. Duty on consignors
- 42. Duty on packers
- 43. Duty on loaders
- 44. Duty on prime contractors and rail operators
- 45. Duty on drivers

Part 4 - Packaging

Division 1 - General

- 46. Packing of dangerous goods in limited quantities
- 47. References to Part 4 of ADG Code include Dangerous Goods List requirements

Division 2 - Suitability and design of packaging

- 48. Suitability of packaging for transport
- 49. Marking packaging
- 50. Applications for approval of packaging design
- 51. Approval of packaging designs
- 52. Recognised testing facilities
- 53. Test certificates
- 54. Approval of overpack preparation method
- 55. Authorised body may issue approvals

Division 3 - Prohibition on sale or supply of non-compliant packaging

- 56. Offence to sell or supply non-compliant packaging

Division 4 - Offences relating to general packaging

- 57. Meaning of general packaging
- 58. Consignor's duties
- 59. Packer's duties
- 60. Loader's duties
- 61. Prime contractor's and rail operator's duties
- 62. Driver's duties

Division 5 - Offences relating to other packaging

- 63. Meaning of other packaging
- 64. Compliance plates for portable tanks, MEGCs and tank vehicles
- 65. Owner's duties for portable tanks, demountable tanks and MEGCs

- 66. Consignor's duties
- 67. Packer's duties
- 68. Loader's duties
- 69. Prime contractor's and rail operator's duties
- 70. Driver's duties

Division 6 - Offences relating to overpacks

- 71. Consignor's duties
- 72. Packer's duties
- 73. Prime contractor's and rail operator's duties
- 74. Driver's duties

Part 5 - Consignment Procedures

Division 1 - Reserved

- 75. Reserved

Division 2 - Marketing and labelling

- 76. Reserved
- 77. Meaning of appropriately marked
- 78. Consignor's duties
- 79. Packer's duties
- 80. Prime contractor's and rail operator's duties

Division 3 - Placarding

- 81. When load must be placarded
- 82. Meaning of placarded and appropriately placarded
- 83. Consignor's duties
- 84. Loader's duties
- 85. Prime contractor's and rail operator's duties
- 86. Driver's duties

Part 6 - Safety Standards □ Vehicles and Equipment

- 87. Owner's duties
- 88. Consignor's duties
- 89. Loader's duties
- 90. Prime contractor's and rail operator's duties
- 91. Driver's duties

Part 7 - Transport Operations Relating to Certain Dangerous Goods

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

- 92. Application
- 93. Consignor's duties
- 94. Loader's duties
- 95. Prime contractor's and rail operator's duties
- 96. Driver's duties

Division 2 - Goods too dangerous to be transported

- 97. Application
- 98. Loader's duties

99. Prime contractor's and rail operator's duties

100. Driver's duties

Division 3 - Explosives

100A. Transport of explosives

Part 8 - Stowage and Restraint

101. Consignor's duties

102. Loader's duties

103. Prime contractor's and rail operator's duties

104. Driver's duties

Part 9 - Segregation

105. Application of Part

106. Exception for certain goods for driver's personal use

107. Consignor's duties

108. Loader's duties

109. Prime contractor's duties

110. Rail operator's duties

111. Driver's duties

112. Approvals □ Type II segregation devices

113. Approvals □ methods of segregation

Part 10 - Bulk Transfer of Dangerous Goods

Division 1 - General

114. Meaning of bulk transfer

Division 2 - Equipment and transfer

115. Reserved

116. Transferor's duties □ hose assemblies

117. Transferor's duties □ general

118. Occupier's duties

119. Prime contractor's duties

120. Rail operator's duties

Division 3 - Filling ratio and ullage

121. Application of Division

122. Transferor's duties

123. Prime contractor's and rail operator's duties

124. Driver's duties

Part 11 - Documentation

Division 1 - Transport documentation

125. False or misleading information

126. Consignor's duties □ transport by road

127. Consignor's duties □ transport by rail

128. Prime contractor's duties

129. Rail operator's duties

130. Driver's duties

131. Train driver's duties

131A. Prime contractor's duties - retention of documents

Division 2 - Emergency information

132. Meaning of required emergency information

133. Consignor's duties

134. Prime contractor's duties

135. Rail operator's duties

136. Driver's duties

137. Train driver's duties

138. Approvals - emergency information

Part 12 - Safety Equipment

139. Owner's duties

140. Prime contractor's duties

141. Driver's duties

Part 13 - Procedures During Transport

Division 1 - Immobilised and stopped vehicles

142. Driver's duties

143. Prime contractor's duties

144. Rail operator's duties

Division 2 - Road vehicles - driver's duties

145. Driving

146. Parking

147. Control of ignition sources

148. Unloading

149. Detaching trailer

150. Road tank vehicle equipped with burner

Division 3 - Reserved

151. Reserved

Part 14 - Emergencies

Division 1 - Emergencies generally

152. Driver's duties

153. Driver's and rail operator's duties

154. Prime contractor's and rail operator's duties - food or food packaging

155. Prime contractors and rail operators to inform Competent Authority

Division 2 - Emergencies involving placard loads

156. Telephone advisory service

157. Emergency plans

158. Consignor's duties - information and resources

159. Prime contractor's and rail operator's duties - information and resources

Part 15 - Mutual Recognition

Division 1 - Registers of determinations, exemptions, approvals and licences

- 160. Registers
- 161. Registers may be kept by computer
- 162. Inspection of registers

Division 2 - Reserved

- 163. Reserved

Division 3 - Recommendations by Competent Authority and corresponding authorities

- 164. Recommendations by Competent Authority
- 165. Recommendations by corresponding authorities

Division 4 - Mutual recognition of determinations, exemptions, approvals and licence

- 166. Corresponding determinations
- 167. Corresponding exemptions
- 168. Corresponding approvals
- 169. Corresponding licences
- 169A. Reference of determination, exemption or approval to CAP for the purposes of mutual recognition

Part 16 - Exemptions

Division 1 - General

- 170. Form of applications for exemptions
- 171. Register of exemptions
- 172. Records of exemptions

Division 2 - Reference of matters to CAP

- 173. References to CAP
- 174. Effect of CAP decisions about exemptions
- 175. Effect of CAP decisions about cancelling or varying exemptions

Part 17 - Administrative Determinations and Approvals

Division 1 - General

- 176. Applications
- 177. Form of administrative determinations and approvals
- 178. When administrative determinations and approvals not to be made &c.
- 179. Reasons for refusal of applications
- 180. Periods and conditions
- 181. Replacement administrative determinations and approvals
- 182. Reserved
- 183. Grounds for cancelling administrative determinations and approvals
- 184. Grounds for varying administrative determinations and approvals

Division 1A - Reference of determinations to CAP

- 184A. References to CAP
- 184B. Effect of CAP decisions about determinations
- 184C. Effect of CAP decisions about cancelling or varying determinations

Division 2 - Register of approvals

- 185. Register of approvals
- 186. Records of approvals

Division 3 - Reference of approval matters to CAP

- 187. References to CAP
- 188. Effect of CAP decisions about approvals
- 189. Effect of CAP decisions about cancelling or varying approvals

Division 4 - Cancellation and variation

- 190. Cancellation and variation in dangerous situations
- 191. Cancellation giving effect to court orders
- 192. Variation of administrative determinations and approvals on application
- 193. Cancellation and variation in other circumstances
- 194. When cancellation and variation take effect

Part 18 - Licences

Division 1 - Preliminary

- 195. Meaning of licensing authority
- 196. Application of Part
- 197. Part additional to other laws

Division 2 - Vehicles and drivers to be licensed under this Part

- 198. Vehicles to be licensed
- 199. Drivers to be licensed

Division 3 - Dangerous goods driver licences

- 200. Applications for licences
- 201. Required driver licence evidence
- 202. Required competency evidence
- 203. Required medical fitness evidence
- 204. Grant of dangerous goods driver licences
- 205. Applications for renewal of licences
- 206. Renewal of licences
- 207. Licence periods
- 208. Licence conditions
- 209. Additional condition
- 210. Grounds for cancelling, suspending or varying licences

Division 4 - Dangerous goods vehicle licences

- 211. Meaning of vehicle
- 212. Applications for licences
- 213. Additional information and inspections
- 214. Grant of dangerous goods vehicle licences
- 215. Applications for renewal of licences
- 216. Renewal of licences
- 217. Licence periods
- 218. Licence conditions
- 219. Disposal and transfer of licensed vehicles
- 220. Grounds for cancelling, suspending or varying licences
- 221. Repealed

Division 5 - Requirements relating to dangerous goods driver licences

222. Licences to be carried

Division 6 - Licences generally

223. Meaning of licence and licensee

224. Replacement licences

225. Failure to comply with licence conditions

226. Surrender of licences

227. Registers of licences

228. Records of licences

229. Change of information given in licence applications

230. Production of licences to licensing authority

231. Return of licences

Division 7 - Cancellation, suspension and variation

232. Definitions

233. Cancellation, suspension and variation in dangerous situations

234. Cancellation and suspension giving effect to court orders

235. Variation of licence on application

236. Cancellation, suspension and variation in other circumstances

237. When cancellation, suspension and variation take effect

238. When licences taken to be suspended

Part 19 - Reconsideration and Review of Decisions

239. Application of Part

240. Who may apply for reconsideration of decisions

241. Applications for reconsideration

242. Competent Authority to reconsider decisions

243. Review of certain decisions

Part 20 - Insurance

244. Owner's duties

245. Prime contractor's duties

246. Requiring evidence of insurance &c.

247. Approvals of insurance

Part 21 - Local Regulations

248. Certain routes prohibited at certain times

Part 22 - Miscellaneous

249. Infringement notice offences

250. Fees

Part 23 - Transitional

251. Continuing effect of certain determinations

252. Continuing effect of corresponding determinations

253. Continuing effect of certain exemptions

254. Continuing effect of corresponding exemptions

255. Continuing effect of certain approvals

256. Continuing effect of corresponding approvals

257. Continuing effect of certain licences

258. Continuing effect of corresponding licences

259. Continuing effect of appointment

Schedule 1 - Infringement Notice Offences

Schedule 2 - Fees

Dangerous Goods (Road and Rail Transport) Regulations 2010

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Dangerous Goods (Road and Rail Transport) Regulations 2010

I, the Governor in and over the State of Tasmania and its Dependencies in the Commonwealth of Australia, acting with the advice of the Executive Council, make the following regulations under the Dangerous Goods (Road and Rail Transport) Act 2010 .

6 December 2010

PETER G. UNDERWOOD

Governor

By His Excellency's Command,

D. J. O'BYRNE

Minister for Workplace Relations

PART 1 - General, Interpretation, Training and Offence Provisions

Division 1 - Introductory and application

1. Short title

These regulations may be cited as the Dangerous Goods (Road and Rail Transport) Regulations 2010 .

2. Commencement

These regulations take effect on the day on which the Dangerous Goods (Road and Rail Transport) Act 2010 commences.

3. Main objects

The main objects of these regulations 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. Reserved

This regulation has been left blank so as to preserve uniformity with other jurisdictions with regard to numbering of regulations.

5. Dangerous situations

These regulations do 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.

6. Exempt transport

(1) *[Regulation 6 Subregulation (1) amended by S.R. 2016, No. 87, Applied:01 Dec 2016]* These regulations do not apply to the transportation of a load that contains dangerous goods by a person if –

- (a) the load does not contain –
 - (i) dangerous goods in a receptacle with a capacity of more than 500 litres or kilograms; or
 - (ii) more than 500 kilograms of dangerous goods in a receptacle; and
- (b) the load does not include any 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.

(2) In this regulation –

designated dangerous goods means dangerous goods of –

- (a) UN Class 1 (explosives), except –

- (i) goods of Division 1.4S; and
- (ii) track signals carried in a unit of rolling stock for the safety of persons working in rail transport; or
- (b) Category A of Division 6.2 (infectious substances); or
- (c) UN Class 7 (radioactive material).

7. Further exemptions

- (1) These regulations do not apply to the transport by road or rail, or by road and rail, of dangerous goods of UN Class 7 (radioactive material) except when being transported with other dangerous goods.
- (2) These regulations do not apply to the transport by a vehicle by road or rail, or both road and rail, of dangerous goods –
 - (a) *[Regulation 7 Subregulation (2) amended by S.R. 2016, No. 87, Applied:01 Dec 2016] [Regulation 7 Subregulation (2) amended by S.R. 2017, No. 7, Applied:22 Feb 2017]* that are not Division 6.2 substances and that are in a consignment where the aggregate quantity of dangerous goods is less than the quantity set out in section 1.1.1.2(3)(a) 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 portable fire-fighting equipment or other portable safety equipment and that are part of the safety equipment of the vehicle.

8. Special provisions for tools of trade

- (1) This regulation applies to a load if –
 - (a) *[Regulation 8 Subregulation (1) amended by S.R. 2017, No. 7, Applied:22 Feb 2017]* for loads –
 - (i) not including 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; or
 - (ii) including dangerous goods of UN Division 2.1 (other than aerosols), UN Division 2.3 or Packing Group I –
 - (A) the load includes an aggregate quantity of dangerous goods of less than 250; and
 - (B) any dangerous goods of UN Division 2.3 or Packing Group I together constitute less than 100 of that aggregate quantity; and
 - (b) the goods are not being transported in the course of a business of transporting goods but 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 regulation applies is exempt from all obligations imposed by these regulations other than those imposed by this regulation.
- (3) A person must not transport a load to which this regulation 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 marked as specified in Division 2 of Part 5 ; 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 possible.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 170 penalty units; or
- (b) an individual, a fine not exceeding 35 penalty units.

(4) If a load to which this regulation applies contains an aggregate quantity of dangerous goods of UN Class 3, 4, 5 or 6 of more than 250, a person must not transport the load –

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

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 170 penalty units; or
- (b) an individual, a fine not exceeding 35 penalty units.

(5) If a load to which this regulation applies contains an aggregate quantity of more than 50 for dangerous goods of Division 2.1, Division 2.3 and Packing Group I, a person must not transport the load –

- (a) in the passenger compartment of a vehicle; or
- (b) [Regulation 8 Subregulation (5) amended by S.R. 2017, No. 7, Applied:22 Feb 2017] in any other enclosed space in the vehicle unless the space is sufficiently ventilated to prevent an accumulation of vapours or fumes that is likely to cause risk.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 170 penalty units; or
- (b) an individual, a fine not exceeding 35 penalty units.

Division 2 - Interpretation

9. Definitions

(1) In these regulations, unless the contrary intention appears –

Act means the Dangerous Goods (Road and Rail Transport) Act 2010 ;

administrative determination means a determination to which regulation 28 applies;

[Regulation 9 Subregulation (1) amended by S.R. 2016, No. 87, Applied:01 Dec 2016] [Regulation 9 Subregulation (1) amended by S.R. 2017, No. 7, Applied:22 Feb 2017]

[Regulation 9 Subregulation (1) amended by S.R. 2017, No. 7, Applied:22 Feb 2017] **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;

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 in the load of –
 - (i) solid dangerous goods; and
 - (ii) articles, including aerosols; 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 has the meaning given by regulation 77 ;

approval means an approval that is in effect and made by the Competent Authority or an authorised body under these regulations;

approved packaging means –

(a) packaging of a design that is approved under regulation 55 ; or

(b) foreign-approved packaging;

approved tank means –

(a) a tank of a design that is approved under regulation 55 ; or

(b) a foreign-approved tank;

approved test means a test that is approved under regulation 22(1)(a) ;

approved training course means a training course that is approved under regulation 22(1)(b) ;

[Regulation 9 Subregulation (1) amended by S.R. 2017, No. 7, Applied:22 Feb 2017] ***article*** means a manufactured item, other than a fluid or a 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;

Australian Explosives Code means the *Australian Code for the Transport of Explosives by Road and Rail* published by the Commonwealth, as amended from time to time;

Australian Road Rules means the *Road Rules*;

authorised body means a person or body authorised under regulation 55 to issue approvals;

bulk container has the meaning given by regulation 14 ;

[Regulation 9 Subregulation (1) amended by S.R. 2017, No. 7, Applied:22 Feb 2017] ***CAP*** means the Competent Authorities Panel established by the Competent Authorities Panel Rules made by the National Transport Commission on 16 June 2008, as amended from time to time;

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

[Regulation 9 Subregulation (1) amended by S.R. 2016, No. 87, Applied:01 Dec 2016] ***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, has the meaning given by regulation 36 ;

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 approval means an approval to which regulation 168 applies;

corresponding dangerous goods driver licence means a licence to which regulation 169 applies that has effect in this jurisdiction under that regulation as a dangerous goods driver licence;

corresponding dangerous goods vehicle licence means a licence to which regulation 169 applies that has effect in this jurisdiction under that regulation as a dangerous goods vehicle licence;

corresponding determination means a determination to which regulation 166 applies;

corresponding exemption means an exemption to which regulation 167 applies;

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 3.2.3 of the ADG Code;

dangerous goods vehicle licence means a licence that is in force under Division 4 of Part 18 ;

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 6 of this Part and that is in effect;

Division, for dangerous goods, means the division to which dangerous goods of a particular UN Class belong in accordance with regulation 36 ;

[Regulation 9 Subregulation (1) amended by S.R. 2016, No. 87, Applied:01 Dec 2016] **driving licences register** of a State or Territory means a register kept by the driver licensing authority of the State or Territory containing information about any licence 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 64 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;

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

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

goods too dangerous to be transported has the meaning given by regulation 35 ;

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 means an intermediate bulk container within the meaning of regulation 15 ;

[Regulation 9 Subregulation (1) amended by S.R. 2016, No. 87, Applied:01 Dec 2016] ***ICAO-approved*** means approved in accordance with the ICAO Technical Instructions;

[Regulation 9 Subregulation (1) amended by S.R. 2016, No. 87, Applied:01 Dec 2016] ***ICAO Technical Instructions*** means the Technical Instructions for the Safe Transport of Dangerous Goods by Air published by the International Civil Aviation Organization;

[Regulation 9 Subregulation (1) amended by S.R. 2016, No. 87, Applied:01 Dec 2016] ***IMDG Code*** means the International Maritime Dangerous Goods Code published by the International Maritime Organization;

[Regulation 9 Subregulation (1) amended by S.R. 2016, No. 87, Applied:01 Dec 2016] ***IMO-approved*** means approved in accordance with the IMDG Code;

incompatible has the meaning given by regulation 39 ;

inner packaging, in relation to goods for which outer packaging is required for the goods to be transported, means any packaging that is, or that is to be, contained or protected by the outer packaging;

large packaging means outer packaging that –

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

MEGC means a multiple-element gas container within the meaning of regulation 16 ;

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 defined in 1.2.1.1 of the ADG Code); or
- (c) inner packaging in combination packaging (as defined in 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;

Note An example is a pallet, together with strapping or shrink wrapping, designed to hold packages.

packed in limited quantities has the meaning given by regulation 17 ;

Packing Group has the meaning given by regulation 38 ;

participating jurisdiction means –

- (a) this jurisdiction; and
- (b) any other State that has a corresponding law;

[Regulation 9 Subregulation (1) amended by S.R. 2016, No. 87, Applied:01 Dec 2016] **placard load** means a load that contains dangerous goods that must be placarded under regulation 81 ;

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 equipment or structural equipment; and
- (e) is capable of being lifted when full;

pressure drums means welded transportable pressure receptacles of a water capacity of more than 150 litres but not more than 1 000 litres, (eg cylindrical receptacles equipped with rolling hoops, spheres on skids);

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

[Regulation 9 Subregulation (1) amended by S.R. 2016, No. 87, Applied:01 Dec 2016] **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 authority, in respect of a train on a railway, means a person or body (whether or not a public authority) that is responsible for the care, control or management of the railway;

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

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

recognised testing facility has the meaning given by regulation 52 ;

register has the meaning given by regulation 160 ;

registered means registered under a Commonwealth or State 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;

service equipment, in relation to a tank or MEGC, has the meaning given in 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 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 has the meaning given by regulation 37 ;

tank has the meaning given by regulation 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;

[Regulation 9 Subregulation (1) amended by S.R. 2017, No. 7, Applied:22 Feb 2017] **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;

tubes means seamless transportable pressure receptacles of a water capacity of more than 150 litres but not more than 3 000 litres;

[Regulation 9 Subregulation (1) amended by S.R. 2017, No. 7, Applied:22 Feb 2017] **UN-approved** means approved in accordance with the Model Regulations on the Transport of Dangerous Goods annexed to the *Recommendations on 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 regulation 36 .

(2) In these regulations, a reference to a provision of the ADG Code is –

(a) a reference to the provision of that number in the seventh edition of the ADG Code; or

(b) a reference to a provision in a subsequent edition of the ADG Code that is equivalent to the provision of that number in the seventh edition.

(3) Unless the contrary intention appears, an expression used in these regulations that is defined in the ADG Code has the same meaning in these regulations as in the ADG Code.

10. References to codes, standards and rules

(1) In this regulation –

instrument means a code, standard, regulation 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 these regulations, a reference to an instrument includes a reference to another instrument as applied or adopted by, or incorporated in, the first instrument.

(3) In these regulations, unless the contrary intention appears, a reference to an instrument is a reference to the instrument as amended from time to time.

(4) [Regulation 10 Subregulation (4) inserted by S.R. 2017, No. 7, Applied:22 Feb 2017] If an instrument is amended or remade, a reference in these regulations to a provision of that instrument extends to the corresponding provision (if any) of the amended or remade instrument.

11. Inconsistency between these regulations and codes &c.

(1) If all or part of a code, standard or rule (whether made in or outside Australia) relating to dangerous goods or to transport by road or rail is applied or adopted by, or is incorporated in, these regulations, and the code, standard or rule is inconsistent with these regulations, these regulations prevail to the extent of the inconsistency.

(2) Despite subregulation (1) , if any provision that is applied, adopted by or incorporated in these regulations uses a term that is defined in both the relevant code, standard or rule and in these regulations, the provision is to be interpreted as if the term had the meaning set out in the code, standard or rule, unless the contrary intention appears.

12. References to determinations, exemptions, approvals and licences

In these regulations, 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 &c.

In these regulations, 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.

Note

An example of this is the addition of a new condition to an existing determination.

14. Meaning of bulk container

- (1) A bulk container is a container (with or without a liner or coating) that –
 - (a) has a capacity of 1.0m³ 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 1.0m³ 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 subregulation (2), an 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
 - (iv) for any other dangerous goods, 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

[Regulation 16 Substituted by S.R. 2016, No. 87, Applied:01 Dec 2016] **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. 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.

18. Reserved

This regulation has been left blank so as to preserve uniformity with other jurisdictions with regard to numbering of regulations.

19. Meaning of tank

(1) Subject to subregulations (2) and (3), tank means –

(a) a receptacle for receiving and holding dangerous goods; and

(b) any service equipment 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.

Note

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

For the purposes of these regulations –

(a) *[Regulation 20 Amended by S.R. 2016, No. 87, Applied:01 Dec 2016]* 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) *[Regulation 20 Amended by S.R. 2016, No. 87, Applied:01 Dec 2016]* all the goods in or on a cargo transport unit being transported in or on a rail vehicle are a single load.

Division 3 - Training

21. Instruction and training

(1) This regulation 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;

(da) *[Regulation 21 Subregulation (1) amended by S.R. 2016, No. 87, Applied:01 Dec 2016]* handling fumigated cargo transport units;

(e) marking packages;

(f) placarding placard loads;

- (g) preparing transport documentation;
- (h) maintaining vehicles and equipment used in the transport of dangerous goods;
- (i) driving a vehicle transporting dangerous goods;
- (j) being the consignee of dangerous goods;
- (k) following the appropriate procedures in accordance with these regulations in a dangerous situation.

(2) A person who is responsible for the management or control of a task must not employ, engage or permit a person 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 these regulations; 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 these regulations.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 170 penalty units; or
- (b) an individual, a fine not exceeding 35 penalty units.

(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 these regulations.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 170 penalty units; or
- (b) an individual, a fine not exceeding 35 penalty units.

22. Approvals – tests and training courses for drivers

(1) The Competent Authority may, on application in accordance with regulation 176 , approve –

- (a) a test of competence for drivers of road vehicles transporting dangerous goods; or
- (b) a training course for drivers of road vehicles transporting dangerous goods.

(2) 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 these regulations.

Division 4 - Reserved

23. Reserved

This Division has been left blank so as to preserve uniformity with other jurisdictions with regard to numbering of regulations.

Division 5 - Provisions about offences generally

24. 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 regulation 25(1)(a) .

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 170 penalty units; or
- (b) an individual, a fine not exceeding 35 penalty units.

Division 6 - Determinations

25. 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, 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 particular dangerous goods –
 - (a) are or are not too dangerous to be transported; or
 - (b) *[Regulation 25 Subregulation (2) amended by S.R. 2016, No. 87, Applied:01 Dec 2016]* 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) may or may not be transported in any packaging despite any prohibition or authorisation in the Dangerous Goods List.

26. Reserved

This regulation has been left blank so as to preserve uniformity with other jurisdictions with regard to numbering of regulations.

27. Determinations – vehicles, routes, areas and times

- (1) 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.
- (2) In this regulation –
 - specified*** means specified by the Competent Authority.

28. Administrative determinations

[Regulation 28 Substituted by S.R. 2016, No. 87, Applied:01 Dec 2016]

- (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.

Note

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

- (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.

29. 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.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 170 penalty units; or
- (b) an individual, a fine not exceeding 35 penalty units.

30. Effect of determinations on contrary obligations

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

31. Register of determinations

- (1) The Competent Authority must –
 - (a) keep a register of determinations; or
 - (b) with other Competent Authorities, keep a central register of determinations.
- (2) The register may have separate divisions for different kinds of determinations.
- (3) The Competent Authority must record in the register –
 - (a) each determination made under these regulations that is not an administrative determination; and
 - (b) each corresponding determination.
- (4) The Competent Authority must note in the register –
 - (a) the revocation of a determination made under these regulations; and
 - (b) *[Regulation 31 Subregulation (4) amended by S.R. 2016, No. 87, Applied:01 Dec 2016]* a decision of the CAP reversing a decision that a corresponding determination is to have effect in all participating jurisdictions or participating jurisdictions including this jurisdiction.

32. Records of determinations

The record of a determination in the register must include –

- (a) a copy of the determination; or
- (b) the following information:
 - (i) the *Gazette* in which the determination was notified or published and the date of notification or publication;
 - (ii) the provisions of these regulations, 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.

33. Offence to do any thing prohibited or regulated by a determination

(1) A person to whom a determination made under this Division applies must comply with the determination.

Penalty: In the case of –

(a) a body corporate, a fine not exceeding 170 penalty units; or

(b) an individual, a fine not exceeding 35 penalty units.

(2) It is a defence to a prosecution for an offence under subregulation (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

34. Dangerous goods

- (1) Goods are dangerous goods if –
 - (a) the goods are determined under regulation 25(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 regulation 25(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.

35. 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 regulation 25(2)(a) to be too dangerous to be transported; or
- (c) goods (other than goods mentioned in paragraph (a) or (b)) that the Competent Authority considers are so sensitive or unstable that they cannot be safely transported even if the relevant requirements of these regulations and the ADG Code are complied with.

Note

Section 70 of the Act provides that a person must not consign for transport goods that these regulations identify as being too dangerous to be transported.

36. UN Classes, Divisions and Categories of dangerous goods

The UN Class, Division or Category of a particular dangerous good for the purposes of these regulations is –

- (a) if a determination is in effect under regulation 25(1)(b) that the good is of a particular UN Class, Division or Category, the UN Class, Division or Category specified in the determination; or
- (b) if no such determination is in effect, the UN Class, Division or Category determined for the good in accordance with the ADG Code.

Note 1

Under the UN classification system there are 9 classes of dangerous goods. Under that system some UN Classes are further divided into Divisions and some Divisions are divided into Categories.

Note 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 the Code provides for those goods to be assigned to a different UN Class or Division. If applicable, Chapter 2 of the 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 the Code.

37. Subsidiary risk

The subsidiary risk, if any, of a particular dangerous good for the purpose of these regulations is –

- (a) if a determination is in effect under regulation 25(1)(c) that the good has a particular subsidiary risk, the subsidiary risk specified in the determination; or
- (b) if there is no such determination, the subsidiary risk determined for the good in accordance with the ADG Code.

Note

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.

38. Packing Groups

The Packing Group, if any, of a particular dangerous good for the purposes of these regulations is –

- (a) if a determination is in force under regulation 25(1)(d) that the good is of a particular Packing Group, the packing group specified in the determination; or
- (b) if no such determination is in effect, the Packing Group determined for the good in accordance with the ADG Code.

Note

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

39. 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 regulation 25(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 Competent Authority considers 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

40. Application of Part

This Part applies to the transport of dangerous goods if –

- (a) a special provision applies to the dangerous goods in the Dangerous Goods List; and
- (b) that 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.

Note

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

41. Duty on consignors

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

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 85 penalty units; or
- (b) an individual, a fine not exceeding 20 penalty units.

42. Duty on packers

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

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 85 penalty units; or
- (b) an individual, a fine not exceeding 20 penalty units.

43. Duty on loaders

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

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 85 penalty units; or
- (b) an individual, a fine not exceeding 20 penalty units.

44. 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 reasonably ought 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.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 85 penalty units; or
- (b) an individual, a fine not exceeding 20 penalty units.

45. Duty on drivers

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

Penalty: Fine not exceeding 10 penalty units.

PART 4 - Packaging

Division 1 - General

46. Packing of dangerous goods in limited quantities

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

47. References to Part 4 of 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

48. Suitability of packaging for transport

(1) Packaging is unsuitable for the transport of dangerous goods if –

- (a) the packaging is required to undergo performance tests under Part 6 of the ADG Code and is not approved packaging; or
- (b) the packaging does not meet any relevant standards or requirements specified by Part 4 or 6 of the ADG Code, including requirements in respect of inspection, maintenance and repair; or
- (c) the use, or reuse, of the packaging for the transport of the goods does not comply with Part 4 or 6 of the ADG Code; or
- (d) the use of the packaging for the transport of the goods is prohibited by a determination made under Division 6 of Part 1 ; or
- (e) the packaging is incompatible with the goods; or
- (f) the packaging 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.

49. 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 regulation 51 .

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 170 penalty units; or
- (b) an individual, a fine not exceeding 35 penalty units.

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

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 170 penalty units; or
- (b) an individual, a fine not exceeding 35 penalty units.

50. Applications for approval of packaging design

(1) This regulation applies to packaging that is required to undergo 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 regulation applies for the use in the transport of dangerous goods.

Note

Portable tanks, MEGCs, 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 regulation 176 ; and
- (b) include the information required under Part 6 of the ADG Code; and
- (c) be accompanied by the relevant fee, if any.

51. Approval of packaging designs

(1) The Competent Authority may, on application in accordance with regulation 50 , 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) complies 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, that complies with regulation 53 .

(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 reasonably ought 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.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 170 penalty units; or
- (b) an individual, a fine not exceeding 35 penalty units.

52. Recognised testing facilities

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

- (a) a testing facility –
 - (i) registered by NATA to conduct performance tests under Part 6 of the ADG Code for the packaging design type; or
 - (ii) 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;
- (b) a facility in a foreign country approved by a public authority of the country to conduct performance tests of that kind.

53. 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.

54. Approval of overpack preparation method

(1) The Competent Authority may, on application in accordance with regulation 176 , approve a method of preparing an overpack for transport that does not comply with 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 5.1.2.

(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 reasonably ought 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.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 170 penalty units; or
- (b) an individual, a fine not exceeding 35 penalty units.

55. Authorised body may issue approvals

(1) The Competent Authority may authorise a person or body to issue approvals under regulation 51 or 54 .

(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 subregulation (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, the terms and information required by regulation 186 .

(4) If a person or body is authorised to issue approvals under this regulation –

- (a) regulations 50 , 51 and 54 apply as if a reference in those regulations 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 these regulations to an approval under regulation 51 or 54 includes a reference to an approval given by the body or other person under regulation 51 or 54 as applied under paragraph (a) ; and

(d) regulation 239(f) , (g) and (k) apply as if a reference in regulation 239 to the Competent Authority were a reference to the person or body.

(5) The Competent Authority may withdraw an authorisation granted under this regulation 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 sale or supply of non-compliant packaging

56. Offence to sell or supply non-compliant packaging

A person must not sell or 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 regulation 51 and it is marked in accordance with Part 6, or if applicable Chapter 3.4, of the ADG Code, and, according to the markings, 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.

Penalty: In the case of –

(a) a body corporate, a fine not exceeding 170 penalty units; or

(b) an individual, a fine not exceeding 35 penalty units.

Division 4 - Offences relating to general packaging

57. Meaning of general packaging

In this Division –

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

58. Consignor's duties

A person must not consign dangerous goods for transport in any general packaging if the person knows, or reasonably ought 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 provisions of Part 4 of the ADG Code.

Penalty: In the case of –

(a) a body corporate, a fine not exceeding 170 penalty units; or

(b) an individual, a fine not exceeding 35 penalty units.

59. Packer's duties

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

Penalty: In the case of –

(a) a body corporate, a fine not exceeding 170 penalty units; or

(b) an individual, a fine not exceeding 35 penalty units.

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

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 170 penalty units; or
- (b) an individual, a fine not exceeding 35 penalty units.

60. Loader's duties

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

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 170 penalty units; or
- (b) an individual, a fine not exceeding 35 penalty units.

61. Prime contractor's and rail operator's duties

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

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 170 penalty units; or
- (b) an individual, a fine not exceeding 35 penalty units.

62. Driver's duties

A person must not drive a road vehicle transporting dangerous goods in any general packaging if the person knows, or reasonably ought 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.

Penalty: Fine not exceeding 20 penalty units.

Division 5 - Offences relating to other packaging

63. Meaning of other packaging

In this Division –

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

64. Compliance plates for portable tanks, MEGCs and tank vehicles

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

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 170 penalty units; or
- (b) an individual, a fine not exceeding 35 penalty units.

(2) Subregulation (1) does not apply to a person in relation to a portable tank if –

(a) Chapter 6.7 of the ADG Code permits the marking of the tank instead of the attachment of a compliance plate; and

(b) the tank is marked as required by that Chapter.

(3) A person who manufactures a tank vehicle for use in the transport of dangerous goods must attach a compliance plate to the vehicle in accordance with 6.9.2.2 of the ADG Code.

Penalty: In the case of –

(a) a body corporate, a fine not exceeding 170 penalty units; or

(b) an individual, a fine not exceeding 35 penalty units.

65. Owner's duties for portable tanks, demountable tanks and MEGCs

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

Penalty: In the case of –

(a) a body corporate, a fine not exceeding 170 penalty units; or

(b) an individual, a fine not exceeding 35 penalty units.

66. Consignor's duties

(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 provisions in Part 4 of the ADG Code.

Penalty: In the case of –

(a) a body corporate, a fine not exceeding 170 penalty units; or

(b) an individual, a fine not exceeding 35 penalty units.

(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 provisions in Part 4 of the ADG Code.

Penalty: In the case of –

(a) a body corporate, a fine not exceeding 170 penalty units; or

(b) an individual, a fine not exceeding 35 penalty units.

67. Packer's duties

(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.

Penalty: In the case of –

(a) a body corporate, a fine not exceeding 170 penalty units; or

(b) an individual, a fine not exceeding 35 penalty units.

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

Penalty: In the case of –

(a) a body corporate, a fine not exceeding 170 penalty units; or

(b) an individual, a fine not exceeding 35 penalty units.

68. Loader's duties

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

Penalty: In the case of –

(a) a body corporate, a fine not exceeding 170 penalty units; or

(b) an individual, a fine not exceeding 35 penalty units.

69. Prime contractor's and rail operator's duties

(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.

Penalty: In the case of –

(a) a body corporate, a fine not exceeding 170 penalty units; or

(b) an individual, a fine not exceeding 35 penalty units.

(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 reasonably ought 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.

Penalty: In the case of –

(a) a body corporate, a fine not exceeding 170 penalty units; or

(b) an individual, a fine not exceeding 35 penalty units.

70. Driver's duties

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

Penalty: Fine not exceeding 10 penalty units.

Division 6 - Offences relating to overpacks

71. Consignor's duties

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) 5.1.2 of the ADG Code; or
- (b) an approval under regulation 51 .

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 85 penalty units; or
- (b) an individual, a fine not exceeding 20 penalty units.

72. Packer's duties

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 in the overpack, or the preparation of the overpack or its contents, does not comply with either –

- (a) 5.1.2 of the ADG Code; or
- (b) an approval under regulation 51 .

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 85 penalty units; or
- (b) an individual, a fine not exceeding 20 penalty units.

73. Prime contractor's and rail operator's duties

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

- (a) 5.1.2 of the ADG Code; or
- (b) an approval under regulation 51 .

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 85 penalty units; or
- (b) an individual, a fine not exceeding 20 penalty units.

74. Driver's duties

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 or its contents does not comply with either –

- (a) 5.1.2 of the ADG Code; or
- (b) an approval under regulation 51 .

Penalty: Fine not exceeding 10 penalty units.

PART 5 - Consignment Procedures

Division 1 - Reserved

75. Reserved

This regulation has been left blank so as to preserve uniformity with other jurisdictions with regard to numbering of regulations.

Division 2 - Marketing and labelling

76. Reserved

This regulation has been left blank so as to preserve uniformity with other jurisdictions with regard to numbering of regulations.

77. Meaning of appropriately marked

(1) *[Regulation 77 Subregulation (1) amended by S.R. 2016, No. 87, Applied:01 Dec 2016]* 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 5.3.3 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) *[Regulation 77 Subregulation (3) substituted by S.R. 2016, No. 87, Applied:01 Dec 2016]* *[Regulation 77 Subregulation (3) substituted by S.R. 2017, No. 7, Applied:22 Feb 2017]* 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.

(5) *[Regulation 77 Subregulation (5) omitted by S.R. 2017, No. 7, Applied:22 Feb 2017]*

78. Consignor's duties

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

Penalty: In –

- (a) the case of large packaging, a fine not exceeding 85 penalty units; or
- (b) any other case, a fine not exceeding 20 penalty units.

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

Penalty: In –

- (a) the case of large packaging, a fine not exceeding 85 penalty units; or
- (b) any other case, a fine not exceeding 20 penalty units.

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

Penalty: In –

- (a) the case of large packaging, a fine not exceeding 85 penalty units; or
- (b) any other case, a fine not exceeding 20 penalty units.

(4) *[Regulation 78 Subregulation (4) inserted by S.R. 2016, No. 87, Applied:01 Dec 2016]* Subregulation (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) *[Regulation 78 Subregulation (5) inserted by S.R. 2016, No. 87, Applied:01 Dec 2016]* A reference to a label in this regulation includes a reference to a placard.

79. 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, once the package is ready to be transported, will not be, appropriately marked.

Penalty: In –

(a) the case of large packaging, a fine not exceeding 85 penalty units; or

(b) any other case, a fine not exceeding 20 penalty units.

(2) A person who packs dangerous goods for transport in a package must not mark or label the package with a marking or label about its contents that the person knows, or reasonably ought to know, is false or misleading in a material particular.

Penalty: In –

(a) the case of large packaging, a fine not exceeding 85 penalty units; or

(b) any other case, a fine not exceeding 20 penalty units.

(3) A person who packs goods for transport in a package must not mark or label the package as if it contained dangerous goods if the person knows, or reasonably ought to know, that it does not contain dangerous goods.

Penalty: In –

(a) the case of large packaging, a fine not exceeding 85 penalty units; or

(b) any other case, a fine not exceeding 20 penalty units.

(4) *[Regulation 79 Subregulation (4) inserted by S.R. 2016, No. 87, Applied:01 Dec 2016]* Subregulation (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) *[Regulation 79 Subregulation (5) inserted by S.R. 2016, No. 87, Applied:01 Dec 2016]* A reference to a label in this regulation includes a reference to a placard.

80. 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.

Penalty: In –

(a) the case of large packaging, a fine not exceeding 85 penalty units; or

(b) any other case, a fine not exceeding 20 penalty units.

(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 is false or misleading in a material particular about its contents.

Penalty: In –

- (a) the case of large packaging, a fine not exceeding 85 penalty units; or
- (b) any other case, a fine not exceeding 20 penalty units.

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

Penalty: In –

- (a) the case of large packaging, a fine not exceeding 85 penalty units; or
- (b) any other case, a fine not exceeding 20 penalty units.

(4) *[Regulation 80 Subregulation (4) inserted by S.R. 2016, No. 87, Applied:01 Dec 2016]* Subregulation (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) *[Regulation 80 Subregulation (5) inserted by S.R. 2016, No. 87, Applied:01 Dec 2016]* A reference to a label in this regulation includes a reference to a placard.

Division 3 - Placarding

81. When load must be placarded

(1) *[Regulation 81 Subregulation (1) amended by S.R. 2016, No. 87, Applied:01 Dec 2016]* A load that contains dangerous goods must be placarded if –

(a) it contains –

(i) *[Regulation 81 Subregulation (1) amended by S.R. 2017, No. 7, Applied:22 Feb 2017]* dangerous goods in a receptacle, other than an article, with a capacity of more than 500 litres; or

(ii) *[Regulation 81 Subregulation (1) amended by S.R. 2017, No. 7, Applied:22 Feb 2017]* 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 Division 2.1 that are not aerosols; or

(ii) dangerous goods of Division 2.3; or

(iii) dangerous goods of Packing Group I; or

(c) it contains dangerous goods of Category A of Division 6.2; or

(d) it contains an aggregate quantity of dangerous goods of 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) *[Regulation 81 Subregulation (2) substituted by S.R. 2017, No. 7, Applied:22 Feb 2017]* 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 23kg;
- (c) a combination of the dangerous goods referred to in paragraphs (a) and (b) .

82. Meaning of placarded and appropriately placarded

- (1) *[Regulation 82 Subregulation (1) amended by S.R. 2016, No. 87, Applied:01 Dec 2016]* 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 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.

83. Consignor's duties

- (1) A person must not consign a placard load for transport if the load is not appropriately placarded.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 170 penalty units; or
- (b) an individual, a fine not exceeding 35 penalty units.

- (2) A person must not consign a placard load for transport if the placarding of the load is false or misleading in a material particular.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 170 penalty units; or
- (b) an individual, a fine not exceeding 35 penalty units.

- (3) *[Regulation 83 Subregulation (3) amended by S.R. 2016, No. 87, Applied:01 Dec 2016]* 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.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 170 penalty units; or
- (b) an individual, a fine not exceeding 35 penalty units.

- (4) *[Regulation 83 Subregulation (4) inserted by S.R. 2016, No. 87, Applied:01 Dec 2016]* Subregulation (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) *[Regulation 83 Subregulation (5) inserted by S.R. 2016, No. 87, Applied:01 Dec 2016]* 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.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 170 penalty units; or
- (b) an individual, a fine not exceeding 35 penalty units.

84. Loader's duties

- (1) A person who loads dangerous goods onto 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.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 170 penalty units; or
- (b) an individual, a fine not exceeding 35 penalty units.

(2) A person who loads a placard load onto 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.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 170 penalty units; or
- (b) an individual, a fine not exceeding 35 penalty units.

(3) A person who loads goods onto 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.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 170 penalty units; or
- (b) an individual, a fine not exceeding 35 penalty units.

(4) *[Regulation 84 Subregulation (4) inserted by S.R. 2016, No. 87, Applied:01 Dec 2016]* Subregulation (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) *[Regulation 84 Subregulation (5) inserted by S.R. 2016, No. 87, Applied:01 Dec 2016]* 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.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 170 penalty units; or
- (b) an individual, a fine not exceeding 35 penalty units.

85. 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.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 170 penalty units; or
- (b) an individual, a fine not exceeding 35 penalty units.

(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.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 170 penalty units; or
- (b) an individual, a fine not exceeding 35 penalty units.

(3) *[Regulation 85 Subregulation (3) amended by S.R. 2016, No. 87, Applied:01 Dec 2016]* 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 prime contractor or rail operator knows, or reasonably ought to know, that the cargo transport unit does not contain dangerous goods.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 170 penalty units; or
- (b) an individual, a fine not exceeding 35 penalty units.

(4) *[Regulation 85 Subregulation (4) inserted by S.R. 2016, No. 87, Applied:01 Dec 2016]* Subregulation (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) *[Regulation 85 Subregulation (5) inserted by S.R. 2016, No. 87, Applied:01 Dec 2016]* 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.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 170 penalty units; or
- (b) an individual, a fine not exceeding 35 penalty units.

86. 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.

Penalty: Fine not exceeding 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.

Penalty: Fine not exceeding 20 penalty units.

(3) *[Regulation 86 Subregulation (3) amended by S.R. 2016, No. 87, Applied:01 Dec 2016]* 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 reasonable ought to know, that the vehicle does not contain dangerous goods.

Penalty: Fine not exceeding 20 penalty units.

(4) *[Regulation 86 Subregulation (4) inserted by S.R. 2016, No. 87, Applied:01 Dec 2016]* 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.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 85 penalty units; or
- (b) an individual, a fine not exceeding 20 penalty units.

PART 6 - Safety Standards – Vehicles and Equipment

87. 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 Chapters 4.4 and 6.9 of the ADG Code.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 170 penalty units; or
- (b) an individual, a fine not exceeding 35 penalty units.

88. 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 Chapters 4.4 and 6.9 of the ADG Code.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 170 penalty units; or
- (b) an individual, a fine not exceeding 35 penalty units.

89. 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 Chapters 4.4 and 6.9 of the ADG Code.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 85 penalty units; or
- (b) an individual, a fine not exceeding 20 penalty units.

90. 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 Chapters 4.4 and 6.9 of the ADG Code.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 170 penalty units; or
- (b) an individual, a fine not exceeding 35 penalty units.

91. 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 Chapters 4.4 and 6.9 of the ADG Code.

Penalty: Fine not exceeding 20 penalty units.

PART 7 - Transport Operations Relating to Certain Dangerous Goods

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

92. 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 Division 4.1;
- (c) organic peroxides of 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 package is 50°C or lower;
- (e) toxic substances of Division 6.1 or Subsidiary Risk 6.1;
- (f) infectious substances of Division 6.2;
- (g) "dangerous when wet" substances of Division 4.3.

93. Consignor's duties

[Regulation 93 Amended by S.R. 2016, No. 87, Applied:01 Dec 2016] 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.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 85 penalty units; or
- (b) an individual, a fine not exceeding 20 penalty units.

94. Loader's duties

[Regulation 94 Amended by S.R. 2016, No. 87, Applied:01 Dec 2016] 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.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 85 penalty units; or
- (b) an individual, a fine not exceeding 20 penalty units.

95. 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 prime contractor or rail operator knows, or reasonably ought to know, that the transport does not comply with Chapter 7.1 of the ADG Code.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 85 penalty units; or
- (b) an individual, a fine not exceeding 20 penalty units.

(2) A prime contractor or rail operator responsible for the transport of one or more packages of infectious substances of Division 6.2 who becomes aware of damage to, or leakage from, the package or any of the packages must comply with 7.1.7.2.2 of the ADG Code.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 85 penalty units; or
- (b) an individual, a fine not exceeding 20 penalty units.

96. 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.

Penalty: Fine not exceeding 10 penalty units.

Division 2 - Goods too dangerous to be transported

97. Application

This Division applies to goods too dangerous to be transported.

Note

Section 70 of the Act provides for the duties of consignors of goods too dangerous to be transported, prescribes the people who are to be regarded as the consignors of such goods and provides for the relevant offence and penalty for consigning them for transport.

98. Loader's duties

[Regulation 98 Amended by S.R. 2016, No. 87, Applied: 01 Dec 2016] 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.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 85 penalty units; or
- (b) an individual, a fine not exceeding 20 penalty units.

99. Prime contractor's and rail operator's duties

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

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 85 penalty units; or
- (b) an individual, a fine not exceeding 20 penalty units.

100. 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.

Penalty: Fine not exceeding 10 penalty units.

Division 3 - Explosives

100A. Transport of explosives

(1) In this regulation –

explosive has the same meaning as in the Explosives Act 2012 .

(2) A person must not transport explosives contrary to the Australian Explosives Code or ADG Code.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 170 penalty units; or
- (b) an individual, a fine not exceeding 35 penalty units.

(3) A person must not transport any explosives in a vehicle that does not comply with the Australian Explosives Code.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 170 penalty units; or
- (b) an individual, a fine not exceeding 35 penalty units.

(4) An authorised officer who is reasonably of the opinion that a vehicle does not comply with the Australian Explosives Code may direct that no explosives are to be loaded in or on that vehicle.

(5) A person must not load explosives in or on a vehicle contrary to a direction given by an authorised officer under subregulation (4) .

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 170 penalty units; or
- (b) an individual, a fine not exceeding 35 penalty units.

PART 8 - Stowage and Restraint

101. Consignor's duties

(1) *[Regulation 101 Subregulation (1) amended by S.R. 2016, No. 87, Applied:01 Dec 2016]* 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 Part 8.1 of the ADG Code.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 85 penalty units; or
- (b) an individual, a fine not exceeding 20 penalty units.

(2) *[Regulation 101 Subregulation (2) amended by S.R. 2016, No. 87, Applied:01 Dec 2016]* 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.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 85 penalty units; or
- (b) an individual, a fine not exceeding 20 penalty units.

102. Loader's duties

(1) *[Regulation 102 Subregulation (1) amended by S.R. 2016, No. 87, Applied:01 Dec 2016]* A person who loads, onto a vehicle for transport, a load that contains dangerous goods that is a placard load must ensure that the load is stowed, loaded and restrained in accordance with Part 8.1 of the ADG Code.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 85 penalty units; or
- (b) an individual, a fine not exceeding 20 penalty units.

(2) *[Regulation 102 Subregulation (2) amended by S.R. 2016, No. 87, Applied:01 Dec 2016]* 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.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 85 penalty units; or
- (b) an individual, a fine not exceeding 20 penalty units.

103. Prime contractor's and rail operator's duties

(1) *[Regulation 103 Subregulation (1) amended by S.R. 2016, No. 87, Applied:01 Dec 2016]* 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 Part 8.1 of the ADG Code.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 85 penalty units; or
- (b) an individual, a fine not exceeding 20 penalty units.

(2) *[Regulation 103 Subregulation (2) amended by S.R. 2016, No. 87, Applied:01 Dec 2016]* 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.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 85 penalty units; or
- (b) an individual, a fine not exceeding 20 penalty units.

104. Driver's duties

(1) *[Regulation 104 Subregulation (1) amended by S.R. 2016, No. 87, Applied:01 Dec 2016]* 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 Part 8.1 of the ADG Code.

Penalty: Fine not exceeding 10 penalty units.

(2) *[Regulation 104 Subregulation (2) amended by S.R. 2016, No. 87, Applied:01 Dec 2016]* 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.

Penalty: Fine not exceeding 10 penalty units.

PART 9 - Segregation

105. Application of Part

(1) This Part applies to –

(a) the transport of a placard load; and

(b) *[Regulation 105 Subregulation (1) amended by S.R. 2016, No. 87, Applied:01 Dec 2016]* the transport of a load that contains dangerous goods that is not a placard load if the load contains dangerous goods of 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.

106. Exception for certain goods for driver's personal use

Despite regulations 107 , 108 , 109 , 110 and 111 , 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.

107. 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 regulation 112(1) .

Penalty: In the case of –

(a) a body corporate, a fine not exceeding 170 penalty units; or

(b) an individual, a fine not exceeding 35 penalty units.

108. 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 regulation 112(1) .

Penalty: In the case of –

(a) a body corporate, a fine not exceeding 170 penalty units; or

(b) an individual, a fine not exceeding 35 penalty units.

109. Prime contractor's duties

A prime contractor must not use a road vehicle to transport dangerous goods if the prime contractor 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 regulation 112(1) .

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 170 penalty units; or
- (b) an individual, a fine not exceeding 35 penalty units.

110. Rail operator's duties

A rail operator must not use a train to transport dangerous goods if the rail operator 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 regulation 112(1) .

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 170 penalty units; or
- (b) an individual, a fine not exceeding 35 penalty units.

111. 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 regulation 112(1) .

Penalty: Fine not exceeding 10 penalty units.

112. 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 –

- (a) include any information required under Chapter 6.11 of the ADG Code; and
- (b) be accompanied by the relevant fee, if any.

(2) The Competent Authority may, on application in accordance with subregulation (1) and regulation 176 , approve a design for a Type II segregation device if the design complies with Chapter 6.11 of the ADG Code.

(3) In giving its approval, the Competent Authority may impose in relation to the approval any condition necessary for the safe transport of dangerous goods.

(4) A person to whom an approval has been given under this regulation must not contravene a condition of the approval.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 170 penalty units; or

(b) *[Regulation 112 Subregulation (4) amended by S.R. 2016, No. 87, Applied:01 Dec 2016]* an individual, a fine not exceeding 35 penalty units.

113. Approvals – methods of segregation

(1) The Competent Authority may, on application made in accordance with regulation 176 , 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 the 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 the 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 under this regulation must not contravene a condition of the approval.

Penalty: In the case of –

(a) a body corporate, a fine not exceeding 170 penalty units; or

(b) *[Regulation 113 Subregulation (3) amended by S.R. 2016, No. 87, Applied:01 Dec 2016]* an individual, a fine not exceeding 35 penalty units.

PART 10 - Bulk Transfer of Dangerous Goods

Division 1 - General

114. 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

115. Reserved

This regulation has been left blank so as to preserve uniformity with other jurisdictions with regard to numbering of regulations.

116. 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.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 85 penalty units; or
- (b) an individual, a fine not exceeding 20 penalty units.

(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 and 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.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 170 penalty units; or
- (b) an individual, a fine not exceeding 35 penalty units.

117. 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.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 85 penalty units; or
- (b) an individual, a fine not exceeding 20 penalty units.

(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.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 85 penalty units; or
- (b) an individual, a fine not exceeding 20 penalty units.

(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 resume transferring the goods until the conditions causing the leak, spill or escape have been rectified.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 85 penalty units; or
- (b) an individual, a fine not exceeding 20 penalty units.

118. Occupier's duties

(1) The occupier of premises where 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 onto 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.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 85 penalty units; or
- (b) an individual, a fine not exceeding 20 penalty units.

(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.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 170 penalty units; or
- (b) an individual, a fine not exceeding 35 penalty units.

(3) The occupier must keep, in accordance with 10.1.3.4 of the ADG Code, accurate records of all maintenance work, and each inspection and test, carried out on any hose assembly to which subregulation (1) applies.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 30 penalty units; or
- (b) an individual, a fine not exceeding 5 penalty units.

119. 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; or
- (b) has been inspected and tested at the intervals, and in the way, required under that Chapter; or
- (c) satisfies each test under that Chapter.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 85 penalty units; or
- (b) an individual, a fine not exceeding 20 penalty units.

(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.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 170 penalty units; or
- (b) an individual, a fine not exceeding 35 penalty units.

(3) The prime contractor must keep, in accordance with 10.1.3.4 of the ADG Code, accurate records of all maintenance work, and each inspection and test, carried out on any hose assembly to which subregulation (1) applies.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 30 penalty units; or
- (b) an individual, a fine not exceeding 5 penalty units.

120. 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; or
- (b) has been inspected and tested at the intervals, and in the way, required under that Chapter; or
- (c) satisfies each test under that Chapter.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 85 penalty units; or
- (b) an individual, a fine not exceeding 20 penalty units.

Division 3 - Filling ratio and ullage

121. Application of Division

This Division applies to bulk transfer into a tank vehicle.

122. Transferor's duties

[Regulation 122 Substituted by S.R. 2016, No. 87, Applied:01 Dec 2016]

(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 10.3.2 of the ADG Code; and

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

Penalty: In the case of –

(a) a body corporate, a fine not exceeding 85 penalty units; or

(b) an individual, a fine not exceeding 20 penalty units.

(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 10.3.1 of the ADG Code as if the goods were dangerous goods.

Penalty: In the case of –

(a) a body corporate, a fine not exceeding 85 penalty units; or

(b) an individual, a fine not exceeding 20 penalty units.

123. Prime contractor's and rail operator's duties

[Regulation 123 Substituted by S.R. 2016, No. 87, Applied:01 Dec 2016]

(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 10.3.2 of the ADG Code; or

(b) in any other case, the ullage in the tank does not comply with 10.3.1 of the ADG Code.

Penalty: In the case of –

(a) a body corporate, a fine not exceeding 85 penalty units; or

(b) an individual, a fine not exceeding 20 penalty units.

(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 10.3.1 of the ADG Code as if the goods were dangerous goods.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 85 penalty units; or
- (b) an individual, a fine not exceeding 20 penalty units.

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

124. Driver's duties

[Regulation 124 Substituted by S.R. 2016, No. 87, Applied:01 Dec 2016]

(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 10.3.2 of the ADG Code; or
- (b) in any other case, the ullage in the tank does not comply with 10.3.1 of the ADG Code.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 85 penalty units; or
- (b) an individual, a fine not exceeding 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 the ullage in tank A in respect of the non-dangerous goods would not comply with 10.3.1 of the ADG Code if the goods were dangerous goods.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 85 penalty units; or
- (b) an individual, a fine not exceeding 20 penalty units.

PART 11 - Documentation

Division 1 - Transport documentation

125. 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.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 170 penalty units; or
- (b) an individual, a fine not exceeding 35 penalty units.

Note

An example of false information in transport documentation is the naming of a person as consignor of the dangerous goods if the person is not the consignor of the goods.

126. 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.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 55 penalty units; or
- (b) an individual, a fine not exceeding 10 penalty units.

(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.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 55 penalty units; or
- (b) an individual, a fine not exceeding 10 penalty units.

127. 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.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 55 penalty units; or
- (b) an individual, a fine not exceeding 10 penalty units.

(2) For the purposes of subregulation (1), a rail operator is 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.

128. Prime contractor's duties

[Regulation 128 Substituted by S.R. 2016, No. 87, Applied:01 Dec 2016] 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.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 85 penalty units; or
- (b) an individual, a fine not exceeding 20 penalty units.

129. 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.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 85 penalty units; or
- (b) an individual, a fine not exceeding 20 penalty units.

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

130. Driver's duties

(1) *[Regulation 130 Subregulation (1) substituted by S.R. 2016, No. 87, Applied:01 Dec 2016]* 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.

Penalty: Fine not exceeding 10 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.

Penalty: Fine not exceeding 10 penalty units.

131. Train driver's duties

(1) This regulation 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.

Penalty: Fine not exceeding 10 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.

Penalty: Fine not exceeding 10 penalty units.

131A. Prime contractor's duties - retention of documents

[Regulation 131A Inserted by S.R. 2016, No. 87, Applied:01 Dec 2016]

- (1) This regulation applies if these regulations 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.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 85 penalty units; or
 - (b) an individual, a fine not exceeding 20 penalty units.
- (3) It is a failure to comply with subregulation (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

132. 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 regulation 138 .

133. 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.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 55 penalty units; or
- (b) an individual, a fine not exceeding 10 penalty units.

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

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 85 penalty units; or
- (b) an individual, a fine not exceeding 20 penalty units.

135. Rail operator's duties

(1) [Regulation 135 Subregulation (1) amended by S.R. 2016, No. 87, Applied:01 Dec 2016] 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.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 85 penalty units; or
- (b) an individual, a fine not exceeding 20 penalty units.

(2) Subregulation (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.

136. 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; and
- (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.

Penalty: Fine not exceeding 10 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.

Penalty: Fine not exceeding 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.

Penalty: Fine not exceeding 10 penalty units.

137. 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.

Penalty: Fine not exceeding 10 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.

Penalty: Fine not exceeding 10 penalty units.

(3) Subregulations (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.

138. Approvals – emergency information

The Competent Authority may, on application in accordance with regulation 176 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

139. 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.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 170 penalty units; or
- (b) an individual, a fine not exceeding 35 penalty units.

140. 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.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 170 penalty units; or
- (b) an individual, a fine not exceeding 35 penalty units.

(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 subregulation (1) –

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

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 170 penalty units; or
- (b) an individual, a fine not exceeding 35 penalty units.

141. 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.

Penalty: Fine not exceeding 10 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 subregulation (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.

Penalty: Fine not exceeding 10 penalty units.

PART 13 - Procedures During Transport

Division 1 - Immobilised and stopped vehicles

142. Driver's duties

- (1) This regulation 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.

Penalty: Fine not exceeding 5 penalty units.

(3) *[Regulation 142 Subregulation (3) inserted by S.R. 2016, No. 87, Applied:01 Dec 2016]* A driver does not commit an offence against subregulation (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*.

143. 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.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 85 penalty units; or
 - (b) an individual, a fine not exceeding 20 penalty units.

- (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.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 85 penalty units; or
 - (b) an individual, a fine not exceeding 20 penalty units.

(3) *[Regulation 143 Subregulation (3) inserted by S.R. 2016, No. 87, Applied:01 Dec 2016]* 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.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 85 penalty units; or
- (b) an individual, a fine not exceeding 20 penalty units.

144. 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.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 85 penalty units; or
- (b) an individual, a fine not exceeding 20 penalty units.

Division 2 - Road vehicles – driver's duties

145. Driving

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

Penalty: Fine not exceeding 5 penalty units.

146. 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.

Penalty: Fine not exceeding 10 penalty units.

147. Control of ignition sources

(1) This regulation 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) dangerous goods that are 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.

Penalty: Fine not exceeding 35 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.

Penalty: Fine not exceeding 35 penalty units.

148. 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.

Penalty: Fine not exceeding 35 penalty units.

149. 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.

Penalty: Fine not exceeding 35 penalty units.

150. Road tank vehicle equipped with burner

The driver of a road tank vehicle equipped with a burner must not operate the burner, or permit it to be operated, except in accordance with Part 13 of the ADG Code.

Penalty: Fine not exceeding 35 penalty units.

Division 3 - Reserved

151. Reserved

This regulation has been left blank so as to preserve uniformity with other jurisdictions with regard to numbering of regulations.

PART 14 - Emergencies

Division 1 - Emergencies generally

152. Driver's duties

- (1) This regulation 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.

Penalty: Fine not exceeding 10 penalty units.

153. Driver's and rail operator's duties

- (1) This regulation 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 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.

Penalty: Fine not exceeding 10 penalty units.

- (3) On being notified by the train driver of the incident, the rail operator 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.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 55 penalty units; or
- (b) an individual, a fine not exceeding 10 penalty units.

154. Prime contractor's and rail operator's duties – food or food packaging

- (1) This regulation 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 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.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 170 penalty units; or

(b) an individual, a fine not exceeding 35 penalty units.

(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.

Penalty: In the case of –

(a) a body corporate, a fine not exceeding 170 penalty units; or

(b) an individual, a fine not exceeding 35 penalty units.

(4) A permission under subregulation (2) or a direction under subregulation (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.

155. Prime contractors and rail operators to inform Competent Authority

(1) This regulation 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 happened;

(b) the time and date of the incident;

(c) the nature of the incident;

(d) the dangerous goods being transported when the incident happened;

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

Penalty: In the case of –

(a) a body corporate, a fine not exceeding 85 penalty units; or

(b) an individual, a fine not exceeding 20 penalty units.

(3) Not later than 21 days after the day when the incident happens, 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 happened;

(b) the time and date of the incident;

(c) the nature of the incident;

(d) what the driver believes to be the likely cause of the incident;

(e) what the prime contractor or rail operator believes to be the likely cause of the incident;

(f) the dangerous goods being transported when the incident happened;

(g) the measures taken to control 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.

Penalty: In the case of –

(a) a body corporate, a fine not exceeding 85 penalty units; or

(b) an individual, a fine not exceeding 20 penalty units.

Division 2 - Emergencies involving placard loads

156. Telephone advisory service

(1) In this regulation –

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) If a telephone advisory service is not available during the journey, a prime contractor or rail operator must not transport 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.

Penalty: In the case of –

(a) a body corporate, a fine not exceeding 170 penalty units; or

(b) an individual, a fine not exceeding 35 penalty units.

(3) If a telephone advisory service is not available during the journey, 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.

Penalty: In the case of –

(a) a body corporate, a fine not exceeding 170 penalty units; or

(b) an individual, a fine not exceeding 35 penalty units.

(4) A telephone advisory service may be provided by the prime contractor, rail operator or consignor, or another person on behalf of the prime contractor, rail operator or consignor.

157. Emergency plans

(1) In this regulation –

*[Regulation 157 Subregulation (1) amended by S.R. 2016, No. 87, Applied:01 Dec 2016] [Regulation 157 Subregulation (1) amended by S.R. 2017, No. 7, Applied:22 Feb 2017] **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 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.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 170 penalty units; or
- (b) an individual, a fine not exceeding 35 penalty units.

(2A) *[Regulation 157 Subregulation (2A) inserted by S.R. 2016, No. 87, Applied:01 Dec 2016]* 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.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 170 penalty units; or
- (b) an individual, a fine not exceeding 35 penalty units.

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

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 170 penalty units; or
- (b) an individual, a fine not exceeding 35 penalty units.

(3A) *[Regulation 157 Subregulation (3A) inserted by S.R. 2016, No. 87, Applied:01 Dec 2016]* 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.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 170 penalty units; or
- (b) an individual, a fine not exceeding 35 penalty units.

158. Consignor's duties – information and resources

(1) This regulation 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.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 85 penalty units; or
- (b) an individual, a fine not exceeding 20 penalty units.

(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.

159. Prime contractor's and rail operator's duties – information and resources

(1) This regulation 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.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 85 penalty units; or
- (b) an individual, a fine not exceeding 20 penalty units.

(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 gives the information or provides the resources.

PART 15 - Mutual Recognition

Division 1 - Registers of determinations, exemptions, approvals and licences

160. Registers

Each of the following registers is a register for these regulations:

- (a) the register of determinations kept under regulation 31 ;
- (b) the register of exemptions kept under regulation 171 ;
- (c) the register of approvals kept under regulation 185 ;
- (d) the register of dangerous goods driver licences kept under regulation 227(1) ;
- (e) the register of dangerous goods vehicle licences kept under regulation 227(2) .

161. Registers may be kept by computer

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

162. Inspection of registers

- (1) The Competent Authority must ensure that each register is available for inspection by corresponding authorities and the public.
- (2) The Competent Authority is taken to comply with subregulation (1) by ensuring that there is reasonable access to –
 - (a) copies of information in a register; or
 - (b) a computer terminal at which a register may be inspected.

Division 2 - Reserved

163. Reserved

This regulation has been left blank so as to preserve uniformity with other jurisdictions with regard to numbering of regulations.

Division 3 - Recommendations by Competent Authority and corresponding authorities

164. Recommendations by Competent Authority

- (1) This regulation 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 other than 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 the CAP.

165. Recommendations by corresponding authorities

(1) This regulation 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 other than an administrative determination, or 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 the CAP has considered the recommendation.

(3) In any other case, the Competent Authority must have regard to the recommendation

Division 4 - Mutual recognition of determinations, exemptions, approvals and licence

166. Corresponding determinations

(1) This regulation 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 regulations:

- (i) regulation 25 (Determinations — dangerous goods and packaging);
- (ii) regulation 27 (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) the CAP has decided that the determination is to have effect in all participating jurisdictions or participating jurisdictions including this jurisdiction and the 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.

167. Corresponding exemptions

(1) This regulation 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 these regulations; and

(b) the exemption has effect in the other jurisdiction; and

(c) the CAP has decided that the exemption is to have effect in all participating jurisdictions or participating jurisdictions including this jurisdiction, and the 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 10 years after the day on which the CAP made its decision unless –

- (a) the decision is sooner reversed by the 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.

168. Corresponding approvals

- (1) This regulation applies to an approval given in another jurisdiction by a corresponding authority if –
 - (a) the approval is given under a provision of the law of the other jurisdiction corresponding to a provision (the "relevant provision") of any of the following regulations:
 - (i) regulation 22 (Approvals – tests and training courses for drivers);
 - (ii) regulation 51 (Approval of packaging designs);
 - (iii) regulation 54 (Approval of overpack preparation method);
 - (iv) regulation 112 (Approvals – Type II segregation devices);
 - (v) regulation 113 (Approvals – methods of segregation);
 - (vi) regulation 138 (Approvals – emergency information);
 - (vii) regulation 247 (Approvals – insurance); and
 - (b) the approval has effect in the other jurisdiction; and
 - (c) the CAP has decided that the approval is to have effect in all participating jurisdictions or participating jurisdictions including this jurisdiction, and the 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.

169. Corresponding licences

- (1) This regulation 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 regulation 204 (Grant of dangerous goods driver licences), or regulation 214 (Grant of dangerous goods vehicle licences), (the "relevant provisions"); 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 by the Competent Authority under either of the relevant provisions.

169A. Reference of determination, exemption or approval to CAP for the purposes of mutual recognition

[Regulation 169A Inserted by S.R. 2016, No. 87, Applied:01 Dec 2016] The Competent Authority may refer to the 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 regulation 166 , 167 or 168 .

PART 16 - Exemptions

Note

For other provisions about exemptions, see Part 4 of the Act.

Division 1 - General

170. Form of 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 these regulations, 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) be accompanied by the relevant fee, if any.
- (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.

171. Register of exemptions

- (1) The Competent Authority must keep a register of exemptions.
- (2) The register may have separate divisions for different kinds of exemptions.
- (3) The Competent Authority must record in the register –
 - (a) each exemption granted by the Authority; and
 - (b) each corresponding exemption.
- (4) The Competent Authority must note in the register –
 - (a) the cancellation or variation of an exemption granted by the Authority; and
 - (b) a decision of the CAP reversing a decision that a corresponding exemption is to have effect in all participating jurisdictions or participating jurisdictions including this jurisdiction.

172. Records of exemptions

The record of an exemption in the register must include –

- (a) a copy 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 these regulations, 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

173. References to CAP

(1) *[Regulation 173 Subregulation (1) amended by S.R. 2016, No. 87, Applied:01 Dec 2016]* The Competent Authority must refer an application for an exemption, or an exemption that it has granted, to the CAP if the Authority considers that the exemption is to have effect in all participating jurisdictions or participating jurisdictions including this jurisdiction.

(2) The Competent Authority must refer to the 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.

174. Effect of CAP decisions about exemptions

(1) This regulation applies if –

(a) *[Regulation 174 Subregulation (1) amended by S.R. 2016, No. 87, Applied:01 Dec 2016]* an application for an exemption, or an exemption, is referred to the CAP under regulation 173(1) ; and

(b) the CAP decides –

- (i) that the exemption is to be granted, what the terms of the exemption are to be, and that the exemption is to have effect in all participating jurisdictions or participating jurisdictions including this jurisdiction; or
- (ii) that the exemption is not to have effect in this jurisdiction.

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

175. Effect of CAP decisions about cancelling or varying exemptions

(1) This regulation applies if –

(a) an exemption is referred to the CAP under regulation 173(2) ; and

(b) the CAP decides that the exemption –

- (i) is to, or is not to, be cancelled; or
- (ii) is to be varied, whether or not the CAP's decision is the same as the variation proposed by the Authority, and is to have effect as varied in all participating jurisdictions or participating jurisdictions including this jurisdiction; or
- (iii) is not to be varied.

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

PART 17 - Administrative Determinations and Approvals

Note

For provisions about determinations generally, see Division 6 of Part 1 .

Division 1 - General

176. 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) be accompanied by the relevant fee, if any.

(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.

177. Form of administrative determinations and approvals

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

178. When administrative determinations and approvals not to be made &c.

The Competent Authority must not make an administrative determination on the application of, or give an approval under these regulations to, a person who is prohibited by a court order from involvement in the transport of dangerous goods.

179. Reasons for refusal of applications

(1) This regulation applies if the Competent Authority refuses an application to –

- (a) make or vary an administrative determination; or
- (b) grant or vary an approval under these regulations.

(2) The Competent Authority must inform the applicant in writing of the refusal and of the reasons for the refusal.

180. Periods and conditions

(1) An administrative determination or a written approval under these regulations 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.

181. 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.

182. Reserved

This regulation has been left blank so as to preserve uniformity with other jurisdictions with regard to numbering of regulations.

183. Grounds for cancelling administrative determinations and approvals

- (1) An administrative determination or approval may be cancelled if the application for the determination or approval –
 - (a) did not comply with these regulations; or
 - (b) was false or misleading in a material respect.
- (2) An administrative determination or approval may be cancelled if –
 - (a) a relevant change has happened since the determination was made or the approval was given; and
 - (b) if the change had happened before the determination was made or the approval was given –
 - (i) the determination would not have been made; or
 - (ii) the approval would not have been given.
- (3) An administrative determination or approval may be cancelled if the person on whose application the determination was made, or to whom the approval was given, is unsuitable to continue to be a person to whom the determination applies, or the approval was given, because the person has contravened –
 - (a) a provision of the Act or these regulations; or
 - (b) a provision of the law in force in another participating jurisdiction corresponding to a provision mentioned in paragraph (a) .
- (4) In subregulation (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.

184. Grounds for varying administrative determinations and approvals

- (1) An administrative determination or approval may be varied if the application for the determination or approval –
 - (a) did not comply with these regulations; or
 - (b) was false or misleading in a material respect.
- (2) An administrative determination or approval may be varied if –
 - (a) a relevant change has happened since the determination was made or the approval was given; and
 - (b) if the change had happened before the determination was made or the approval was given –
 - (i) the determination would have been made in the way in which it is proposed to be varied; or
 - (ii) the approval would have been given in the way in which it is proposed to be varied.
- (3) An administrative determination or approval may be varied if the person on whose application the determination was made, or to whom the approval was given, is unsuitable to continue to be a person to whom the determination applies, or the approval was given, without variation because the person has contravened –
 - (a) a provision of the Act or these regulations; or
 - (b) a provision of the law in force in another participating jurisdiction corresponding to a provision in paragraph (a) .
- (3A) [Regulation 184 Subregulation (3A) inserted by S.R. 2016, No. 87, Applied:01 Dec 2016] 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 subregulation (3), even if that person was the original applicant for the determination.
- (4) In subregulation (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

184A. References to CAP

[Regulation 184A of Part 17 Inserted by S.R. 2016, No. 87, Applied:01 Dec 2016]

- (1) The Competent Authority must refer an application for a determination, or a determination it has made, to the CAP if the Authority considers that the determination should have effect in all participating jurisdictions or participating jurisdictions including this jurisdiction.
- (2) The Competent Authority must refer to the CAP a determination having effect in this jurisdiction, and one or more other participating jurisdictions, if –
 - (a) the Competent 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.

184B. Effect of CAP decisions about determinations

[Regulation 184B of Part 17 Inserted by S.R. 2016, No. 87, Applied:01 Dec 2016]

- (1) This regulation applies if –
 - (a) an application for a determination, or a determination, is referred to the CAP under regulation 184A(1); and
 - (b) the 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 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 the CAP's decision.

184C. Effect of CAP decisions about cancelling or varying determinations

[Regulation 184C of Part 17 Inserted by S.R. 2016, No. 87, Applied:01 Dec 2016]

- (1) This regulation applies if –
 - (a) a determination is referred to the CAP under regulation 184A(2); and
 - (b) the CAP decides that the determination –
 - (i) should, or should not, be cancelled; or
 - (ii) should be varied (whether or not the CAP's decision is the same as the variation proposed by the Competent 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 the CAP's decision.

Division 2 - Register of approvals

185. Register of approvals

- (1) The Competent Authority must keep a register of approvals.
- (2) The register may have separate divisions for different kinds of approvals.

- (3) The Competent Authority must record in the register –
 - (a) each approval given in writing under these regulations; and
 - (b) each corresponding approval.
- (4) The Competent Authority must note in the register –
 - (a) the cancellation or variation of a written approval; and
 - (b) a decision of the CAP reversing a decision that a corresponding approval is to have effect in all participating jurisdictions or participating jurisdictions including this jurisdiction.

186. Records of approvals

The record of an approval in the register must include –

- (a) a copy of the approval; or
- (b) the following information:
 - (i) the name of the person to whom the approval was given;
 - (ii) the date when the approval was given;
 - (iii) the provisions of these regulations, 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

187. References to CAP

- (1) *[Regulation 187 Subregulation (1) amended by S.R. 2016, No. 87, Applied:01 Dec 2016]* The Competent Authority must refer an application for an approval, or an approval that it has given, to the 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 the 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.

188. Effect of CAP decisions about approvals

- (1) This regulation applies if –
 - (a) *[Regulation 188 Subregulation (1) amended by S.R. 2016, No. 87, Applied:01 Dec 2016]* an application for an approval, or an approval, is referred to the CAP under regulation 187(1) ; and
 - (b) the CAP decides –
 - (i) that the approval is to be given, what the terms of the approval is to be, and that the approval is to have effect in all participating jurisdictions or participating jurisdictions including this jurisdiction; or
 - (ii) that the approval is not to have effect in this jurisdiction.
- (2) The Competent Authority must have regard to the CAP's decision.

189. Effect of CAP decisions about cancelling or varying approvals

- (1) This regulation applies if –

- (a) an approval is referred to the CAP under regulation 187(2) ; and
 - (b) the CAP decides that the approval –
 - (i) is to, or is not to, be cancelled; or
 - (ii) is to be varied (whether or not the CAP's decision is the same as the variation proposed by the Authority), and is to have effect as varied in all participating jurisdictions or in participating jurisdictions including this jurisdiction; or
 - (iii) is not to be varied.
- (2) The Competent Authority must have regard to the CAP's decision.

Division 4 - Cancellation and variation

190. Cancellation and variation in dangerous situations

The Competent Authority must cancel or vary an administrative determination or approval if the Competent Authority reasonably believes that –

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

191. Cancellation giving effect to court orders

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

192. Variation of administrative determinations and approvals on application

- (1) This regulation applies if –
 - (a) an application is made to vary an administrative determination or an approval; and
 - (b) the application is made in accordance with regulation 176 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.

193. Cancellation and variation in other circumstances

- (1) This regulation 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) regulations 190 , 191 and 192 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 when the notice is given to the person, why the proposed action should not be taken.

(3) If, after considering any written statement made within the period specified in subregulation (2)(e) , 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.

194. When cancellation and variation take effect

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

- (a) the day when 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

195. Meaning of licensing authority

In this Part –

licensing authority means –

- (a) the Competent Authority appointed in respect of road transport; or
- (b) a person or body authorised by the Competent Authority to issue licences under this Part.

196. 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.

197. 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

198. Vehicles to be licensed

[Regulation 198 Substituted by S.R. 2016, No. 87, Applied:01 Dec 2016]

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

- (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; or
- (c) dangerous goods of UN Class 1 (explosives) with a risk category of 3 under Chapter 2 of the Australian Explosives Code in any quantity or receptacle –

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

(2) If the Competent Authority has determined under regulation 27 that a vehicle that is not licensed under this Part may be used to transport the dangerous goods described in subregulation (1), the vehicle may be used to transport the goods without complying with that subregulation.

199. Drivers to be licensed

A person must not drive a road vehicle transporting –

- (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; or

(c) [Regulation 199 Amended by S.R. 2016, No. 87, Applied:01 Dec 2016] dangerous goods of UN Class 1 (explosives) with a risk category of 3 under Chapter 2 of the Australian Explosives Code in any quantity or 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

200. Applications for licences

(1) [Regulation 200 Subregulation (1) amended by S.R. 2016, No. 87, Applied:01 Dec 2016] 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 regulation 201 ; and
- (b) the competency evidence required by regulation 202 ; and
- (c) the medical fitness evidence required by regulation 203 ; and
- (d) 2 photographs, of a size suitable for passports, of the applicant that were taken not more than 6 months before the day when the application is made; and
- (e) the relevant fee, if any.

201. 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 subregulation (2) ; or
 - (ii) the authorisation mentioned in subregulation (3) .

(2) For subregulation (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 subregulation (1)(b)(ii) , the authorisation is the authorisation by the applicant for the licensing authority to have access to –

- (a) [Regulation 201 Subregulation (3) amended by S.R. 2016, No. 87, Applied:01 Dec 2016] entries about the applicant in the driving licences register of any State; and
- (b) records of any conviction of the applicant for a driving offence in any State.

(4) For subregulation (1)(a) , a current certified extract is an extract certified by the driver licensing authority not more than 6 months before the day when the application is made.

202. Required competency evidence

(1) A document mentioned in subregulation (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 when the application is made, by a person who conducted an approved test or approved training course stating that the applicant passed the test or completed the course; or

- (b) other written evidence that the applicant passed an approved test or completed an approved training course not more than 6 months before the day when the application is made.

203. Required medical fitness evidence

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

204. Grant of dangerous goods driver licences

- (1) The licensing authority must grant a dangerous goods driver licence if –
 - (a) an application is made to it for the licence; and
 - (b) the application is accompanied by the documents required by regulation 200 and otherwise complies with the regulation.
- (2) However, the licensing authority must not grant the licence if –
 - (a) in the 5 years before the day when the application is made –
 - (i) the applicant has been found guilty by a court in Australia of an offence that makes the applicant unsuitable to be the driver of a vehicle transporting dangerous goods; or
 - (ii) the applicant's driver licence has been cancelled or suspended on a ground that makes the applicant unsuitable to be the driver of a vehicle transporting dangerous goods; or
 - (b) the applicant is subject to a court order prohibiting the applicant from involvement in the transport of dangerous goods by road.
- (3) If the licensing authority refuses to grant a dangerous goods driver licence, the Authority must inform the applicant in writing of the refusal and of the reasons for the refusal.

205. Applications for renewal of licences

- (1) A person who holds a dangerous goods driver licence may apply to a licensing authority for renewal of the licence.
- (2) The application must be accompanied by –
 - (a) the driver licence evidence required by regulation 201 ; and
 - (b) the competency evidence required by regulation 202 ; and
 - (c) the medical fitness evidence required by regulation 203 ; and
 - (d) 2 recent passport-size photographs of the applicant; and
 - (e) the relevant fee, if any.

206. Renewal of licences

- (1) The licensing authority must renew a dangerous goods driver licence if –
 - (a) an application is made to the authority for renewal of the licence; and
 - (b) the application is accompanied by the documents required by regulation 205 and otherwise complies with the regulation.

(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, the authority must inform the applicant in writing of the refusal and of the reasons for the refusal.

207. Licence periods

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

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

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

208. Licence conditions

(1) The licensing authority –

(a) may grant or renew a dangerous goods driver licence subject to conditions mentioned in subregulations (2) and (3) ; and

(b) is to state each condition, under paragraph (a) , to which the licence is subject on the licence itself.

(2) 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.

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

209. Additional condition

(1) It is a condition of a dangerous goods driver licence that the licensing authority may, by written notice given to the licensee, require the licensee to produce to the authority a certificate –

(a) about the medical fitness of the licensee to drive a road vehicle; and

(b) issued by a registered medical practitioner who, not more than 6 months before the day when the certificate is given to the authority, examined and passed the licensee in accordance with the standards in *Assessing Fitness to Drive – Medical Standards for Licensing and Clinical Management Guidelines* published by Austroads and the National Road Transport Commission in September 2003, as in force at the time of the examination.

- (2) The written notice must specify a period, of at least 2 months after the day when the notice is received by the licensee, within which the licensee must produce the certificate.
- (3) The licensing authority must not give written notice under this regulation if the period of validity of the dangerous goods driver licence is less than 4 months.

210. 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) does not comply with these regulations; or
 - (b) is 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 these regulations; 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 has been cancelled; or
 - (d) the licensee is suffering from a medical condition or has a physical or mental disability.

Division 4 - Dangerous goods vehicle licences

211. Meaning of vehicle

In this Division –

vehicle does not include –

- (a) a prime mover; or
- (b) [Regulation 211 Amended by S.R. 2016, No. 87, Applied:01 Dec 2016] a converter dolly within the meaning of the Vehicle and Traffic (Vehicle Standards) Regulations 2014 .

212. 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) The application must be accompanied by the relevant fee, if any.
- (4) An application may be made for licences for 2 or more road vehicles in the same application form.

213. 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 a person 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 a person 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.

214. Grant of dangerous goods vehicle licences

(1) Subject to subregulation (3) , 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 regulation 212 ; and

(c) the applicant has complied with any requirement made under regulation 213 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 subregulation (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 under subregulation (1) 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 that is valid 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.

215. 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 regulation 212(2) for an application for the grant of a dangerous goods vehicle licence for the road vehicle.

(3) The application must be accompanied by the relevant fee, if any.

216. Renewal of licences

(1) Subject to subregulation (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 regulation 215 ; and

(c) the applicant has complied with any requirement made under regulation 213 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 subregulation (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 a licence under subregulation (1) 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 renew a single dangerous goods vehicle licence that is valid 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.

217. 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 when 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.

218. Licence conditions

(1) The licensing authority may grant or renew a dangerous goods vehicle licence subject to conditions mentioned in subregulations (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.

219. Disposal and transfer of licensed vehicles

(1) *[Regulation 219 Subregulation (1) omitted by S.R. 2017, No. 7, Applied:22 Feb 2017]*

(2) *[Regulation 219 Subregulation (2) amended by S.R. 2017, No. 7, Applied:22 Feb 2017]* Within 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.

Penalty: In the case of –

(a) a body corporate, a fine not exceeding 30 penalty units; or

(b) an individual, a fine not exceeding 5 penalty units.

(3) If the licence for the disposed vehicle is also valid for another vehicle, the person who holds the licence for the vehicle must attach the licence to the notice of the disposal.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 30 penalty units; or
- (b) an individual, a fine not exceeding 5 penalty units.

(4) If the licence for the vehicle is not valid for 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.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 30 penalty units; or
- (b) an individual, a fine not exceeding 5 penalty units.

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

- (a) if the licence is also valid for 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 21 days after the transfer by business transfer of a vehicle to which a dangerous goods vehicle licence applies, the person to whom the vehicle has been transferred must make an application to the licensing authority, accompanied by the licence and the relevant fee, for the transfer of the licence to that person.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 30 penalty units; or
- (b) an individual, a fine not exceeding 5 penalty units.

(7) On receipt of the application, licence and relevant fee, the licensing authority must amend the licence to record the change of the holder of the licence and return the licence.

(8) Subregulation (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 regulation –

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.

220. Grounds for cancelling, suspending or varying licences

(1) A dangerous goods vehicle licence may be cancelled, suspended or varied if the application for the licence or an application for its renewal –

- (a) does not comply with these regulations; or
- (b) is false or misleading in a material respect.

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

Division 5 - Requirements relating to dangerous goods driver licences

222. Licences to be carried

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

Penalty: Fine not exceeding 5 penalty units.

Division 6 - Licences generally

223. 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.

224. 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) [Regulation 224 Subregulation (2) amended by S.R. 2017, No. 7, Applied:22 Feb 2017] The licensing authority must issue a replacement licence to a licensee if the authority is satisfied that a licence has been defaced, destroyed, lost or stolen.

225. Failure to comply with licence conditions

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

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 170 penalty units; or
- (b) an individual, a fine not exceeding 35 penalty units.

226. 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.

227. 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 these regulations in the appropriate register.
- (5) The licensing authority must note in the register the cancellation, surrender, suspension or variation of a licence.

228. Records of licences

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

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

229. Change of information given in licence applications

- (1) This regulation 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.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 30 penalty units; or
- (b) an individual, a fine not exceeding 5 penalty units.

230. 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 when the notice is given to the person.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 30 penalty units; or
- (b) an individual, a fine not exceeding 5 penalty units.

231. Return of licences

- (1) This regulation 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 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

232. Definitions

In this Division –

licence means a dangerous goods driver licence or dangerous goods vehicle licence;

licensee means the holder of a licence.

233. 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.

234. 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.

235. Variation of licence on application

(1) This regulation 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) A licensing authority may vary the licence in accordance with the application.

236. Cancellation, suspension and variation in other circumstances

(1) This regulation applies if –

- (a) the licensing authority considers that a ground exists to cancel, suspend or vary a licence (the "proposed action"); and
- (b) regulations 233 , 234 and 235 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 the period specified in the notice of at least 28 days commencing on the day when the notice is given to the licensee, why the proposed action should not be taken.

(3) If, after considering any written statement made within the period specified in the notice, 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.

237. When cancellation, suspension and variation take effect

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

(a) the day when the licensee is given written notice by the licensing authority of the cancellation, suspension or variation and of the reasons for the cancellation, suspension or variation; or

(b) a later day specified in the notice.

238. 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

239. Application of Part

[Regulation 239 Substituted by S.R. 2016, No. 87, Applied:01 Dec 2016]

- (1) This Part applies to the following decisions made by the Competent Authority:
 - (a) a decision, under Part 4 of the Act, to refuse to grant an exemption, to cancel an exemption, or to impose a new condition on, or to vary or cancel a condition of, an exemption;
 - (b) a decision under regulation 22 to approve or not to approve a test or training course for drivers of road vehicles transporting dangerous goods;
 - (c) an administrative determination under regulation 25 (dangerous goods and packaging) or regulation 27 (vehicles, routes, areas and times);
 - (d) a decision under regulation 51 to approve or not approve a design for a packaging;
 - (e) a decision under regulation 54 to approve or not approve a method of preparing an overpack;
 - (f) a decision under regulation 112 to approve or not approve a design for a segregation device;
 - (g) a decision under regulation 113 to approve or not approve a method of segregation;
 - (h) a decision under regulation 138 to approve or not approve emergency information;
 - (i) a decision under regulation 190 , 192 or 193 to cancel, vary or refuse to vary a determination or approval;
 - (j) a decision under regulation 247 to approve or not approve the use of a vehicle that is not covered by a policy of insurance or other form of indemnity.
- (2) This Part applies to the following decisions made by an authorised officer:
 - (a) a decision under Part 6 of the Act to serve an improvement notice under section 72 of the Act or to amend an improvement notice under section 74 of the Act;
 - (b) a decision under Part 10 of the Act to serve a prohibition notice under section 120 of the Act or to amend a prohibition notice under section 125 of the Act;
 - (c) a decision under regulation 100A(4) to direct that no explosives are to be loaded in or on a vehicle.
- (3) This Part applies to the following decisions made by a licensing authority:
 - (a) a decision under regulation 204 or 214 to grant or refuse to grant a licence;
 - (b) a decision under regulation 206 or 216 to renew or refuse to renew a licence;
 - (c) *[Regulation 239 Subregulation (3) amended by S.R. 2017, No. 7, Applied:22 Feb 2017]* a decision under regulation 224 to issue or refuse to issue a replacement licence;
 - (d) a decision under regulation 233 , 235 or 236 to cancel, suspend, vary or refuse to vary a licence.

240. 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.

241. Applications for reconsideration

- (1) An application under regulation 240 must be made within –
 - (a) *[Regulation 241 Subregulation (1) amended by S.R. 2016, No. 87, Applied:01 Dec 2016]* 28 days after the day when the person was informed of the decision by the decision maker; or

(b) *[Regulation 241 Subregulation (1) amended by S.R. 2016, No. 87, Applied:01 Dec 2016]* a longer period allowed by the Competent 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.

242. Competent Authority to reconsider decisions

(1) Within 28 days after receiving the application or such longer period allowed under regulation 241(1)(b) , 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.

243. Review of certain decisions

An application may be made to the Magistrates Court for a review of a decision made by the Competent Authority under regulation 242 .

PART 20 - Insurance

244. 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 or State government authority in a clean-up resulting from such a fire, explosion, leakage or spillage; or

(b) the owner has an approval under regulation 247 in relation to the use of the vehicle and is complying with all relevant conditions to which the approval is subject.

Penalty: In the case of –

(a) a body corporate, a fine not exceeding 250 penalty units; or

(b) an individual, a fine not exceeding 50 penalty units.

(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 subregulation (1) .

Note

[Regulation 244 Subregulation (2) amended by S.R. 2016, No. 87, Applied:01 Dec 2016] Under section 4 of the Act, *vehicle* is defined as including a combination. It is not the purpose of this regulation to require insurance in respect of each individual component of a combination being used in a combination. In the case of a combination, subregulation (1) only requires that there be insurance for the combination as a whole.

245. 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 or State government authority in a clean-up resulting from such a fire, explosion, leakage or spillage; or

(b) the prime contractor has an approval under regulation 247 in relation to the use of the vehicle and is complying with all relevant conditions to which the approval is subject.

Penalty: In the case of –

(a) a body corporate, a fine not exceeding 250 penalty units; or

(b) an individual, a fine not exceeding 50 penalty units.

(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 subregulation (1) .

Note

[Regulation 245 Subregulation (2) amended by S.R. 2016, No. 87, Applied:01 Dec 2016] Under section 4 of the Act, *vehicle* is defined as including a combination. It is not the purpose of this regulation to require insurance in respect of each individual component of a combination being used in a combination. In the case of a combination, subregulation (1) only requires that there be insurance for the combination as a whole.

246. Requiring evidence of insurance &c.

- (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 regulation 244(1)(a) or regulation 245(1)(a) ; or
 - (b) an approval under regulation 247 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 when the notice is given to the person.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 55 penalty units; or
- (b) an individual, a fine not exceeding 10 penalty units.

247. 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 regulation 176 to use the vehicle even if the vehicle is not covered by a policy of insurance or other form of indemnity in accordance with regulation 244(1)(a) or regulation 245(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 regulation 244(1)(a) or regulation 245(1)(a) , the Competent Authority may give written approval for the use of the vehicle.
- (3) An approval under subregulation (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 - Local Regulations

248. Certain routes prohibited at certain times

(1) A person must not drive a tanker transporting UN Class 2 Flammable Gas or UN Class 3 Flammable Liquid or Combustible Liquid on the Tasman Bridge on Monday to Friday inclusive, between the hours of –

(a) 7.00 a.m. and 9.30 a.m.; or

(b) 4.00 p.m. and 7.00 p.m.

Penalty: In the case of –

(a) a body corporate, a fine not exceeding 85 penalty units; or

(b) an individual, a fine not exceeding 20 penalty units.

(2) A person must not drive a vehicle conveying Category 3 quantities of explosives through a metropolitan built-up area on Monday to Friday inclusive, between the hours of –

(a) 7.00 a.m. and 9.30 a.m.; or

(b) 4.00 p.m. and 7.00 p.m.

Penalty: In the case of –

(a) a body corporate, a fine not exceeding 85 penalty units; or

(b) an individual, a fine not exceeding 20 penalty units.

(3) In this regulation –

metropolitan built-up area means an area in a relevant city in which buildings, or street lights, next to a road are at intervals of not more than 100 metres for a distance of at least 500 metres or, if the road is shorter than 500 metres, for the entire length of the road;

relevant city means the following cities as defined in the Local Government Act 1993 :

(a) Hobart City;

(b) Launceston City;

(c) Devonport City;

(d) Burnie City;

tanker means a vehicle that is fitted or loaded with one or more tanks for the transport by road of gas or liquids in bulk, whether or not the vehicle is specially constructed for that purpose.

PART 22 - Miscellaneous

249. Infringement notice offences

For the purpose of section 79 of the Act –

- (a) an offence against a provision of the Act or regulations specified in Schedule 1 is prescribed as an infringement offence; and
- (b) the penalty set out in that Schedule in respect of that infringement offence is the applicable penalty for an individual for that offence; and
- (c) the applicable penalty for a body corporate for an infringement offence is 5 times the applicable penalty for an individual for that offence.

250. Fees

(1) The fees specified in Schedule 2 are –

- (a) the fees prescribed for the purposes of these regulations; and
- (b) GST inclusive.

(2) In this regulation –

GST has the same meaning as in the A New Tax System (Goods and Services Tax) Act 1999 of the Commonwealth.

PART 23 - Transitional

251. Continuing effect of certain determinations

- (1) This regulation applies to a determination (however described) that –
 - (a) was made under a law that regulated the transport of dangerous goods by road or rail; and
 - (b) was in force in this jurisdiction immediately before the commencement of the Act; and
 - (c) is a determination in respect of something that may be determined under a provision (the "relevant provision") of any of the following regulations:
 - (i) regulation 25 (Determinations – dangerous goods and packaging);
 - (ii) regulation 27 (Determinations – vehicles, routes, areas and times).
- (2) A determination to which subregulation (1) applies has effect for these regulations as if it were a determination made by the Competent Authority under the relevant provision of these regulations.
- (3) Without limiting subregulation (1) , the Competent Authority may record the determination in the register of determinations kept under regulation 31 .
- (4) Subregulation (3) does not apply to a determination if it was made on the application of a person and applies only to the person.

252. Continuing effect of corresponding determinations

- (1) This regulation applies to a determination (however described) that –
 - (a) was made under a law regulating the transport of dangerous goods by road or rail made by a jurisdiction that has passed or has indicated that it intends to pass a corresponding law; and
 - (b) was in force in that jurisdiction immediately before the commencement of the Act; and
 - (c) is a determination about something that may be determined under a provision of the law of the other jurisdiction (the "corresponding provision") that corresponds to a provision of a regulation mentioned in regulation 251(1)(c) .
- (2) Except for circumstances that do not exist in this jurisdiction, a determination to which subregulation (1) applies has effect for these regulations as if it were a determination made by the corresponding authority for the other jurisdiction under the corresponding provision.

253. Continuing effect of certain exemptions

- (1) This regulation applies to an exemption (however described) that –
 - (a) was granted under a law regulating the transport of dangerous goods by road or rail; and
 - (b) was in force in this State immediately before the commencement of the Act; and
 - (c) is an exemption from compliance with a provision of that law corresponding to a provision (the "relevant provision") of these regulations.
- (2) An exemption to which subregulation (1) applies has effect for these regulations as if it were an exemption granted by the Competent Authority from compliance with the relevant provision.
- (3) Without limiting subregulation (2) , the Competent Authority may record the exemption in the register of exemptions kept under regulation 171 .

254. Continuing effect of corresponding exemptions

- (1) This regulation applies to an exemption (however described) that –
 - (a) was granted under a law regulating the transport of dangerous goods by road or rail made by another State that has passed or has indicated that it intends to pass a corresponding law; and

(b) was in force in that State immediately before the commencement of the Act; and

(c) is an exemption from compliance with a provision of the law of the other State (the "corresponding provision") corresponding to a provision of the Act or these regulations.

(2) Except for circumstances that do not exist in this State, an exemption to which subregulation (1) applies has effect for the Act or these regulations as if it were an exemption granted by a corresponding authority from compliance with the corresponding provision.

255. Continuing effect of certain approvals

(1) This regulation applies to an approval (however described) if the approval –

(a) was given under a law regulating the transport of dangerous goods by road; and

(b) was in force in this State immediately before the commencement of the Act; and

(c) is an approval of something that may be approved under a provision (the "relevant provision") of any of the following provisions:

(i) regulation 22 (Approvals – tests and training courses for drivers);

(ii) Division 2 of Part 4 (Suitability and design of packaging);

(iii) regulation 112 (Approvals – Type II segregation devices);

(iv) regulation 113 (Approvals – methods of segregation);

(v) regulation 138 (Approvals – emergency information).

(2) An approval to which subregulation (1) applies has effect for these regulations as if it were an approval given by the Competent Authority under the relevant provision.

(3) Without limiting subregulation (2), the Competent Authority may record the approval in the register of approvals kept under regulation 185.

256. Continuing effect of corresponding approvals

(1) This regulation applies to an approval (however described) that –

(a) was given under a law regulating the transport of dangerous goods by road or rail made by a State that has passed or has indicated that it intends to pass a corresponding law; and

(b) was in force in that State immediately before the commencement of the Act; and

(c) is an approval of something that may be approved under a provision of the law of the other State (the "corresponding provision") corresponding to a provision mentioned in regulation 255.

(2) Except for circumstances that do not exist in this State, an approval to which subregulation (1) applies has effect for these regulations as if it were an approval given by the corresponding authority for the other State under the corresponding provision.

257. Continuing effect of certain licences

(1) This regulation applies to a licence (however described) that –

(a) was granted under a law regulating the transport of dangerous goods by road; and

(b) was in force in this State immediately before the commencement of the Act; and

(c) is a licence that may be granted under either of the following provisions (the "relevant provision"):

(i) regulation 204 (Grant of dangerous goods driver licences);

(ii) regulation 214 (Grant of dangerous goods vehicle licences).

(2) A licence to which subregulation (1) applies has effect for these regulations as if it were a licence granted by the Competent Authority under the relevant provision.

(3) Without limiting subregulation (2) , the Competent Authority may record the licence in the relevant register of licences kept under regulation 227 .

258. Continuing effect of corresponding licences

(1) This regulation applies to a licence (however described) that –

(a) was granted under a law regulating the transport of dangerous goods by road or rail made by a State that has passed or has indicated that it intends to pass a corresponding law; and

(b) was in force in that State immediately before the commencement of the Act; and

(c) is a licence that may be granted under a provision of the law of the other State (the "corresponding provision") corresponding to a provision mentioned in regulation 257(1)(c) .

(2) Except for circumstances that do not exist in this State, a licence to which subregulation (1) applies has effect for these regulations as if it were a licence granted by the corresponding authority for the other State under the corresponding provision.

259. Continuing effect of appointment

(1) This regulation applies to the appointment of an authorised officer that –

(a) was made under a law that regulated the transport of dangerous goods by road or rail; and

(b) was in force in this jurisdiction immediately before the commencement of the Act.

(2) The appointment of an authorised officer to which subregulation (1) applies has effect for these regulations as if it were an appointment made by the Competent Authority under the relevant section of the Act.

SCHEDULE 1 - Infringement Notice Offences

Regulation 249

Note The infringement notice penalty for a body corporate is 5 times the infringement notice penalty for an individual – see regulation 249(c).

[Schedule 1 Amended by S.R. 2016, No. 87, Applied:01 Dec 2016] [Schedule 1 Amended by S.R. 2017, No. 7, Applied:22 Feb 2017]

	Infringement offence	Infringement notice penalty for individual (penalty units)
1.	Section 14	3
2.	Section 15	20
3.	Section 20(5)	10
4.	Section 21(2)	10
5.	Section 22(2)	7
6.	Section 23(3)	10
7.	Section 24(5)	10
8.	Section 29(3)	10
9.	Section 30(5)	10
10.	Section 33(2)	10
11.	Section 34(2)	10
12.	Section 35(2)	10
13.	Section 36(2)	7
14.	Section 39(3)	10
15.	Section 40(5)	10
16.	Section 45(3)	7
17.	Section 45(4)	7
18.	Section 45(5)	7
19.	Section 46(4)	7
20.	Section 47(3)	7
21.	Section 48(3)	10
22.	Section 54(6)	13
23.	Section 54(8)	13
24.	Section 63(1)	13
25.	Section 64(6)	20
26.	Section 64(7)	3
27.	Section 69(1)	20
28.	Section 69(1A)	20
29.	Section 69(2)	20
30.	Section 69(4)	20
31.	Section 70(1)	20
32.	Section 71(1)	20
33.	Section 71(2)	20
34.	Section 73(1)	20
35.	Section 89	20
36.	Section 91	20
37.	Section 122	20
38.	Section 123(4)	20
39.	Section 130(3)	20
40.	Section 130(4)	20

41.	Section 130(9)	20
42.	Section 130(10)	20
43.	Section 131(4)	20
44.	Section 132(1)	20
45.	Section 132(2)	20
46.	Regulation 8(3)	7
47.	Regulation 8(4)	7
48.	Regulation 8(5)	7
49.	Regulation 21(2)	7
50.	Regulation 21(3)	7
51.	Regulation 24	7
52.	Regulation 29(2)	7
53.	Regulation 33(1)	7
54.	Regulation 41	3
55.	Regulation 42	3
56.	Regulation 43	3
57.	Regulation 44	3
58.	Regulation 45	2
59.	Regulation 49(1)	7
60.	Regulation 49(2)	7
61.	Regulation 51(4)	7
62.	Regulation 54(3)	7
63.	Regulation 56	7
64.	Regulation 58	7
65.	Regulation 59(1)	7
66.	Regulation 59(2)	7
67.	Regulation 60	7
68.	Regulation 61	7
69.	Regulation 62	3
70.	Regulation 64(1)	7
71.	Regulation 64(3)	7
72.	Regulation 65	7
73.	Regulation 66(1)	7
74.	Regulation 66(2)	7
75.	Regulation 67(1)	7
76.	Regulation 67(2)	7
77.	Regulation 68	7
78.	Regulation 69(1)	7
79.	Regulation 69(2)	7
80.	Regulation 70	2
81.	Regulation 71	3
82.	Regulation 72	3
83.	Regulation 73	3
84.	Regulation 74	2
85.	Regulation 78(1) – large package or overpack	3
86.	Regulation 78(1) – any other case	1
87.	Regulation 78(2) – large package or overpack	3
88.	Regulation 78(2) – any other case	1
89.	Regulation 78(3) – large package or overpack	3
90.	Regulation 78(3) – any other case	1
91.	Regulation 79(1) – large package or overpack	3

92.	Regulation 79(1) – any other case	1
93.	Regulation 79(2) – large package or overpack	3
94.	Regulation 79(2) – any other case	1
95.	Regulation 79(3) – large package or overpack	3
96.	Regulation 79(3) – any other case	1
97.	Regulation 80(1) – large package or overpack	3
98.	Regulation 80(1) – any other case	1
99.	Regulation 80(2) – large package or overpack	3
100.	Regulation 80(2) – any other case	1
101.	Regulation 80(3) – large package or overpack	3
102.	Regulation 80(3) – any other case	1
103.	Regulation 83(1)	7
104.	Regulation 83(2)	7
105.	Regulation 83(3)	7
105A.	Regulation 83(5)	7
106.	Regulation 84(1)	7
107.	Regulation 84(2)	7
108.	Regulation 84(3)	7
108A.	Regulation 84(5)	7
109.	Regulation 85(1)	7
110.	Regulation 85(2)	7
111.	Regulation 85(3)	7
111A.	Regulation 85(5)	7
112.	Regulation 86(1)	3
113.	Regulation 86(2)	3
114.	Regulation 86(3)	3
114A.	Regulation 86(4)	3
115.	Regulation 87	7
116.	Regulation 88	7
117.	Regulation 89	3
118.	Regulation 90	7
119.	Regulation 91	3
120.	Regulation 93	3
121.	Regulation 94	3
122.	Regulation 95(1)	3
123.	Regulation 95(2)	3
124.	Regulation 96	2
125.	Regulation 98	3
126.	Regulation 99	3
127.	Regulation 100	2
127A.	Regulation 100A(2)	7
127B.	Regulation 100A(3)	7
127C.	Regulation 100A(5)	7
128.	Regulation 101(1)	3
129.	Regulation 101(2)	3
130.	Regulation 102(1)	3
131.	Regulation 102(2)	3
132.	Regulation 103(1)	3
133.	Regulation 103(2)	3
134.	Regulation 104(1)	2
135.	Regulation 104(2)	2

136.	Regulation 107	7
137.	Regulation 108	7
138.	Regulation 109	7
139.	Regulation 110	7
140.	Regulation 111	2
141.	Regulation 113(3)	7
142.	Regulation 116(1)	3
143.	Regulation 116(2)	7
144.	Regulation 117(1)	3
145.	Regulation 117(2)	3
146.	Regulation 117(3)	3
147.	Regulation 118(1)	3
148.	Regulation 118(2)	7
149.	Regulation 118(3)	1
150.	Regulation 119(1)	3
151.	Regulation 119(2)	7
152.	Regulation 119(3)	1
153.	Regulation 120	3
154.	Regulation 122(1)	3
154A.	Regulation 122(2)	3
155.	Regulation 123(1)	3
155A.	Regulation 123(2)	3
156.	Regulation 124(1)	3
156A.	Regulation 124 (2)	3
157.	Regulation 125	7
158.	Regulation 126(1)	2
159.	Regulation 126(2)	2
160.	Regulation 127(1)	2
161.	Regulation 128	3
162.	Regulation 129(1)	3
163.	Regulation 130(1)	2
164.	Regulation 130(2)	2
165.	Regulation 131(2)	2
166.	Regulation 131(3)	2
166A.	Regulation 131A(2)	3
167.	Regulation 133	2
168.	Regulation 134	3
169.	Regulation 135(1)	3
170.	Regulation 136(1)	2
171.	Regulation 136(2)	2
172.	Regulation 136(3)	2
173.	Regulation 137(1)	2
174.	Regulation 137(2)	2
175.	Regulation 139	7
176.	Regulation 140(1)	7
177.	Regulation 140(2)	7
178.	Regulation 141(1)	2
179.	Regulation 141(2)	2
180.	Regulation 142(2)	1
181.	Regulation 143(1)	3
182.	Regulation 143(2)	3

182A.	Regulation 143(3)	3
183.	Regulation 144	3
184.	Regulation 145	1
185.	Regulation 146	2
186.	Regulation 147(2)	7
187.	Regulation 147(3)	7
188.	Regulation 148	7
189.	Regulation 149	7
190.	Regulation 150	7
191.	Regulation 152(2)	2
192.	Regulation 153(2)	2
193.	Regulation 153(3)	2
194.	Regulation 154(2)	7
195.	Regulation 154(3)	7
196.	Regulation 155(2)	3
197.	Regulation 155(3)	3
198.	Regulation 156(2)	7
199.	Regulation 156(3)	7
200.	Regulation 157(2)	7
200A.	Regulation 157(2A)	7
201.	Regulation 157(3)	7
201A.	Regulation 157(3A)	7
202.	Regulation 158(2)	3
203.	Regulation 159(2)	3
205.	Regulation 219(2)	1
206.	Regulation 219(3)	1
207.	Regulation 219(4)	1
208.	Regulation 219(6)	1
211.	Regulation 222	1
212.	Regulation 225	7
213.	Regulation 229(2)	1
214.	Regulation 230(2)	1
215.	Regulation 244(1)	10
216.	Regulation 245(1)	10
217.	Regulation 246(2)	2
218.	Regulation 248(1)	3
219.	Regulation 248(2)	3

SCHEDULE 2 - Fees

Regulation 250

	Application Provision	Fee (Fee Units)
1.	Regulation 50(3)(c) – Approvals of packaging designs	100
2.	Regulation 112(1)(b) – Approvals of segregation devices	100
3.	Regulation 170(1)(l) – Exemption	100
4.	Regulation 176(1)(b) – Administrative determination	100
5.	Regulation 200(2)(e) – Dangerous goods driver licence	50
6.	Regulation 205(2)(e) – Renewal of dangerous goods driver licence	50
7.	Regulation 212(3) – Dangerous goods vehicle licence	100
8.	Regulation 215(3) – Renewal of dangerous goods vehicle licence	100
9.	Regulation 219(6) – Transfer of dangerous goods vehicle licence	100

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Notified in the *Gazette* on 15 December 2010

These regulations are administered in the Department of Justice.