



Western Australia

## **Dangerous Goods Safety (Road and Rail Transport of Non-explosives) Regulations 2007**

Compare between:

[20 Feb 2013, 01-d0-00] and [03 Dec 2013, 01-e0-01]



# **Dangerous Goods Safety (Road and Rail Transport of Non-explosives) Regulations 2007**

## **Part 1 — Preliminary**

### **Division 1 — Introductory**

#### **1. Citation**

These regulations are the *Dangerous Goods Safety (Road and Rail Transport of Non-explosives) Regulations 2007*<sup>1</sup>.

#### **2. Commencement**

These regulations come into operation as follows:

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day on which the Act Part 3 comes into operation<sup>1</sup>.

#### **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 road or rail; and
- (b) to reduce as far as practicable the risks to people, property and the environment arising from the transport of dangerous goods by road or rail; and

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- (c) to give effect to the standards, requirements and procedures of the ADG Code so far as they apply to the transport of dangerous goods by road or rail; and
- (d) to promote consistency between the standards, requirements and procedures applying to the transport of dangerous goods by road, rail and other modes of transport.

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**4. Terms used**

In these regulations, unless the contrary intention appears —

*Act* means the *Dangerous Goods Safety Act 2004*;

*ADG Code* means the *Australian Code for the Transport of Dangerous Goods by Road and Rail*, Seventh edition, 2007, published by the Commonwealth of Australia (ISBN 1 921168 57 9) (also called the Australian Dangerous Goods Code) including (for the avoidance of doubt) its appendices;

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

*aggregate quantity*, in relation to a load containing dangerous goods, means the total of —

- (a) the number of kilograms of —
  - (i) solid dangerous goods; and
  - (ii) articles (including aerosols),in the load; and
- (b) the number of litres or kilograms, 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 the receptacles in the load containing dangerous goods of UN Class 2 (other than aerosols);

***another participating jurisdiction*** means a participating jurisdiction other than this State;

***appropriately marked*** has the meaning given in regulation 106;

***appropriately placarded*** has the meaning given in regulation 111(2);

***approval*** means an approval that is given by the Chief Officer or an authorised body and is in effect under these regulations;

***approved packaging*** means —

- (a) packaging of a design that is approved under regulation 56; or  
(b) foreign approved packaging;

***approved tank*** means —

- (a) a tank of a design that is approved under regulation 56; or  
(b) a foreign approved tank;

***approved test*** means a test that is approved under regulation 15(1)(a);

***approved training course*** means a training course that is approved under regulation 15(1)(b);

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

***authorised body*** means a body or any other person authorised under regulation 60 to give approvals;

***bulk container*** has the meaning given in regulation 33;

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

**combination** means a road vehicle consisting of a motor vehicle and one or more trailers;

**Competent Authorities Panel** or **CAP** means the panel of that name comprising persons each of whom —

- (a) is a competent authority (or a representative of a competent authority) of this or a participating jurisdiction; and
- (b) is appointed by the Australian Transport Council;

**compliance plate** means a plate that must be attached to a portable tank, MEGC or tank vehicle under the ADG Code Part 6, and includes an identification plate;

**consigns** and **consignor** have the meaning given in regulation 40;

**corresponding approval** means an approval to which regulation 265 applies;

**corresponding authority** means the authority in another participating jurisdiction or, if there are separate authorities in that jurisdiction in relation to road transport and to rail transport, the authority in relation to road transport or rail transport, as the case requires, whose functions most nearly correspond to those of the Chief Officer under the Act;

**corresponding dangerous goods driver licence** means a licence to which regulation 266 applies that has effect in this State under that regulation as a dangerous goods driver licence;

**corresponding dangerous goods vehicle licence** means a licence to which regulation 266 applies that has effect in this State under that regulation as a dangerous goods vehicle licence;

**corresponding determination** means a determination to which regulation 263 applies;

**corresponding exemption** means an exemption to which regulation 264 applies;

**corresponding law** means a law of another State or a Territory corresponding, or substantially corresponding, to these regulations;

**dangerous goods** has the meaning given in regulation 28;

**dangerous goods driver licence** means a licence that is in force under Part 17 Division 3;

**Dangerous Goods List** means the list set out in the ADG Code section 3.2.3;

**dangerous goods vehicle licence** means a licence that is in force under Part 17 Division 4;

**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 Chief Officer and is in effect under these regulations;

**driver licence** has the meaning that the *Road Traffic Act 1974* section 5(1) gives to the term **Australian driver licence**;

**emergency service officer** —

- (a) means an officer or employee of the FES Department; and
- (b) in Part 14 — includes an officer of an ambulance service;

**exemption** means an exemption, in force under the Act Part 4, from any provision of these regulations;

**FES Department** means the department of the Public Service principally assisting in the administration of the *Fire and Emergency Services Act 1998*;

**food** includes —

- (a) a substance prepared or intended for human or animal consumption; and

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- (b) a substance (except dangerous goods) intended to be an ingredient of food;

**food packaging** means —

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

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

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

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

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

**IBC** or **intermediate bulk container** has the meaning given in regulation 34;

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



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

**incompatible** has the meaning given in regulation 32;

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

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

**large packaging** means outer packaging that —

- (a) is designed for mechanical handling; and
- (b) has a capacity of not more than 3 m<sup>3</sup>; 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 L;

**load** has the meaning given in regulation 38;

**loads** and **loader** have the meaning given in regulation 42;

**MEGC** or **multi-element gas container** has the meaning given in regulation 35;

**model subordinate law** means the Model Subordinate Law on the Transport of Dangerous Goods by Road or Rail set out in Schedule 2 to the *National Transport Commission (Model Legislation — Transport of Dangerous Goods by Road or Rail) Regulations 2007* of the Commonwealth;

**multimodal** means applicable to, 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 —

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

**overpack** means packaging (other than large packaging) used to hold and consolidate packages of goods into a single unit for easier handling and stowage;

Examples: Pallet, together with strapping or shrink wrapping, designed to hold packages; box or crate into which packages are placed.

**owner**, of a vehicle, has the meaning given in regulation 39;

**package** in relation to dangerous goods or other goods, means the complete product of the packing of the goods for transport, and consists of the goods and their packaging;

**packaging** of dangerous goods or other goods, means anything that contains, holds, protects or encloses the goods, whether directly or indirectly, to enable them to be received or held for transport or to be transported, including inner packaging, outer packaging, overpacks, large packaging, IBCs, MEGCs, tanks (including the tank of a tank vehicle), bulk and freight containers, drums, barrels, jerry cans, boxes and bags;

**packed in limited quantities** has the meaning given in regulation 45;

**Packing Group** has the meaning given in regulation 31;

**packs** and **packer** have the meaning given in regulation 41;

**participating jurisdiction** means —

- (a) this State; and
- (b) another State or a Territory that has a corresponding law;

**placard load** means a load of dangerous goods that must be placarded under regulation 110;

**placards** has the meaning given in regulation 111(1);

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

- (a) is designed primarily to be loaded onto a vehicle or ship; and
- (b) has a capacity of more than 450 L; and
- (c) is equipped with skids, mountings, stabilisers 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;

**premises** includes a structure, whether permanent or temporary, and land, but does not include a vehicle;

**pressure drums** means welded transportable pressure receptacles of a water capacity of more than 150 L but not more than 1 000 L;

Examples: Cylindrical receptacles equipped with rolling hoops, and spheres on skids.

**prime contractor** has the meaning given in regulation 43;

**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 without a trailer;

**rail**, in relation to the transport of dangerous goods by rail, does not include —

- (a) a railway in a mine; or
- (b) a slipway; or
- (c) a railway used exclusively by a crane;

**rail authority**, in respect of a train on a railway, means the person (whether or not a public authority) that is responsible for the care, control or management of the railway;

**rail operator** has the meaning given in regulation 44;

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

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- (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 in regulation 57;

**registered** means registered under Commonwealth, State or Territory law;

**RID approved** means approved in accordance with the *International Regulations Concerning the Carriage of Dangerous Goods by Rail* published by the Inland Transport Committee of the Economic Commission for Europe;

**rigid vehicle** means a road vehicle the load carrying area of which is fixed to the vehicle's chassis or frame;

**road** means a road or other place over which vehicles move, whether on private property or not, that is open to, or used by, the public, whether on payment of consideration or not;

**service equipment**, in relation to a tank or an MEGC, has the meaning given in the ADG Code section 6.7.2.1, 6.7.3.1, 6.7.4.1 or 6.7.5.1, as the case requires;

**structural equipment**, in relation to a tank or an MEGC, has the meaning given in the ADG Code section 6.7.2.1, 6.7.3.1, 6.7.4.1 or 6.7.5.1, as the case requires;

**Subsidiary Risk** has the meaning given in regulation 30;

**tank** has the meaning given in regulation 36;

**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;

**trailer** means a road vehicle that is designed to be towed, or is towed, by another road vehicle, but does not include a road vehicle propelled by a motor that forms part of the vehicle;

**train** means 2 or more units of rolling stock coupled together, of which at least one unit is a locomotive or a self-propelled unit;

**transport unit** has the meaning given in regulation 37;

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

**UN approved** means approved in accordance with the *United Nations Model Regulations for the Transport of Dangerous Goods* published by the United Nations;

**UN Class**, in relation to dangerous goods, has the meaning given in regulation 29;

**UN Division**, in relation to dangerous goods, has the meaning given in regulation 29;

**unit of rolling stock** means any thing capable of transporting people or things —

- (a) that is designed to run on rails; or
- (b) that is designed to operate or be used on the road or on a railway and is being operated or used on a railway,

and it does not matter how the thing is moved or propelled;

**vehicle** means —

- (a) a road vehicle, including a combination; or
- (b) a unit of rolling stock.

*[Regulation 4 amended in Gazette 30 Jun 2008 p. 3130;  
22 Jun 2010 p. 2717-19; 19 Feb 2013 p. 989.]*

## **5. Examples and notes in these regulations**

- (1) An example of the operation of a provision in these regulations forms part of these regulations but is not to be taken to be exhaustive and, if the example is inconsistent with the provision, the provision prevails.
- (2) Notes in these regulations do not form part of them and are provided to assist understanding.

**6. 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, corresponding exemption, corresponding approval, corresponding dangerous goods driver licence or corresponding dangerous goods vehicle licence,

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

**7. References to variation of determinations, exemptions, approvals and licences**

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, corresponding exemption, corresponding approval, corresponding dangerous goods driver licence or corresponding dangerous goods vehicle licence,

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

**8. Inconsistency between these regulations and documents adopted**

- (1) In this regulation —

*code* means a code, standard, rule, specification or other document, made in or outside Australia, that does not itself have legislative effect in this State;

*subsidiary legislation* includes rules, regulations and instructions made, determined or issued under any other Act or

under any Act of the Commonwealth, another State or a Territory.

- (2) If a code or subsidiary legislation adopted by these regulations is inconsistent with these regulations, these regulations prevail to the extent of the inconsistency.

## **9. References in the ADG Code**

For the purposes of these regulations, unless the contrary intention appears —

- (a) a reference in the ADG Code to the Competent Authority is to be taken to be a reference to the Chief Officer;
- (b) a reference in the ADG Code to a numbered Regulation is to be taken to be a reference to the provision in these regulations that corresponds to the provision of that number in the model subordinate law.

### **Division 3 — Application**

## **10. Application to transport by road and rail**

Unless the contrary intention appears, these regulations apply to the transport of dangerous goods by road or rail.

Note 1: These regulations do not apply to the transport of substances or articles that, under the ADG Code, are within Class 1 (explosives), Division 6.2 (infectious substances) or Class 7 (radioactive materials). Those substances and articles are not dangerous goods for the purposes of these regulations.

Note 2: The Act Section 16 provides for the relevant offence and penalty for transporting goods too dangerous to transport. As to goods too dangerous to transport, see the *Dangerous Goods Safety (General) Regulations 2007*.

## **11. Dangerous situations**

These regulations do not apply to the transport of dangerous goods by or at the direction of —

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- (a) a DGO or a police officer who is exercising a power under the Act Part 6 Division 5 or 6; or
- (b) an emergency service officer who is acting to reduce, eliminate or avert any risk to people, property or the environment from dangerous goods in a dangerous situation.

**12. Exempt transport**

(1) In this regulation —

*designated goods* means any substance or article that, under the ADG Code, is within —

- (a) Class 1 (explosives), except —
  - (i) any substance or article that, under the ADG Code, is within 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) Class 7 (radioactive materials).

(2) These regulations do not apply to the transport by a person of a load of dangerous goods if all of the following requirements are met —

- (a) the load does not contain any designated goods;
- (b) the load does not contain —
  - (i) dangerous goods in any single receptacle with a capacity of more than 500 L; or
  - (ii) more than 500 kg of dangerous goods in any single receptacle;
- (c) the aggregate quantity of the dangerous goods in the load is less than 25% of a placard load;
- (d) the goods are not being transported by the person in the course of a business of transporting goods by road;



- (e) the goods are not being transported by the person on a passenger train.

*[Regulation 12 amended in Gazette 22 Jun 2010 p. 2719.]*

### **13. Further exemptions**

These regulations do not apply to the transport by a vehicle of dangerous goods —

- (a) in a consignment where the aggregate quantity of dangerous goods is less than the quantity for which an inner packaging containing those goods is required by the ADG Code section 5.2.1.8 to be marked with the proper shipping name or the technical name of those goods; or
- (b) in the vehicle's fuel tank; or
- (c) in an appliance or plant that forms part of the vehicle and is necessary for its operation; or
- (d) that are portable fire fighting equipment or other portable safety equipment and are part of the vehicle's safety equipment.

### **Division 4 — Instruction and training**

#### **14. 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;
  - (e) marking packages;
  - (f) placarding placard loads;
  - (g) preparing transport documentation;

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- (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 management or control of a task must not employ, engage or permit another person 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: a fine of \$10 000.

- (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: a fine of \$10 000.

**15. Approvals — tests and training courses for drivers**

- (1) The Chief Officer may, on an application made in accordance with regulation 194, 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 Chief Officer may approve a test of competence or a training course only if the Chief Officer 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 5 — Goods suspected of being dangerous goods**

#### **16. Goods suspected of being dangerous goods**

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

- (a) the goods have been classified in accordance with the ADG Code; or
- (b) a determination has been made under regulation 17(1)(a) in respect of the goods.

Penalty: a fine of \$10 000.

*[Regulation 16 amended in Gazette 22 Jun 2010 p. 2719.]*

### **Division 6 — Determinations**

#### **17. Determinations — dangerous goods**

- (1) Subject to subregulation (2), the Chief Officer may, for the purposes of these regulations, determine that a substance or article is or is not —
  - (a) dangerous goods; or
  - (b) dangerous goods of a particular UN Class or UN Division; or
  - (c) dangerous goods that have a particular Subsidiary Risk; or
  - (d) dangerous goods of a particular Packing Group; or
  - (e) incompatible with particular dangerous goods.
- (2) The Chief Officer may determine that a substance or article is dangerous goods for the purposes of these regulations, only if

the substance or article is dangerous goods for the purposes of the definition of *dangerous goods* in the Act section 3(1).

- (3) If a substance or article ceases to be dangerous goods for the purposes of the definition of *dangerous goods* in the Act section 3(1), a determination made under subregulation (1)(a) that the substance or article is dangerous goods ceases to be in effect in respect of the substance or article.

Note: As to determinations that particular dangerous goods are or are not too dangerous to transport, see the *Dangerous Goods Safety (General) Regulations 2007*.

**18. Determinations — packaging**

The Chief Officer may determine that —

- (a) particular dangerous goods must not be or may be transported in or on the same transport unit as other goods, whether or not dangerous goods; or
- (b) particular dangerous goods may or may not be transported in any packaging despite any prohibition or authorisation in the Dangerous Goods List.

**19. Determinations — vehicles, routes, areas, times etc.**

The Chief Officer 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.

**20. Determinations may be subject to conditions**

- (1) In making a determination, the Chief Officer 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: a fine of \$10 000.

**21. Effect of determinations on contrary obligations under these regulations**

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

**22. Offence to do any thing prohibited by a determination**

If a determination prohibits the doing of any thing, a person to whom the determination applies must not do that thing.

Penalty: a fine of \$5 000.

**23. Register of determinations**

- (1) The Chief Officer must keep a register of determinations.
- (2) The register —
  - (a) may be part of a central register kept by the Chief Officer with the corresponding authorities; and
  - (b) may have separate divisions for different kinds of determinations.
- (3) The Chief Officer must record in the register —
  - (a) each determination made under these regulations; and
  - (b) each corresponding determination.

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- (4) The Chief Officer must note in the register —
- (a) any revocation of a determination; and
  - (b) a decision of CAP reversing a decision that a corresponding determination should have effect in all participating jurisdictions or participating jurisdictions including this State.

**24. Records of determinations**

The record of a determination in the register must include —

- (a) the terms of the determination; or
- (b) the following information —
  - (i) details of where in the *Gazette* the determination was notified or published;
  - (ii) the provision 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.

**Division 7 — Registers of determinations, exemptions,  
approvals and licences**

**25. Term used: register**

In this Division —

**register** means each of the following —

- (a) the register of determinations kept under regulation 23;
- (b) the part of the register kept under the Act section 23(8) dealing with exemptions from compliance with these regulations;
- (c) the register of corresponding exemptions kept under regulation 187;
- (d) the register of approvals kept under regulation 202;

- (e) the register of dangerous goods driver licences kept under regulation 245(1);
- (f) the register of dangerous goods vehicle licences kept under regulation 245(2).

**26. Registers may be kept on computer**

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

**27. Inspection of registers**

- (1) The Chief Officer must ensure that each register is available for inspection by the corresponding authorities and the public.
- (2) The Chief Officer is taken to comply with subregulation (1) in respect of a register by ensuring that there is reasonable access to —
  - (a) copies of information in the register; or
  - (b) a computer terminal to inspect the register.

## **Part 2 — Key concepts**

### **Division 1 — Kinds of goods**

**28. Term used: dangerous goods**

- (1) Subject to subregulations (2) and (3), for the purposes of these regulations, a substance or article is *dangerous goods* if —
  - (a) it satisfies the dangerous goods classification criteria set out, or referred to, in the ADG Code Part 2; or
  - (ba) it is named in column 2 of the Dangerous Goods List, irrespective of whether the name is —
    - (i) a generic name; or
    - (ii) a name described as “N.O.S”;or
  - (b) a determination made under regulation 17(1)(a) that the substance or article is dangerous goods is in effect.
- (2) A substance or article that satisfies the criteria set out, or referred to, in the ADG Code Part 2 is not dangerous goods for the purposes of these regulations if —
  - (a) it is described as not subject to the ADG Code in a Special Provision in the ADG Code Chapter 3.3 that is applied to the substance or article by column 6 of the Dangerous Goods List; or
  - (b) a determination made under regulation 17(1)(a) that the substance or article is not dangerous goods is in effect.
- (3) Except for regulation 29, a substance or article is not dangerous goods for the purposes of these regulations if, under the ADG Code, it is within any of the following classes or divisions of dangerous goods —
  - (a) Class 1 (explosives);
  - (b) Division 6.2 (infectious substances);



- (c) Class 7 (radioactive materials).

[Regulation 28 amended in Gazette 22 Jun 2010 p. 2720.]

**29. Terms used: UN Class, UN Division**

For the purposes of these regulations, the *UN Class* or *UN Division* of particular dangerous goods is —

- (a) if a determination made under regulation 17(1)(b) that the goods are of a particular UN Class or UN Division is in effect — the Class or Division specified in the determination; or
- (b) if no such determination is in effect — the Class or Division determined for the goods in accordance with the ADG Code.

Note 1: Under the UN classification system there are 9 classes of dangerous goods. Under that system some Classes are further divided into Divisions and some Divisions are divided into Categories.

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 3 of that list opposite the name and description of those goods, unless Chapter 3.3 of that Code provides for those goods to be assigned to a different Class or Division.

**30. Term used: Subsidiary Risk**

For the purposes of these regulations, the *Subsidiary Risk*, if any, of particular dangerous goods is —

- (a) if a determination made under regulation 17(1)(c) that the goods have a particular Subsidiary Risk is in effect — the Subsidiary Risk specified in the determination; or
- (b) if no such determination is in effect — the Subsidiary Risk determined for the goods in accordance with the ADG Code.

Note: Dangerous goods that are able to be assigned to more than one UN Class or UN Division are assigned a Subsidiary Risk. The Subsidiary Risk or Risks are the other UN Class or Classes or UN

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Division or Divisions to which the goods also belong. Under the ADG Code, if particular dangerous goods are listed in the Dangerous Goods List, their Subsidiary Risk, if any, 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.

**31. Term used: Packing Group**

For the purposes of these regulations, the *Packing Group*, if any, of particular dangerous goods is —

- (a) if a determination made under regulation 17(1)(d) that the goods are of a particular Packing Group is in effect — the Packing Group specified in the determination; or
- (b) if no such determination is in effect — the Packing Group determined for the goods in accordance with the ADG Code.

Note: The assignment of particular dangerous goods to a Packing Group indicates the degree of danger and the level of containment required for the goods. Only dangerous goods that are substances can be assigned to a Packing Group. The Packing Groups, and the degree of danger they indicate, are —

Packing Group I (substances presenting high danger);

Packing Group II (substances presenting medium danger);

Packing Group III (substances presenting low danger).

The Packing Group of a substance can be determined from the Dangerous Goods List, although in some cases it is also necessary to refer to the ADG Code Chapter 3.3.

**32. Term used: incompatible**

- (1) Dangerous or other goods are *incompatible* with dangerous goods if —
  - (a) under the ADG Code Chapter 9.1, the goods are incompatible with the dangerous goods; or

- (b) the goods are determined under regulation 17(1)(e) to be incompatible with the dangerous goods; or
  - (c) when the goods are mixed, or otherwise brought into contact, with the dangerous goods, the goods are likely to interact with the dangerous goods and increase risk to people, property or the environment 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 to people, property or the environment because of the interaction; and
  - (b) is not protected from contact under foreseeable circumstances by a protective coating or other effective means.

### **Division 2 — Containers and loads**

#### **33. Term used: bulk container**

- (1) A ***bulk container*** is a container (with or without a liner or coating) that —
- (a) has a capacity of 1 m<sup>3</sup> or more; and
  - (b) is intended for the transport of solid dangerous goods that are in direct contact with the container.
- (2) None of the following is a bulk container, even if it has a capacity of 1m<sup>3</sup> or more and is intended for the transport of solid dangerous goods —
- (a) a large packaging that complies with the requirements of the ADG Code Chapter 6.6;
  - (b) an IBC;

- (c) a tank;
- (d) a tank vehicle;
- (e) any other packaging that complies with the requirements of the ADG Code Chapter 6.1 or 6.3.

**34. Terms used: IBC, intermediate bulk container**

- (1) An **IBC** or *intermediate bulk container* is a rigid or flexible portable packaging that —
  - (a) is intended for the transport of dangerous goods; and
  - (b) complies with the specifications in the ADG Code Chapter 6.5; and
  - (c) has a capacity of not more than —
    - (i) if the packaging is intended for the transport of solids of Packing Group I and is a composite container, fibreboard container, flexible container, wooden container or rigid plastics container — 1 500 L;
    - (ii) if the packaging is intended for the transport of solids of Packing Group I and is a metal container — 3 000 L;
    - (iii) if the packaging is intended for the transport of solids or liquids of Packing Group II and III — 3 000 L;and
  - (d) is designed for mechanical handling.
- (2) Rigid or flexible portable packaging that complies with the requirements of the ADG Code Chapter 6.1, 6.3 or 6.6 is not an IBC.

*[Regulation 34 amended in Gazette 22 Jun 2010 p. 2720.]*

**35. Terms used: MEGC, multiple-element gas container**

An *MEGC* or *multiple-element gas container* is —

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

**36. Term used: tank**

(1) A *tank* is —

- (a) a receptacle for receiving and holding dangerous goods; and
- (b) any service equipment and structural equipment that enable 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 L.

(3) None of the following is a tank —

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

**37. Term used: transport unit**

A *transport unit* is any of the following —

- (a) a vehicle;
- (b) a portable tank;
- (c) a bulk container;
- (d) a freight container.

**38. Loads**

For the purposes of these regulations —

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

*[Regulation 38 inserted in Gazette 22 Jun 2010 p. 2720.]*

**Division 3 — Persons with special duties**

**39. Term used: owner**

A person is an *owner* of a vehicle if the person —

- (a) is the sole owner, a joint owner or a part owner of the vehicle; or
- (b) has possession or use of the vehicle under a credit, hire-purchase, lease or other agreement, except an agreement requiring the vehicle to be registered in the name of someone else.

**40. Terms used: consigns, consignor**

- (1) A person *consigns* dangerous goods or other goods for transport, and is the *consignor* of the goods, if —
  - (a) subregulation (2) applies to the person; or

- (b) subregulation (2) does not apply to the person or anyone else, but subregulation (3) applies to the person; or
  - (c) subregulations (2) and (3) do not apply to the person or anyone else, but subregulation (4) applies to the person.
- (2) This subregulation applies to a person who, with the person's authority, is named or otherwise identified in the transport documentation that complies with the ADG Code Chapter 11.1 as the consignor of the goods.
- (3) This subregulation applies to a person who —
- (a) engages a prime contractor or rail operator, either directly or through an agent or other intermediary, to transport the goods; or
  - (b) if paragraph (a) does not apply — has possession of, or control over, the goods immediately before the goods are transported; or
  - (c) if neither paragraph (a) nor (b) applies — loads a vehicle with the goods, for transport, at a place —
    - (i) where dangerous goods are awaiting collection; and
    - (ii) that is unattended (except by the driver of the vehicle) during loading.
- (4) This subregulation applies to a person if —
- (a) the goods are imported into Australia; and
  - (b) the person is the importer of the goods.

**41. Terms used: packs, packer**

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

- (a) puts the goods in a packaging; or
- (b) assembles packages into large packaging or an overpack; or

- (c) supervises an activity mentioned in paragraph (a) or (b);  
or
- (d) manages or controls an activity mentioned in  
paragraph (a), (b) or (c).

**42. Terms used: loads, loader**

A person *loads* dangerous or other goods for transport, and is a *loader* of the goods, if the person —

- (a) loads the goods in or onto a vehicle; or
- (b) places or secures a portable tank, bulk container or  
freight container containing the goods for transport onto  
a vehicle; or
- (c) supervises an activity mentioned in paragraph (a) or (b);  
or
- (d) manages or controls an activity mentioned in  
paragraph (a), (b) or (c).

**43. Term used: prime contractor**

A person is the *prime contractor* for the transport of dangerous or other goods by road if the person, in conducting a business for or involving the transport of goods by road, undertakes to be responsible, or is responsible, for the transport of the goods by road.

**44. Term used: rail operator**

A person is a *rail operator* for the transport of dangerous or other goods by rail if the person undertakes to be responsible, or is responsible, for —

- (a) the transport of the goods by rail; or
- (b) the condition of a unit of rolling stock transporting the  
goods.



**Division 4 — Miscellaneous**

**45. Term used: packed in limited quantities**

Dangerous goods are *packed in limited quantities* if —

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

### **Part 3 — Transport of dangerous goods to which Special Provisions apply**

#### **46. Application of this Part**

This Part applies in relation to the transport of dangerous goods if —

- (a) column 6 of the Dangerous Goods List specifies that a Special Provision in the ADG Code Chapter 3.3 applies to the dangerous goods; and
- (b) that Special Provision —
  - (i) prohibits the transport of the goods by road or rail; or
  - (ii) imposes a restriction on the way the goods are to be transported by road or rail.

*[Regulation 46 inserted in Gazette 22 Jun 2010 p. 2721.]*

#### **47. Duty on consignors**

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

- (a) a Special Provision applies to the transport of the goods; and
- (b) the transport of the goods does not or will not comply with the Special Provision.

Penalty: a fine of \$10 000.

#### **48A. Duty on packers**

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

- (a) that column 6 of the Dangerous Goods List specifies that a Special Provision in the ADG Code Chapter 3.3 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: a fine of \$5 000.

*[Regulation 48A inserted in Gazette 22 Jun 2010 p. 2721.]*

**48B. Duty on loaders**

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

- (a) that column 6 of the Dangerous Goods List specifies that a Special Provision in the ADG Code Chapter 3.3 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: a fine of \$5 000.

*[Regulation 48B inserted in Gazette 22 Jun 2010 p. 2722.]*

**48. Duty on prime contractors and rail operators**

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

- (a) a Special Provision applies to the transport of the goods; and
- (b) the transport of the goods does not comply with the Special Provision.

Penalty: a fine of \$10 000.

**49. Duty on drivers**

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

- (a) a Special Provision applies to the transport of the goods; and

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(b) the transport of the goods does not comply with the  
Special Provision.

Penalty: a fine of \$5 000.

## **Part 4 — Packaging**

### **Division 1 — General**

#### **50. Packing of dangerous goods in limited quantities**

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

[51. Deleted in Gazette 22 Jun 2010 p. 2722.]

#### **52. References to ADG Code Part 4 include Dangerous Goods List requirements**

In this Part, a reference to dangerous goods being packed in accordance with any relevant provision in the ADG Code Part 4 is to be taken to include 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**

#### **53. Suitability of packaging for transport**

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

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(f) it is damaged or defective to the extent that it is not safe to use to transport the goods.

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

*[Regulation 53 amended in Gazette 22 Jun 2010 p. 2722-3.]*

**54. Marking packaging**

- (1) A person must not apply any marking required by the ADG Code Part 6 on packaging if the packaging is not of a design that is approved under regulation 56.
- (2) A person must not apply a marking mentioned in the ADG Code Part 6 on packaging that is not appropriate for the packaging.  
Penalty: a fine of \$10 000.

**55. Applications for approval of packaging designs**

- (1) This regulation applies to packaging that is required to undergo tests under the ADG Code Part 6.
- (2) A person may apply to the Chief Officer for the approval of a design for a packaging to which this regulation applies for use in the transport of dangerous goods.
- (3) An application for approval must include the information required under the ADG Code Part 6.

*[Regulation 55 amended in Gazette 3 Aug 2012 p. 3757.]*

**56. Approvals — packaging designs**

- (1) The Chief Officer may, on an application made in accordance with regulations 55 and 194, approve a design for a packaging for use in the transport of dangerous goods if satisfied that a packaging of that design —

- (a) will comply with, or is permitted by, the ADG Code Part 6; and
  - (b) satisfies all the relevant testing and inspection requirements set out in that Part.
- (2A) In determining whether packaging of a particular design satisfies any particular testing requirement, the Chief Officer may rely on any test certificate issued by a recognised testing facility that complies with regulation 58.
- (2) If approval is sought for the design for a tank or an IBC that is pressure equipment of a kind the design of which must be registered under the *Occupational Safety and Health Regulations 1996* regulation 4.2, the Chief Officer must not approve the design unless the design has been so registered.
- (3) In giving his or her approval, the Chief Officer may impose in relation to the approval any condition that —
- (a) is about the construction, packing, maintenance or use of packaging manufactured in accordance with the design; and
  - (b) is necessary for the safe use of the packaging to transport dangerous goods.
- (4) A person must not construct, pack or fail to maintain packaging for use in the transport of dangerous goods or use packaging to transport dangerous goods if the person knows, or ought reasonably to know, that —
- (a) a condition about the construction, packing, maintenance or use of the packaging, as the case requires, 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: a fine of \$10 000.

*[Regulation 56 amended in Gazette 22 Jun 2010 p. 2723.]*

**57. Term used: recognised testing facilities**

For the purposes of these regulations, the following testing facilities are *recognised testing facilities* for packaging of a particular design —

- (a) a testing facility registered by NATA to conduct performance tests required under the ADG Code Part 6 for the design;
- (b) if NATA has not registered a testing facility to conduct performance tests of that kind — a testing facility in Australia capable of conducting the tests;
- (c) a facility in a foreign country approved by a public authority of the country to conduct performance tests of that kind.

**58. Test certificates**

- (1) A recognised testing facility may certify in writing that packaging of a particular design 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 Chief Officer; and
  - (b) any test certificate or report must contain any details required under the relevant Chapter of Part 6 of the ADG Code.



**59. Approvals — overpacks**

- (1) The Chief Officer may, on an application made in accordance with regulation 194, approve a method of preparing an overpack for transporting dangerous goods that does not comply with the ADG Code section 5.1.2 if the Chief Officer considers that the risk involved in using the method is not greater than the risk involved in using a method that complies with the section.
- (2) In giving his or her approval, the Chief Officer may impose in relation to the approval any condition that is about the use of the overpack and is necessary for the safe use of the overpack to transport dangerous goods.
- (3) A person must not use an overpack to transport dangerous goods if the person knows, or ought reasonably to know, that —
  - (a) a condition about the use of the overpack was imposed in relation to the approval of the method of preparing the overpack; and
  - (b) the use is in contravention of the condition.

Penalty: a fine of \$10 000.

**60. Authorised bodies may give approvals**

- (1) The Chief Officer may, on an application made in accordance with regulation 194, authorise a body or any other person to give approvals under regulations 56 and 59.
- (2) In giving his or her authorisation, the Chief Officer may impose in relation to the authorisation any condition that the Chief Officer considers appropriate in relation to the giving of approvals by the body or other person.
- (3) In giving an approval, the body or other person must also, in addition to complying with any condition imposed under subregulation (2) —
  - (a) comply with any relevant requirements imposed under the ADG Code Part 6 in relation to the giving of the approval; and

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- (b) give to the Chief Officer, in relation to the approval, all of the information required under regulation 203(a) and (b) to be included in the register of approvals.
- (4) If a body or any other person is authorised under this regulation to give approvals —
  - (a) regulation 55 and regulations 56 and 59 (or regulation 56 or 59 as the case requires) apply, in relation to the giving of approvals by the body or other person, as if a reference in those regulations to the Chief Officer were a reference to the body or other person; and
  - (b) Part 16 Divisions 1 and 4, to the extent that they deal with approvals, apply, in relation to the giving of approvals by the body or other person, as if a reference in those Divisions to the Chief Officer were a reference to the body or other person; and
  - (c) a reference in these regulations to an approval given under regulation 56 or 59 includes a reference to an approval given by the body or other person under regulation 56 or 59 as applied under paragraph (a).
- (5) The Chief Officer may at any time withdraw an authorisation given under this regulation.
- (6) The withdrawal of an authorisation does not affect any approval given by the body or other person before the withdrawal.

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

**61. Offence to sell or supply non-compliant packaging**

- (1) A person must not sell, supply or offer to sell or supply any packaging for use in the transport of dangerous goods if it does not comply with the requirements of the ADG Code Parts 4 and 6 or Chapter 3.4.

- (2) A person must not sell, supply or offer to sell or supply any packaging for use in the transport of dangerous goods that is marked in accordance with the ADG Code Part 6 unless the packaging conforms with a design that is approved under regulation 56.

Penalty: a fine of \$10 000.

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

*[Heading inserted in Gazette 22 Jun 2010 p. 2724.]*

#### **62. Term used: general packaging**

In this Division —

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

*[Regulation 62 inserted in Gazette 22 Jun 2010 p. 2724.]*

#### **63. Duty on consignors**

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

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

Penalty: a fine of \$10 000.

*[Regulation 63 inserted in Gazette 22 Jun 2010 p. 2724.]*

#### **64. Duty on packers**

- (1) A person must not pack dangerous goods for transport in any general packaging if the person knows, or ought reasonably to

know, that the packaging is unsuitable for the transport of the goods.

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

Penalty: a fine of \$5 000.

*[Regulation 64 inserted in Gazette 22 Jun 2010 p. 2724.]*

**65. Duty on loaders**

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

Penalty: a fine of \$5 000.

*[Regulation 65 inserted in Gazette 22 Jun 2010 p. 2725.]*

**66. Duty on prime contractors and rail operators**

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

Penalty: a fine of \$10 000.

*[Regulation 66 inserted in Gazette 22 Jun 2010 p. 2725.]*

**67. Duty on drivers**

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

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

Penalty: a fine of \$5 000.

*[Regulation 67 inserted in Gazette 22 Jun 2010 p. 2725.]*

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

*[Heading inserted in Gazette 22 Jun 2010 p. 2725.]*

#### **68. Term used: other packaging**

In this Division —

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

*[Regulation 68 inserted in Gazette 22 Jun 2010 p. 2725.]*

#### **69. Duty on manufacturers of portable tanks, MEGCs or 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 the ADG Code Chapter 6.7.
- (2) Subregulation (1) does not apply to a person in relation to a portable tank if the ADG Code Chapter 6.7 permits the marking of the tank instead of the attachment of a compliance plate, and if the tank is marked as required by 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 the ADG Code section 6.9.2.2.  
Penalty: a fine of \$10 000.

*[Regulation 69 inserted in Gazette 22 Jun 2010 p. 2726.]*

**70. Duty on owners of demountable tanks, portable tanks and MEGCs**

The owner of a demountable tank, a portable 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: a fine of \$10 000.

*[Regulation 70 inserted in Gazette 22 Jun 2010 p. 2726.]*

**71. Duty on consignors**

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

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

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

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

Penalty: a fine of \$10 000.

*[Regulation 71 inserted in Gazette 22 Jun 2010 p. 2726-7.]*

**72. Duty on packers**

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

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

Penalty: a fine of \$5 000.

*[Regulation 72 inserted in Gazette 22 Jun 2010 p. 2727.]*

**73. Duty on loaders**

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

Penalty: a fine of \$5 000.

*[Regulation 73 inserted in Gazette 22 Jun 2010 p. 2727.]*

**74. Duty on prime contractors and rail operators**

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

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

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

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

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

Penalty: a fine of \$10 000.

*[Regulation 74 inserted in Gazette 22 Jun 2010 p. 2728.]*

**75. Duty on drivers**

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

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

Penalty: a fine of \$5 000.

*[Regulation 75 inserted in Gazette 22 Jun 2010 p. 2728.]*

*[76-82. Deleted in Gazette 22 Jun 2010 p. 2724.]*

*[Divisions 6-8 (r. 83-100) deleted in Gazette 22 Jun 2010 p. 2724.]*

**Division 9 — Offences relating to overpacks**

**101. Duty on consignors**

A person must not consign dangerous goods for transport in an overpack if —

- (a) the packages to be included in the overpack cannot be transported safely in the overpack; or
- (b) the preparation of the overpack does not comply with either —
  - (i) the ADG Code section 5.1.2; or



- (ii) an approval given under regulation 59.

Penalty: a fine of \$5 000.

**102. Duty on packers**

A person must not pack dangerous goods for transport in an overpack if the person knows, or ought reasonably to know, that —

- (a) the packages to be included in the overpack cannot be transported safely in the overpack; or
- (b) the preparation of the overpack does not comply with either —
- (i) the ADG Code section 5.1.2; or
- (ii) an approval given under regulation 59.

Penalty: a fine of \$5 000.

**103. Duty on loaders**

A person must not load dangerous goods in an overpack for transport if the person knows, or ought reasonably to know, that —

- (a) the packages within the overpack cannot be transported safely in the overpack; or
- (b) the preparation of the overpack does not comply with either —
- (i) the ADG Code section 5.1.2; or
- (ii) an approval given under regulation 59.

Penalty: a fine of \$5 000.

**104. Duty on prime contractors and rail operators**

A prime contractor or rail operator must not transport dangerous goods in an overpack if the prime contractor or rail operator knows, or ought reasonably to know, that —

- (a) the packages within the overpack cannot be transported safely in the overpack; or

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- (b) the preparation of the overpack does not comply with either —
  - (i) the ADG Code section 5.1.2; or
  - (ii) an approval given under regulation 59.

Penalty: a fine of \$5 000.

**105. Duty on drivers**

A person must not drive a road vehicle transporting dangerous goods in an overpack if the person knows, or ought reasonably to know, that the packages within the overpack cannot be transported safely in the overpack.

Penalty: a fine of \$5 000.

## **Part 5 — Consignment procedures**

### **Division 1 — Marking and labelling**

#### **106. Term used: appropriately marked**

- (1) A receptacle (other than a transport unit or an overpack) that contains dangerous goods and —
  - (a) has a capacity of more than 500 L; or
  - (b) contains more than 500 kg of dangerous goods,is ***appropriately marked*** if it is marked and labelled in accordance with the ADG Code Chapters 5.2 and 5.3.3.
- (2) A receptacle (other than an overpack) to which subregulation (1) does not apply that contains dangerous goods is ***appropriately marked*** if —
  - (a) it is marked and labelled in accordance with the ADG Code Chapter 5.2; and
  - (b) it is placarded in accordance with the ADG Code section 5.3.3.
- (3) An overpack is ***appropriately marked*** if it is marked and labelled in accordance with the ADG Code section 5.1.2.
- (4) A package of dangerous goods packed in limited quantities is also ***appropriately marked*** if it is marked and labelled in accordance with the ADG Code Chapter 3.4.
- (5) A package of dangerous goods that is to be transported as a retail distribution load in accordance with the ADG Code Chapter 7.3 is also ***appropriately marked*** if it is marked and labelled in accordance with that Chapter.

*[Regulation 106 amended in Gazette 22 Jun 2010 p. 2729.]*

**107. Duty on consignors**

- (1) A person must not consign dangerous goods for transport in a package if the package is not appropriately marked.
- (2) A person must not consign dangerous goods for transport in a package if a marking or label on the package about its contents is false or misleading in a material particular.
- (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:

- (a) for large packaging or overpack — a fine of \$5 000;
- (b) in any other case — a fine of \$1 500.

**108. Duty on packers**

- (1) A person must not pack dangerous goods for transport if the person knows, or ought reasonably to know, that any of the packaging to be used to transport the goods is not appropriately marked.
- (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 ought reasonably to know, is false or misleading in a material particular.
- (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 ought reasonably to know, that it does not contain dangerous goods.

Penalty:

- (a) for large packaging or overpack — a fine of \$5 000;
- (b) in any other case — a fine of \$1 500.

**109. Duty on prime contractors and rail operators**

- (1) A prime contractor or rail operator must not transport goods in a package if the prime contractor or rail operator knows, or ought reasonably to know, that —
  - (a) the goods are dangerous goods; and
  - (b) the package is not appropriately marked.
- (2) A prime contractor or rail operator must not transport dangerous goods in a package if the prime contractor or rail operator knows, or ought reasonably to know, that a marking or label on the package about its contents is false or misleading in a material particular.
- (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 ought reasonably to know, that the package does not contain dangerous goods.

Penalty:

- (a) for large packaging or overpack — a fine of \$5 000;
- (b) in any other case — a fine of \$1 500.

**Division 2 — Placarding**

**110. When loads must be placarded**

- (1) Except as provided in subregulation (2), a load of dangerous goods must be placarded if —
  - (a) it contains —
    - (i) dangerous goods in a receptacle with a capacity of more than 500 L; or
    - (ii) more than 500 kg of dangerous goods in a receptacle;

or

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- (b) it contains an aggregate quantity of dangerous goods of 250 or more and those goods include —
    - (i) dangerous goods of UN Division 2.1 (other than aerosols); or
    - (ii) dangerous goods of UN Division 2.3; or
    - (iii) dangerous goods of Packing Group I;or
  - (c) it contains an aggregate quantity of dangerous goods of 1000 or more.
- (2) A retail distribution load that complies with the ADG Code Chapter 7.3 is not a load that must be placarded.

*[Regulation 110 amended in Gazette 22 Jun 2010 p. 2729.]*

**111. Terms used: placard, appropriately placarded**

- (1) A person *placards* a load of 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 the ADG Code section 5.3.1.3) in relation to the load on anything that is being, or that is to be, used to transport the load.
- (2) A placard load is *appropriately placarded* if it is placarded in accordance with the ADG Code Chapter 5.3.

**112. Duty on consignors**

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

- (3) A person must not consign goods for transport in or on a transport unit that does not contain dangerous goods but is placarded as if it were a placard load.

Penalty: a fine of \$10 000.

**113. Duty on loaders**

- (1) A person who loads dangerous goods on to a vehicle for transport must ensure that the load is appropriately placarded if the person knows, or ought reasonably to know, that the goods are a placard load.
- (2) A person who loads a placard load on to a vehicle for transport must not placard the load with placarding that the person knows, or ought reasonably to know, is false or misleading in a material particular.
- (3) A person who loads goods on to a vehicle for transport must not placard the load as if it were a placard load if the person knows, or ought reasonably to know, that the load does not contain dangerous goods.

Penalty: a fine of \$10 000.

*[Regulation 113 amended in Gazette 22 Jun 2010 p. 2730.]*

**114. Duty on prime contractors and rail operators**

- (1) A prime contractor or rail operator must not transport dangerous goods if the prime contractor or rail operator knows, or ought reasonably to know, that —
- (a) the goods are a placard load; and
  - (b) the load is not appropriately placarded.
- (2) A prime contractor or rail operator must not transport a placard load if the prime contractor or rail operator knows, or ought reasonably to know, that the placarding of the load is false or misleading in a material particular.

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- (3) A prime contractor or rail operator must not use, or permit to be used, a transport unit that is placarded as if it were a placard load if the prime contractor or rail operator knows, or ought reasonably to know, that the transport unit does not contain dangerous goods.

Penalty: a fine of \$10 000.

**115. Duty on drivers**

- (1) A person must not drive a road vehicle transporting dangerous goods if the person knows, or ought reasonably to know, that —
- (a) the goods are a placard load; and
  - (b) the load is not appropriately placarded.
- (2) A person must not drive a road vehicle transporting a placard load if the person knows, or ought reasonably to know, that the placarding of the load is false or misleading in a material particular.
- (3) A person must not drive a road vehicle that is, or that incorporates, a transport unit that is placarded as if it were a placard load if the person knows, or ought reasonably to know, that the vehicle does not contain dangerous goods.

Penalty: a fine of \$10 000.



## **Part 6 — Safety standards for vehicles and equipment**

### **116. Duty on owners**

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 the ADG Code Chapters 4.4 and 6.9.

Penalty: a fine of \$10 000.

### **117. Duty on consignors**

A person must not consign dangerous goods for transport in or on a vehicle if the person knows, or ought reasonably to know, that the vehicle or its equipment does not comply with the ADG Code Chapters 4.4 and 6.9.

Penalty: a fine of \$10 000.

### **118. Duty on loaders**

A person must not load dangerous goods for transport in or onto a vehicle if the person knows, or ought reasonably to know, that the vehicle or its equipment does not comply with the ADG Code Chapters 4.4 and 6.9.

Penalty: a fine of \$10 000.

### **119. Duties on prime contractors and rail operators**

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 the ADG Code Chapters 4.4 and 6.9.

Penalty: a fine of \$10 000.

### **120. Duty on drivers**

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

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the road vehicle or its equipment does not comply with the  
ADG Code Chapters 4.4 and 6.9.

Penalty: a fine of \$10 000.

## **Part 7 — Transport operations relating to self-reactive substances, organic peroxides and certain other substances**

### **121. Application of Part**

This Part applies to the transport of the following dangerous goods —

- (a) gases of UN Class 2;
- (b) self-reactive substances of UN Division 4.1;
- (c) organic peroxides of UN Division 5.2;
- (d) other substances for which —
  - (i) the proper shipping name contains the word “STABILIZED”; and
  - (ii) the self-accelerating decomposition temperature, as presented for transport in a packaging is 50°C or lower;
- (e) toxic substances of UN Division 6.1 or that have a Subsidiary Risk of 6.1;
- (f) dangerous when wet substances of UN Division 4.3.

### **122. Duty on consignors**

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

Penalty: a fine of \$5 000.

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**123. Duty on loaders**

A person must not load dangerous goods to which this Part applies on to a vehicle for transport otherwise than in accordance with the ADG Code Chapter 7.1.

Penalty: a fine of \$5 000.

*[Regulation 123 amended in Gazette 22 Jun 2010 p. 2730.]*

**124. Duty on prime contractors and rail operators**

A prime contractor or rail operator must not transport dangerous goods to which this Part applies if the prime contractor or rail operator knows, or ought reasonably to know, that the transport does not comply with the ADG Code Chapter 7.1.

Penalty: a fine of \$5 000.

**125. Duty on drivers**

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

Penalty: a fine of \$3 000.

## **Part 8 — Stowage and restraint**

*[Heading inserted in Gazette 22 Jun 2010 p. 2730.]*

### **126. Duty on consignors**

- (1) A person must not consign for transport in or on a vehicle a load of dangerous goods that is a placard load if the person knows, or ought reasonably to know, that the goods or their packaging are not, or will not be, stowed, loaded and restrained in accordance with the ADG Code Chapter 8.1.
- (2) A person must not consign a load of dangerous goods for transport in or on a transport unit if the person knows, or ought reasonably to know, that the transport unit is not, or will not be, restrained in accordance with the ADG Code Chapter 8.2.

Penalty: a fine of \$5 000.

*[Regulation 126 inserted in Gazette 22 Jun 2010 p. 2730-1.]*

### **127. Duty on loaders**

- (1) A person who loads a load of dangerous goods that is a placard load on to a vehicle for transport must ensure that the load is stowed, loaded and restrained in accordance with the ADG Code Chapter 8.1.
- (2) A person who loads for transport in or on a vehicle dangerous goods that are in a transport unit must ensure that the transport unit is restrained in accordance with the ADG Code Chapter 8.2.

Penalty: a fine of \$3 000.

*[Regulation 127 inserted in Gazette 22 Jun 2010 p. 2731.]*

### **128. Duty on prime contractors and rail operators**

- (1) A prime contractor or rail operator must not transport in or on a vehicle a load of dangerous goods that is a placard load if the prime contractor or rail operator knows, or ought reasonably to know, that the goods or their packaging have not been stowed or

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loaded, or are not restrained, in accordance with the ADG Code Chapter 8.1.

- (2) A prime contractor or rail operator must not transport dangerous goods in or on a transport unit if the prime contractor or rail operator knows, or ought reasonably to know, that the goods or their packaging are not restrained in accordance with the ADG Code Chapter 8.2.

Penalty: a fine of \$5 000.

*[Regulation 128 inserted in Gazette 22 Jun 2010 p. 2731-2.]*

**129. Duty on drivers**

- (1) A person must not drive a road vehicle transporting a load of dangerous goods that is a placard load if the person knows, or ought reasonably to know, that the goods or their packaging have not been stowed or loaded, or are not restrained, in accordance with the ADG Code Chapter 8.1.

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

Penalty: a fine of \$3 000.

*[Regulation 129 inserted in Gazette 22 Jun 2010 p. 2732.]*

## **Part 9 — Segregation**

### **130. Application of Part**

- (1) This Part applies to —
  - (a) the transport of a placard load; or
  - (b) the transport of a load of dangerous goods that is not a placard load if the load contains dangerous goods of UN Division 2.3 or UN Class 6 or 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) This Part does not apply to the transport of dangerous goods packed in limited quantities.

*[Regulation 130 amended in Gazette 22 Jun 2010 p. 2732.]*

### **131. Exception for certain goods for driver's personal use**

Despite regulations 132 to 136, food and food packaging may be transported in or 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.

### **132. Duty on consignors**

A person must not consign dangerous goods for transport in or on a vehicle if the person knows, or ought reasonably 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) the ADG Code Part 9; or
  - (ii) any determination made under regulation 18(a);  
or

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- (iii) any approval given under regulation 138.

Penalty: a fine of \$10 000.

**133. Duty on loaders**

A person must not load dangerous goods for transport in or on a vehicle if the person knows, or ought reasonably 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) the ADG Code Part 9; or
  - (ii) any determination made under regulation 18(a); or
  - (iii) any approval given under regulation 138.

Penalty: a fine of \$10 000.

**134. Duty on prime contractors**

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

- (a) the 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) the ADG Code Part 9; or
  - (ii) any determination made under regulation 18(a); or
  - (iii) any approval given under regulation 138.

Penalty: a fine of \$10 000.



**135. Duty on rail operators**

A rail operator must not use a train to transport dangerous goods if the rail operator knows, or ought reasonably 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) the ADG Code Part 9; or
  - (ii) any determination made under regulation 18(a); or
  - (iii) any approval given under regulation 138.

Penalty: a fine of \$10 000.

**136. Duty on drivers**

A person must not drive a road vehicle transporting dangerous goods if the person knows, or ought reasonably 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) the ADG Code Part 9; or
  - (ii) any determination made under regulation 18(a); or
  - (iii) any approval given under regulation 138.

Penalty: a fine of \$3 000.

**137. Approvals — Type II segregation devices**

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

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- (2) The Chief Officer may, on an application made in accordance with subregulation (1) and regulation 194, approve a design for a Type II segregation device if the design complies with the ADG Code Chapter 6.11.

**138. Approvals — methods of segregation**

- (1) The Chief Officer may, on an application made in accordance with regulation 194, approve a method of segregation not complying with the ADG Code Part 9 for transporting dangerous goods and incompatible goods by road, if the Chief Officer considers that —
- (a) it is impracticable to segregate the goods by a segregation device, or method of segregation, complying with that Part; and
  - (b) the risk involved in using the method to transport the goods by road is not greater than the risk involved in using a device or method complying with that Part to transport the goods by road.
- (2) In giving his or her approval, the Chief Officer may impose in relation to the approval any condition that is 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: a fine of \$5 000.

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

### **Division 1 — General**

#### **139. Term used: bulk transfer**

In this Part —

*bulk transfer*, in relation to dangerous goods, means the transfer by gravity, pump or pressure differential of the liquid, solid or gaseous dangerous goods, by the use of pipe work 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**

#### **140. Duty on transferors — hose assemblies**

- (1) A person must not use a hose assembly for the bulk transfer of dangerous goods if the person knows, or ought reasonably to know, that the hose assembly is damaged or defective to the extent that it is not safe to use to transfer the goods.

Penalty: a fine of \$10 000.

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

- (a) has not been constructed, assembled or maintained in accordance with the ADG Code Chapter 10.1; or
- (b) has not been inspected or tested at the intervals, or in the way, required under that Chapter; or
- (c) has not satisfied a test required under that Chapter.

Penalty: a fine of \$5 000.

*[Regulation 140 amended in Gazette 22 Jun 2010 p. 2733.]*

**141. Duty on transferors — general**

- (1) A person who transfers dangerous goods by bulk transfer must ensure that the goods are transferred in accordance with the ADG Code Chapter 10.2.
- (2) A person must not transfer dangerous goods by bulk transfer if the person knows, or ought reasonably to know, that —
  - (a) the receiving receptacle or the transfer equipment is incompatible with the dangerous goods; or
  - (b) the receiving receptacle contains incompatible goods.
- (3) If, during a bulk transfer of dangerous goods, the goods leak, spill or accidentally escape, the person transferring the goods —
  - (a) must immediately stop transferring the goods; and
  - (b) must not resume transferring the goods until the conditions that caused the leak, spill or escape have been rectified.

Penalty: a fine of \$5 000.

**142. Duty on occupiers**

- (1) The occupier of premises where a bulk transfer of dangerous goods occurs must ensure that any hose assembly on the premises that is used, or intended to be used, for the transfer (other than a hose assembly brought onto the premises on a vehicle involved in the transfer) —
  - (a) has been constructed, assembled and maintained in accordance with the ADG Code Chapter 10.1; and
  - (b) has been inspected and tested at the intervals, and in the way, required under that Chapter; and
  - (c) satisfies each test required under that Chapter.

Penalty: a fine of \$5 000.

- (2) The occupier of premises where a bulk transfer of dangerous goods occurs must ensure that the goods are transferred in accordance with the ADG Code Chapter 10.2.  
Penalty: a fine of \$10 000.
- (3) The occupier must keep, in accordance with the ADG Code section 10.1.3.4, accurate records of all maintenance work, and each inspection and test, carried out on the hose assembly.  
Penalty: a fine of \$1 500.

**143. Duty on prime contractors**

- (1) A prime contractor engaged in a bulk transfer of dangerous goods must ensure that any hose assembly that is used, or intended to be used, for the transfer of the goods (other than a hose assembly for which the prime contractor is not responsible) —
- (a) has been constructed, assembled and maintained in accordance with the ADG Code Chapter 10.1; and
  - (b) has been inspected and tested at the intervals, and in the way, required under that Chapter; and
  - (c) satisfies each test required under that Chapter.
- Penalty: a fine of \$5 000.
- (2) A prime contractor engaged in a bulk transfer of dangerous goods must ensure that the goods are transferred in accordance with the ADG Code Chapter 10.2.  
Penalty: a fine of \$10 000.
- (3) The prime contractor must keep, in accordance with the ADG Code section 10.1.3.4, accurate records of all maintenance work, and each inspection and test, carried out on the hose assembly.  
Penalty: a fine of \$1 500.

**144. Duty on rail operators**

A rail operator engaged in a bulk transfer of dangerous goods must ensure that any hose assembly that is used, or intended to be used, for the transfer of the goods (other than a hose assembly for which the rail operator is not responsible) —

- (a) has been constructed, assembled and maintained in accordance with the ADG Code Chapter 10.1; and
- (b) has been inspected and tested at the intervals, and in the way, required under that Chapter; and
- (c) satisfies each test required under that Chapter.

Penalty: a fine of \$5 000.

**Division 3 — Filling ratio and ullage for tank vehicles**

**145. Application of Division**

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

**146. Duty on transferors**

A person who transfers dangerous goods by bulk transfer must ensure that —

- (a) for dangerous goods of UN Class 2 that are not in the form of a refrigerated liquid — the quantity of the goods in the tank to which the goods are transferred does not exceed the maximum permitted filling ratio set out in the ADG Code section 10.3.2;
- (b) in any other case — the ullage in the tank complies with the ADG Code section 10.3.1.

Penalty: a fine of \$5 000.

**147. Duty on prime contractors and rail operators**

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 a refrigerated liquid — the quantity of the goods in the tank exceeds the maximum permitted filling ratio set out in the ADG Code section 10.3.2;
- (b) in any other case — the ullage in the tank does not comply with the ADG Code section 10.3.1.

Penalty: a fine of \$5 000.

*[Regulation 147 amended in Gazette 22 Jun 2010 p. 2733.]*

**148. Duty on drivers**

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

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

Penalty: a fine of \$5 000.

## **Part 11 — Documentation**

### **Division 1 — Transport documentation**

#### **149. False or misleading information**

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

Penalty: a fine of \$10 000.

#### **150. Duty on consignors — transport by road**

- (1) A person must not consign dangerous goods for transport in or on a road vehicle if the prime contractor or the driver of the road vehicle does not have transport documentation that complies with the ADG Code Chapter 11.1 for the goods.
- (2) A person must not consign dangerous goods for transport by road if —
  - (a) the person knows, or ought reasonably 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 goods, does not have separate transport documentation that complies with the ADG Code Chapter 11.1 for each load.

Penalty: a fine of \$3 000.

#### **151. Duty on consignors — 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 the ADG Code Chapter 11.1 for the goods.

Penalty: a fine of \$3 000.



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

**152. Duty on prime contractors**

A prime contractor must ensure that a person does not drive a road vehicle used by the prime contractor to transport dangerous goods if the person has not been given transport documentation that complies with the ADG Code Chapter 11.1 for the goods.

Penalty: a fine of \$5 000.

**153. Duty on rail operators**

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 the ADG Code Chapter 11.1 for the goods.

Penalty: a fine of \$5 000.

**154. Duty on drivers**

- (1) The driver of a road vehicle transporting dangerous goods must carry transport documentation for the goods.
- (2) The driver of a road vehicle transporting dangerous goods must produce the transport documentation for the goods for inspection by a DGO, a police officer or an emergency service officer, if the officer asks the driver to produce the documentation for inspection.

Penalty: a fine of \$3 000.

**155. Duty on train drivers**

- (1) A person must not drive a train that the person knows, or ought reasonably to know, is transporting dangerous goods, if the

person does not have transport documentation that complies with the ADG Code Chapter 11.1 for the goods.

Penalty: a fine of \$3 000.

- (2) The driver of a train transporting dangerous goods must produce the transport documentation for the goods for inspection by a DGO, a police officer or an emergency service officer, if the officer asks the driver to produce the documentation for inspection.

Penalty: a fine of \$3 000.

- (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 transport documentation for the goods is readily available elsewhere in the immediate vicinity of the depot, yard or operations.

*[Regulation 155 amended in Gazette 22 Jun 2010 p. 2733.]*

## **Division 2 — Emergency information**

### **156. Term used: required emergency information**

In this Division —

*required emergency information* means —

- (a) emergency information that complies with the ADG Code Chapter 11.2; or
- (b) emergency information that is approved under regulation 162.

### **157. Duty on consignors**

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

Penalty: a fine of \$3 000.

**158. Duty on prime contractors**

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 the ADG Code Chapter 11.2; or
- (b) the required emergency information is not in the holder.

Penalty: a fine of \$5 000.

**159. Duty on rail operators**

- (1) A rail operator must not transport a placard load in a transport unit on a train if the required emergency information is not in the train driver's cab.

Penalty: a fine of \$5 000.

- (2) Subregulation (1) does not apply when a train transporting a placard load is involved in shunting operations and the required emergency information is readily available elsewhere in the immediate vicinity of those operations.

**160. Duty on drivers**

- (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 the ADG Code Chapter 11.2; or
- (b) the required emergency information provided by the consignor of the goods, or by the prime contractor for the transport of the goods, is not in the holder.

Penalty: a fine of \$3 000.

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- (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; and
  - (b) the transport documentation for the goods.

Penalty: a fine of \$1 500.

- (3) The driver of a road vehicle transporting a placard load must produce the required emergency information for inspection by a DGO, a police officer or an emergency service officer, if the officer asks the driver to produce the information for inspection.

Penalty: a fine of \$3 000.

**161. Duty on train drivers**

- (1) A person must not drive a train that is transporting a placard load if the required emergency information is not in the train driver's cab.

Penalty: a fine of \$3 000.

- (2) The driver of a train transporting a placard load must produce the required emergency information for inspection by a DGO, a police officer or an emergency service officer, if the officer asks the driver to produce the information for inspection.

Penalty: a fine of \$3 000.

- (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 operations.

*[Regulation 161 amended in Gazette 22 Jun 2010 p. 2734.]*

**162. Approvals — emergency information**

The Chief Officer may, on an application made in accordance with regulation 194, or on the Chief Officer's own initiative,

approve emergency information that does not comply with the ADG Code Chapter 11.2, if the Chief Officer considers that use of the information would be as accurate, and at least as convenient and efficient, as information that complies with that Chapter.

## **Part 12 — Safety equipment**

### **163. Duty on owners**

The owner of a road vehicle must not use the road vehicle, or allow 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 the ADG Code Part 12; and
- (b) any other equipment required under that Part.

Penalty: a fine of \$10 000.

### **164. Duty on prime contractors**

- (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 the ADG Code Part 12; and
  - (b) any other equipment required under that Part.
- (2) A prime contractor must not use a road vehicle to transport a placard load if the prime contractor knows, or ought reasonably to know —
  - (a) that a fire extinguisher with which the vehicle is equipped under subregulation (1) has not been inspected or tested in accordance with —
    - (i) the ADG Code Part 12; and
    - (ii) AS 1851—2005, *Maintenance of fire protection systems and equipment*;
  - or
  - (b) that a portable warning device with which the vehicle is equipped under subregulation (1) has not been inspected or tested in accordance with the ADG Code Part 12; or

- (c) that any fire extinguisher, portable warning device, or other equipment, with which the vehicle is equipped under subregulation (1) is not in good repair or proper working order.

Penalty: a fine of \$10 000.

*[Regulation 164 amended in Gazette 22 Jun 2010 p. 2734-5.]*

**165. Duty on drivers**

- (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 the ADG Code Part 12; and
  - (b) any other equipment required under that Part.
- (2) A person must not drive a road vehicle transporting a placard load if the person knows, or ought reasonably to know —
  - (a) that a fire extinguisher with which the vehicle is equipped under subregulation (1) has not been inspected or tested in accordance with —
    - (i) the ADG Code Part 12; and
    - (ii) AS 1851—2005, *Maintenance of fire protection systems and equipment*;or
  - (b) that a portable warning device with which the vehicle is equipped under subregulation (1) has not been inspected or tested in accordance with the ADG Code Part 12; or
  - (c) that any fire extinguisher, portable warning device, or other equipment, with which the vehicle is equipped under subregulation (1) is not in good repair or proper working order; or

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- (d) that any fire extinguisher, portable warning device, or other equipment, with which the vehicle is equipped under subregulation (1) is not stowed in accordance with the ADG Code Part 12.

Penalty: a fine of \$3 000.

*[Regulation 165 amended in Gazette 22 Jun 2010 p. 2735.]*



## **Part 13 — Procedures during transport**

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

#### **166. Duty on drivers**

- (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 the ADG Code Part 13.

Penalty: a fine of \$1 500.

#### **167. Duty on prime contractors**

- (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 —
  - (a) is repaired so that it can be driven safely off the road; or
  - (b) is towed to a place where it can be repaired.
- (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: a fine of \$5 000.

**168. Duty on rail operators**

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: a fine of \$5 000.

**Division 2 — Road vehicle driver's duties**

**169. Driving**

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

Penalty: a fine of \$1 500.

**170. 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 the ADG Code Part 13.

Penalty: a fine of \$3 000.

**171. Control of ignition sources**

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

(b) the load contains dangerous goods of UN Division 2.1 or UN Class 3, 4 or 5 or 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: a fine of \$10 000.

(3) The driver must do everything practicable to ensure that anyone else in the road vehicle does not —

(a) have matches or a cigarette lighter in his or her possession; or

(b) smoke.

Penalty: a fine of \$10 000.

*[Regulation 171 amended in Gazette 22 Jun 2010 p. 2736.]*

#### **172. Unloading**

The driver of a road vehicle transporting a placard load must not permit the dangerous goods to be unloaded from the road vehicle except in accordance with the ADG Code Part 13.

Penalty: a fine of \$10 000.

#### **173. 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 road vehicle except in accordance with the ADG Code Part 13.

Penalty: a fine of \$10 000.

#### **174. Road tank vehicle equipped with burner**

The driver of a road tank vehicle that is transporting a placard load and is equipped with a burner to heat the load must not

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operate the burner or permit it to be operated except in accordance with the ADG Code Part 13.

Penalty: a fine of \$10 000.

## **Part 14 — Emergencies**

### **Division 1 — Emergencies generally**

#### **175. Duty on drivers**

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

Penalty: a fine of \$3 000.

*[Regulation 175 amended in Gazette 19 Feb 2013 p. 989.]*

#### **176. Duty on train drivers and rail operators**

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

Penalty: a fine of \$3 000.

- (3) On becoming aware of the incident, the rail operator must —
  - (a) notify the rail authority, and the police or the FES Department, of the incident as soon as practicable; and

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- (b) provide any reasonable assistance required by a DGO, a police officer or an emergency service officer to deal with the situation.

Penalty: a fine of \$3 000.

- (4) On becoming aware of the incident, the rail authority must —
  - (a) notify the police or the FES Department of the incident as soon as practicable; and
  - (b) provide any reasonable assistance required by a DGO, a police officer or an emergency service officer to deal with the situation.

Penalty: a fine of \$3 000.

*[Regulation 176 amended in Gazette 19 Feb 2013 p. 989.]*

**177. Duty on prime contractors and rail operators — 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 the food or food packaging is not transported from the site of the incident unless the Chief Officer has given permission to the prime contractor to transport the food or food packaging from the site.

Penalty: a fine of \$10 000.
- (3) In the case of a rail operator, the rail operator must ensure that the food or food packaging is not removed from rail premises unless the Chief Officer has given permission to the rail operator to remove the food or food packaging.

Penalty: a fine of \$10 000.

- (4) Permission given under subregulation (2) or (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 Chief Officer considers necessary.

**178. Prime contractors, rail operators and drivers to inform Chief Officer**

- (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 the incident, the driver must notify the prime contractor or rail operator and the Chief Officer about the incident, and provide the following details —
- (a) where the incident happened;
  - (b) the date and time 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 Chief Officer may require.

Penalty: a fine of \$5 000.

- (3) As soon as practicable after becoming aware of the incident, the prime contractor or rail operator must provide to the Chief Officer the details mentioned in subregulation (2).

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Penalty: a fine of \$5 000.

- (4) Not later than 21 days after the day on which the incident happens, the prime contractor or rail operator must give the Chief Officer a written report about the incident stating the following —
- (a) where the incident happened;
  - (b) the date and time of the incident;
  - (c) the nature of the incident;
  - (d) the dangerous goods being transported when the incident happened;
  - (e) what the driver believes to be the likely cause of the incident;
  - (f) what the prime contractor or rail operator believes to be the likely cause of the incident;
  - (g) the measures taken to control any leak, spill or accidental escape of the dangerous goods, and any fire or explosion, resulting from the incident;
  - (h) the measures taken after the incident in relation to the dangerous goods involved in the incident.

Penalty: a fine of \$5 000.

*[Regulation 178 amended in Gazette 22 Jun 2010 p. 2736.]*

**Division 2 — Emergencies involving placard loads**

**179. Telephone advisory service**

- (1) In this regulation —
- telephone advisory service***, in relation to the transport of dangerous goods, means a service providing access by a continuously monitored telephone not located on the carrying vehicle to a person competent to give advice about the following —



- (a) the construction and properties of the receptacles in which the dangerous goods are being transported;
  - (b) the use of equipment on vehicles in or on which the dangerous goods are being transported;
  - (c) the properties of the dangerous goods;
  - (d) methods of safely handling the dangerous goods;
  - (e) methods of safely containing and controlling the dangerous goods in a dangerous situation.
- (2) A prime contractor or rail operator must not transport a load of dangerous goods that contains —
- (a) dangerous goods in a receptacle with a capacity of more than 500 L; or
  - (b) more than 500 kg of dangerous goods in a receptacle,
- if a telephone advisory service is not available during the journey.
- Penalty: a fine of \$10 000.

*[(3) deleted]*

- (4) A telephone advisory service may be provided by the prime contractor, rail operator or consignor, or someone else for the prime contractor, rail operator or consignor.

*[Regulation 179 amended in Gazette 22 Jun 2010 p. 2737.]*

### **180. Emergency plans**

- (1) Before a prime contractor or rail operator transports a placard load, the prime contractor or rail operator must prepare and have an emergency plan for the transport of the goods.
- (2) An emergency plan for the transport of a placard load must —
- (a) be in writing; and
  - (b) be a plan that deals with any dangerous situation arising from the transport of the goods; and

- (c) be prepared having regard to any guidelines approved by the Australian Transport Council.
- (3) An emergency plan is prescribed to be a safety management document for the purposes of the definition of *safety management document* in the Act section 3(1).

**181. Duty on consignors — information**

- (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 a DGO, a police officer or an emergency service officer, the consignor of the goods must give the officer the information that the officer requires about —
  - (a) the properties of the dangerous goods being transported; and
  - (b) safe methods of handling the goods; and
  - (c) safe methods of containing and controlling the goods in a dangerous situation.

Penalty: a fine of \$5 000.

- (3) If the prime contractor and the consignor, or the rail operator and the consignor, of the goods are asked to give the same information, the consignor is taken to have complied with subregulation (2) to the extent that the prime contractor or rail operator has given the information.

**182. Duty on prime contractors and rail operators — information**

- (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 a DGO, a police officer or an emergency service officer, the prime contractor or rail operator must give the officer the information that the

officer requires about the vehicle's construction, properties and equipment.

Penalty: a fine of \$5 000.

- (3) If the prime contractor and the consignor, or the rail operator and the consignor, of the goods are asked to give the same information, the prime contractor or rail operator is taken to have complied with subregulation (2) to the extent that the consignor has given the information.

### **Division 3 — Dealing with emergencies involving placard loads**

#### **183. Terms used**

In this Division —

***approved responder***, in relation to a quantity of dangerous goods, means a person who is approved by the Chief Officer under regulation 184 in relation to the quantity, and the description or class, of the dangerous goods;

***emergency response contract***, with a person, means a contract under which the person agrees —

- (a) to provide the resources to eliminate or reduce to an acceptable level the risk associated with a dangerous situation involving dangerous goods being transported; and
- (b) to do so as soon as practicable after being asked to do so by the other party to the contract.

#### **184. Approvals — responders to emergencies**

- (1) The Chief Officer may approve a person to deal with any dangerous situation that might result while dangerous goods of a specified quantity and of a specified description or class are being transported if the Chief Officer is satisfied that the person —
- (a) is competent; and

- (b) has the equipment and other resources that would be needed,

to eliminate or reduce to an acceptable level the risk associated with the dangerous situation.

- (2) Any such approval must be in writing and must specify the quantity and the description or class of the dangerous goods to which it relates.

**185. Duties as to ensure adequate resources available to deal with emergencies**

- (1) A person who is a prime contractor or rail operator, as the case requires, must not transport a placard load unless the person complies with subregulation (2).

Penalty: a fine of \$10 000.

- (2) To comply with this subregulation, a person must —
  - (a) be an approved responder in relation to the total quantity of dangerous goods that comprise the load; or
  - (b) be an approved responder in relation to part of the quantity of dangerous goods that comprise the load and have an emergency response contract with another person who is an approved responder in relation to the remaining quantity of dangerous goods that comprise the load; or
  - (c) have an emergency response contract with another person who is an approved responder in relation to the total quantity of dangerous goods that comprise the load.
- (3) It is a defence to a charge of an offence under subregulation (1) alleged to have been committed within 12 months after the day on which this regulation commences to prove that at the time of the alleged offence —
  - (a) the consignor of the dangerous goods could have provided the equipment and other resources necessary —

- (i) to control any dangerous situation that might result from an incident involving a vehicle transporting the goods; and
- (ii) to contain, control, recover and dispose of any of the dangerous goods that might leak, spill or accidentally escape;

and

- (b) the accused could have provided the equipment and other resources necessary —
  - (i) to control any dangerous situation that might result from an incident involving a vehicle transporting the goods; and
  - (ii) to recover a vehicle involved in the situation or its equipment.

**186. Duties to provide resources to deal with emergency**

- (1) In this regulation —  
*deal with* a dangerous situation, means —
  - (a) to provide the equipment and other resources needed to eliminate or reduce to an acceptable level the risk associated with the dangerous situation; and
  - (b) to eliminate or reduce to an acceptable level the risk associated with the dangerous situation.
- (2) This regulation applies if a vehicle transporting a placard load is involved in an incident resulting in a dangerous situation.
- (3) The prime contractor, or the rail operator, as the case requires, must —
  - (a) if the prime contractor or rail operator is an approved responder in relation to the total quantity of dangerous goods that are giving rise to the dangerous situation — deal with the dangerous situation as soon as practicable after it arises;

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- (b) if the prime contractor or rail operator is an approved responder in relation to part of the quantity of dangerous goods that are giving rise to the dangerous situation —
  - (i) deal with the dangerous situation, in so far as it arises from that part of the quantity of dangerous goods, as soon as practicable after it arises; and
  - (ii) ensure that an approved responder in relation to the remaining quantity of dangerous goods that are giving rise to the dangerous situation deals with the dangerous situation, insofar as it arises from that remaining part, as soon as practicable after it arises;
- (c) if the prime contractor or rail operator is not an approved responder in relation to any quantity of the dangerous goods that are giving rise to the dangerous situation — ensure that an approved responder in relation to the quantity of dangerous goods that are giving rise to the dangerous situation deals with the dangerous situation as soon as practicable after it arises.

Penalty: a fine of \$10 000.

- (4) It is a defence to a charge of an offence under subregulation (3) alleged to have been committed within 12 months after the day on which this regulation commences to prove that at the time of the alleged offence —
    - (a) the consignor of the dangerous goods provided the equipment and other resources necessary —
      - (i) to control the dangerous situation; and
      - (ii) to contain, control, recover and dispose of dangerous goods that leaked, spilled or accidentally escaped;
- and

- (b) the accused provided 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.

## **Part 15 — Exemption**

### **Division 1 — General**

Note: As to applications for, register and records of, exemptions under the Act Part 4, see the *Dangerous Goods Safety (General) Regulations 2007*.

#### **187. Register of corresponding exemptions**

- (1) The Chief Officer must keep a register of corresponding exemptions.
- (2) The register may have separate divisions for different kinds of corresponding exemptions.
- (3) The Chief Officer must record in the register each corresponding exemption.
- (4) The Chief Officer must note in the register any decision of CAP reversing a decision that a corresponding exemption should have effect in all participating jurisdictions or participating jurisdictions including this State.

#### **188. Records of corresponding exemptions**

The record of a corresponding exemption in the register must include —

- (a) the terms of the exemption; or
- (b) the following information —
  - (i) if the exemption was notified in the *Government Gazette* of the other participating jurisdiction — details of where in the *Gazette* the exemption was notified or published;
  - (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 provision of these regulations to which the exemption relates;



- (iv) the date when the exemption was granted;
- (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 — References of matters to CAP**

### **189. Term used: exemption**

In this Division —

*exemption* does not include an exemption granted by the Minister.

### **190. References to CAP**

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

### **191. Effect of CAP decisions about applications**

- (1) This regulation applies if —
  - (a) an application for an exemption is referred to CAP under regulation 190(1); and

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- (b) CAP decides —
  - (i) that the exemption should be granted, what the terms of the exemption should be, and that the exemption should have effect in all participating jurisdictions or participating jurisdictions including this State; or
  - (ii) that the exemption should not have effect in this State.

(2) The Chief Officer must have regard to CAP's decision.

**192. Effect of CAP decisions about cancelling or varying exemptions**

- (1) This regulation applies if —
  - (a) an exemption is referred to CAP under regulation 190(2); and
  - (b) CAP decides that the exemption —
    - (i) should, or should not, be cancelled; or
    - (ii) should be varied (whether or not CAP's decision is the same as the variation proposed by the Chief Officer), and should have effect as varied in all participating jurisdictions or participating jurisdictions including this State; or
    - (iii) should not be varied.
- (2) The Chief Officer must have regard to CAP's decision.

## **Part 16 — Approvals**

### **Division 1 — General**

**193. Term used: approval**

In this Division —

*approval* includes an authorisation by the Chief Officer under regulation 60.

**194. Applications**

- (1) An application for an approval, or for variation of an approval, must —
  - (a) be made to the Chief Officer in writing; and
  - (b) if a fee is prescribed for the application — be accompanied by the prescribed fee.
- (2) An application for variation of an approval must have the approval with it.
- (3) The Chief Officer may, by written notice, require an applicant to give to the Chief Officer any additional information necessary for a proper consideration of the application.
- (4) An applicant who does not obey such a request within 21 days after the date on which it is made, or any longer period permitted by the Chief Officer, is to be taken to have withdrawn the application and is entitled to a refund of the fee.

*[Regulation 194 amended in Gazette 22 Jun 2010 p. 2737.]*

**195. Form of approvals**

An approval must be in writing.

**196. When approvals not to be made**

The Chief Officer must not give an approval to a person who is prohibited by a court order from involvement in the transport of dangerous goods.

**197. Reasons for refusal of applications**

- (1) This regulation applies if the Chief Officer refuses an application to give or vary an approval.
- (2) The Chief Officer must inform the applicant in writing of the refusal and of the reasons for the refusal.

**198. Periods and conditions**

- (1) An approval has effect for the period specified in the approval.
- (2) A condition to which an approval is subject must be specified in the approval.

**199. Replacement approvals**

The Chief Officer must issue to a person to whom an approval is given a replacement approval if —

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

**200. Grounds for cancelling approvals**

- (1) In this regulation —  
*relevant change* means a change about something that the Chief Officer may or must consider in deciding whether to give the approval.
- (2) The Chief Officer may cancel an approval if the application for the approval —
  - (a) did not comply with these regulations; or

- (b) was false or misleading in a material respect.
- (3) The Chief Officer may cancel an approval if —
  - (a) a relevant change has happened since the approval was given; and
  - (b) if the change had happened earlier the approval would not have been given.
- (4) The Chief Officer may cancel an approval if the person to whom the approval is given is unsuitable to continue to be a person to whom the approval is 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 referred to in paragraph (a).

**201. Grounds for varying approvals**

- (1) In this regulation —  
***relevant change*** means a change about something that the Chief Officer may or must consider in deciding whether to give the approval.
- (2) The Chief Officer may vary an approval if the application for the approval —
  - (a) did not comply with these regulations; or
  - (b) was false or misleading in a material respect.
- (3) The Chief Officer may vary an approval if —
  - (a) a relevant change has happened since the approval was given; and
  - (b) if the change had happened earlier the approval would have been given in the way in which it is proposed to be varied.

- (4) The Chief Officer may vary an approval if the person to whom the approval is given is unsuitable to continue to be a person to whom the approval is 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 referred to in paragraph (a).

### **Division 2 — Register of approvals**

#### **202. Register of approvals**

- (1) The Chief Officer must keep a register of approvals.
- (2) The register may have separate divisions for different kinds of approvals.
- (3) The Chief Officer must record in the register —
  - (a) each approval; and
  - (b) each corresponding approval.
- (4) The Chief Officer must note in the register —
  - (a) any cancellation or variation of an approval; and
  - (b) any decision of CAP reversing a decision that a corresponding approval should have effect in all participating jurisdictions or participating jurisdictions including this State.

#### **203. Records of approvals**

The record of an approval in the register must include —

- (a) the terms of the approval; or
- (b) the following information —
  - (i) the name of the person to whom the approval was given;

- (ii) the date when the approval was given;
- (iii) the period for which the approval has effect;
- (iv) the provisions of these regulations, and of the ADG Code, to which the approval relates;
- (v) the dangerous goods, equipment, packaging, vehicle or other thing to which the approval relates.

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

#### **204. References to CAP**

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

#### **205. Effect of CAP decisions about applications**

- (1) This regulation applies if —
  - (a) an application for an approval is referred to CAP under regulation 204(1); and
  - (b) CAP decides —
    - (i) that the approval should be given, what the terms of the approval should be, and that the approval should have effect in all participating

jurisdictions or participating jurisdictions  
including this State; or

- (ii) that the approval should not have effect in this State.

- (2) The Chief Officer must have regard to CAP's decision.

**206. Effect of CAP decisions about cancelling or varying approvals**

- (1) This regulation applies if —
  - (a) an approval is referred to CAP under regulation 204(2); and
  - (b) CAP decides that the approval —
    - (i) should, or should not, be cancelled; or
    - (ii) should be varied (whether or not CAP's decision is the same as the variation proposed by the Chief Officer), and should have effect as varied in all participating jurisdictions or participating jurisdictions including this State; or
    - (iii) should not be varied.
- (2) The Chief Officer must have regard to the CAP's decision.

**Division 4 — Cancellation and variation**

**207. Term used: approval**

In this Division —

*approval* includes an authorisation by the Chief Officer under regulation 60.

**208. Cancellation and variation in dangerous situations**

The Chief Officer must cancel or vary an approval if the Chief Officer reasonably believes that —

- (a) a ground exists to cancel or vary the approval; and



- (b) it is necessary to do so to reduce, eliminate or avert any risk to people, property or the environment from dangerous goods in a dangerous situation.

**209. Cancellation giving effect to court orders**

- (1) The Chief Officer must cancel an approval if the person to whom the approval is given 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 Chief Officer to ensure that the approval no longer applies to the person who is the subject of the prohibition.

**210. Variation of approvals on application**

- (1) This regulation applies if —
  - (a) an application is made to vary an approval; and
  - (b) the application is made in accordance with regulation 194 by the person to whom the approval is given.
- (2) The Chief Officer may vary the approval in accordance with the application.

**211. Cancellation and variation in other circumstances**

- (1) This regulation applies if —
  - (a) the Chief Officer considers that a ground exists to cancel or vary an approval (the *proposed action*); and
  - (b) none of regulations 208, 209 and 210 applies to the proposed action.
- (2) The Chief Officer must give to the person to whom the approval is given a written notice that —
  - (a) states what the proposed action is; and

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- (b) if the proposed action is to vary the approval — sets out the proposed variation; and
  - (c) sets out the ground for the proposed action; and
  - (d) outlines the facts and other circumstances forming the basis for the ground; and
  - (e) invites the person to state in writing, within a specified period of at least 28 days after the day on which the notice is given to the person, why the proposed action should not be taken.
- (3) If, after considering any written statement made within the specified period, the Chief Officer reasonably believes that a ground exists to take the proposed action, the Chief Officer may —
- (a) cancel or vary the approval; or
  - (b) if the proposed action is to vary the approval in a specified way — vary the approval in that way.

**212. When cancellation and variation take effect**

The cancellation or variation of an approval by the Chief Officer takes effect on —

- (a) the day on which the person to whom the approval is given is given written notice by the Chief Officer of the cancellation or variation and of the reasons for the cancellation or variation; or
- (b) a later day specified in the notice.

## **Part 17 — Licences**

### **Division 1 — Preliminary**

**213. Term used: licensing authority**

In this Part —

*licensing authority* means —

- (a) the Chief Officer; or
- (b) a person authorised by the Chief Officer to grant and renew licences under this Part.

**214. Part additional to other laws**

This Part is in addition to any other law in force in this State 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 — Principal duties under this Part**

**215. Vehicles to be licensed (Act s. 14)**

- (1) In this regulation —

*explosives manufacture (MPU) licence* means a licence of that name issued under the Explosives Regulations;

*Explosives Regulations* means the *Dangerous Goods Safety (Explosives) Regulations 2007*;

*mobile processing unit* has the meaning given in the Explosives Regulations regulation 3.

- (2) Except as provided in subregulation (4), a vehicle used to transport dangerous goods on a road must be licensed under this

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Part to transport the goods if a tank with a capacity of more than 500 L forms part of the vehicle.

- (3) For the purposes of subregulation (2), a tank does not form part of a vehicle if it is attached to the vehicle.
- (4) A road vehicle used to transport dangerous goods need not be licensed under this Part if —
  - (a) it is a mobile processing unit; and
  - (b) its owner, within the meaning of the *Road Traffic Act 1974*, is the holder of an explosives manufacture (MPU) licence; and
  - (c) it is a complying MPU under the Explosives Regulations regulation 42; and
  - (d) it is transporting the ingredients of an explosive to a place where the explosive is to be manufactured under the explosives manufacture (MPU) licence.

*[Regulation 215 amended in Gazette 22 Jun 2010 p. 2737-8; 3 Aug 2012 p. 3757.]*

**216A. Some vehicles may be licensed even though not required to be licensed under this Part**

- (1) Even if a vehicle used to transport dangerous goods on a road is not required to be licensed under this Part, a licensing authority may grant or renew a dangerous goods vehicle licence for the vehicle if satisfied —
  - (a) the vehicle transports dangerous goods in another State or a Territory; and
  - (b) the vehicle is required to be licensed under the law of that place to transport the goods in that place; and
  - (c) a licence under the law of that place to transport the goods in that place would not be granted because the vehicle operates principally in this State.

- (2) A licensing authority must not grant or renew a dangerous goods vehicle licence for a vehicle referred to in subregulation (1) unless satisfied a licence under the law of the other State or the Territory to transport the goods in that place would be granted if the vehicle were operating principally in that place.

*[Regulation 216A inserted in Gazette 3 Aug 2012 p. 3758.]*

**216. Drivers to be licensed (Act s. 15)**

- (1) Except as provided in subregulation (2), a person who drives a road vehicle transporting —
- (a) dangerous goods in a receptacle with a capacity of more than 500 L; or
  - (b) more than 500 kg of dangerous goods in a receptacle,
- must be licensed under this Part to drive the vehicle.
- (2) A person who drives a road vehicle transporting dangerous goods need not be licensed under this Part if —
- (a) the goods are transported in an IBC; and
  - (b) the IBC is not filled or emptied on the vehicle; and
  - (c) the total capacity of IBCs containing dangerous goods on the vehicle is not more than 3 000 L.

*[Regulation 216 amended in Gazette 22 Jun 2010 p. 2738.]*

**217. Duty on consignors**

A person must not consign dangerous goods for transport in or on a road vehicle if —

- (a) the vehicle is required to be licensed under this Part to transport the goods; and
- (b) the person knows, or ought reasonably to know, that the vehicle is not so licensed.

Penalty: a fine of \$10 000.

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

#### **218. Applications for licences**

- (1) A person resident in this State who is not the holder of a dangerous goods driver licence or a corresponding dangerous goods driver licence may apply to a licensing authority for a dangerous goods driver licence.
- (2) The application must be accompanied by the following —
  - (a) the driver licence evidence required by regulation 219;
  - (b) the competency evidence required by regulation 220;
  - (c) the medical fitness evidence required by regulation 221;
  - (d) 2 photographs of the applicant of a size suitable for passports that were taken in the 6 months before the day on which the application is made;
  - (e) if a fee is prescribed for the application — the prescribed fee.

#### **219. Required driver licence evidence**

- (1) The following documents are required as driver licence evidence for an application for a dangerous goods driver licence or for renewal of a dangerous goods driver licence —
  - (a) an extract of entries about the applicant in the driver licences register kept by the driver licensing authority in each State and Territory where the applicant has held a licence to drive, certified by the authority not more than 6 months before the day on which the application is made; and
  - (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 of the records of any conviction of the applicant for a driving offence,

certified by the appropriate authority of the State or Territory where the applicant was convicted.

- (3) For subregulation (1)(b)(ii), the authorisation is the authorisation by the applicant for the licensing authority to have access to —
- (a) entries about the applicant in the driver licences register of any State or Territory; and
  - (b) records of any conviction of the applicant for a driving offence in any State or Territory.

**220. Required competency evidence**

The document required as competency evidence for an application for a dangerous goods driver licence or for renewal of a dangerous goods driver licence is —

- (a) a certificate issued by a person who conducted an approved test or approved training course, stating that the applicant passed the test or completed the course not more than 6 months before the day on which the application is made; or
- (b) other written evidence that the applicant passed an approved test or completed an approved training course not more than 6 months before the day on which the application is made.

**221. Required medical fitness evidence**

The document required as medical fitness evidence for an application for a dangerous goods driver licence or for renewal of a dangerous goods driver licence is a certificate that —

- (a) is about the applicant's medical fitness to drive a road vehicle; and
- (b) is issued by a registered medical practitioner who examined the applicant not more than 6 months before the day on which the application is made; and

- (c) states that the medical practitioner examined and passed the applicant in accordance with the set of medical standards described as the commercial standards in *Assessing Fitness to Drive for commercial and private vehicle drivers*, Fourth Edition 2012, published by Austroads Ltd (ISBN 978-1-921991-01-1).

*[Regulation 221 amended in Gazette 3 Aug 2012 p. 3758.]*

**222. Grant of dangerous goods driver licences**

- (1) Subject to subregulation (2), a licensing authority must grant a dangerous goods driver licence if an application for the licence is made to the authority in accordance with regulation 218.
- (2) The licensing authority must not grant the licence if —
  - (a) in the 5 years before the day on which the application is made —
    - (i) the applicant has been found guilty by a court in Australia of an offence 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 prohibited by a court order from involvement in the transport of dangerous goods by road.
- (3) If the licensing authority refuses to grant a dangerous goods driver licence, it must inform the applicant in writing of the refusal and of the reasons for the refusal.



**223. Applications for renewal of licences**

- (1) A person who holds a dangerous goods driver licence may apply to the licensing authority for renewal of the licence.
- (2) The application must be accompanied by the following —
  - (a) the driver licence evidence required by regulation 219;
  - (b) the competency evidence required by regulation 220;
  - (c) the medical fitness evidence required by regulation 221;
  - (d) 2 photographs of the applicant of a size suitable for passports that were taken in the 6 months before the day on which the application is made;
  - (e) if a fee is prescribed for the application — the prescribed fee.
- (3) The application must be made within 3 months before the licence expires.

**224. Renewal of licences**

- (1) Subject to subregulation (2), a licensing authority must renew a dangerous goods driver licence if an application for renewal of the licence is made to the licensing authority in accordance with regulation 223.
- (2) 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 was cancelled or suspended on a ground that makes the applicant unsuitable to be the driver of a vehicle transporting dangerous goods;

or

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- (b) the applicant is prohibited by a court order 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.

**225. Licence periods**

- (1) A dangerous goods driver licence takes effect on the day on which the licence is granted or a later day specified in the licence.
- (2) A dangerous goods driver licence is granted for the period specified in the licence, being a period of not longer than 5 years.
- (3) If an application for a renewal of the licence is not decided on or before the date on which the licence expires under subregulation (2) or (5) (the *expiry date*), the licence has effect after the expiry date until the licensing authority renews, or refuses to renew, the licence, unless in the meantime the licence is cancelled or the application is withdrawn.
- (4) A renewal of a licence takes effect on the day after the expiry date.
- (5) A dangerous goods driver licence is renewed for the period specified in the renewed licence, being a period of not longer than 5 years.

*[Regulation 225 amended in Gazette 3 Aug 2012 p. 3758.]*

**226. Licence conditions**

- (1) A licensing authority may grant or renew a dangerous goods driver licence subject to any of the 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 include 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 containers that may or may not be used to transport dangerous goods in or on a road vehicle driven by the licensee; and
  - (c) the road vehicles that may be driven by the licensee in transporting dangerous goods; and
  - (d) the areas where the licensee may or may not drive a road vehicle transporting dangerous goods or particular dangerous goods; and
  - (e) the supervision of the licensee when driving a road vehicle transporting dangerous goods.
- (4) The licence may include any other condition necessary for the safe transport of dangerous goods by road.

**227. Additional condition**

- (1) It is a condition of a dangerous goods driver licence that a licensing authority may, by written notice given to the licensee, require the licensee to produce to the authority a certificate that —
  - (a) is about the licensee's medical fitness to drive a road vehicle; and
  - (b) is issued by a registered medical practitioner who examined the licensee not more than 6 months before the day on which the certificate is given to the authority; and
  - (c) states that the medical practitioner examined and passed the applicant in accordance with the set of medical standards described as the commercial standards in *Assessing Fitness to Drive for commercial and private*

*vehicle drivers*, Fourth Edition 2012, published by Austroads Ltd (ISBN 978-1-921991-01-1).

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

*[Regulation 227 amended in Gazette 3 Aug 2012 p. 3759.]*

**228. Grounds for cancelling, suspending or varying licences**

- (1) A licensing authority may cancel, suspend or vary a dangerous goods driver licence if the application for the licence or for renewal of the licence —
  - (a) did not comply with these regulations; or
  - (b) was false or misleading in a material respect.
- (2) A licensing authority may cancel, suspend or vary a dangerous goods driver licence 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 referred to in subparagraph (i);
  - or
  - (b) the licensee has been found guilty by a court in Australia of an offence; or
  - (c) the licensee's driver licence is cancelled or suspended; or
  - (d) the licensee is suffering from a medical condition or has a physical or mental disability.

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

**229. Term used: vehicle**

In this Division —

**vehicle** does not include —

- (a) a prime mover; or
- (b) a converter dolly (within the meaning of clause 10.6 in the Schedule to the *Road Transport Reform (Heavy Vehicles Standards) Regulations* of the Commonwealth).

**230. Applications for licences**

- (1) A person may apply to a 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; and
  - (c) for which the person holds a licence granted under the *Road Traffic Act 1974* Part III.
- (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 a copy of the licence for the road vehicle granted under the *Road Traffic Act 1974* Part III.
- (4) If a fee is prescribed for the application, the application must be accompanied by the prescribed fee.

- (5) An application may be made for licences for 2 or more road vehicles in the same form.

**231. Additional information and inspections**

- (1) A licensing authority may, by written notice, require an applicant for a dangerous goods vehicle licence, or for renewal of a dangerous goods vehicle licence, for a road vehicle —
- (a) to give to the authority, or to someone nominated by the authority, any additional information necessary for a proper consideration of the application; and
  - (b) to make the road vehicle available for inspection by the authority, or by someone nominated by the authority, at a specified place and time.
- (2) A person who inspects a road 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.

**232. Grant of dangerous goods vehicle licences**

- (1) Subject to subregulation (3), a licensing authority must grant a dangerous goods vehicle licence for a road vehicle if —
- (a) an application for the licence is made to the authority in accordance with regulation 230; and
  - (b) the applicant has complied with any requirement made under regulation 231 in relation to the application; and
  - (c) 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)(c), 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 forms part of the vehicle or is attached to the vehicle, the vehicle is suitable only if —

- (a) the tank is an approved tank; and
  - (b) the vehicle complies with the requirements of the ADG Code Chapters 4.4 and 6.9 applying to road vehicles for use in transporting dangerous goods in the form of a liquid or gas.
- (3) The licensing authority must not grant a licence if the applicant is prohibited by a court order from involvement in the transport of dangerous goods by road.
- (4) The licensing authority may issue a single dangerous goods vehicle licence for more than one road vehicle.
- (5) If the licensing authority refuses to grant a dangerous goods vehicle licence, the authority must inform the applicant in writing of the refusal and of the reasons for the refusal.

**233. 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 renewal of the licence.
- (2) The application must include the information required under subregulation 230(2) for an application for a dangerous goods vehicle licence for the road vehicle.
- (3) If a fee is prescribed for the application, the application must be accompanied by the prescribed fee.
- (4) The application must be made within 3 months before the licence expires.

**234. Renewal of licences**

- (1) Subject to subregulation (3), a licensing authority must renew a dangerous goods vehicle licence for a road vehicle if —
  - (a) an application for renewal of the licence is made to the authority in accordance with regulation 233; and

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- (b) the applicant has complied with any requirement made under regulation 231 in relation to the application; and
  - (c) 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)(c), 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 forms part of the vehicle or is attached to the vehicle, the vehicle is suitable only if —
  - (a) the tank is an approved tank; and
  - (b) the vehicle complies with the requirements of the ADG Code Chapters 4.4 and 6.9 applying to road vehicles for use in transporting dangerous goods in the form of a liquid or gas.
- (3) The licensing authority must not renew the licence if the applicant is prohibited by a court order from involvement in the transport of dangerous goods by road.
- (4) The licensing authority may issue a single dangerous goods vehicle licence for more than one road vehicle.
- (5) If the licensing authority refuses to renew a dangerous goods vehicle licence, the authority must inform the applicant in writing of the refusal and of the reasons for the refusal.

**235. Licence periods**

- (1) A dangerous goods vehicle licence takes effect on the day on which the licence is granted or a later day specified in the licence.
- (2) A dangerous goods vehicle licence is granted for the period specified in the licence, being a period of not longer than 5 years.
- (3) If an application for a renewal of the licence is not decided on or before the date on which the licence expires under



subregulation (2) or (5) (the *expiry date*), the licence has effect after the expiry date until the licensing authority renews, or refuses to renew, the licence, unless in the meantime the licence is cancelled or the application is withdrawn.

- (4) A renewal of a licence takes effect on the day after the expiry date.
- (5) A dangerous goods vehicle licence is renewed for the period specified in the renewed licence, being a period of not longer than 5 years.

*[Regulation 235 amended in Gazette 3 Aug 2012 p. 3759.]*

**236. Licence conditions**

- (1) A licensing authority may grant or renew a dangerous goods vehicle licence subject to any of the 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 include conditions about —
  - (a) the dangerous goods that may or may not be transported in or on the road vehicle; and
  - (b) the areas where the road vehicle may or may not be used to transport dangerous goods or particular dangerous goods; and
  - (c) the inspections of the road vehicle (if any) that are required.
- (4) The licence may include any other condition necessary for the safe transport of dangerous goods by road.

**237. Disposal and transfer of licensed vehicles**

- (1) 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;

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

- (2) 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: a fine of \$1 500.

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

Penalty: a fine of \$1 500.

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

- (a) attach the licence 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: a fine of \$1 500.

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

- (a) if the licence also relates to another vehicle —
  - (i) amend the licence by omitting reference to the disposed vehicle; and
  - (ii) return the licence to the person who gave the licence to the authority;

or

- (b) if paragraph (a) does not apply — cancel the licence.
- (6) Within 21 days after the transfer by business transfer of a licensed vehicle, the person to whom the vehicle has been transferred must make an application to the licensing authority, accompanied by the licence, for the transfer of the licence to that person.  
Penalty: a fine of \$1 500.
- (7) On receipt of the application and licence, the licensing authority must amend the licence to record the change in ownership and return the licence.

**238. Grounds for cancelling, suspending or varying licences**

- (1) A licensing authority may cancel, suspend or vary a dangerous goods vehicle licence if the application for the licence or for renewal of the licence —
- (a) did not comply with these regulations; or
  - (b) was false or misleading in a material respect.
- (2) A licensing authority may also cancel, suspend or vary a dangerous goods vehicle licence for a road vehicle if the road vehicle does not comply with the Act or these regulations.

**Division 5 — Requirements relating to dangerous goods driver licences**

**239. ~~Licences~~ When licences to be carried**

The ~~holder~~driver of a road vehicle that is transporting dangerous goods ~~driver licence~~who is required to be licensed under this Part to drive the vehicle must carry his or her dangerous goods driver licence ~~when~~while driving ~~a road vehicle that is used to transport dangerous goods and that is required to be licensed under this Part to transport the goods~~the vehicle.

Penalty: a fine of \$1-500.

*[Regulation 239 inserted in Gazette 2 Dec 2013 p. 5497-8.]*

**240. Licences to be produced for inspection**

The driver of a road vehicle that is transporting dangerous goods who is required to be licensed under this Part to drive the vehicle must produce his or her dangerous goods driver licence for inspection by a DGO or a police officer, if the officer asks the driver to produce the licence for inspection.

Penalty: a fine of \$1 500.

**Division 6 — Licences generally**

**241. Terms used**

In this Division —

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

*licensee* means the holder of a licence.

**242. Replacement licences**

- (1) A 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 suspension of the licence has ended.
- (2) The licensing authority must issue a replacement licence to a licensee if the authority is satisfied that the licence has been defaced, destroyed, lost or stolen.

**243. Failure to comply with licence conditions**

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

Penalty: a fine of \$10 000.

**244. 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 that authority.
- (2) A licence ceases to have effect on its surrender.

**245. Registers of licences**

- (1) A licensing authority must keep a register of dangerous goods driver licences.
- (2) A licensing authority must keep a register of dangerous goods vehicle licences.
- (3) A register may have separate divisions for different kinds of licences.
- (4) A licensing authority must —
  - (a) record each licence granted by the authority in the appropriate register; and
  - (b) note in the register any cancellation, surrender, suspension or variation of a licence.

**246. 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;

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- (e) for a dangerous goods vehicle licence — the registration number, make and type of each road vehicle to which the licence relates;
- (f) the UN Classes or UN Divisions of dangerous goods for which the licence is valid;
- (g) any condition to which the licence is subject.

**247. Change of information given in licence applications**

- (1) This regulation applies if a licensee becomes aware that information given by the licensee to a licensing authority in, or in relation to, an application for a licence or for 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: a fine of \$1 500.

**248. Production of licences to licensing authority**

- (1) A licensing authority may, by written notice, require a person to whom a licence has been granted to produce the licence to the authority.
- (2) The person must produce the licence to the licensing authority within 14 days after the day on which the notice is given to the person.  
Penalty: a fine of \$1 500.

**249. Return of licences**

- (1) This regulation applies if a licence is produced to a licensing authority or given to the authority by a DGO or a police officer.
- (2) If the licence has not been cancelled, is not suspended and has not been varied, the licensing authority must return the licence to the licensee.

- (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**

#### **250. Terms used**

In this Division —

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

*licensee* means the holder of a licence.

#### **251. Cancellation, suspension and variation in dangerous situations**

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

- (a) a ground exists to cancel, suspend or vary the licence; and
- (b) it is necessary to do so to reduce, eliminate or avert any risk to people, property or the environment from dangerous goods in a dangerous situation.

#### **252. Cancellation and suspension giving effect to court orders**

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

**253. Variation of licences 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.

**254. Cancellation, suspension and variation in other circumstances**

- (1) This regulation applies if —
  - (a) a licensing authority considers that a ground exists to cancel, suspend or vary a licence granted by it (the *proposed action*); and
  - (b) none of regulations 251, 252 and 253 applies to the proposed action.
- (2) The licensing authority must give to the licensee a written notice that —
  - (a) states what the proposed action is; and
  - (b) if the proposed action is to suspend the licence — states what the proposed suspension period is; and
  - (c) if the proposed action is to vary the licence — sets out the proposed variation; and
  - (d) sets out the ground for the proposed action; and
  - (e) outlines the facts and other circumstances forming the basis for the ground; and
  - (f) invites the licensee to state in writing, within a specified period of at least 28 days after the day on which the notice is given to the licensee, why the proposed action should not be taken.



- (3) If, after considering any written statement made within the specified period, the licensing authority reasonably believes that a ground exists to take the proposed action, the authority may —
- (a) cancel or vary the licence; or
  - (b) suspend the licence for a period of 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.

**255. When cancellation, suspension and variation take effect**

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

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

**256. 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 if the road vehicle is not registered.

## **Part 18 — Insurance**

### **257. Duty on owners**

- (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 at least \$5 000 000, in respect of —
    - (i) personal injury, death, property damage and other damage (except consequential economic loss) arising out of fire, explosion, leakage or spillage of dangerous goods in, on or from the vehicle or any packaging transported in or on the vehicle; and
    - (ii) costs incurred by or on behalf of a Commonwealth, State or Territory government authority in a clean-up resulting from such fire, explosion, leakage or spillage;
  - or
  - (b) the owner has an approval given under regulation 260 in relation to the use of the vehicle and is complying with all relevant conditions to which the approval is subject.

Penalty: a fine of \$10 000.

- (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).

*[Regulation 257 amended in Gazette 22 Jun 2010 p. 2738.]*

**258. Duty on prime contractors**

- (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 at least \$5 000 000, in respect of —
    - (i) personal injury, death, property damage and other damage (except consequential economic loss) arising out of fire, explosion, leakage or spillage of dangerous goods in, on or from the vehicle or any packaging transported in or on the vehicle; and
    - (ii) costs incurred by or on behalf of a Commonwealth, State or Territory government authority in a clean-up resulting from such fire, explosion, leakage or spillage;
  - or
  - (b) the prime contractor has an approval given under regulation 260 in relation to the use of the vehicle and is complying with all relevant conditions to which the approval is subject.

Penalty: a fine of \$10 000.

- (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).

*[Regulation 258 amended in Gazette 22 Jun 2010 p. 2739.]*

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**259. Requiring evidence of insurance etc.**

- (1) The Chief Officer 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 road 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 257(1)(a) or 258(1)(a); or
  - (b) an approval given under regulation 260 in relation to the road vehicle.
- (2) The owner or prime contractor must produce the evidence or approval to the Chief Officer within 14 days after the day on which the notice is given to the owner or prime contractor.  
Penalty: a fine of \$3 000.

**260. Approvals — insurance**

- (1) The owner of a road vehicle used to transport a placard load, or a prime contractor responsible for the condition of the road vehicle, may make an application in accordance with regulation 194 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 257(1)(a) or 258(1)(a).
- (2) If the Chief Officer is satisfied that the owner or prime contractor is adequately capable of self-insurance for the purposes of regulation 257(1)(a) or 258(1)(a), the Chief Officer may give written approval for the use of the road vehicle.
- (3) An approval given under subregulation (2) may be given by the Chief Officer —
  - (a) for a single use or for a period of not longer than 3 years; and
  - (b) subject to any other condition for the purposes of regulation 257(1)(a) or 258(1)(a).

## **Part 19 — Mutual recognition**

### **Division 1 — Recommendations by Chief Officer and corresponding authorities**

#### **261. Recommendations by Chief Officer**

- (1) This regulation applies if the Chief Officer 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;
  - (b) cancel or vary a corresponding exemption or corresponding approval;
  - (c) cancel, suspend or vary a corresponding dangerous goods driver licence or corresponding dangerous goods vehicle licence.
- (2) The Chief Officer may recommend, in writing, that the corresponding authority take the proposed action.
- (3) The Chief Officer must provide written reasons to the corresponding authority for the recommendation.
- (4) If the recommendation is about a determination, exemption or approval that has effect in one or more other participating jurisdictions, the Chief Officer must also refer the recommendation to CAP.

#### **262. Recommendations by corresponding authorities**

- (1) In this regulation —  
*exemption* does not include an exemption granted by the Minister.

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

**Division 2 — Mutual recognition of determinations,  
exemptions, approvals and licences**

**263. 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 17 (Determinations — dangerous goods);
    - (ii) regulation 18 (Determinations — packagings);
    - (iii) regulation 19 (Determinations — vehicles, routes, areas, times etc.);and
  - (b) the determination has effect in the other jurisdiction; and

- (c) CAP has decided that the determination should have effect in all participating jurisdictions or participating jurisdictions including this State, and CAP has not reversed the decision.
- (2) The determination has effect in this State as if it were a determination made by the Chief Officer under the relevant provision.

**264. Corresponding exemptions**

- (1) This regulation applies to an exemption granted by a corresponding authority if —
  - (a) the exemption is granted from compliance with 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) CAP has decided that the exemption should have effect in all participating jurisdictions or participating jurisdictions including this State, and CAP has not reversed the decision.
- (2) The exemption has effect in this State as if it were an exemption granted by the Chief Officer from compliance with the relevant provision.
- (3) Despite subregulation (2), an exemption that has effect under that subregulation ceases to have effect 10 years after the day on which CAP decided that the exemption should have effect in all participating jurisdictions or participating jurisdictions including this State.

**265. Corresponding approvals**

- (1) This regulation applies to an approval given in another participating jurisdiction if —
  - (a) the approval is given under a provision of the law of the other jurisdiction corresponding to a provision (the **relevant provision**) of any one of the following regulations —
    - (i) regulation 15 (Approvals — tests and training courses for drivers);
    - (ii) regulation 56 (Approvals — packaging designs);
    - (iii) regulation 59 (Approvals — overpacks);
    - (iv) regulation 137 (Approvals — Type II segregation devices);
    - (v) regulation 138 (Approvals — methods of segregation);
    - (vi) regulation 162 (Approvals — emergency information);
    - (vii) regulation 260 (Approvals — insurance);and
  - (b) the approval has effect in the other jurisdiction; and
  - (c) CAP has decided that the approval should have effect in all participating jurisdictions or participating jurisdictions including this State, and CAP has not reversed the decision.
- (2) The approval has effect in this State as if it were an approval given by the Chief Officer under the relevant provision.



**266. Corresponding licences**

- (1) This regulation applies to a licence granted for road transport in another participating jurisdiction if —
- (a) the licence is granted under a provision of the law of the other jurisdiction corresponding to a provision (the ***relevant provision***) of either of the following regulations —
    - (i) regulation 222 (Grant of dangerous goods driver licences);
    - (ii) regulation 232 (Grant of dangerous goods vehicle licences);
  - and
  - (b) the licence has effect in the other jurisdiction.
- (2) Except for circumstances that do not exist in this State, the licence has effect in this State as if it were a licence granted by the Chief Officer under the relevant provision.

## **Part 20 — Reconsideration and review of decisions**

### **267. Application of Part**

- (1) This Part applies to the following decisions made by the Chief Officer —
  - (a) a decision, under the Act Part 4, to refuse to grant an exemption from compliance with a provision of these regulations, to cancel such an exemption, to impose a new condition or to vary or cancel a condition of such an exemption;
  - (b) a decision under regulation 15 to approve or not approve a test or training course for drivers of road vehicles transporting dangerous goods;
  - (c) a decision under regulation 56 to approve or not approve a design for a packaging;
  - (d) a decision under regulation 59 to approve or not approve a method of preparing an overpack;
  - (e) a decision under regulation 60(1) to authorise or not authorise a body or any other person to give approvals under regulations 56 and 59;
  - (f) a decision under regulation 60(5) to withdraw an authorisation given under regulation 60;
  - (g) a decision under regulation 137 to approve or not approve a design for a segregation device;
  - (h) a decision under regulation 138 to approve or not approve a method of segregation;
  - (i) a decision under regulation 162 to approve or not approve emergency information;
  - (j) a decision under regulation 184 to approve or not approve a person to be an approved responder to emergency;
  - (k) a decision under regulation 208, 210 or 211 to cancel, vary or refuse to vary an approval;

- (l) a decision under regulation 222 or 232 to grant or refuse to grant a licence;
  - (m) a decision under regulation 224 or 234 to renew or refuse to renew a licence;
  - (n) a decision under regulation 242 to issue or refuse to issue a replacement licence;
  - (o) a decision under regulation 251, 253 or 254 to cancel, suspend, vary or refuse to vary a licence;
  - (p) a decision under regulation 260 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 body —
- (a) a decision under regulation 56 to approve or not approve a design for a packaging;
  - (b) a decision under regulation 59 to approve or not approve a method of preparing an overpack.
- (3) This Part applies to the following decisions made by a licensing authority other than the Chief Officer —
- (a) a decision under regulation 222 or 232 to grant or refuse to grant a licence;
  - (b) a decision under regulation 224 or 234 to renew or refuse to renew a licence;
  - (c) a decision under regulation 242 to issue or refuse to issue a replacement licence;
  - (d) a decision under regulation 251, 253 or 254 to cancel, suspend, vary or refuse to vary a licence.

**268. Who may apply for reconsideration of decisions**

A person aggrieved by a decision may apply to the Chief Officer for reconsideration of the decision.

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**269. Applications for reconsideration**

- (1) An application must be made within —
  - (a) 28 days after the day on which the person was informed of the decision by the Chief Officer; or
  - (b) a longer period allowed by the Chief Officer, either before or after the end of the 28 days.
- (2) The application must be in writing and set out the grounds on which reconsideration of the decision is sought.

**270. Chief Officer to reconsider decisions**

- (1) Within 28 days after receiving the application, the Chief Officer must reconsider the decision, and confirm, revoke or vary the decision.
- (2) The Chief Officer must inform the applicant in writing of the result of the reconsideration and of the reasons for the result.

## **Part 21 — Infringement notices**

### **271. Infringement notice offences and modified penalties**

- (1) The offences created by the provisions of these regulations specified in Schedule 1 column 2 are prescribed for the purposes of the Act section 56(2).
- (2) For the purposes of the Act section 56(4), the modified penalty prescribed for the offence created by the provision of these regulations specified in column 2 of an item in Schedule 1 is —
  - (a) for an individual — the amount specified in column 3 of that item;
  - (b) for a body corporate — the amount specified in column 4 of that item.

## Part 22 — Fees

### 272. Fees prescribed

The fees payable under these regulations are prescribed in the Table.

**Table**

<b>Item</b>	<b>Fee for</b>	<b>Fee (\$)</b>
1.	Approval or variation of approval (r. 194(1)(b))	265.00
2.	Application for, or for renewal of, a licence, for the term of the licence per year or part of a year —	
	(a) dangerous goods driver licence (r. 218(2)(e) and 223(2)(e))	20.40
	(b) dangerous goods vehicle licence (r. 230(4) and 233(3))	128.00

*[Regulation 272 inserted in Gazette 22 Jun 2010 p. 2739;  
amended in Gazette 20 Aug 2010 p. 4071.]*

## **Part 23 — Transitional**

### **Division 1 — Provisions for *Dangerous Goods (Transport) Act 1998***

*[Heading inserted in Gazette 3 Aug 2012 p. 3759.]*

#### **273. Terms used**

In this Division —

***commencement day*** means the day on which the Act Part 3 comes into operation;

***repealed Act*** means the *Dangerous Goods (Transport) Act 1998* repealed by the Act;

***repealed regulations*** means the *Dangerous Goods (Transport) (Road and Rail) Regulations 1999* repealed by the Act.

*[Regulation 273 amended in Gazette 3 Aug 2012 p. 3759.]*

#### **274. Lawful conduct under repealed regulations**

- (1) A person does not commit an offence against the Act or these regulations in relation to the transport of dangerous goods by road or rail if —
  - (a) the transport takes place before 1 January 2010; and
  - (b) the person transports the goods in accordance with the repealed Act and the repealed regulations.
- (2) Where an exemption or approval that is continued in effect under this Part does not have an expiry date, it expires immediately before the fifth anniversary of the commencement day.

*[Regulation 274 amended in Gazette 23 Jan 2009 p. 157.]*

#### **275. Continuing effect of certain determinations**

- (1) This regulation applies to a determination that —

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- (a) was made under the repealed regulations; and
  - (b) was in force in this State immediately before the commencement day; 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 17 (Determinations — dangerous goods);
    - (ii) regulation 18 (Determinations — packaging);
    - (iii) regulation 19 (Determinations — vehicles, routes, areas, times etc.).
- (2) The determination has effect for these regulations as if it were a determination made by the Chief Officer under the relevant provision.
- (3) Without limiting subregulation (2), the Chief Officer may record the determination in the register of determinations kept under regulation 23.

**276. Continuing effect of certain 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 another State or a Territory that has passed or has indicated that it intends to pass a corresponding law; and
  - (b) was in force in the other State or the Territory immediately before the commencement day; and
  - (c) is a determination about something that may be determined under a provision of the corresponding law of the other State or the Territory (the **corresponding provision**) that corresponds to a provision of a regulation mentioned in regulation 275(1)(c).



- (2) Except for circumstances that do not exist in this State, the determination has effect for these regulations as if it were a determination made by a corresponding authority under the corresponding provision.

**277. Continuing effect of certain exemptions**

- (1) This regulation applies to an exemption that —
- (a) was granted under the repealed Act; and
  - (b) was in force in this State immediately before the commencement day; and
  - (c) is an exemption from compliance with a provision of the repealed regulations corresponding to a provision (the *relevant provision*) of these regulations.
- (2) Subject to regulation 274(2), the exemption has effect for these regulations as if it were an exemption granted by the Chief Officer from compliance with the relevant provision.
- (3) Without limiting subregulation (2), the Chief Officer may record the exemption in the register of exemptions kept under the Act section 23(8).

**278. Continuing effect of certain 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 or a Territory that has passed or has indicated that it intends to pass a corresponding law; and
  - (b) was in force in the other State or the Territory immediately before the commencement day; and
  - (c) is an exemption from compliance with a provision of the law of the other State or the Territory that corresponds to a provision of the corresponding law (the *corresponding provision*).

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

**279. Continuing effect of certain approvals**

- (1) This regulation applies to an approval that —
- (a) was given under the repealed regulations; and
  - (b) was in force in this State immediately before the commencement day; and
  - (c) is an approval of something that may be approved under a provision (the *relevant provision*) of any of the following regulations —
    - (i) regulation 15 (Approvals — tests and training courses for drivers);
    - (ii) regulation 56 (Approvals — packaging designs);
    - (iii) regulation 59 (Approvals — overpacks);
    - (iv) regulation 137 (Approvals — Type II segregation devices);
    - (v) regulation 138 (Approvals — methods of segregation);
    - (vi) regulation 162 (Approvals — emergency information).
- (2) Subject to regulation 274(2), the approval has effect for these regulations as if it were an approval given by the Chief Officer under the relevant provision.
- (3) Without limiting subregulation (2), the Chief Officer may record the approval in the register of approvals kept under regulation 202.

**280. Continuing effect of certain 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 another State or a Territory that has passed or has indicated that it intends to pass a corresponding law; and
  - (b) was in force in the other State or the Territory immediately before the commencement day; and
  - (c) is an approval of something that may be approved under a provision of the corresponding law of the other State or the Territory (the *corresponding provision*) that corresponds to a provision of a regulation mentioned in regulation 279(1)(c).
- (2) Except for circumstances that do not exist in this State, the approval has effect for these regulations as if it were an approval given by a corresponding authority under the corresponding provision.

**281. Continuing effect of certain licences**

- (1) This regulation applies to a licence that —
  - (a) was granted under the repealed regulations; and
  - (b) was in force in this State immediately before the commencement day; and
  - (c) is a licence that may be granted under either of the following provisions (the *relevant provision*) —
    - (i) regulation 222 (Grant of dangerous goods driver licence);
    - (ii) regulation 232 (Grant of dangerous goods vehicle licence).
- (2) The licence has effect for these regulations as if it were a licence granted by the Chief Officer under the relevant provision.

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- (3) Without limiting subregulation (2), the Chief Officer may record the licence in the relevant register of licences kept under regulation 245.
- (4) A licence that has effect under subregulation (2) expires when it would have expired under the repealed regulations.

**282. Continuing effect of certain 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 made by another State or a Territory that has passed or has indicated that it intends to pass a corresponding law; and
  - (b) was in force in the other State or the Territory immediately before the commencement day; and
  - (c) is a licence that may be granted under a provision of the corresponding law of the other jurisdiction (the ***corresponding provision***) that corresponds to a provision mentioned in regulation 281(1)(c).
- (2) Except for circumstances that do not exist in this State, the licence has effect for these regulations as if it were a licence granted by a corresponding authority under the corresponding provision.

**Division 2 — Other provisions**

*[Heading inserted in Gazette 3 Aug 2012 p. 3759.]*

**283. Assessing fitness to drive**

- (1) If a certificate that complies with regulation 221(c) as in force immediately before the date on which the *Dangerous Goods Safety (Road and Rail Transport of Non-explosives) Amendment Regulations 2012* regulation 7 commences is issued within one year after that date, it is taken to be a certificate that complies with regulation 221(c) as in force after that date.

- (2) If a certificate that complies with regulation 227(1)(c) as in force immediately before the date on which the *Dangerous Goods Safety (Road and Rail Transport of Non-explosives) Amendment Regulations 2012* regulation 9 commences is issued within one year after that date, it is taken to be a certificate that complies with regulation 227(1)(c) as in force after that date.

*[Regulation 283 inserted in Gazette 3 Aug 2012 p. 3759-60.]*

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**Schedule 1 — Infringement notice offences and  
modified penalties**

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**Table**

<b>Item</b>	<b>Provision</b>	<b>Modified penalty for an individual (\$)</b>	<b>Modified penalty for a body corporate (\$)</b>
1.	Regulation 20(2)	600	3 000
2.	Regulation 22	300	1 500
3.	Regulation 54	600	3 000
4.	Regulation 61	600	3 000
5.	Regulation 69(1)	600	3 000
6.	Regulation 69(3)	600	3 000
7.	Regulation 70	600	3 000
8.	Regulation 71(1)	600	3 000
9.	Regulation 71(2)	600	3 000
10.	Regulation 74(1)	600	3 000
	<i>[11-19 deleted]</i>		
20.	Regulation 101	300	1 500
21.	Regulation 107	(a) for a large packaging or overpack — 300  (b) in any other case — 100	(a) for a large packaging or overpack — 1 500  (b) in any other case — 500
22.	Regulation 112	600	3 000
23.	Regulation 116	600	3 000
24.	Regulation 119	600	3 000
25.	Regulation 123	300	—

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Infringement notice offences and modified penalties **Schedule 1**

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<b>Item</b>	<b>Provision</b>	<b>Modified penalty for an individual (\$)</b>	<b>Modified penalty for a body corporate (\$)</b>
26.	Regulation 127(1)	300	—
27.	Regulation 127(2)	300	—
27.	Regulation 138(3)	300	1 500
28.	Regulation 140(3)	600	—
29.	Regulation 141(1)	300	—
30.	Regulation 141(3)	300	—
31.	Regulation 142(2)	600	3 000
32.	Regulation 142(3)	100	500
33.	Regulation 143(2)	600	3 000
34.	Regulation 143(3)	100	500
35.	Regulation 146	300	—
36.	Regulation 147	300	1 500
37.	Regulation 150(1)	200	1 000
38.	Regulation 151(1)	200	1 000
39.	Regulation 152	300	1 500
40.	Regulation 153	300	1 500
41.	Regulation 154	200	—
42.	Regulation 155(2)	200	—
43.	Regulation 158	300	1 500
44.	Regulation 159(1)	300	1 500
45.	Regulation 160(1)	200	—
46.	Regulation 160(2)	100	—
47.	Regulation 160(3)	200	—
48.	Regulation 161(1)	200	—
49.	Regulation 161(2)	200	—

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<b>Item</b>	<b>Provision</b>	<b>Modified penalty for an individual (\$)</b>	<b>Modified penalty for a body corporate (\$)</b>
50.	Regulation 163	600	3 000
51.	Regulation 164(1)	600	3 000
52.	Regulation 165(1)	200	—
53.	Regulation 166(2)	100	—
54.	Regulation 169	100	—
55.	Regulation 170	200	—
56.	Regulation 171(2)	600	—
57.	Regulation 172	600	—
58.	Regulation 173	600	—
59.	Regulation 174	600	—
60.	Regulation 177(2)	600	3 000
61.	Regulation 177(3)	600	3 000
62.	Regulation 178(4)	300	1 500
63.	Regulation 179(2)	300	1 500
64.	Regulation 179(3)	300	1 500
65.	Regulation 185(1)	600	3 000
66.	Regulation 237(2)	100	500
67.	Regulation 237(3)	100	500
68.	Regulation 237(6)	100	500
69.	Regulation 239	100	—
70.	Regulation 240	100	—
71.	Regulation 243	600	3 000
72.	Regulation 247(2)	100	500
73.	Regulation 248(2)	100	500
74.	Regulation 257(1)	600	3 000



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<b>Item</b>	<b>Provision</b>	<b>Modified penalty for an individual (\$)</b>	<b>Modified penalty for a body corporate (\$)</b>
75.	Regulation 258(1)	600	3 000
76.	Regulation 259(2)	200	1 000

*[Schedule 1 amended in Gazette 22 Jun 2010 p. 2740.]*

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## Notes

- <sup>1</sup> This is a compilation of the *Dangerous Goods Safety (Road and Rail Transport of Non-explosives) Regulations 2007* and includes the amendments made by the other written laws referred to in the following table <sup>2</sup>. The table also contains information about any reprint.

### Compilation table

Citation	Gazettal	Commencement
<i>Dangerous Goods Safety (Road and Rail Transport of Non-explosives) Regulations 2007</i>	31 Dec 2007 p. 6893-7056	r. 1 and 2: 31 Dec 2007 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Mar 2008 (see r. 2(b) and <i>Gazette</i> 29 Feb 2008 p. 669)
<i>Dangerous Goods Safety (Road and Rail Transport of Non-explosives) Amendment Regulations 2008</i>	30 Jun 2008 p. 3129-30	r. 1 and 2: 30 Jun 2008 (see r. 2(a)); Regulations other than r. 1 and 2: 30 Jun 2008 (see r. 2(b) and <i>Gazette</i> 10 Jun 2008 p. 2471)
<i>Dangerous Goods Safety (Road and Rail Transport of Non-explosives) Amendment Regulations (No. 2) 2008</i>	23 Jan 2009 p. 157	r. 1 and 2: 23 Jan 2009 (see r. 2(a)); Regulations other than r. 1 and 2: 24 Jan 2009 (see r. 2(b))
<i>Dangerous Goods Safety (Road and Rail Transport of Non-explosives) Amendment Regulations (No. 2) 2009</i>	16 Jun 2009 p. 2193-4	r. 1 and 2: 16 Jun 2009 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2009 (see r. 2(b))
<i>Dangerous Goods Safety (Road and Rail Transport of Non-explosives) Amendment Regulations 2010</i>	22 Jun 2010 p. 2715-40	r. 1 and 2: 22 Jun 2010 (see r. 2(a)); Regulations other than r. 1 and 2: 23 Jun 2010 (see r. 2(b))
<i>Dangerous Goods Safety (Road and Rail Transport of Non-explosives) Amendment Regulations (No. 2) 2010</i>	20 Aug 2010 p. 4070-1	r. 1 and 2: 20 Aug 2010 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Sep 2010 (see r. 2(b))
<b>Reprint 1: The Dangerous Goods Safety (Road and Rail Transport of Non-explosives) Regulations 2007 as at 1 Oct 2010</b> (includes amendments listed above)		
<i>Dangerous Goods Safety (Road and Rail Transport of Non-explosives) Amendment Regulations 2012</i>	3 Aug 2012 p. 3757-60	r. 1 and 2: 3 Aug 2012 (see r. 2(a)); Regulations other than r. 1, 2, 8 & 10: 4 Aug 2012 (see r. 2(c)); r. 8 and 10: 3 Dec 2012

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Citation	Gazettal	Commencement
		(see r. 2(b))
<i>DGS (Road and Rail Transport of Non-explosives) Amendment Regulations (No. 2) 2012</i>	19 Feb 2013 p. 988-9	r. 1 and 2: 19 Feb 2013 (see r. 2(a)); Regulations other than r. 1 and 2: 20 Feb 2013 (see r. 2(b))
<a href="#"><u><i>Dangerous Goods Safety (Road and Rail Transport of Non explosives) Amendment Regulations 2013</i></u></a>	<a href="#"><u>2 Dec 2013</u></a> <a href="#"><u>p. 5497-8</u></a>	<a href="#"><u>r. 1 and 2: 2 Dec 2013</u></a> <a href="#"><u>(see r. 2(a));</u></a> <a href="#"><u>Regulations other than r. 1 and 2:</u></a> <a href="#"><u>3 Dec 2013 (see r. 2(b))</u></a>

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- <sup>2</sup> The *Dangerous Goods Safety (Road and Rail Transport of Non-explosives) Amendment Regulations (No. 2) 2010* published in *Gazette* 25 Jun 2010 p. 2873-4 were repealed before the amendment purported to come into operation by the *Dangerous Goods Safety (Road and Rail Transport of Non-explosives) Amendment Repeal Regulations 2010* (see *Gazette* 30 Jun 2010 p. 3157).

By Authority: JOHN A. STRIJK, Government Printer