NORTHERN TERRITORY OF AUSTRALIA

TRANSPORT OF DANGEROUS GOODS BY ROAD AND RAIL (NATIONAL UNIFORM LEGISLATION) ACT 2010

As in force at 2 February 2023

Table of provisions

Part 1 Introduction

Division 1 Preliminary matters

1 Short title 1
2 Commencement 1
3 Object of Act 1
4 Scope of Act 1

Division 2 Interpretation

5 Definitions 2
6 Meaning of *associate* 9
7 Meaning of *broken down* 9
8 Meaning of *compliance purposes* 10
9 Meanings of *consign* and *consignor* 10
10 Meanings of *load* and *loader* 11
11 Meaning of *operator* 11
12 Meanings of *pack* and *packer* 11
13 Meanings of *qualified*, *fit* and *authorised* 12
14 Meanings of *road* and *road-related area* 13
15 Meanings of *rolling stock* and *unit of rolling stock* 13
16 Meanings of *unattended* and *driver* 13
17 Examples 14
18 Notes 14
19 Application of *Acts Interpretation Act 1901* (Cth) 14

Division 3 Other matters

20 Application of Criminal Code 15
21 Act binds Crown 15

Part 2 Competent Authorities and authorised officers

Division 1 Appointments and arrangements

22 Competent Authority 16
23 Appointment of authorised officers 16
24 Authorised officer identification 16

25 Return of authorised officer identity card 17
26 Falsely representing to be authorised officer 17
27 Competent Authority may delegate powers 18
28 Competent Authority may provide information to corresponding authority 18
29 Reciprocal powers of authorised officers 18

Division 2 General powers – road vehicles

Subdivision 1 Application

30 Application of Division 19

Subdivision 2 Directions relating to road vehicles

31 Direction to stop road vehicle 19
32 Direction to move road vehicle 20
33 Direction to produce documents 21
34 Direction to move a road vehicle – danger or obstruction 22
35 Direction to leave vehicle 22

Subdivision 3 Other powers relating to road vehicles

36 Moving unattended road vehicle – to enable exercise of other powers 24
37 Powers of authorised officers – inspection 24
38 Powers of authorised officers – search 25
39 Moving unattended or broken down road vehicle 27
40 Powers of authorised officers – immobilised road vehicle 27
41 Powers of authorised officers in emergencies 28
42 Authorisation not required for driving under this Division 29

Division 3 Directions relating to rolling stock and trains

Subdivision 1 Application

43 Application 29

Subdivision 2 Power to give directions relating to rolling stock and trains

44 Powers of authorised officers – rail operators 29
45 Powers of authorised officers – train drivers 30
46 Powers of authorised officers – others 30
47 Powers of authorised officers – documents 31

Subdivision 3 Other powers relating to trains

48 Powers of authorised officers – inspection 31

49 Powers of authorised officers – search 32
50 Powers of authorised officers – immobilised train 34
51 Powers of authorised officers in emergencies 34

Division 4 Powers to inspect and search premises

Subdivision 1 Preliminary matters

52 Application 35
53 Residential purposes 35

Subdivision 2 Power to search premises

54 Power to inspect premises 35
55 Power to search premises 37

Division 5 Other directions

56 Direction to give name and other personal details 39
57 Direction to produce records, devices or other things 40
58 Direction to provide information 41
59 Direction to provide reasonable assistance 42

Division 6 Provisions regarding inspections and searches

60 Warrants 43
61 Judges may issue warrants by electronic means 44
62 Use of assistants and equipment 45
63 Use of equipment to examine or process things 46
64 Use or seizure of electronic equipment 46
65 Sample-taking procedure 47

Division 7 Other provisions regarding seizure

66 Receipt for and access to seized material 48
67 Embargo notices 48
68 Return of seized thing 50
69 Forfeiture 51
70 Dealing with forfeited thing 52

Division 8 Other matters

71 Limit on use of force 52
72 Consent 52
73 Giving directions under this Part 52
74 Directions to specify when to be complied with 52
75 Directions may be given under more than one provision 53

76 Restoring vehicle or premises to original condition after action taken 53
77 Protection from incrimination 53
78 Providing evidence to other authorities 54
79 Obstructing authorised officers 54

Part 3 Exemptions

80 Grant of exemption 54
81 Variation and cancellation of exemptions and conditions 56
82 Minister's orders to suspend operation of regulations 57

Part 4 Offences and penalties

83 Failure to hold licence 57
84 Goods too dangerous to be transported 59
85 Duties concerning the transport of dangerous goods 59

Part 5 General administrative sanctions

Division 1 Improvement notices

86 Improvement notice 60
87 Contravention of improvement notice 60
88 Amendment of improvement notice 61
89 Cancellation of improvement notice 61
90 Clearance certificate 61
91 Proceedings for an offence not affected 62

Division 2 Prohibition notices

92 Definition 62
93 Prohibition notice 62
94 Contravention of prohibition notice 63
95 Oral direction may be given before prohibition notice is served 63
96 Amendment of prohibition notice 64
97 Cancellation of prohibition notice 65
98 Proceedings for an offence not affected 65

Division 3 Formal warnings

99 Formal warnings 65
100 Withdrawal of formal warnings 65

Part 6 General court-based sanctions

Division 1 Proceedings for offences

101 Prosecution for offence 66

102 Period within which proceedings for offences may be commenced 66

Division 2 Available sanctions

103 Sanctions imposed by courts 66

Division 3 Commercial benefits penalty orders

104 Court may make commercial benefits penalty order 67

Division 4 Licensing and registration sanctions

105 Power to affect licences 67
106 Power to affect road vehicle registration 68

Division 5 Supervisory intervention orders

107 Court may make supervisory intervention order 68
108 Contravention of supervisory intervention order 71

Division 6 Exclusion orders

109 Court may make exclusion order 71
110 Contravention of exclusion order 72

Division 7 Forfeiture orders

111 Court may make forfeiture order 73

Division 8 Compensation orders

Subdivision 1 Interpretation

112 Definitions 73

Subdivision 2 General provisions

113 Compensation orders for damage to road and rail infrastructure 73
114 Assessment of compensation 74
115 Service of document 75
116 Limits on amount of compensation 75

Subdivision 3 Costs compensation orders

117 Recovery of costs 76

Subdivision 4 Costs and recovery

118 Costs 76
119 Enforcement of compensation order and award of costs 76
120 Relationship with orders or awards of other courts and tribunals 77

Part 7 General liability and evidentiary provisions

Division 1 Criminal liability for offences

121 Definitions 77
122 Liability of representative 77
123 Conduct of representative 78
124 Criminal liability of partner in partnership 79
125 Criminal liability of manager of unincorporated association 80
126 Criminal liability of executive officer of body corporate 81
126A Double jeopardy 82

Division 2 Special defences

127 Special defence for owners or operators 82
128 Special defence of compliance with direction 83

Division 3 General evidentiary provisions

129 Evidence 83
130 Evidence regarding weighing 84
131 Proof of appointments and signatures unnecessary 85
132 Transport documentation 85
133 Use of codes of practice etc. in proceedings 85

Part 8 Other matters

Division 1 Indemnities

134 Protection from liability 86
135 Indemnity not affected by certain matters 86
136 Other indemnities not affected 86

Division 2 General matters

137 Review of decision 87
138 Acts of retaliation for reporting breaches 87
139 Confidentiality 90
140 Misleading information 92
141 Contracting out prohibited 93
142 Recovery of costs of public authorities 93
143 Assistance in emergencies or accidents 94

144 Minister to notify adoption of code etc. 95
145 Delegation 95
146 Acquisition on just terms 95

Division 3 Regulations, codes, standards and rules

147 Powers to make regulations and adoption of codes and standards 95
148 Penalties under regulations 99

Division 4 Transitional matters for Transport of Dangerous Goods by Road and Rail (National Uniform Legislation) Act 2010

150 Definitions 99
151 Savings – authorised officers 100

Division 5 Validation for Transport of Dangerous Goods by Road and Rail (National Uniform Legislation) Amendment Act 2013

152 Validation provision 100

Part 9 Transitional matters for Statute Law Amendment (Directors' Liability) Act 2015

153 Offences – before and after commencement 100

Part 10 Transitional matters for Transport of Dangerous Goods by Road and Rail Legislation Amendment Act 2022

154 Application of section 84 101

ENDNOTES

NORTHERN TERRITORY OF AUSTRALIA

As in force at 2 February 2023

TRANSPORT OF DANGEROUS GOODS BY ROAD AND RAIL (NATIONAL UNIFORM LEGISLATION) ACT 2010

An Act to provide for the transport of dangerous goods by road or rail, and for related purposes

Part 1 Introduction

Division 1 Preliminary matters

1 Short title

This Act may be cited as the *Transport of Dangerous Goods by Road and Rail (National Uniform Legislation) Act 2010*.

2 Commencement

This Act commences on the day fixed by the Administrator by *Gazette* notice.

3 Object of Act

(1) The object of this Act is to regulate the transport of dangerous goods on land in order to promote public safety and protect property and the environment.

(2) The object is to be achieved in the context of nationally consistent road and rail transport laws, recognising that there are differences between jurisdictions on particular aspects of those laws.

4 Scope of Act

(1) This Act does not apply to:

(a) dangerous goods that are, or form part of, personal safety equipment of persons in a vehicle transporting dangerous goods; and

(b) dangerous goods that are in a container that is designed to form part of, and forms part of, the fuel or battery system of a vehicle's engine, auxiliary engine, fuel burning appliance or other part of a vehicle's propulsion equipment.

(2) The provisions of this Act have effect despite any other law of the Territory.

Division 2 Interpretation

5 Definitions

In this Act:

acting in an official capacity, in relation to an authorised officer, means the officer is exercising powers or performing functions under, or otherwise related to the administration of, this Act.

associate, see section 6.

authorised, in relation to the driving of a vehicle or the running of an engine, see section 13(3).

authorised officer means an authorised officer appointed under section 23(1).

authorised officer identity card, see section 24(1).

broken down, see section 7.

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

commercial benefits penalty order, see section 104(1).

compensation order, see section 112.

Competent Authority, see section 22(1).

compliance purposes, see section 8.

consign, see section 9.

consignor, see section 9.

corresponding authority means the Competent Authority appointed under a corresponding law.

corresponding law means:

(a) a law of another jurisdiction corresponding, or substantially corresponding, to this Act; or

(b) a law of another jurisdiction that is declared by regulation to be a corresponding law, whether or not the law corresponds, or substantially corresponds, to this Act.

dangerous activity, see section 92.

dangerous goods means:

(a) a substance or article prescribed by regulation as dangerous goods; or

(b) a substance or article determined by the Competent Authority, in accordance with the regulations, to be dangerous goods.

dangerous situation means a situation that is causing or is likely to cause imminent risk of death or serious injury to a person, significant harm to the environment or significant damage to property.

driver, of a vehicle:

(a) includes a two-up driver of the vehicle who is present in or near the vehicle; and

(b) includes a person who is driving the vehicle as a driver under instruction or under a learner licence; and

(c) if the vehicle is a unit of rolling stock forming part of a train but is not its locomotive – means the driver of the train; and

(d) if the vehicle is a trailer – means the driver of the motor vehicle towing the trailer.

*Note for definition **driver***

*See also section 16(2) for an extension of the meaning of **driver**.*

driver licence means a licence issued under a State or Territory law authorising the licensee to drive a road vehicle but does not include the following:

(a) a learner licence or a provisional or probationary licence authorising a person who is a novice driver to drive a road vehicle;

(b) a licence issued under this Act.

employee, see section 138(1)(a).

employer, see section 138(1)(a).

exclusion order, see section 109(1).

exemption means an exemption granted under section 80.

fit, in relation to the driving of a vehicle, see section 13(2).

goods too dangerous to be transported means:

(a) a substance or article prescribed by regulation as goods too dangerous to be transported; or

(b) a substance or article determined by the Competent Authority, in accordance with the regulations, to be goods too dangerous to be transported.

improvement notice means a notice under section 86, and includes the notice as amended by an amendment notice under 88.

intelligent transport system means a system involving the use of electronic or other technology (whether located in or on a vehicle, or on or near a road or rail, or elsewhere) that has the capacity and capability to monitor, collect, store, display, analyse, transmit or report information relating to:

(a) a vehicle or its equipment or load, the driver of a vehicle, the operator of a fleet of vehicles or another person involved in road or rail transport; and

(b) without limiting paragraph (a) – whether a vehicle is being operated in conformity with this Act and authorisations issued under this Act.

involvement in the transport of dangerous goods includes:

(a) importing, or arranging for the importation of, dangerous goods into Australia; and

(b) packing dangerous goods for transport; and

(c) marking or labelling packages containing dangerous goods for transport, and placarding vehicles and packaging on or in which dangerous goods are transported; and

(d) consigning dangerous goods for transport, including the preparation of transport documentation; and

(e) loading dangerous goods for transport or unloading dangerous goods that have been transported; and

(f) undertaking, or being responsible for, otherwise than as an employee or subcontractor, the transport of dangerous goods; and

(g) driving a vehicle carrying dangerous goods; and

(h) being the consignee of dangerous goods that are transported; and

(i) being involved as a director, secretary or manager of a body corporate, or other person who takes part in the management of a body corporate, that takes part in an activity covered by this definition.

jurisdiction means the Commonwealth or a State or Territory.

load, see section 10.

loader, see section 10.

Ministerial Council means the body (however described) that consists of the Minister of the Commonwealth, and the Minister of each State and Territory, who is responsible, or principally responsible, for matters relating to infrastructure and transport.

misleading information means information that is misleading in a material particular or because of the omission of a material particular.

offence means an offence against this Act.

operator, see section 11.

owner, in relation to a vehicle, means a person who:

(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.

pack, see section 12.

package, in relation to goods, means the complete product of the packing of the goods for transport, and consists of the goods and their packaging.

packaging, in relation to 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, and includes anything declared by regulation to be packaging.

*Notes for definition **packaging***

1 *It may be that a container constitutes the whole of the packaging of goods, as in the case of a drum in which dangerous goods are directly placed.*

2 *Unlike in United Nations publications relating to the transport of dangerous goods, the term **packaging** is used in this Act in its ordinary meaning.*

packer, see section 12.

placard means a label or emergency information panel that is required by the regulations to be used in transporting dangerous goods.

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

prime contractor means a person who, in conducting a business for or involving the transport of dangerous goods by road, has undertaken to be responsible for, or is responsible for, the transport of the goods by road.

prohibition notice means a notice under section 93(1) and includes the notice as amended by an amendment notice under section 96.

public authority means:

(a) the Crown in any capacity; or

(b) a body established by or under a law, or the holder of an office established by or under a law, for a public purpose, including, for example, a local government council; or

(c) a police force or police service.

public place includes a place:

(a) open to or used by the public as of right; or

(b) used for a public purpose or open to access by the public, whether on payment or otherwise; or

(c) open to access by the public by the express or tacit consent or sufferance of the owner of that place, whether the place is or is not always open to the public.

qualified, in relation to the driving of a vehicle or running of its engine, see section 13(1).

rail operator, in relation to the transport of dangerous goods by rail, means the person who has undertaken 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.

rail or road authority, see section 112.

rail or road infrastructure includes:

(a) any road (including its surface or pavement); and

(b) any railway (including its rails and junctions); and

(c) anything under or supporting a road or a railway, its surface, pavement or rails and maintained by a rail or road authority; and

(d) any bridge, tunnel, causeway, road-ferry, ford or other work or structure forming part of a rail or road system or supporting a railway or road; and

(e) any bridge or other work or structure located above, in or on a railway or road and maintained by a rail or road authority; and

(f) any traffic control devices, railway or tramway equipment, electricity equipment, emergency telephone systems or any other facilities (whether of the same or a different kind) in, on, over, under or connected with anything mentioned in paragraphs (a) to (e).

road, see section 14.

road law means:

(a) a provision in the *Motor Vehicles Act 1949* or *Traffic Act 1987*; or

(b) a provision in a law of a State or another Territory that substantially corresponds to a provision mentioned in paragraph (a).

road-related area, see section 14.

road vehicle:

(a) means any vehicle propelled on roads or road-related areas by any means (for example, gas, oil or electricity) other than human or animal power; and

(b) includes a combination, but does not include a powered cycle or a vehicle used on a railway.

rolling stock, see section 15(1).

supervisory intervention order, see section 107(1).

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:

(a) a unit of rolling stock that is a locomotive or other self-propelled unit; or

(b) 2 or more units of rolling stock joined together, at least one of which is a locomotive or other self-propelled unit.

transport, in relation to dangerous goods, includes:

(a) the packing, loading and unloading of the goods, and the transfer of the goods to or from a vehicle, for the purpose of their transport; and

(b) the marking or labelling of packages containing dangerous goods, and the placarding of vehicles and packaging in or on which dangerous goods are transported; and

(c) other matters incidental to their transport.

transport documentation means documentation required by the regulations for the transport of dangerous goods.

two-up driver means a person accompanying a driver of a vehicle on a journey or part of a journey who has been, is or will be sharing the task of driving the vehicle during the journey.

unattended, see section 16(1).

unit of rolling stock, see section 15(2).

vehicle means:

(a) a road vehicle; or

(b) rolling stock or a unit of rolling stock.

warrant means a warrant mentioned in section 60 or 61.

6 Meaning of *associate*

(1) A person is an ***associate*** of another person if:

(a) one is a spouse, de facto partner, parent, brother, sister or child of the other; or

(b) they are members of the same household; or

(c) they are partners in a partnership; or

(d) they are both trustees or beneficiaries of the same trust, or one is a trustee and the other is a beneficiary of the same trust; or

(e) one is a body corporate and the other is a director or member of the governing body of the body corporate; or

(f) one is a body corporate (other than a public company whose shares are listed on a stock exchange) and the other is a shareholder in the body corporate; or

(g) they are related bodies corporate within the meaning of the Corporations Act 2001; or

(h) a chain of relationships can be traced between them under any one or more of the above paragraphs.

(2) For subsection (1), a beneficiary of a trust includes an object of a discretionary trust.

7 Meaning of *broken down*

A road vehicle is ***broken down*** if:

(a) for a vehicle other than a trailer – it is not possible to drive the vehicle because it is disabled through damage, mechanical failure, lack of fuel or any similar reason; and

(b) for a trailer – it is not connected (either directly or by one or more other trailers) to a towing vehicle, whether or not the trailer is also disabled through damage, mechanical failure or any similar reason.

8 Meaning of *compliance purposes*

A power to give a direction or to inspect a vehicle or premises or to search premises is exercised for ***compliance purposes*** if the power is exercised:

(a) to find out whether this Act is being complied with; or

(b) to investigate an offence or suspected offence.

9 Meanings of *consign* and *consignor*

(1) A person ***consigns*** dangerous or other goods for transport, and is the ***consignor*** of the goods, if:

(a) subsection (2) applies to the person; or

(b) subsection (2) does not apply to the person or anyone else, but subsection (3) applies to the person; or

(c) subsections (2) and (3) do not apply to the person or anyone else, but subsection (4) applies to the person.

(2) This subsection applies to a person who, with the person's authority, is named or otherwise identified in transport documentation as the consignor of the goods.

(3) This subsection 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) during loading.

(4) This subsection applies to a person if:

(a) the goods are imported into Australia; and

(b) the person is the importer of the goods.

10 Meanings of *load* and *loader*

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

(a) loads one or more packages of the goods in or on a vehicle; or

(b) places or secures one or more packages of the goods on a vehicle; or

(c) supervises an activity mentioned in paragraph (a) or (b); or

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

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

11 Meaning of *operator*

(1) A person is the ***operator*** of a vehicle if:

(a) for a single vehicle (including a single vehicle in a group of vehicles that are physically connected) – the person is responsible for controlling or directing the operations of the vehicle; or

(b) for a group of vehicles that are physically connected – the person is responsible for controlling or directing the operations of the towing vehicle in the group.

(2) A person is not the operator of a vehicle only because the person owns a vehicle or does one or more of the following:

(a) drives a vehicle;

(b) maintains or arranges for the maintenance of a vehicle;

(c) arranges for the registration of a vehicle.

12 Meanings of *pack* and *packer*

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

(a) puts the goods in a packaging (even if that packaging is already on a vehicle); or

(b) assembles, places or secures packages in packaging designed to hold, enclose or otherwise contain more than one package (even if that packaging is already on a vehicle); or

(c) supervises an activity mentioned in paragraph (a) or (b); or

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

Example for section 12

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

13 Meanings of *qualified*, *fit* and *authorised*

(1) A person is ***qualified*** to drive a vehicle or run its engine at a particular time if, at that time, the person:

(a) holds a driver licence of the appropriate class to drive the vehicle, and the driver licence is not suspended; and

(b) is not prevented by or under a law (for example, by the conditions of the licence) from driving the vehicle.

(2) A person is ***fit*** to drive a vehicle or run its engine at a particular time if, at that time, the person:

(a) is apparently physically and mentally fit to drive the vehicle; and

(b) without limiting paragraph (a) – is not apparently affected by either or both of the following:

(i) alcohol;

(ii) any drug that affects the person's fitness to drive; and

(c) is not found to have a concentration of alcohol in the person's blood that exceeds the amount permitted by a law of the Territory; and

(d) is not found to have a concentration of a drug that affects the person's fitness to drive in the person's blood or oral fluid that exceeds the amount permitted by a law of the Territory.

(3) A person is ***authorised***:

(a) to drive a vehicle if the person is the operator of the vehicle or has the operator's authority to drive it; or

(b) to run the engine of a vehicle if the person is the operator of the vehicle or has the operator's authority to drive it or run its engine.

(4) Subsection (3) has effect regardless of whether or not the person is qualified to drive the vehicle or run its engine.

14 Meanings of *road* and *road-related area*

(1) A ***road*** includes a road-related area.

(2) ***Road*** and ***road-related area*** have the same meanings as they have in the *Australian Road Rules*.

15 Meanings of *rolling stock* and *unit of rolling stock*

(1) ***Rolling stock*** is a vehicle:

(a) consisting of 2 or more vehicles each of which is designed to run on a railway track; and

(b) that is being operated or used on a railway track (whether or not it is also designed to be operated or used on a road or road-related area).

(2) A ***unit of rolling stock*** is each of the vehicles mentioned in subsection (1)(a).

16 Meanings of *unattended* and *driver*

(1) A vehicle is ***unattended*** at a place in any of the following circumstances:

(a) if an authorised officer is present at the place – there is, after inspection and enquiry by the officer that is reasonable in the circumstances, apparently no person in, on, or in the vicinity of, the vehicle who appears to be its driver;

(b) if an authorised officer is not present at the place but is able to inspect the place by a camera or other remote surveillance system – there is, after inspection by the officer that is reasonable in the circumstances, apparently no person in, on, or in the vicinity of, the vehicle who appears to be its driver;

(c) if there is apparently a person in, on, or in the vicinity of, the vehicle who appears to be its driver after an inspection as mentioned in paragraph (a) or (b) – an authorised officer believes on reasonable grounds that:

(i) the person is not qualified, not fit or not authorised to drive it; or

(ii) the person is or appears to be unwilling to drive it; or

(iii) the person is subject to a direction under section 35 in relation to the vehicle.

(2) For a vehicle that is a trailer and not connected (either directly or by other trailers) to a towing vehicle, a reference in this Act to the ***driver*** of the vehicle is a reference to the driver of the towing vehicle of the combination to which the trailer was, or apparently was, last connected.

17 Examples

(1) Examples are part of this Act.

(2) An example of the operation of a provision of this Act:

(a) is not exhaustive; and

(b) may extend the meaning of the provision; and

(c) does not limit the meaning of the provision, unless the contrary intention appears.

18 Notes

(1) Notes that are at the foot of a provision in this Act are part of this Act.

(2) Marginal notes, footnotes at the bottom of a page of this Act and endnotes are not part of this Act.

19 Application of *Acts Interpretation Act 1901* (Cth)

(1) Subject to any contrary intention, the *Acts Interpretation Act 1901* (Cth) applies to the interpretation of this Act, except that:

(a) ***de facto partner*** has the same meaning as in section 3(1) of the *De Facto Relationships Act 1991*; and

(b) ***Government Gazette*** means the Government *Gazette* of the Territory; and

(c) ***Minister*** means the Minister of the Territory responsible for the administration of this Act; and

(d) ***penalty unit*** has the same meaning as in the *Penalty Units Act 2009*; and

(e) ***police officer*** means a member of the Police Force; and

(f) sections 33AA and 36 of the *Acts Interpretation Act 1901* (Cth) do not apply.

(2) Subsection (1) does not prevent the *Interpretation Act 1978* applying to the interpretation of this Act to the extent to which it can do so consistently with the application of the *Acts Interpretation Act 1901* (Cth).

(3) This section has effect subject to section 5.

Division 3 Other matters

20 Application of Criminal Code

Part IIAA of the Criminal Code applies to an offence against this Act.

Note for section 20

Part IIAA of the Criminal Code states the general principles of criminal responsibility, establishes general defences, and deals with burden of proof. It also defines, or elaborates on, certain concepts commonly used in the creation of offences.

21 Act binds Crown

(1) This Act binds the Crown in right of the Territory and, to the extent the legislative power of the Legislative Assembly permits, the Crown in all its other capacities.

(2) However, this Act does not make the Crown liable to be prosecuted for an offence.

Part 2 Competent Authorities and authorised officers

Division 1 Appointments and arrangements

22 Competent Authority

(1) The Work Health Authority is the Competent Authority for this Act.

(2) The Competent Authority:

(a) may exercise all the powers and perform all the functions of an authorised officer; and

(b) when exercising those powers or performing those functions, has all the immunities of an authorised officer.

23 Appointment of authorised officers

(1) The Competent Authority may, by notice published in the Government Gazette, appoint individuals or a class of individuals to be authorised officers.

(2) The Competent Authority may, in appointing an authorised officer, specify that the appointment is subject to conditions or restrictions relating to:

(a) the powers that may be exercised by the officer; or

(b) when, where and in what circumstances the officer may exercise powers.

24 Authorised officer identification

(1) The Competent Authority must issue an identification card (an ***authorised officer identity card***) to an authorised officer who is not a police officer.

(2) Subsection (1) does not prevent:

(a) the Competent Authority from issuing an authorised officer identity card to a police officer who is appointed to be an authorised officer; or

(b) the issue of a single identity card to a person for both this and another Act.

(3) The authorised officer identity card must specify the officer's name and that the officer is an authorised officer.

(4) In addition, the authorised officer identity card must:

(a) show a recent photograph of the authorised officer; and

(b) be signed by the officer.

(5) An authorised officer who is not a police officer must:

(a) carry his or her authorised officer identity card while carrying out duties under this Act; and

(b) if practicable, comply with a request to identify himself or herself by producing the card when exercising a power of an authorised officer under this Act.

(6) A police officer exercising a power of an authorised officer under this Act must, if practicable, comply with a request to identify himself or herself by:

(a) producing the officer's police identification; or

(b) if the officer has been issued with an authorised officer identity card – that identity card; or

(c) stating orally or in writing the officer's name, rank and place of duty, or the officer's identification number.

25 Return of authorised officer identity card

(1) A person who has been issued with an authorised officer identity card must return it to the Competent Authority within 21 days after ceasing to be an authorised officer.

Maximum penalty: 5 penalty units.

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

(3) It is a defence to a prosecution for an offence against subsection (1) if the defendant establishes a reasonable excuse.

26 Falsely representing to be authorised officer

A person must not falsely represent, by words or conduct, that the person or another person is an authorised officer.

Fault element: The person intentionally represents the person or other person is an authorised officer with an intention to deceive.

Maximum penalty: 50 penalty units.

27 Competent Authority may delegate powers

(1) The Competent Authority may, by written instrument, delegate to a person any powers of the Competent Authority under this Act.

(2) Subsection (1) does not apply to the Competent Authority's power:

(a) to appoint authorised officers; or

(b) to delegate its powers under this section.

28 Competent Authority may provide information to corresponding authority

(1) The Competent Authority may provide information to a corresponding authority about:

(a) any action taken by the Competent Authority under this Act; or

(b) any information obtained under this Act, including, for example, any information contained in any records, devices or other things inspected or seized under this Act.

(2) This section has effect subject to the *Information Act 2002*.

29 Reciprocal powers of authorised officers

(1) The Minister may enter into an agreement with a Minister of another jurisdiction for this section if the corresponding law of the other jurisdiction contains provisions corresponding to this section.

(2) To the extent to which it is envisaged by the agreement:

(a) authorised officers of the Territory may, in the Territory or the other jurisdiction, exercise powers and perform functions conferred on authorised officers of the other jurisdiction under the corresponding law of the other jurisdiction; and

(b) authorised officers of the other jurisdiction may, in the Territory or the other jurisdiction, exercise powers and perform functions conferred on authorised officers by this Act.

(3) Anything done by an authorised officer under subsection (2)(a) or (b) (including an omission of an act) is taken to have been done under this Act as well as under the corresponding law.

(4) The regulations may provide for the exercise of powers or performance of functions under this section.

Division 2 General powers – road vehicles

Subdivision 1 Application

30 Application of Division

This Division applies to a road vehicle if:

(a) one or more of the following apply to the vehicle:

(i) it has a placard on it;

(ii) it is carrying a container that has a placard on it;

(iii) an authorised officer believes on reasonable grounds that it is carrying dangerous goods or goods too dangerous to be transported; and

(b) the vehicle is situated:

(i) on a road; or

(ii) in or on a public place; or

(iii) in or on premises occupied or owned by the Competent Authority or by any other public authority; or

(iv) in or on any premises where an authorised officer is lawfully present after entry under Division 4.

Subdivision 2 Directions relating to road vehicles

31 Direction to stop road vehicle

(1) An authorised officer may, for compliance purposes, direct:

(a) the driver of a road vehicle to which this Division applies to stop the vehicle; or

(b) the driver of such a vehicle or another person not to do one or more of the following:

(i) move the vehicle;

(ii) interfere with it or any equipment in or on it;

(iii) interfere with its load.

(2) A direction to stop a vehicle may require the vehicle be stopped:

(a) without delay; or

(b) at the nearest place for it to be safely stopped as indicated by the authorised officer.

(3) A direction given under subsection (1) does not prevent an authorised officer from giving the driver or another person a later inconsistent direction under another provision of this Act.

(4) A direction given under subsection (1) ceases to have effect to the extent to which an authorised officer:

(a) gives the driver or another person a later inconsistent direction; or

(b) indicates to the driver or another person that the direction ceases to have effect.

(5) A person given a direction under subsection (1) must comply with the direction.

Maximum penalty: 60 penalty units.

(6) An offence against subsection (5) is an offence of strict liability.

(7) It is a defence to a prosecution for an offence against subsection (5) if the defendant establishes a reasonable excuse.

32 Direction to move road vehicle

(1) An authorised officer may, for compliance purposes, direct the driver of a road vehicle to which this Division applies to move it or cause it to be moved to the nearest location:

(a) that the officer believes to be a suitable location for those purposes, having regard to any matters the officer considers relevant in the circumstances; and

(b) that is within a distance (in any direction) specified by the officer and within a radius of 30 km of:

(i) the location of the vehicle when the direction is given; or

(ii) any point along the forward route of the journey if the direction is given in the course of a journey of the vehicle.

(2) A person given a direction under subsection (1) must comply with the direction.

Maximum penalty: 60 penalty units.

(3) An offence against subsection (2) is an offence of strict liability.

(4) It is a defence to a prosecution for an offence against subsection (2) if the defendant establishes a reasonable excuse.

33 Direction to produce documents

(1) An authorised officer may, for compliance purposes, direct the driver of a road vehicle to which this Division applies to produce to the officer:

(a) the driver's driver licence, including a provisional or learner licence; and

(b) any licence the driver is required to have by the regulations; and

(c) any transport documentation required to be carried on the vehicle by the regulations.

(2) A person given a direction under subsection (1) must comply with the direction.

Maximum penalty: 60 penalty units.

(3) An offence against subsection (2) is an offence of strict liability.

(4) It is a defence to a prosecution for an offence against subsection (2) if the defendant establishes a reasonable excuse.

(5) The authorised officer may seize a licence produced to the officer in response to the direction if the officer reasonably believes:

(a) the licence has been cancelled or suspended; or

(b) the licence has otherwise ceased to have effect; or

(c) the licence has been varied and the variation is not recorded on the licence; or

(d) the person who produced the licence is not the licensee.

(6) An authorised officer to whom a document appearing to be a licence is produced in response to a direction under subsection (1) may seize it if the officer reasonably believes it is not a licence.

34 Direction to move a road vehicle – danger or obstruction

(1) This section applies if an authorised officer believes on reasonable grounds that a road vehicle to which this Division applies is:

(a) seriously endangering public safety, the environment or any rail or road infrastructure; or

(b) causing or likely to cause an obstruction to traffic or any event lawfully authorised to be held on a road; or

(c) obstructing or hindering, or likely to obstruct or hinder, one or more vehicles from entering or leaving land adjacent to a road.

(2) The officer may direct the driver of the vehicle, or a person who is apparently in charge of the vehicle, to do one or both of the following:

(a) to move the vehicle, or cause it to be moved, to the extent to which it is necessary to avoid the danger, obstruction or hindrance;

(b) to do anything else reasonably required by the officer, or to cause anything else reasonably required by the officer to be done, to avoid the danger, obstruction or hindrance.

(3) A person given a direction under subsection (2) must comply with the direction.

Maximum penalty: 60 penalty units.

(4) An offence against subsection (3) is an offence of strict liability.

(5) It is a defence to a prosecution for an offence against subsection (3) if the defendant establishes a reasonable excuse.

35 Direction to leave vehicle

(1) This section applies if:

(a) an authorised officer has given a direction under another provision of this Division in relation to a road vehicle to which this Division applies; and

(b) the driver of the vehicle fails to comply with the direction.

(2) This section also applies if:

(a) an authorised officer has given a direction under another provision of this Division in relation to a road vehicle to which this Division applies; and

(b) an authorised officer believes on reasonable grounds the driver of the vehicle is not:

(i) fit to drive the vehicle in order to comply with the direction; or

(ii) qualified to drive the vehicle in order to comply with the direction; or

(iii) authorised to drive the vehicle in order to comply with the direction.

(3) The authorised officer may direct the driver to do one or more of the following:

(a) to vacate the driver's seat;

(b) to leave the vehicle;

(c) not to occupy the driver's seat until permitted to do so by an authorised officer;

(d) not to enter the vehicle until permitted to do so by an authorised officer.

(4) The officer may direct any other person to do one or both of the following:

(a) to leave the vehicle;

(b) not to enter the vehicle until permitted to do so by an authorised officer.

(5) A person given a direction under subsection (3) or (4) must comply with the direction.

Maximum penalty: 60 penalty units.

(6) An offence against subsection (5) is an offence of strict liability.

(7) It is a defence to a prosecution for an offence against subsection (5) if the defendant establishes a reasonable excuse.

Subdivision 3 Other powers relating to road vehicles

36 Moving unattended road vehicle – to enable exercise of other powers

(1) This section applies if an authorised officer:

(a) believes on reasonable grounds a road vehicle to which this Division applies is unattended on a road; and

(b) is seeking to exercise powers in relation to the vehicle for compliance purposes; and

(c) believes on reasonable grounds the vehicle should be moved to enable or facilitate the exercise of those powers.

(2) The authorised officer may, to the extent to which it is reasonably necessary to enable or facilitate the exercise of those powers, move, or authorise another person to move, the vehicle (by driving or towing it or otherwise).

(3) The officer may enter, or authorise another person to enter, the vehicle for the purpose of moving the vehicle.

(4) The officer or person authorised by the officer may use reasonable force to do one or more of the following:

(a) to open unlocked doors and other unlocked panels and objects;

(b) to gain access to the vehicle, or its engine or other mechanical components, to enable the vehicle to be moved;

(c) to enable the vehicle to be towed.

(5) An authorised officer must not authorise a person to move a vehicle for this section unless the officer believes on reasonable grounds the person is qualified and fit to do so.

37 Powers of authorised officers – inspection

(1) An authorised officer may, for compliance purposes, inspect a road vehicle to which this Division applies.

(2) The power to inspect the vehicle includes the power:

(a) to enter the vehicle; and

(b) to weigh, test, measure or take photographs of the vehicle or any part of it or its equipment or load; and

(c) to take, in accordance with section 65, a sample of any part of the vehicle's load; and

(d) to check the existence or details of, or take photographs of, placards or other information required by the regulations to be displayed in or on the vehicle or any load on it; and

(e) to inspect and take copies of, or extracts from, any records that are located in or on the vehicle and that are required to be carried in or on the vehicle by the regulations; and

(f) to access or download information required to be kept by the regulations that is:

(i) stored electronically in equipment located in or on the vehicle; or

(ii) accessible electronically from equipment located in or on the vehicle.

(3) This section does not authorise the use of force by the officer, but the officer may under this section do one or more of the following in relation to the vehicle:

(a) open unlocked doors and other unlocked panels and objects;

(b) inspect anything that has been opened or otherwise accessed;

(c) move, but not take away, anything that is locked up or sealed.

(4) The officer may exercise powers under this section at any time without the consent of:

(a) the driver of the vehicle; or

(b) a person apparently in charge of the vehicle; or

(c) any other person.

38 Powers of authorised officers – search

(1) An authorised officer may, for compliance purposes, search a road vehicle to which this Division applies if the officer believes on reasonable grounds:

(a) the vehicle has been used, is being used, or is likely to be used, in the commission of an offence; or

(b) the vehicle has been or may have been involved in a dangerous situation.

(2) The officer may form the belief during or after an inspection of the vehicle or independently of such an inspection.

(3) The officer may enter the vehicle for the purpose of, or in connection with, conducting the search.

(4) The officer may exercise powers under this section at any time, and without the consent of the driver of the vehicle, a person apparently in charge of the vehicle or any other person.

(5) Without limiting subsections (1) to (4), the power to search a vehicle under this section includes the power:

(a) to search for evidence of an offence; and

(b) to search for and inspect any records, devices or other things that:

(i) relate to the vehicle or any part of its equipment or load; and

(ii) are located in or on the vehicle; and

(c) to take copies of, or extracts from, one or more of the following:

(i) any records located in or on the vehicle that are required to be carried in or on the vehicle by the regulations;

(ii) any transport documentation located in or on the vehicle;

(iii) any other records, or any readout or other data obtained from any device or thing, located in or on the vehicle that the officer believes on reasonable grounds provide, or may on further inspection provide, evidence of an offence; and

(d) to take, in accordance with section 65, a sample of any part of the vehicle's load.

(6) The power to search a vehicle under this section does not include a power to search a person.

(7) The officer may seize and remove a record, device or other thing from the vehicle that the officer believes on reasonable grounds provides, or may on further inspection provide, evidence of an offence.

(8) The officer may use reasonable force in the exercise of powers under this section.

39 Moving unattended or broken down road vehicle

(1) This section applies if an authorised officer believes on reasonable grounds a road vehicle to which this Division applies is:

(a) unattended or broken down; and

(b) causing a dangerous situation.

(2) The officer may, to the extent to which it is reasonably necessary to stop the dangerous situation continuing, move, or authorise another person to move, the vehicle (by driving or towing it or otherwise).

(3) The officer may enter, or authorise another person to enter, the vehicle for the purpose of moving the vehicle.

(4) The officer may drive the vehicle even though the officer is not qualified to do so if the officer believes on reasonable grounds there is no other person in, on or in the vicinity of the vehicle who is more capable of driving it than the officer.

(5) A person authorised by the officer may drive the vehicle even though the person is not qualified to do so if the officer believes on reasonable grounds there is no one else in, on or in the vicinity of the vehicle who is more capable of driving it than the person.

(6) The officer or person acting under subsection (4) or (5):

(a) is exempt from any other provision of this Act or a road law to the extent to which it would require him or her to be licensed or otherwise authorised to drive the vehicle; and

(b) may use reasonable force to the extent to which it is reasonably necessary to do so to stop a dangerous situation continuing.

40 Powers of authorised officers – immobilised road vehicle

(1) This section applies if an authorised officer believes on reasonable grounds a road vehicle to which this Division applies is broken down or otherwise immobilised on a road.

(2) The authorised officer may give directions to the driver or a person apparently in charge of the vehicle about how:

(a) repair work is to be carried out on the vehicle; or

(b) the vehicle is to be towed off the road; or

(c) any dangerous goods located in or on the vehicle are to be removed from the vehicle; or

(d) any dangerous goods located in or on the vehicle are to be dealt with after their removal from the vehicle.

(3) A person given a direction under subsection (2) must comply with the direction.

Maximum penalty: 60 penalty units.

(4) An offence against subsection (3) is an offence of strict liability.

(5) It is a defence to a prosecution for an offence against subsection (3) if the defendant establishes a reasonable excuse.

41 Powers of authorised officers in emergencies

(1) This section applies if:

(a) a road vehicle to which this Division applies is involved in an incident; and

(b) the incident results in a dangerous situation.

(2) An authorised officer may give directions to the driver or a person apparently in charge of the vehicle about:

(a) the transport of any goods in the vehicle from the place of the incident; or

(b) how otherwise to deal with the goods.

(3) The direction must:

(a) be in writing and be signed by the authorised officer; and

(b) specify the name of the person to whom it is given; and

(c) identify the incident; and

(d) identify any dangerous goods to which it relates.

(4) However, if it is not practicable to give the direction in writing, the direction may be given orally and confirmed in writing within 48 hours.

(5) A person given a direction under subsection (2) must comply with the direction.

Maximum penalty: 60 penalty units.

(6) An offence against subsection (5) is an offence of strict liability.

(7) It is a defence to a prosecution for an offence against subsection (5) if the defendant establishes a reasonable excuse.

42 Authorisation not required for driving under this Division

An authorised officer or person driving a vehicle under this Division is not required to be authorised to do so by the operator of the vehicle.

Division 3 Directions relating to rolling stock and trains

Subdivision 1 Application

43 Application

This Division applies to a unit of rolling stock that:

(a) has a placard on it; or

(b) is carrying a container that has a placard on it; or

(c) an authorised officer knows or believes on reasonable grounds is carrying:

(i) dangerous goods; or

(ii) a container containing dangerous goods.

Subdivision 2 Power to give directions relating to rolling stock and trains

44 Powers of authorised officers – rail operators

(1) An authorised officer may, for compliance purposes, direct the rail operator of a train that includes a unit of rolling stock to which this Division applies to cause the train to stop at a place where it may be safely inspected by the officer.

(2) A person given a direction under subsection (1) must comply with the direction.

Maximum penalty: 60 penalty units.

(3) An offence against subsection (2) is an offence of strict liability.

(4) It is a defence to a prosecution for an offence against subsection (2) if the defendant establishes a reasonable excuse.

45 Powers of authorised officers – train drivers

(1) An authorised officer may, for compliance purposes, direct the driver of a train that includes a unit of rolling stock to which this Division applies or any other person not to do any one or more of the following:

(a) move the train;

(b) interfere with the train or any equipment in or on it;

(c) interfere with any load on any unit of rolling stock that forms part of the train.

(2) A person given a direction under subsection (1) must comply with the direction.

Maximum penalty: 60 penalty units.

(3) An offence against subsection (2) is an offence of strict liability.

(4) It is a defence to a prosecution for an offence against subsection (2) if the defendant establishes a reasonable excuse.

46 Powers of authorised officers – others

(1) If a unit of rolling stock to which this Division applies does not form part of a train, an authorised officer may, for compliance purposes, direct a person not to do any one or more of the following:

(a) move the unit;

(b) interfere with the unit or any equipment or container in or on it;

(c) attach any rolling stock to the unit.

(2) A person given a direction under subsection (1) must comply with the direction.

Maximum penalty: 60 penalty units.

(3) An offence against subsection (2) is an offence of strict liability.

(4) It is a defence to a prosecution for an offence against subsection (2) if the defendant establishes a reasonable excuse.

47 Powers of authorised officers – documents

(1) An authorised officer may direct the driver of a train that includes a unit of rolling stock to which this Division applies to produce to the officer transport documentation required to be carried on the train by the regulations.

(2) A person given a direction under subsection (1) must comply with the direction.

Maximum penalty: 60 penalty units.

(3) An offence against subsection (2) is an offence of strict liability.

(4) It is a defence to a prosecution for an offence against subsection (2) if the defendant establishes a reasonable excuse

Subdivision 3 Other powers relating to trains

48 Powers of authorised officers – inspection

(1) An authorised officer may, for compliance purposes, inspect:

(a) a unit of rolling stock to which this Division applies; or

(b) a train that includes, or that the authorised officer believes on reasonable grounds includes, a unit of rolling stock to which this Division applies.

(2) The power to inspect the unit of rolling stock or train includes the power:

(a) to enter the unit or train; and

(b) to weigh, test, measure or take photographs of the unit or train or any part of it or any of its equipment or load; and

(c) to take, in accordance with section 65, a sample of any part of the unit or train's load; and

(d) to check the existence or details of, or take photographs of, placards or other information required by the regulations to be displayed in or on the unit or any load on it; and

(e) to inspect and take copies of or extracts from any records that:

(i) are located in or on the train; and

(ii) are required to be carried in or on the train by the regulations; and

(f) to access or download information that is required to be kept by the regulations and that is:

(i) stored electronically in equipment located in or on the train; or

(ii) accessible electronically from equipment located in or on the train.

(3) This section does not authorise the use of force by the officer, but the officer may under this section do one or more of the following in relation to the unit of rolling stock or train:

(a) open unlocked doors and other unlocked panels and objects;

(b) inspect anything that has been opened or otherwise accessed;

(c) move, but not take away, anything that is locked up or sealed.

(4) The officer may exercise powers under this section at any time without the consent of:

(a) the driver of the unit of rolling stock; or

(b) a person apparently in charge of the rolling stock or train; or

(c) any other person.

49 Powers of authorised officers – search

(1) An authorised officer may, for compliance purposes, search a unit of rolling stock to which this Division applies, or a train that includes or that the authorised officer believes on reasonable grounds includes a unit of rolling stock to which this section applies, if the officer believes on reasonable grounds:

(a) the unit of rolling stock or train has been used, is being used, or is likely to be used, in the commission of an offence; or

(b) the unit of rolling stock or train has been or may have been involved in a dangerous situation.

(2) The officer may form the belief during or after an inspection of the unit of rolling stock or train or independently of such an inspection.

(3) The officer may enter the unit of rolling stock or train for the purpose of, or in connection with, conducting the search.

(4) The officer may exercise powers under this section at any time without the consent of:

(a) the driver of the unit of rolling stock; or

(b) a person apparently in charge of the rolling stock or train; or

(c) any other person.

(5) Without limiting subsections (1) to (4), the power to search a unit of rolling stock or train under this section includes the power:

(a) to search for evidence of an offence; and

(b) to search for and inspect any records, devices or other things that:

(i) relate to the unit of rolling stock or train or any part of its equipment or load; and

(ii) are located in or on the unit of rolling stock or train; and

(c) to take copies of, or extracts from, one or more the following:

(i) any records required to be carried in or on the unit of rolling stock or train by the regulations that are located in or on the unit of rolling stock or train;

(ii) any transport documentation located in or on the unit of rolling stock or train;

(iii) any other records, or any readout or other data obtained from any device or thing, located in or on the unit of rolling stock or train that the officer believes on reasonable grounds provide, or may on further inspection provide, evidence of an offence; and

(d) to take, in accordance with section 65, a sample of any part of the load of the unit of rolling stock or train.

(6) The power to search a unit of rolling stock or train under this section does not include a power to search a person.

(7) The officer may seize and remove a record, device or other thing from the unit of rolling stock or train that the officer believes on reasonable grounds provides, or may on further inspection provide, evidence of an offence.

(8) The officer may use reasonable force in the exercise of powers under this section.

50 Powers of authorised officers – immobilised train

(1) This section applies to a train that:

(a) is immobilised; and

(b) includes a unit of rolling stock to which this Division applies.

(2) An authorised officer may give directions to a person who is involved in the transport of the dangerous goods on the train about how:

(a) the dangerous goods are to be removed from the train; or

(b) the dangerous goods are to be dealt with after their removal from the train.

(3) A person given a direction under subsection (2) must comply with the direction.

Maximum penalty: 60 penalty units.

(4) An offence against subsection (3) is an offence of strict liability.

(5) It is a defence to a prosecution for an offence against subsection (3) if the defendant establishes a reasonable excuse.

51 Powers of authorised officers in emergencies

(1) This section applies if:

(a) a train that includes rolling stock to which this Division applies is involved in an incident; and

(b) the incident results in a dangerous situation.

(2) An authorised officer may give a person who is involved in the transport of the dangerous goods on the train directions about:

(a) the transport of the goods from the place of the incident; or

(b) how otherwise to deal with the goods.

(3) The direction must:

(a) be in writing and be signed by the authorised officer; and

(b) specify the name of the person to whom it is given; and

(c) identify the incident; and

(d) identify the dangerous goods to which it relates.

(4) However, if it is not practicable to give the direction in writing, the direction may be given orally and confirmed in writing within 48 hours.

(5) A person given a direction under subsection (2) must comply with the direction.

Maximum penalty: 60 penalty units.

(6) An offence against subsection (5) is an offence of strict liability.

(7) It is a defence to a prosecution for an offence against subsection (5) if the defendant establishes a reasonable excuse.

Division 4 Powers to inspect and search premises

Subdivision 1 Preliminary matters

52 Application

This Division applies to premises occupied or controlled by a person involved in the transport of dangerous goods.

53 Residential purposes

For this Division, premises are not being used for residential purposes merely because temporary or casual sleeping or other accommodation is provided in the premises for vehicle drivers.

Subdivision 2 Power to search premises

54 Power to inspect premises

(1) An authorised officer may, for compliance purposes, inspect premises to which this Division applies.

(2) The officer may enter the premises for the purpose of conducting the inspection.

(3) Without limiting subsections (1) and (2), the officer may inspect, or enter and inspect, any vehicle at the premises.

(4) Before an authorised officer enters premises (not being a public place) under this section, the officer must give the occupier of the premises reasonable notice of the intention to enter unless:

(a) giving the notice would be reasonably likely to defeat the purpose for which it is intended to enter the premises; or

(b) entry to the premises is made with the consent of the occupier of the premises; or

(c) entry is required in circumstances where the authorised officer reasonably believes there is an immediate risk to safety because of an operation being carried out at the premises in relation to dangerous goods; or

(d) entry is authorised by a warrant.

(5) This section does not authorise, without the consent of the occupier of the premises or another person apparently in charge of the premises, the entry or inspection of:

(a) premises that are apparently unattended, unless the officer believes on reasonable grounds the premises are not unattended; or

(b) premises that are, or any part of premises that is, used predominantly for residential purposes.

(6) Without limiting subsections (1) to (5), the power to inspect the premises under this section includes the following:

(a) the power to inspect and take copies of, or extracts from, any records that are:

(i) located at the premises; and

(ii) required to be kept under the regulations;

(b) the power to:

(i) check the existence of, and inspect, any device (including weighing, measuring, recording or monitoring devices) required to be installed, used or maintained under the regulations; and

(ii) inspect and take copies of, or extracts from, any readout or other data obtained from the device;

(c) the power to use photocopying equipment on the premises free of charge for the purpose of copying any records or other material;

(d) the power to take, in accordance with section 65, a sample of any substance or packaging on the premises.

(7) This section does not authorise the use of force by the officer, but the officer may under this section do one or more the following in relation to the premises:

(a) open unlocked doors and other unlocked panels and objects;

(b) inspect anything that has been opened or otherwise accessed under the power to use reasonable force in the exercise of a power to enter or move a vehicle under this Part;

(c) move, but not take away, anything that is locked up or sealed.

(8) An authorised officer who enters premises under this section must not unnecessarily impede any activities being conducted at the premises.

55 Power to search premises

(1) An authorised officer may, for compliance purposes, search premises to which this Division applies if the officer believes on reasonable grounds there may be at the premises records, devices or other things that may provide evidence of an offence.

(2) The officer may form the belief during or after an inspection of the premises or independently of such an inspection.

(3) The officer may enter the premises for the purpose of conducting the search.

(4) Without limiting subsections (1) to (3), the officer may search, or enter and search, any vehicle at the premises.

(5) The search may be conducted:

(a) at any time under the authority of a warrant; or

(b) at any time with the consent of the occupier of the premises or another person apparently in charge of the premises; or

(c) if the premises are used for the purpose of carrying on a business – at any time during ordinary business hours applicable at the premises (whether or not the premises are actually being used for that purpose) without:

(i) a warrant; and

(ii) the consent of the occupier, another person apparently in charge of the premises or any other person.

(6) Before an authorised officer enters premises (not being a public place) under this section, the officer must give the occupier or another person apparently in charge of the premises reasonable notice of the intention to enter unless:

(a) giving the notice would be reasonably likely to defeat the purpose for which it is intended to enter the premises; or

(b) entry to the premises is made with the consent of the occupier of the premises; or

(c) entry is required in circumstances where the authorised officer reasonably believes there is an immediate risk to safety because of an operation being carried out at the premises in relation to dangerous goods; or

(d) entry is authorised by a warrant.

(7) This section does not authorise, without a warrant or consent of the occupier of premises or another person apparently in charge of the premises, the entry or searching of:

(a) the premises when they are unattended, unless the officer believes on reasonable grounds the premises are not unattended; or

(b) the premises that are, or any part of premises that is, used predominantly for residential purposes.

(8) Without limiting subsections (1) to (7), the power to search premises under this section includes the following:

(a) the power to search for evidence of an offence;

(b) the power to search for and inspect any records, devices or other things that relate to:

(i) a vehicle or any part of its equipment or load located at the premises; or

(ii) any dangerous goods or packaging located at the premises;

(c) the power to take copies of, or extracts from, one or more of the following:

(i) any records required to be kept under the regulations that are located at the premises;

(ii) any transport documentation located at the premises;

(iii) any other records, or any readout or other data obtained from any device or thing, located at the premises that the officer believes on reasonable grounds provide, or may on further inspection provide, evidence of an offence;

(d) the power to use photocopying equipment on the premises free of charge for the purpose of copying any records or other material;

(e) the power to take, in accordance with section 65, a sample of any substance or packaging on the premises.

(9) The power to search premises under this section does not include a power to search a person.

(10) The officer may seize and remove any records, devices or other things from the premises that the officer believes on reasonable grounds provide, or may on further inspection provide, evidence of an offence.

(11) The officer may use reasonable force in the exercise of powers under this section.

Division 5 Other directions

56 Direction to give name and other personal details

(1) This section applies if an authorised officer suspects on reasonable grounds an individual:

(a) has committed or is committing or about to commit an offence; or

(b) may be able to assist in the investigation of an offence.

(2) The authorised officer may direct the person to give the officer then and there all or any of the person's personal details.

(3) If the authorised officer suspects on reasonable grounds a personal detail given under subsection (2) is misleading information, the officer may direct the person to produce evidence then and there of the correctness of the detail.

(4) A person given a direction under subsection (2) or (3) must comply with the direction.

Maximum penalty:

(a) For a direction given under subsection (2) because of subsection (1)(a) or a direction given under subsection (3) – 60 penalty units.

(b) For a direction given under subsection (2) because of subsection (1)(b) – 40 penalty units.

(5) An offence against subsection (4) is an offence of strict liability.

(6) It is a defence to a prosecution for an offence against subsection (4) if the defendant establishes a reasonable excuse.

(7) In this section:

personal details, in relation to a person, means the following:

(a) the person's full name;

(b) the person's date of birth;

(c) the address of where the person is living;

(d) the address of where the person usually lives;

(e) the person's business address.

57 Direction to produce records, devices or other things

(1) An authorised officer may, for compliance purposes, direct a person to produce:

(a) any records required to be kept by the person under this Act; or

(b) any records required to be kept under this Act that are in the person's possession or under the person's control; or

(c) any records, or any devices or other things that contain or may contain records, that are:

(i) in the person's possession or under the person's control; and

(ii) relating to or indicating an offence.

(2) The direction must:

(a) specify the records, devices or other things, or classes of records, devices or other things, that are to be produced; and

(b) specify where and to whom they are to be produced.

(3) The officer may do one or more of the following:

(a) inspect records, devices or other things that are produced;

(b) make copies of, or take extracts from, records, devices or other things that are produced;

(c) seize and remove records, devices or other things that are produced that the officer believes on reasonable grounds may on further inspection provide evidence of an offence.

(4) A person who is given a direction under subsection (1) must comply with the direction.

Maximum penalty: 60 penalty units.

(5) An offence against subsection (4) is an offence of strict liability.

(6) It is a defence to a prosecution for an offence against subsection (4) if the defendant establishes a reasonable excuse.

58 Direction to provide information

(1) An authorised officer may, for compliance purposes, direct a person involved in the transport of dangerous goods to provide information to the officer about:

(a) a vehicle; or

(b) any load or equipment carried or intended to be carried by a vehicle.

(2) Without limiting subsection (1), the direction may require a person associated with a particular vehicle to provide information about the current or intended trip of the vehicle, including:

(a) the location of the start or intended start of the trip; and

(b) the route or intended route of the trip; and

(c) the location of the destination or intended destination of the trip.

(3) A person given a direction under subsection (1) must comply with the direction.

Maximum penalty: 60 penalty units.

(4) An offence against subsection (3) is an offence of strict liability.

(5) It is a defence to a prosecution for an offence against subsection (3) if the defendant establishes a reasonable excuse.

59 Direction to provide reasonable assistance

(1) An authorised officer may direct a person who is involved in the transport of dangerous goods to provide reasonable assistance to the officer to enable the officer effectively to exercise a power under this Act in relation to the transport of the goods.

(2) Without limiting subsection (1), the assistance may include assisting the officer to do the following:

(a) to find and gain access to any records or information relating to a vehicle, including but not limited to:

(i) records and information required to be kept in or on a vehicle; or

(ii) records and information in a useable form for the purpose of ascertaining its compliance with requirements of this Act;

(b) to find and gain access to:

(i) devices on which information is electronically stored; and

(ii) the information stored on the devices;

(c) to weigh or measure:

(i) the whole or any part of a vehicle; or

(ii) the whole or any part of its equipment or load;

(d) to operate equipment or facilities for a purpose relevant to the power being, or proposed to be, exercised;

(e) to provide access free of charge to photocopying equipment for the purpose of copying any records or other material;

(f) to take a sample of any substance or packaging.

(3) A person given a direction under subsection (1) must comply with the direction.

Maximum penalty: 50 penalty units.

(4) An offence against subsection (3) is an offence of strict liability.

(5) It is a defence to a prosecution for an offence against subsection (3) if the defendant establishes a reasonable excuse.

Division 6 Provisions regarding inspections and searches

60 Warrants

(1) An authorised officer may apply to a Local Court Judge for a search warrant for particular premises if the officer believes on reasonable grounds one or more of the following circumstances exist:

(a) there may be at the premises, then or within the next 72 hours, records, devices or other things that may provide evidence of an offence;

(b) there is or has been located at the premises a vehicle that has been or may have been involved in an offence or a dangerous situation;

(c) the premises are or may otherwise be connected (directly or indirectly) with one or both of the following:

(i) a vehicle that has been or may have been involved in an offence or a dangerous situation;

(ii) any part of the equipment or load of such a vehicle.

(2) The application:

(a) may be made orally before the Judge or in any other way prescribed by regulation; and

(b) must be supported by evidence on oath or in an affidavit.

(3) The Judge may issue the search warrant if the Judge is satisfied there are reasonable grounds for believing one or more of the circumstances mentioned in subsection (1) exist.

(4) The search warrant authorises an authorised officer named in the warrant and any assistants the officer considers necessary:

(a) to enter the premises specified in the warrant; and

(b) to search for and seize a thing in accordance with the warrant.

(5) The search warrant must specify the following:

(a) the offence for which the warrant is issued;

(b) the premises to be searched;

(c) the thing for which the search is to be made;

(d) any conditions to which the warrant is subject;

(e) whether entry to the premises is authorised to be made at any time or during specified hours;

(f) a day, not later than 7 days after the issue of the warrant, on which the warrant ceases to have effect;

(g) any other information prescribed by regulation.

61 Judges may issue warrants by electronic means

(1) An authorised officer may apply to a Local Court Judge for a warrant mentioned in section 60 by telephone, facsimile or other electronic means in any of the following circumstances:

(a) the warrant is required for an urgent case;

(b) the delay that would occur if an application were made in person would frustrate the effective execution of the warrant.

(2) The Judge may require communication by voice with the applicant to the extent to which it is practicable in the circumstances.

(3) The application:

(a) must include all information required to be given in an application for a warrant under section 60; but

(b) may be made before the information is made on oath if the Judge considers it appropriate to do so.

(4) The Judge may, on the application, complete and sign the same form of warrant that would be issued under section 60 if the Judge:

(a) has considered the information in the application and any further information the Judge requires; and

(b) is satisfied the application is made in circumstances covered by subsection (1)(a) or (b).

(5) If the Judge decides to issue the warrant, the Judge must inform the applicant, by telephone or facsimile or other electronic means of the terms of the warrant and the day on which and the time at which it was signed.

(6) If the application was made as mentioned in subsection (3)(b), the authorised officer must give to the Judge the information duly made on oath not later than the earlier of the following:

(a) the day after the day of expiry of the warrant;

(b) the day after the day on which the warrant was executed.

(7) The Judge must attach to the documents given under subsection (6) the form of warrant completed by the Magistrate.

(8) If it is material in any proceedings for a court to be satisfied the exercise of a power under a warrant under this section was duly authorised, the court must assume the exercise of the power was not duly authorised unless the form of warrant signed by the Judge is produced in evidence.

(9) If an application for a warrant is made under this section, section 60 applies as if:

(a) a reference in that section to 72 hours were a reference to 48 hours; and

(b) the reference to 7 days in section 60(5)(f) were a reference to 48 hours.

62 Use of assistants and equipment

(1) An authorised officer may exercise powers under this Part with the aid of such assistants and equipment as the officer considers reasonably necessary in the circumstances.

(2) Powers that may be exercised by an authorised officer under this Part may be exercised by an assistant authorised and supervised by the officer only if the officer considers that it is reasonably necessary in the circumstances to do so.

63 Use of equipment to examine or process things

(1) An authorised officer exercising a power under this Part may bring to the location of a vehicle or premises any equipment reasonably necessary for the examination or processing of things found in, on or at the vehicle or premises in order to determine whether they may be seized.

(2) The officer may operate equipment already at the location to carry out the examination or processing if the officer believes on reasonable grounds:

(a) the equipment is suitable for the examination or the processing; and

(b) the examination or processing can be carried out without damage to the equipment or the thing.

(3) The things may be moved to another place so that the examination or processing can be carried out if:

(a) it is not practicable to examine or process the things at the location; or

(b) the occupier of the vehicle or premises consents in writing for them to be moved.

64 Use or seizure of electronic equipment

(1) This section applies if:

(a) a thing found in, on or at a vehicle or premises is, or includes, a disk, tape or other device for the storage of information (a ***storage device***); and

(b) equipment at the location of the vehicle or premises may be used with the storage device; and

(c) an authorised officer believes on reasonable grounds the information stored on the storage device is relevant to determine whether an offence has been committed.

(2) The authorised officer may operate the equipment to access the information.

(3) If the officer finds that the storage device contains information mentioned in subsection (1)(c), the officer may:

(a) put the information in a documentary form and seize the documents so produced; or

(b) copy the information to another storage device and remove that other storage device; or

(c) if it is not practicable to put the information in a documentary form or to copy the information – seize the storage device and the equipment that enables the information to be accessed.

(4) The officer must not operate or seize equipment under this section unless the officer believes on reasonable grounds the operation or seizure can be carried out without damage to the equipment.

65 Sample-taking procedure

(1) Despite any other provisions in this Part, an authorised officer may take a sample only if:

(a) it is safe to do so; and

(b) doing so will not result in a dangerous situation arising.

(2) An authorised officer must:

(a) unless it is not safe to do so, immediately after taking any sample of a substance, divide it into the following parts:

(i) one part that is to be retained for future comparison;

(ii) one part that is to be given to the person from whom the sample was taken;

(iii) if the officer intends to have the sample tested or analysed – one part for that testing or analysis; and

(b) immediately after dividing the sample:

(i) enclose each part of the sample in packaging in a way that prevents the contamination of the part; and

(ii) mark or label the packaging in a way that enables the part to be identified.

(3) If an authorised officer finds packages that appear to be identical during an inspection or search, the officer:

(a) may take 2 or more of the packages as samples; and

(b) must, immediately after doing so:

(i) enclose each package taken in a packaging in a way that prevents the contamination of the package; and

(ii) mark or label the packaging in a way that enables the sample to be identified; and

(iii) give one of the samples to the person from whom the sample was taken.

(4) If a person refused to accept a sample or part of a sample required to be given to the person under subsection (2)(a)(ii) or (3)(b)(iii), the authorised officer must:

(a) retain the sample or part; and

(b) give the retained sample or part to the person if subsequently asked to do so by the person.

(5) An authorised officer intending to take a sample under this Part must, before removing the sample from the vehicle or premises (as appropriate), give a written receipt that identifies the sample to the person from whom the sample was taken.

(6) In this section, ***a person from whom the sample was taken*** is:

(a) for an inspection or search under section 37, 38, 48 or 49 – the driver of the vehicle, or the person apparently in charge of the vehicle; or

(b) for an inspection or search under section 54 or 55 – the occupier, or apparent occupier, of the premises.

Division 7 Other provisions regarding seizure

66 Receipt for and access to seized material

If a record, device or other thing is seized and removed under this Part by an authorised officer, the officer must:

(a) give a receipt for it to the person from whom it is seized and removed; and

(b) allow the person who would normally be entitled to possession of it reasonable access to it if it is practicable to do so.

67 Embargo notices

(1) This section applies if:

(a) an authorised officer is authorised by the Competent Authority to seize any record, device or other thing (the ***relevant thing***) from a vehicle or premises under this Part; and

(b) the relevant thing cannot, or cannot readily, be physically seized and removed.

(2) The officer may issue a notice (an ***embargo notice***) forbidding any dealing with the relevant thing or a part of (including, for example, its movement, sale, leasing, or transfer and deletion of information from it) without the written consent of:

(a) the officer; or

(b) the Competent Authority.

(3) The embargo notice must:

(a) be as prescribed by regulation; and

(b) list the activities that it forbids; and

(c) set out the offences against subsections (5) and (7).

(4) The officer may issue the notice:

(a) by causing a copy of the notice to be served on the person with responsibility for the vehicle or premises; or

(b) if that person cannot be located or ascertained after all reasonable steps have been taken to do so – by affixing a copy of the notice to the relevant thing in a prominent position.

(5) A person must not:

(a) engage in conduct forbidden by the embargo notice; or

(b) instruct another person to engage in such conduct.

Fault elements:

The person:

(a) knows the conduct is forbidden by the embargo notice; and

(b) intentionally:

(i) engages in the conduct; or

(ii) instructs another person to do so.

Maximum penalty: 80 penalty units.

(6) It is a defence to a prosecution for an offence against subsection (5) if the defendant establishes that the defendant:

(a) moved the relevant thing, or part of it, to protect or preserve it; and

(b) notified the officer who issued the notice of the move, and of the new location of the relevant thing or part of it, within 48 hours after the move.

(7) A person on whom an embargo notice has been served must take reasonable steps to prevent anyone from engaging in conduct forbidden by the notice.

Maximum penalty: 80 penalty units.

(8) An offence against subsection (7) is an offence of strict liability.

(9) It is a defence to a prosecution for an offence against subsection (7) if the defendant establishes a reasonable excuse.

(10) Despite anything in any other Act, a sale, lease or transfer or other dealing with a record, device or other thing, or part of it, in contravention of this section is void.

68 Return of seized thing

(1) As soon as practicable after an authorised officer seizes anything (including a document) under this Part, the officer must return the thing to the owner unless:

(a) the officer considers it necessary to retain the thing because it may afford evidence in proceedings that have been or may be commenced for an offence; or

(b) the thing is forfeited to the Territory under this Act; or

(c) the officer is otherwise authorised (by law or an order of a court) to retain, destroy or dispose of the thing.

(2) The thing may be returned either unconditionally or on terms and conditions that the authorised officer considers appropriate.

(3) If the authorised officer, by notice to the owner, imposes a term or condition on the return of a thing, the owner must comply with the term or condition.

Maximum penalty: 60 penalty units.

(4) An offence against subsection (3) is an offence of strict liability.

(5) It is a defence to a prosecution for an offence against subsection (3) if the defendant establishes a reasonable excuse.

69 Forfeiture

(1) A thing (including a sample) taken for analysis or seized under this Part is forfeited to the Territory if the authorised officer who took or arranged the taking of, or seized, the thing:

(a) after making reasonable efforts, cannot return it to its owner; or

(b) after making reasonable inquiries, cannot find its owner; or

(c) considers it necessary to retain the thing to prevent the commission of an offence.

(2) If a thing is forfeited under subsection (1)(c), the authorised officer must, unless the officer cannot find its owner after making reasonable inquiries, by notice given to the owner:

(a) advise the owner about the forfeiture; and

(b) advise the owner how an application may be made under the regulations for a review of the decision to forfeit the thing.

(3) For subsections (1) and (2), the authorised officer is not required to make efforts as mentioned in subsection (1)(a) or inquiries as mentioned in subsection (1)(b) or (2) if it would be unreasonable to do so in the circumstances.

(4) For subsections (1) to (3), regard must be had to the condition, nature and value of the sample or thing in deciding whether:

(a) it is reasonable to make the efforts or inquiries; and

(b) if efforts or inquiries are made, what efforts or inquiries, including the period over which they are made, are reasonable.

(5) In this section:

owner, in relation to a thing taken for analysis, includes the person in charge of:

(a) the thing; or

(b) the place from which the thing was taken.

70 Dealing with forfeited thing

(1) On the forfeiture of a thing to the Territory, it becomes the Territory's property and may be dealt with in any way the Competent Authority considers appropriate.

(2) Without limiting subsection (1), the Competent Authority may destroy or dispose of the thing.

Division 8 Other matters

71 Limit on use of force

A provision of this Part that authorises an authorised officer to use reasonable force does not authorise the use of force against an individual unless the authorised officer is also a police officer.

72 Consent

(1) Before obtaining the consent of a person for a provision of this Part, an authorised officer must inform the person that the person may refuse to give consent.

(2) An entry by or the exercise of any power under this Part by an authorised officer as a result of a person's consent is not lawful unless the person voluntarily gave the consent.

(3) Consent may be withdrawn after it has been given, and the power concerned must no longer be exercised.

73 Giving directions under this Part

(1) A direction under this Part may be given orally, in writing or in any other way.

(2) A direction not given in person may be sent or transmitted by post, telephone, facsimile, email, radio or in any other way.

(3) A direction may be given to a driver orally or by means of a sign or signal (electronic or otherwise), or in any other way.

74 Directions to specify when to be complied with

(1) An oral direction given under this Part must specify whether it is to be complied with then and there or within a specified period.

(2) A written direction given under this Part must specify the period within which it is to be complied with.

75 Directions may be given under more than one provision

(1) An authorised officer may, on the same occasion, give directions under one or more provisions of this Part.

(2) Without limiting subsection (1), an authorised officer may, in the course of exercising powers under a provision of this Part, do one or both of the following:

(a) give further directions under the provision;

(b) give directions under one or more provisions of this Part.

76 Restoring vehicle or premises to original condition after action taken

(1) This section applies if:

(a) an authorised officer or a person authorised by the officer has taken action in the exercise or purported exercise of a power under this Part in relation to:

(i) a vehicle or its equipment or load; or

(ii) any premises; and

(b) damage was caused by the unreasonable exercise of the power or use of force not authorised under this Part.

(2) The officer must take reasonable steps to return the vehicle, equipment, load or premises to the condition it was in immediately before the action was taken.

77 Protection from incrimination

(1) This section applies if a person is required to do any of the following things in compliance with a direction under this Act:

(a) to answer a question;

(b) to produce a document;

(c) to provide information.

(2) The person is not excused from doing any of the things on the ground that doing so may result in information being provided that might tend to incriminate the person or make the person liable to a penalty.

(3) However, any information obtained or document produced as a direct result of the compliance with the direction by an individual is not admissible in evidence against the individual in proceedings for an offence or the imposition of a penalty (other than proceedings for the making of a false or misleading statement).

78 Providing evidence to other authorities

(1) The Competent Authority may, for law enforcement purposes, give a record, device or other thing seized, or any information obtained, under this Part to a public authority, including a public authority of another jurisdiction.

(2) Subsection (1) has effect except as provided by the *Information Act 2002*.

79 Obstructing authorised officers

(1) A person must not obstruct an authorised officer acting in an official capacity.

Fault elements:

The person:

(a) knows the authorised officer is acting in an official capacity; and

(b) intentionally obstructs the authorised officer.

Maximum penalty: 50 penalty units or imprisonment for 6 months.

(2) In this section:

obstruct includes hinder and resist.

Part 3 Exemptions

80 Grant of exemption

(1) A person, or a representative of a class of persons, may apply to the Competent Authority for an exemption from compliance with a provision of the regulations in relation to the transport of particular dangerous goods.

(2) The Competent Authority may, on its own initiative or on an application made under subsection (1), exempt a person or class of persons from compliance with a provision of the regulations in relation to the transport of particular dangerous goods if satisfied:

(a) it is not reasonably practicable for the person or class of persons to comply with the provision; and

(b) granting the exemption:

(i) would not be likely to create a risk of death or injury to a person, or harm to the environment or to property, greater than that which would be the case if the person or class of persons were required to comply with the provision; and

(ii) would not cause unnecessary administrative or enforcement difficulties, particularly in relation to maintaining national uniformity of road and rail transport laws.

(3) An exemption may be subject to specified conditions, including a condition that the exemption applies to one or both of the following:

(a) the transport of dangerous goods by road;

(b) the transport of dangerous goods by rail.

(4) If the Competent Authority grants an exemption to a person, it must give a notice to the person, stating the following:

(a) the provision of the regulations that is the subject of the exemption;

(b) the dangerous goods to which the exemption applies;

(c) the geographical area to which the exemption applies;

(d) when the exemption is to be in force;

(e) any conditions of the exemption.

(5) If the Competent Authority grants an exemption to a class of persons, or an exemption that is to remain in force for longer than 6 months, the Competent Authority must:

(a) publish a notice in the Government Gazette specifying all the details in subsection (4) and the person or class of persons to which the exemption applies; and

(b) notify the corresponding authority of each jurisdiction of the details of the exemption.

(6) A person operating under an exemption must not engage in conduct that results in a contravention of a condition of the exemption.

Fault elements:

The person:

(a) knows about the exemption and conditions of the exemption; and

(b) intentionally engages in conduct that results in a contravention of a condition of the exemption; and

(c) is reckless as to whether the conduct would result in a contravention of the condition.

Maximum penalty: 60 penalty units

(7) If an exemption granted to a person applies to a vehicle or premises, the person must keep a copy of the notice of exemption in the vehicle or at the premises.

Maximum penalty: 5 penalty units.

(8) An offence against subsection (7) is an offence of strict liability.

81 Variation and cancellation of exemptions and conditions

(1) The Competent Authority may cancel an exemption if it is:

(a) satisfied there has been a failure to comply with a condition of the exemption; or

(b) no longer satisfied of the matters mentioned in section 80(2) in relation to the exemption.

(2) The Competent Authority may vary or cancel conditions, or impose new conditions, of an exemption, by:

(a) for an exemption granted to a person – written notice given to the person; or

(b) for an exemption granted to a class of persons – notice published in the Government Gazette.

(3) The notice takes effect from the day the notice is given or published (as appropriate), or a later day specified in the notice.

82 Minister's orders to suspend operation of regulations

(1) The Minister may, by notice published in the Government Gazette, order the operation of all or specified parts of the regulations:

(a) is suspended for a specified period; or

(b) is varied in a way specified by the Minister.

(2) The order has effect for all or parts of the Territory as specified in the order.

Part 4 Offences and penalties

83 Failure to hold licence

(1) A prime contractor must not use a vehicle to transport dangerous goods (otherwise than as the driver of the vehicle) if:

(a) the regulations require the vehicle to be licensed to transport the goods; and

(b) the vehicle is not licensed under the regulations.

Fault elements:

The person:

(a) intentionally uses a vehicle to transport dangerous goods (otherwise than as the driver of the vehicle); and

(b) is reckless as to whether the vehicle is licensed to transport the goods under the regulations.

Maximum penalty: 400 penalty units or imprisonment for 2 years.

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

(a) the regulations require the vehicle to be licensed to transport the goods; and

(b) the vehicle is not licensed under the regulations.

Fault elements:

The person:

(a) intentionally consigns dangerous goods for transport by road on a vehicle; and

(b) is reckless as to whether the vehicle is licensed under the regulations.

Maximum penalty: 400 penalty units or imprisonment for 2 years.

(3) A person must not employ, engage or permit another person to drive a vehicle transporting dangerous goods if:

(a) the regulations require the other person to be licensed to drive the vehicle; and

(b) the other person is not licensed under the regulations.

Fault elements:

The person:

(a) intentionally employs, engages or permits another person to drive a vehicle transporting dangerous goods; and

(b) is reckless as to whether the other person is licensed to drive the vehicle under the regulations.

Maximum penalty: 400 penalty units or imprisonment for 2 years.

(4) A person must not drive a vehicle transporting dangerous goods if:

(a) the regulations require the vehicle to be licensed to transport the goods; and

(b) the vehicle is not licensed under the regulations.

Maximum penalty: 80 penalty units.

(5) A person must not drive a vehicle transporting dangerous goods if:

(a) the regulations require the person to be licensed to drive the vehicle; and

(b) the person is not licensed under the regulations.

Maximum penalty: 80 penalty units.

(6) An offence against subsection (4) or (5) is an offence of strict liability.

(7) It is a defence to a prosecution for an offence against subsection (4) or (5) if the defendant establishes a reasonable excuse.

84 Goods too dangerous to be transported

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

(a) intentionally:

(i) consigns goods for transport; or

(ii) arranges the transport of goods on a vehicle owned or controlled by the person; and

(b) the goods are goods that are prescribed by the regulations as being too dangerous to be transported.

Maximum penalty: 400 penalty units or imprisonment for 2 years.

(2) Strict liability applies to subsection (1)(b).

85 Duties concerning the transport of dangerous goods

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

(a) is involved in the transport of dangerous goods by road or rail; and

(b) fails to ensure the goods are transported in a safe way.

Fault elements:

The person:

(a) intentionally engages in conduct constituting involvement in the transport of dangerous goods by road or rail; and

(b) is reckless as to whether or not the goods are transported in a safe way.

Maximum penalty: 400 penalty units or imprisonment for 2 years.

(2) It is a defence to a prosecution for an offence against subsection (1) if the defendant establishes that the defendant complied with the subsection as far as it is reasonably practicable to do so.

Part 5 General administrative sanctions

Division 1 Improvement notices

86 Improvement notice

(1) An authorised officer who believes on reasonable grounds a person has contravened or is contravening or likely to contravene a provision of this Act may serve on the person an improvement notice:

(a) specifying the provision, belief and reasons for the belief; and

(b) requiring the person to remedy:

(i) the contravention or likely contravention; or

(ii) the matters or activities occasioning the contravention or likely contravention; and

(c) specifying the way in which the person should remedy the contravention, likely contravention, matters or activities; and

(d) specifying the period within which the person must comply with the notice; and

(e) including information about applying for a review of the decision to serve the notice.

(2) The authorised officer must have regard to the following when deciding to serve the notice:

(a) the nature of the contravention or likely contravention;

(b) any risk to persons or property resulting from the contravention or likely contravention and the severity of the risk.

87 Contravention of improvement notice

(1) A person commits an offence if:

(a) an improvement notice has been served on the person; and

(b) the person engages in conduct that results in a contravention of the notice.

Fault element: The person intentionally engages in the conduct.

Maximum penalty: 400 penalty units.

(2) It is a defence to a prosecution for an offence against subsection (1) if:

(a) the defendant establishes a reasonable excuse; or

(b) without limiting paragraph (a), the defendant establishes the defendant remedied the alleged contravention, likely contravention, matters or activities to which the notice relates in a way different from that specified in the notice.

88 Amendment of improvement notice

(1) An improvement notice may be amended by an authorised officer serving an amendment notice on the person served with the improvement notice.

(2) The amendment notice must:

(a) specify the amendment and reasons for the amendment; and

(b) include information about applying for a review of the decision to amend the improvement notice under the regulations.

(3) The amendment notice has no effect if it purports to deal with a contravention or likely contravention of a different provision of this Act from the provision dealt with in the improvement notice.

89 Cancellation of improvement notice

An improvement notice may be cancelled by the Competent Authority or an authorised officer serving a notice of cancellation on the person served with the improvement notice.

90 Clearance certificate

(1) An authorised officer may issue a clearance certificate to the effect that all or specified requirements of an improvement notice have been complied with.

(2) An improvement notice ceases to have effect in relation to a requirement on receipt, by the person on whom the notice was served, of a clearance certificate covering that requirement.

91 Proceedings for an offence not affected

The service, amendment or cancellation of an improvement notice does not affect any proceedings for an offence.

Division 2 Prohibition notices

92 Definition

In this Division:

dangerous activity means an activity that:

(a) relates to the transport of dangerous goods by road or rail; and

(b) is occurring or may occur in relation to, or in the immediate vicinity of, the dangerous goods; and

(c) is creating, or that could create, a dangerous situation or risk to the safety of any person.

93 Prohibition notice

(1) An authorised officer who believes on reasonable grounds a dangerous activity is occurring or is likely to occur may serve on a person who has or appears to have control over the activity a prohibition notice:

(a) specifying the belief and reasons for the belief; and

(b) requiring the person to cease the dangerous activity or to cease carrying it out in a specified way; and

(c) if the officer believes the dangerous activity involves a contravention of a law in force in the Territory – specifying that law; and

(d) including information about applying for a review of the decision to serve the notice.

(2) In addition, the prohibition notice may specify one or more of the following:

(a) a direction on measures to be taken by the person to minimise or eliminate the risk caused by the dangerous activity;

(b) alternative ways in which the person is to minimise or eliminate the risk caused by the dangerous activity;

(c) if the notice prohibits the carrying out of an activity in a specified way – one or more of the following:

(i) a place where the activity may not be carried out;

(ii) any thing that may not be used in connection with the activity;

(iii) any procedure that may not be followed in connection with the activity.

(3) The prohibition notice has effect from the date on which it is served or a later date specified in the notice until:

(a) the authorised officer has certified in writing the activity is not or is no longer a dangerous activity and notified the person of that certification; or

(b) the notice is cancelled.

94 Contravention of prohibition notice

(1) A person commits an offence if:

(a) a prohibition notice has been served on the person; and

(b) the person engages in conduct that results in a contravention of the notice.

Fault element: The person intentionally engages in the conduct.

Maximum penalty: 400 penalty units.

(2) It is a defence to a prosecution for an offence against subsection (1) if the defendant establishes a reasonable excuse.

95 Oral direction may be given before prohibition notice is served

(1) This section applies if an authorised officer believes on reasonable grounds:

(a) a dangerous activity is occurring or may occur; and

(b) it is not reasonable or immediately possible to serve a prohibition notice.

(2) The authorised officer may orally direct a person who has or appears to have control over the activity to do or not to do a specified act.

(3) The authorised officer must, in giving the direction:

(a) specify the reason for giving the direction; and

(b) tell the person that it is an offence not to comply with the direction.

(4) The direction ceases to have effect if a prohibition notice for the dangerous activity is not served on the person within 5 days after the direction is given.

(5) A person commits an offence if:

(a) a direction under subsection (2) has been given to the person; and

(b) the person engages in conduct that results in a contravention of the direction.

Fault element: The person intentionally engages in the conduct.

Maximum penalty: 400 penalty units.

(6) It is a defence to a prosecution for an offence against subsection (5) if the defendant:

(a) establishes a reasonable excuse; and

(b) without limiting paragraph (a), establishes that the authorised officer did not tell the person that it is an offence not to comply with the direction.

96 Amendment of prohibition notice

(1) A prohibition notice may be amended by an authorised officer serving an amendment notice on the person served with the prohibition notice.

(2) The amendment notice must:

(a) specify the amendment and reasons for the amendment; and

(b) include information about applying for a review of the decision to amend the prohibition notice under the regulations.

(3) The amendment notice has no effect if it purports to deal with a contravention of a different provision of a law from that dealt with in the prohibition notice.

97 Cancellation of prohibition notice

A prohibition notice may be cancelled by the Competent Authority or an authorised officer serving a notice of cancellation on the person served with the prohibition notice.

98 Proceedings for an offence not affected

The service, amendment or cancellation of a prohibition notice does not affect any proceedings for an offence.

Division 3 Formal warnings

99 Formal warnings

(1) An authorised officer may, instead of taking proceedings against a person for a contravention of this Act, formally warn the person if the officer believes:

(a) the person had taken reasonable steps to prevent the contravention and was unaware of the contravention; and

(b) the contravention is appropriate to be dealt with by way of a formal warning under this section.

(2) A formal warning must be in writing.

(3) In this section:

proceedings includes action by way of an infringement notice.

100 Withdrawal of formal warnings

(1) A formal warning may be withdrawn by the Competent Authority by serving on the alleged offender a notice of withdrawal within 21 days after the formal warning was given.

(2) After the formal warning has been withdrawn, proceedings may be taken against the person for the contravention.

(3) In this section:

proceedings includes action by way of an infringement notice.

Part 6 General court-based sanctions

Division 1 Proceedings for offences

101 Prosecution for offence

A prosecution for an offence may be brought by the Competent Authority or an authorised officer.

102 Period within which proceedings for offences may be commenced

(1) Proceedings for an offence must be commenced within:

(a) the period of 2 years after the commission of the alleged offence; or

(b) a period of 1 year commencing on the day on which the Competent Authority or an authorised officer first obtained evidence of the commission of the alleged offence.

(2) A document purporting to be a certificate issued by the Competent Authority or an authorised officer stating the date on which the Authority or officer first obtained the evidence mentioned in subsection (1)(b) is evidence of the matters stated in it.

Division 2 Available sanctions

103 Sanctions imposed by courts

(1) A court that finds a person guilty of an offence:

(a) may impose one or more sanctions provided for by this Part in addition to any penalty imposed for the offence; and

(b) must consider, when imposing more than one sanction provided for by this Part, the combined effect of the sanctions.

(2) This Part does not affect any discretions or powers that a court or other person or body has apart from this Part.

(3) If the operation of this Part results in both a supervisory intervention order and an exclusion order being in force at the same time for the same person, the supervisory intervention order has no effect while the exclusion order has effect.

Division 3 Commercial benefits penalty orders

104 Court may make commercial benefits penalty order

(1) The court that finds a person guilty of an offence may, on the application of the Competent Authority, make a commercial benefits penalty order requiring the person to pay a fine not exceeding 3 times the amount estimated by the court to be the gross commercial benefit that:

(a) was received or receivable, by the person or by an associate of the person, from the commission of the offence; and

(b) for a journey that was interrupted or not commenced because of actions taken by an authorised officer – would have been received or receivable, by the person or by an associate of the person, from the commission of the offence had the journey been completed.

(2) In estimating the gross commercial benefit under subsection (1), the court may take into account:

(a) benefits of any kind, whether monetary or otherwise; and

(b) any other matters it considers relevant, including, for example:

(i) the value of any goods involved in the offence; and

(ii) the distance over which the goods were or were to be carried.

(3) However, the court must disregard any costs, expenses or liabilities incurred by the person or an associate of the person in estimating the gross commercial benefit.

Division 4 Licensing and registration sanctions

105 Power to affect licences

(1) The court that finds the driver of a vehicle guilty of an offence may make an order for one or both of the following:

(a) that a licence the driver is required to have by the regulations is cancelled or modified or suspended for a specified period;

(b) that the driver is disqualified for a specified period from obtaining or holding a licence a person is required to have by the regulations.

(2) The order takes effect immediately or from a later specified date.

106 Power to affect road vehicle registration

(1) This section applies if the registered operator of a road vehicle is found guilty of an offence in relation to the vehicle.

(2) The court that finds the person guilty of the offence may make an order for one or both of the following:

(a) that the registration of the vehicle is cancelled or suspended for a specified period;

(b) that the registered operator or an associate of the registered operator is disqualified from registering the vehicle for a specified period.

(3) If the court considers that another person who is not present in court may be substantially affected by an order under this section, the court may issue a summons to that other person to show cause why the order should not be made.

(4) The order takes effect immediately or from a later specified date.

(5) In this section:

Australian Authority means:

(a) the Registrar of Motor Vehicles for a road law that is a law of the Territory; or

(b) for any other road law – a person or body having a function similar to that of the Registrar of Motor Vehicles under that law.

registered operator, in relation to a road vehicle, means the person recorded by an Australian Authority on a register maintained in accordance with a road law as the person responsible for the vehicle (whether or not called the operator).

Division 5 Supervisory intervention orders

107 Court may make supervisory intervention order

(1) The court that finds a person guilty of an offence may, on the application of the Competent Authority, make a supervisory intervention order for the person if the court considers the person to be a systematic or persistent offender against this Act.

(2) The supervisory intervention order is to require the person (at the person's own expense and for a specified period not exceeding 1 year) to do one or more of the following:

(a) to do specified things that the court considers will improve the person's compliance with this Act or specified provisions of this Act, including, for example, the following:

(i) appointing or removing staff to or from particular activities or positions;

(ii) training and supervising staff;

(iii) obtaining expert advice as to maintaining appropriate compliance;

(iv) installing monitoring, compliance, managerial or operational equipment (including, for example, intelligent transport system equipment);

(v) implementing monitoring, compliance, managerial or operational practices, systems or procedures;

(b) to conduct specified monitoring, compliance, managerial or operational practices, systems or procedures subject to the direction of the Competent Authority or a person nominated by the Authority;

(c) to furnish compliance reports to the Competent Authority or the court (or both) as specified in the order;

(d) to appoint a person to have responsibilities:

(i) to assist the person in improving compliance with this Act or specified provisions of this Act; and

(ii) to monitor the person's performance in complying with this or specified provisions of this Act and in complying with the requirements of the order; and

(iii) to furnish compliance reports to the Competent Authority or the court (or both) as specified in the order.

(3) The court may:

(a) specify matters that are to be dealt with in compliance reports; and

(b) specify the form, frequency and way in which compliance reports are to be prepared and furnished; and

(c) require that compliance reports or aspects of compliance reports be made public; and

(d) specify the form, frequency and way in which they are to be made public.

(4) The court may make a supervisory intervention order only if it is satisfied the order is capable of improving the person's ability or willingness to comply with this Act, having regard to:

(a) the offences of which the person has been previously found guilty; and

(b) the offences for which the person has been proceeded against by way of unwithdrawn infringement notices; and

(c) any other offences or other matters the court considers to be relevant to the conduct of the person in connection with the transport of dangerous goods.

(5) The order may direct that any other penalty or sanction imposed for the offence by the court is suspended until the court determines there has been a substantial failure to comply with the order.

(6) A court that has power to make a supervisory intervention order may revoke or amend the order on the application of:

(a) the Competent Authority; or

(b) the person for whom the order was made if the court is satisfied there has been a change of circumstances warranting the revocation or amendment.

(7) For subsections (1) and (5), if a person has committed at least one offence against this Act, the court may treat any offences that the person has committed against any corresponding law as if they had also been committed against this Act.

(8) In this section:

compliance report, in relation to a person for whom a supervisory intervention order is made, means a report relating to:

(a) the performance of the person in complying with:

(i) this Act or provisions of this Act specified in the order; and

(ii) the requirements of the order; and

(b) without limiting paragraph (a):

(i) things done by the person to ensure that any failure by the person to comply with this Act or the specified provisions of this Act does not continue; and

(ii) the results of those things having been done.

108 Contravention of supervisory intervention order

A person commits an offence if the person:

(a) is subject to a supervisory intervention order; and

(b) engages in conduct that results in a contravention of the order.

Fault elements:

The person:

(a) intentionally engages in the conduct; and

(b) is reckless as to whether the conduct would result in a contravention of the order.

Maximum penalty: 400 penalty units.

Division 6 Exclusion orders

109 Court may make exclusion order

(1) The court that finds a person guilty of an offence may, on the application of the Competent Authority, make an exclusion order for the person if the court considers the person to be a systematic or persistent offender against this Act.

(2) The exclusion order is to prohibit the person, for a specified period, from specified aspects of involvement in the transport of dangerous goods for the purpose of restricting the person's opportunities to commit or be involved in the commission of further offences.

(3) The court may make the order only if it is satisfied:

(a) the person should not continue the specified aspects of involvement in the transport of dangerous goods; and

(b) a supervisory intervention order is not appropriate for the person, having regard to:

(i) the offences of which the person has been previously found guilty; and

(ii) the offences for which the person has been proceeded against by way of unwithdrawn infringement notices; and

(iii) any other offences or other matters the court considers to be relevant to the conduct of the person in connection with involvement in the transport of dangerous goods.

(4) A court that has power to make exclusion orders may revoke or amend an exclusion order on the application of:

(a) the Competent Authority; or

(b) the person for whom the order was made if the court is satisfied there has been a change of circumstances warranting the revocation or amendment.

(5) For subsections (1) and (4), if a person has committed at least one offence against this Act, the court may treat any offences that the person has committed against any corresponding law as if they had also been committed against this Act.

(6) To avoid doubt, a court cannot make an exclusion order that prohibits the person from driving or registering a vehicle.

110 Contravention of exclusion order

A person commits an offence if the person:

(a) is subject to an exclusion order; and

(b) engages in conduct that results in a contravention of the order.

Fault elements:

The person:

(a) intentionally engages in the conduct; and

(b) is reckless as to whether the conduct would result in a contravention of the order.

Maximum penalty: 400 penalty units.

Division 7 Forfeiture orders

111 Court may make forfeiture order

(1) The court that finds a person guilty of an offence may, on the application of the Competent Authority, order the dangerous goods and their packaging to be forfeited to the Territory if the court is satisfied:

(a) the person owns the goods; or

(b) the owner of the goods cannot be identified.

(2) If the court makes the order:

(a) the goods and packaging are forfeited to the Territory as specified in the order; and

(b) the goods and packaging may be collected, packaged, transported, stored, destroyed, sold or otherwise disposed of as directed by the Competent Authority; and

(c) the person found guilty of the offence is liable for the reasonable costs of doing a thing mentioned in paragraph (b).

Division 8 Compensation orders

Subdivision 1 Interpretation

112 Definitions

In this Division:

compensation order means an order made under this Division.

rail or road authority means a person or body (whether or not a public authority) that is responsible for the care, control or management of a railway or road.

Subdivision 2 General provisions

113 Compensation orders for damage to road and rail infrastructure

(1) The court that finds a person (the ***offender***) guilty of an offence may make a compensation order requiring the offender to pay an amount of compensation to a rail or road authority as decided by the court.

(2) The compensation is for any damage to any rail or road infrastructure incurred, or likely to be incurred, by the rail or road authority as a result of the offence.

(3) The court may do so only:

(a) on an application made by the rail or road authority or the Competent Authority within 2 years of the offender being found guilty of the offence; and

(b) if the court is satisfied on the balance of probabilities the commission of the offence caused or contributed to the damage.

114 Assessment of compensation

(1) For the compensation order, the court may assess the amount of compensation (including the estimated costs of remedying the damage) as it considers appropriate, having regard to the following:

(a) any evidence adduced in connection with the prosecution of the offence;

(b) any evidence not adduced in connection with the prosecution of the offence but adduced in connection with the making of the order;

(c) any document made by the rail or road authority under subsection (2);

(d) any other matters the court considers relevant.

(2) A document made by the rail or road authority stating matters relating to any of the following is evidence of the matters stated in the document:

(a) the rail or road authority maintains the railway or road infrastructure;

(b) the rail or road authority's estimate of any of the following:

(i) the monetary value of all or any part of the rail or road infrastructure or of the damage to it;

(ii) the cost of remedying the damage;

(iii) the extent of the offender's contribution to the damage.

115 Service of document

(1) The rail or road authority must not use a document made under section 114(2) in proceedings for the order unless it has served a copy of the document on the offender within 28 working days before the day the matter is set down for hearing (***the day of hearing***).

(2) If the offender wishes to challenge a statement in the document, the offender must:

(a) serve a written notice on the rail or road authority at least 14 working days before the day of hearing; and

(b) specify in the notice the matters in the document that the offender intends to challenge; and

(c) if the offender intends to challenge the accuracy of a measurement, analysis or reading stated in the document – specify in the notice:

(i) the reason why the offender alleges that it is inaccurate; and

(ii) the measurement, analysis or reading that the offender considers to be correct.

(3) The requirements of subsection (2) in relation to a document made under section 114(2) must be met before the offender may challenge a statement in the document.

(4) Despite subsection (3), the court may allow the offender to challenge a statement in the document if the court considers it to be in the interests of justice.

116 Limits on amount of compensation

(1) If the court is satisfied the offence as well as factors not connected with the offence contributed to the damage, the court must limit the compensation to the amount it assesses as attributable to the offender's contribution to the damage.

(2) The amount of the compensation:

(a) cannot exceed the monetary jurisdictional limit of the court in civil proceedings; and

(b) must not include an amount for any of the following:

(i) personal injury or death;

(ii) loss of income (whether sustained by a rail or road authority or anyone else);

(iii) damage to any property (for example, a vehicle) that is not part of the rail or road infrastructure.

Subdivision 3 Costs compensation orders

117 Recovery of costs

(1) A court that finds a person guilty of an offence may, on the application of the Competent Authority, and in addition to imposing any other sanction, order the person to pay to the Competent Authority costs:

(a) reasonably incurred for the prosecution of the offence; and

(b) directly related to the investigation of the offence.

(2) Without limiting subsection (1), the costs covered by the subsection may include costs for testing, transporting, storing and disposing of dangerous goods and other evidence.

(3) The Competent Authority may make an application under subsection (1) at:

(a) the time of the finding of guilt; or

(b) any other time not later than the final day of the period within which a prosecution for the offence must be commenced under this Act or the Regulations.

Subdivision 4 Costs and recovery

118 Costs

A court that makes a compensation order has the same power to award costs in proceedings for the order as it has in civil proceedings, and the relevant provisions of laws applying to costs in relation to civil proceedings apply with any necessary modifications to costs in relation to the proceedings for the compensation order.

119 Enforcement of compensation order and award of costs

A compensation order and award of costs made by a court under this Division are enforceable as if they were a judgment of the court in civil proceedings.

120 Relationship with orders or awards of other courts and tribunals

(1) A compensation order may not be made if another court or tribunal has awarded compensatory damages or compensation in civil proceedings for damage based on the same or similar facts.

(2) If a court purports to make an order under this Division in the circumstances mentioned in subsection (1):

(a) the order has no effect to the extent to which it covers the same matters as those covered by the other award; and

(b) any payments made under the order, to the extent to which it has no effect, must be repaid by the rail or road authority.

(3) The making of a compensation order does not prevent another court or tribunal from subsequently awarding damages or compensation in civil proceedings for damage based on the same or similar facts, but the other court or tribunal must take the order into account when awarding the damages or compensation.

Part 7 General liability and evidentiary provisions

Division 1 Criminal liability for offences

121 Definitions

In this Division:

declared provision means any of the following provisions:

(a) sections 26, 50(3), 51(5), 57(4), 59(3), 67(5) and (7), 68(3), 79(1), 80(6), 83(1), (2) and (3), 84, 85(1), 87(1), 94(1), 95(5), 108, 110, 138(2), (3) and (7), 139(4) and 140(1) and (2);

(b) a provision prescribed by regulation.

representative, of a person, means an employee or agent of the person.

122 Liability of representative

(1) It is not a defence to a prosecution for an offence that the defendant was, at the time of the commission of the offence, another person's representative.

(2) However, it is a defence if the defendant proves the defendant was, at the time of the commission of the offence:

(a) another person's representative; and

(b) acting as the other person's representative under the direct or indirect supervision of the other person.

123 Conduct of representative

(1) This section applies to a prosecution for an offence against a provision of this Act.

Note for subsection (1)

This section deals with prosecutions of individuals. Part IIAA, Division 5, of the Criminal Code contains provisions about corporate criminal responsibility.

(2) Conduct engaged in by a representative of a person within the scope of the representative's actual or apparent authority is taken to have been also engaged in by the person.

(3) However, subsection (2) does not apply if the person proves the person took reasonable steps to prevent the conduct.

(4) In deciding whether the person took reasonable steps to prevent the conduct, a court must consider:

(a) any action the person took to ensure the representative had a reasonable knowledge and understanding of the requirement to comply with the contravened provision; and

(b) the level of management, control or supervision that was appropriate for the person to exercise over the representative.

(5) Subsection (4) does not limit the matters the court may consider.

(6) If it is relevant to prove a person had a fault element in relation to a physical element of an offence, it is enough to show:

(a) the conduct relevant to the physical element was engaged in by a representative of the person within the scope of the representative's actual or apparent authority; and

(b) the representative had the fault element in relation to the physical element.

(7) A person may rely on section 43AX of the Criminal Code in relation to conduct by a representative that would be an offence by the person only if:

(a) the representative was under a mistaken but reasonable belief about the facts that, had they existed, would have meant that the conduct would not have constituted an offence; and

(b) the person proves the person exercised due diligence to prevent the conduct.

Note for subsection (7)

Section 43AX of the Criminal Code provides a person is not criminally responsible if the person engaged in conduct under a mistake of fact in relation to an offence of strict liability.

(8) A person (the ***defendant***) may not rely on section 43BA of the Criminal Code in relation to a physical element of an offence brought about by another person if the other person is a representative of the defendant.

Note for subsection (8)

Section 43BA of the Criminal Code provides a person is not criminally responsible in circumstances of an intervening conduct or event.

(9) A person who is convicted of an offence cannot be punished by imprisonment for the offence if the person would not have been convicted of the offence without subsection (2) or (6).

(10) In this section:

fault element includes intention, knowledge, recklessness, opinion, belief and purpose, but does not include negligence.

person means an individual.

124 Criminal liability of partner in partnership

(1) A partner in a partnership commits an offence if:

(a) another partner in the partnership (the ***offender***) commits an offence in the course of the activities of the partnership by contravening a declared provision (a ***relevant offence***); and

(b) the partner was in a position to influence the conduct of the offender in relation to the contravention; and

(c) the partner failed to take reasonable steps to prevent the contravention.

Fault element: The partner was reckless about whether the contravention would happen.

Maximum penalty: The maximum penalty that may be imposed on an individual for the relevant offence.

(2) This section does not affect the liability of the offender.

(3) This section applies whether or not the offender is prosecuted for, or convicted of, the relevant offence, but does not apply if the offender would have a defence to a prosecution for the relevant offence.

(4) In this section:

partner, of a partnership, includes a person who is concerned with, or takes part in, the management of the partnership.

partnership does not include an incorporated limited partnership formed under the *Partnership Act 1997*.

125 Criminal liability of manager of unincorporated association

(1) A manager of an unincorporated association commits an offence if:

(a) another manager of the association (the ***offender***) commits an offence in the course of the activities of the association by contravening a declared provision (a ***relevant offence***); and

(b) the manager was in a position to influence the conduct of the offender in relation to the contravention; and

(c) the manager failed to take reasonable steps to prevent the contravention.

Fault element: The manager was reckless about whether the contravention would happen.

Maximum penalty: The maximum penalty that may be imposed on an individual for the relevant offence.

(2) This section does not affect the liability of the offender.

(3) This section applies whether or not the offender is prosecuted for, or convicted of, the relevant offence, but does not apply if the offender would have a defence to a prosecution for the relevant offence.

(4) In this section:

manager, of an unincorporated association, means a person who is concerned with, or takes part, in the management of the association.

126 Criminal liability of executive officer of body corporate

(1) An executive officer of a body corporate commits an offence if:

(a) the body corporate commits an offence by contravening a declared EO liability provision (a ***relevant offence***) and the officer was reckless about whether the contravention would happen; and

(b) the officer was in a position to influence the conduct of the body corporate in relation to the contravention; and

(c) the officer recklessly failed to take reasonable steps to prevent the contravention.

Maximum penalty: The maximum penalty that may be imposed on an individual for the relevant offence.

(1A) Strict liability applies to subsection (1)(b).

(2) In deciding whether the executive officer took (or failed to take) reasonable steps to prevent the contravention, a court must consider the following:

(a) any action the officer took directed towards ensuring the following (to the extent the action is relevant to the contravention):

(i) the body corporate arranged regular professional assessments of the body corporate's compliance with the declared EO liability provision;

(ii) the body corporate implemented any appropriate recommendation arising from an assessment under subparagraph (i);

(iii) the body corporate's representatives and contractors had a reasonable knowledge and understanding of the requirement to comply with the declared EO liability provision;

(b) any action the officer took when the officer became aware that the contravention was, or could be, about to happen.

(3) Subsection (2) does not limit the matters the court may consider.

(4) This section does not affect the liability of the body corporate.

(5) This section applies whether or not the body corporate is prosecuted for, or found guilty of, the relevant offence.

(6) This section does not apply if the body corporate would have a defence to a prosecution for the relevant offence.

(7) In this section:

declared EO liability provision means:

(a) section 67(5) or (7), 68(3), 83(1), 84, 85(1), 87(1), 108, 110 or 138(2), (3) or (7); or

(b) a provision of the Regulations prescribed by regulation.

executive officer, of a body corporate, means a director or other person who is concerned with, or takes part in, the management of the body corporate.

126A Double jeopardy

(1) A person may be punished only once in relation to the same failure to comply with a particular provision of this Act, even if the person is liable in more than one capacity.

(2) Despite subsection (1), a person may be punished for more than one breach of a provision of this Act if the breaches relate to different parts of the same vehicle or of the same dangerous goods.

Division 2 Special defences

127 Special defence for owners or operators

(1) It is a defence to a prosecution for an offence by a defendant as an owner or operator of a vehicle transporting dangerous goods if the defendant establishes the vehicle was used at the time of the alleged offence by:

(a) another person, other than an employee or agent of the defendant, who was not entitled (whether by express or implied authority or otherwise) to use it at the time; or

(b) an employee of the defendant who was acting outside the scope of the employment at the time; or

(c) an agent (in any capacity) of the defendant who was acting outside the scope of the agency at the time.

(2) If the offence relates to alleged deficiencies concerning the vehicle or dangerous goods, the defence is not available unless the defendant establishes that:

(a) the vehicle or dangerous goods had not, before they ceased to be under the defendant's control, been driven or transported in Australia in breach of this Act or a corresponding law arising in connection with all or any of those alleged deficiencies; and

(b) one or more material changes, resulting in the alleged breach, had been made to the vehicle or dangerous goods after the vehicle or dangerous goods had ceased to be under the defendant's control.

(3) In subsection (2), ***deficiency concerning a vehicle or dangerous goods*** is a deficiency in complying with a requirement prescribed by regulation:

(a) about a thing that must be carried on or in a vehicle; or

(b) about dangerous goods.

128 Special defence of compliance with direction

It is a defence to a prosecution for an offence if the defendant establishes the conduct constituting the offence was done in compliance with a direction given by an authorised officer or a police officer.

Division 3 General evidentiary provisions

129 Evidence

(1) In proceedings for an offence, a statement by an authorised officer of the officer's belief about any of the following matters is evidence of the matter:

(a) that dangerous goods described in transport documents carried in a vehicle are being carried in the vehicle;

(b) that particular goods are dangerous goods or dangerous goods of a particular type;

(c) that a substance is, or packaging contains, dangerous goods as indicated by markings or placards on or attached to the substance or packaging;

(d) that a package contains dangerous goods as indicated by markings on, or attached to the package;

(e) that a vehicle or equipment is being used to transport dangerous goods as indicated by markings or placards on or attached to the vehicle or equipment;

(f) that a substance, packaging or contents of packaging has the capacity, tare weight, origin, character, specification, ownership or date of manufacture as indicated by markings or placards on or attached to the substance or packaging;

(g) that the contents of a package has the capacity, tare weight, origin, character, specification, ownership or date of manufacture as indicated by markings on, or attached to, the package;

(h) that a vehicle or packaging contained the quantity of dangerous goods as indicated by markings or placards on or attached to the vehicle or packaging;

(i) that a person was not, at a particular time, accredited or the holder of a licence relating to dangerous goods.

(2) In proceedings for an offence, a document signed by, or on behalf of, the Competent Authority about any of the following matters is evidence of the matter:

(a) whether a person is exempt from specified requirements under section 80;

(b) specified vehicles, equipment or other items that are required by the regulations to be approved by the Competent Authority;

(c) any accreditation or licence issued by the Competent Authority.

130 Evidence regarding weighing

(1) This section applies to evidence of a record made by the operator, or an employee of the operator, of a weighbridge or weighing facility, of the mass of:

(a) a vehicle transporting dangerous goods that is weighed at the weighbridge or weighing facility; or

(b) a container containing dangerous goods that is weighed at the weighbridge or weighing facility.

(2) The evidence is admissible in any proceedings as evidence of the mass of the vehicle or container at the time it was weighed.

(3) In this section:

weighbridge means a measuring instrument that is of a capacity of 3 tonnes or more and has a platform by the use of which the measuring instrument is capable of determining the mass of a vehicle.

weighing facility means a facility at which the mass of vehicles are measured.

131 Proof of appointments and signatures unnecessary

For this Act:

(a) it is unnecessary to prove the appointment of an authorised officer; and

(b) a signature purporting to be the signature of an authorised officer is evidence of the signature it purports to be.

132 Transport documentation

(1) Transport documentation is admissible in any proceedings for this Act as evidence of:

(a) the identity and status of the parties to the transaction to which it relates; and

(b) the destination or intended destination of the load to which it relates.

(2) In subsection (1), the reference to the ***status*** of parties includes a reference to their status in relation to their involvement in the transport of dangerous goods.

133 Use of codes of practice etc. in proceedings

(1) This section applies if:

(a) it is alleged that a person contravened a provision of this Act in proceedings for an offence; and

(b) the Ministerial Council has approved a code of practice, guideline or other document for providing practical guidance to persons engaged in the transport of dangerous goods; and

(c) the code of practice, guideline or document specifies a means of complying with the provision or with a requirement of the provision; and

(d) the code of practice, guideline or document has been published in the Government Gazette or copies of it are available for purchase or inspection within the Territory.

(2) If this section applies:

(a) the code of practice, guideline or document is admissible evidence in the proceedings; and

(b) the person is taken to have complied with the provision or requirement if the court is satisfied, at the time of the alleged offence, the person acted in accordance with the code of practice, guideline or document.

Part 8 Other matters

Division 1 Indemnities

134 Protection from liability

(1) An authorised officer or a person authorised under this Act by an authorised officer to do or to omit to do something does not incur civil liability for an act or omission done honestly and in good faith in the course of his or her duties.

(2) A liability that would, apart from this section, attach to the authorised officer or person attaches instead to the Competent Authority.

135 Indemnity not affected by certain matters

An indemnity under this Division is not affected merely because:

(a) a vehicle was in fact not carrying dangerous goods; or

(b) goods were not in fact dangerous goods.

136 Other indemnities not affected

This Division does not affect any other indemnity that:

(a) is provided under another law in force in the Territory; and

(b) is consistent with this Division.

Division 2 General matters

137 Review of decision

(1) A person may apply under the regulations for a review of any of the following decisions:

(a) a decision to forfeit a thing under section 69(1)(c);

(b) a decision to refuse to grant an exemption under section 80(2);

(c) a decision to grant an exemption subject to conditions under section 80(3);

(d) a decision to cancel an exemption under section 81(1);

(e) a decision to vary or cancel conditions, or impose new conditions, of an exemption under section 81(2);

(f) a decision to serve an improvement notice under section 86(1);

(g) a decision to amend an improvement notice under section 88(1);

(h) a decision to serve a prohibition notice under section 93(1);

(i) a decision to amend a prohibition notice under section 96(1);

(j) any other decision prescribed by regulation.

(2) The regulations may prescribe a system for the review of the decisions mentioned in subsection (1).

138 Acts of retaliation for reporting breaches

(1) This section applies to:

(a) a person (an ***employer***) who employs or engages an individual (an ***employee***) under:

(i) a contract of employment, apprenticeship or training; or

(ii) a contract for services; or

(b) a person (a ***prospective employer***) to whom an individual (a ***prospective employee***) has applied for employment under:

(i) a proposed contract of employment, apprenticeship or training; or

(ii) a proposed contract for services.

(2) An employer commits an offence if:

(a) the employer engages in any of the following conduct:

(i) dismissing an employee;

(ii) injuring an employee in relation to his or her employment;

(iii) altering an employee's position as an employee to his or her detriment; and

(b) one or both of the following apply:

(i) the employee has assisted, or has given any information to, a public agency in relation to a breach or alleged breach of this Act or a corresponding law;

(ii) the employee has made a complaint about a breach or alleged breach of this Act or a corresponding law to the employer, another employee, or a trade union or public agency.

Fault elements:

The employer:

(a) intentionally engages in the conduct mentioned in paragraph (a)(i), (ii) or (iii); and

(b) engages in the conduct with the intention to retaliate against an act of the employee mentioned in paragraph (b)(i) or (ii).

Maximum penalty: 100 penalty units.

(3) A prospective employer commits an offence if:

(a) the prospective employer engages in any of the following conduct:

(i) refusing or omitting to offer employment to a prospective employee;

(ii) treating a prospective employee less favourably than another prospective employee would be treated in relation to the terms of employment offered to the prospective employee; and

(b) one or both of the following apply:

(i) the prospective employee has assisted, or has given any information to, a public agency in relation to a breach or alleged breach of this Act or a corresponding law;

(ii) the prospective employee has made a complaint about a breach or alleged breach of this Act or a corresponding law to the prospective employer or an employee, prospective employee, trade union or public agency.

Fault elements:

The prospective employer:

(a) intentionally engages in the conduct mentioned in paragraph (a)(i) or (ii); and

(b) engages in the conduct with the intention to retaliate against an act of the prospective employee mentioned in paragraph (b)(i) or (ii).

Maximum penalty: 100 penalty units.

(4) If a person is found guilty of an offence against subsection (2) or (3), the court may, in addition to imposing a penalty on the offender, make one or both of the following orders:

(a) an order that the offender pay within a specified period to the employee or prospective employee compensation decided by the court;

(b) one of the following orders (as appropriate):

(i) the employee be reinstated to the employee's former position or, if that position is not available, a similar position;

(ii) the prospective employee be employed in the position for which the prospective employee had applied, or if that position is not available, in a similar position.

(5) The maximum amount of compensation cannot exceed the monetary jurisdictional limit of the court in civil proceedings.

(6) An order for payment of compensation is enforceable as if it were a judgment of the court in civil proceedings.

(7) A person commits an offence if:

(a) an order has been made in relation to the person or someone else under subsection (4); and

(b) the person engages in conduct that results in a contravention of the order.

Fault elements:

The person:

(a) intentionally engages in the conduct; and

(b) is reckless as to whether the conduct would result in a contravention of the order.

Maximum penalty: 50 penalty units.

(8) In this section:

public agency means:

(a) an authorised officer, a police officer or the Competent Authority; or

(b) an authorised officer, a police officer or the Competent Authority of another jurisdiction.

139 Confidentiality

(1) This section applies to:

(a) a person engaged or previously engaged in the administration of this Act; and

(b) without limiting paragraph (a):

(i) a person who is or was a delegate of the Competent Authority; and

(ii) a person who is or was employed by, or engaged to provide services to or on behalf of, the Competent Authority; and

(iii) a person who is or was employed by, or engaged to provide services to, a person or body engaged to provide services to the Competent Authority.

(2) A person to whom this section applies must not disclose to someone else information obtained (whether by that person or otherwise) in the administration of this Act except:

(a) as required or authorised under this or any other Act; or

(b) with the consent of the person from whom the information was obtained or to whom the information relates; or

(c) in connection with the administration of this Act; or

(d) to the Competent Authority, a corresponding authority, an authorised officer or a police officer; or

(e) to a public authority of any jurisdiction prescribed by regulation; or

(f) to a public authority of the Territory or another jurisdiction for law enforcement purposes; or

(g) to a court or in connection with any legal proceedings; or

(h) in accordance with the regulations.

(3) Information that has been disclosed under subsection (2) for a particular purpose must not be used for any other purpose by:

(a) the person to whom the information was disclosed; or

(b) any other person who gains access to the information (whether properly or improperly and whether directly or indirectly) as a result of that disclosure.

(4) A person commits an offence if the person engages in conduct that results in a contravention of subsection (2) or (3).

Fault elements:

The person:

(a) knows the information was obtained (whether by that person or otherwise) in the administration of this Act; and

(b) intentionally engages in the conduct; and

(c) is reckless as to whether the conduct would result in a contravention of subsection (2) or (3).

Maximum penalty: 100 penalty units.

(5) This section does not prevent information from being used:

(a) to assist a person in deciding whether or not to withdraw a formal warning for any offence; or

(b) to enable the Competent Authority to accumulate aggregate data and to enable it to authorise use of the aggregate data for research or education.

140 Misleading information

(1) A person must not give misleading information:

(a) to the Competent Authority; or

(b) an authorised officer acting in an official capacity.

Fault elements:

The person:

(a) intentionally gives information to the Competent Authority or authorised officer; and

(b) knows the information is misleading; and

(c) for information given to an authorised officer – knows the officer is acting in an official capacity.

Maximum penalty: 200 penalty units.

(2) A person must not give a document containing misleading information to:

(a) the Competent Authority; or

(b) an authorised officer acting in an official capacity.

Fault elements:

The person:

(a) intentionally gives the document to the Competent Authority or authorised officer; and

(b) knows the document contains misleading information; and

(c) for a document given to an authorised officer – knows the officer is acting in an official capacity.

Maximum penalty: 200 penalty units.

(3) Subsection (2) does not apply if the person, when giving the document:

(a) draws the misleading aspect of the document to the attention of the Competent Authority or authorised officer; and

(b) to the extent to which the person can reasonably do so – gives the Authority or officer the information necessary to remedy the misleading aspect of the document.

(4) In this section:

authorised officer includes a person who is assisting an authorised officer.

141 Contracting out prohibited

A term of a contract or agreement that purports to exclude, limit or modify the operation of all or part of this Act is void to the extent to which it would otherwise have that effect.

142 Recovery of costs of public authorities

(1) This section applies to an incident that:

(a) relates to the transport of dangerous goods by road or rail; and

(b) is wholly or partly constituted by or arising from, or involves the danger of:

(i) the escape of dangerous goods; or

(ii) an explosion or fire involving dangerous goods.

(2) If a public authority incurs costs as a result of the occurrence of the incident, so much of the costs as were reasonably incurred are recoverable as a debt due to the authority by action in a court of competent jurisdiction.

(3) The costs are recoverable jointly or severally from the following persons:

(a) the person who was the owner of the dangerous goods at the time of the incident;

(b) the person who was in control or possession of the dangerous goods at the time of the incident;

(c) the person who caused the incident;

(d) the person responsible, otherwise than as an employee, agent or subcontractor of another person, for the transport of the dangerous goods by road or rail.

(4) Costs are not recoverable from a person who establishes that:

(a) the incident was due to the act or omission of another person; and

(b) the person could not, by exercising reasonable care, have prevented the incident; and

(c) the incident was not attributable to an employee, agent or subcontractor of the person.

(5) The recovery of costs incurred by the public authority as a result of the occurrence of the incident (including an award or judgment in relation to those costs) does not preclude the recovery of costs incurred by another public authority as a result of the occurrence of the incident.

(6) This section does not affect a right to recover an amount for costs or expenses that exists apart from this section, but a public authority is not entitled to recover, for the same costs or expenses, an amount under this section and an amount in proceedings founded on other rights.

(7) In proceedings under this section, a document apparently signed by the principal officer of a public authority stating details of the costs reasonably incurred as a result of the occurrence of an incident to which this section applies is evidence of the matter stated in the document.

143 Assistance in emergencies or accidents

(1) A person is not civilly liable for an act done honestly and in good faith, and without any reward, for assisting or attempting to assist in a situation in which an emergency or accident involving dangerous goods occurs or is likely to occur.

(2) Subsection (1) does not apply to:

(a) an authorised officer; or

(b) a person whose act or omission was wholly or partly the cause of the occurrence or likely occurrence.

(3) Subsection (1) applies to a public authority even though the authority requires payment for a service provided in connection with the occurrence or likely occurrence.

144 Minister to notify adoption of code etc.

(1) If the regulations apply, adopt or incorporate provisions of a code, standard or rule, the Minister must, as soon as practicable after the regulations are made, publish a notice in the Government Gazette giving details about where the code, standard or rule may be obtained or inspected.

(2) If the regulations apply, adopt or incorporate provisions of a code, standard or rule as in force from time to time, the Minister must, as soon as practicable after the amendment or replacement of any of the provisions:

(a) publish a notice in the Government Gazette about the amendment or replacement; and

(b) give details in the notice about where the amended or replaced code, standard or rule may be obtained or inspected.

(3) In this section, a reference to a code, standard or rule includes a reference to a code, standard or rule (as appropriate) made outside Australia.

145 Delegation

The Minister may, by written instrument, delegate all or any of the Minister's powers under this Act (other than the powers conferred by section 82) to the Competent Authority.

146 Acquisition on just terms

If the operation of this Act would, apart from this section, result in an acquisition of property from a person otherwise than on just terms:

(a) the person is entitled to receive from the Territory the compensation necessary to ensure the acquisition is on just terms; and

(b) a court of competent jurisdiction may decide the amount of compensation or make the orders it considers necessary to ensure the acquisition is on just terms.

Division 3 Regulations, codes, standards and rules

147 Powers to make regulations and adoption of codes and standards

(1) The Administrator may make regulations under this Act.

(2) The regulations may prescribe the following:

(a) identifying and classifying goods as dangerous goods, and the identification and classification of dangerous goods;

(b) identifying, classifying and regulating goods that are too dangerous to be transported (including prohibiting the transport of such goods);

(c) the making of determinations by the Competent Authority under the regulations in relation to any of the following:

(i) the identification and classification of goods as dangerous goods;

(ii) the identification and classification of dangerous goods;

(iii) the specification of what is, and what is not, compatible with dangerous goods for transport purposes;

(iv) prohibiting or regulating the transport of dangerous goods by road or rail;

(v) regulating the containment of dangerous goods that are being, or that are to be, transported by road or rail;

(d) the analysis and testing of dangerous goods;

(e) fees that are to be paid for things done under this Act;

(f) the marking and labelling of packages containing dangerous goods for transport and the placarding of vehicles and packaging on or in which dangerous goods are transported;

(g) containers, vehicles, packaging, equipment and other items used in the transport of dangerous goods;

(h) the manufacture of containers, vehicles, packaging, equipment and other items for use in the transport of dangerous goods;

(i) voluntary accreditation schemes, including privileges to be accorded or sanctions to be imposed under the schemes and the cancellation or suspension of the schemes;

(j) the loading of dangerous goods for, and the unloading of dangerous goods after, their transport;

(k) the determination by the Competent Authority of routes along which, the areas in which, and the times during which, dangerous goods may or may not be transported;

(l) procedures for the transport of dangerous goods, including the following:

(i) the quantities and circumstances in which dangerous goods, or particular types of dangerous goods, may be transported;

(ii) safety procedures and equipment;

(m) the licensing of the following:

(i) vehicles and drivers for the purpose of the transport of dangerous goods;

(ii) persons involved in the transport of dangerous goods;

(iii) persons responsible for vehicles used in the transport of dangerous goods;

(n) the mandatory accreditation of persons involved in the transport of dangerous goods or particular aspects of that transport;

(o) the approval by the Competent Authority of the form in which applications are to be made to the Authority, and the form in which documents are to be issued by the Authority, for the regulations;

(p) the approval by the Competent Authority of the following:

(i) vehicles, packaging, equipment and other items used in relation to the transport of dangerous goods;

(ii) facilities for, and methods of, testing or using vehicles, packaging, equipment and other items used in relation to the transport of dangerous goods;

(iii) processes carried out in relation to the transport of dangerous goods;

(q) documents required to be prepared or kept by persons involved in the transport of dangerous goods and the approval by the Competent Authority of alternative documentation;

(r) obligations arising, and procedures to be followed, in the event of a dangerous situation in relation to the transport of dangerous goods;

(s) the training and qualifications required of authorised officers and other persons performing functions under this Act;

(t) the training and qualifications required of persons involved in, and the approval of training courses and qualifications relating to involvement in, the transport of dangerous goods;

(u) the recognition of laws of other jurisdictions relating to the transport of dangerous goods and of things done under those laws, and giving effect to those things;

(v) infringement notices and documents and costs relating to infringement notices;

(va) procedures for reviews of decisions made under this Act and the regulations;

(w) the recognition of the following:

(i) a body, consisting of the Competent Authority and equivalent bodies in other jurisdictions, established to make decisions, and to provide oversight on decisions made, under this Act for national uniformity;

(ii) other matters in relation to the body, including, for example, decisions made by the body;

(x) the recognition of accredited providers of training, package testing, design verification and other similar activities;

(y) the passing of information on persons relevant to licensing or compliance and enforcement matters to a corresponding authority and other authorities involved in the enforcement of road and rail laws;

(z) requiring a person involved in the transport of dangerous goods to hold insurance, or some other form of indemnity, in relation to that transport.

(3) The regulations may apply, adopt or incorporate (with or without changes) all or parts of a code, standard, or rule relating to dangerous goods or their transport, whether as in force at a particular time or as in force from time to time.

(4) The regulations may, by reference to the code, standard or rule:

(a) prescribe a substance or article as being dangerous goods; or

(b) prescribe various types of dangerous goods, including goods that are too dangerous to be transported, and methods for deciding which dangerous goods fall into each type.

(5) The regulations:

(a) may require a matter affected by the regulations to be approved by or to the satisfaction of a specified person or body, or a specified class of person or body; and

(b) may confer a discretionary authority, or impose a duty, on a specified person or body, or a specified class of person or body.

(6) A reference in this section to a code, standard or rule includes a reference to a code, standard or rule (as appropriate) made outside Australia.

148 Penalties under regulations

(1) The regulations may create offences, and provide for a maximum penalty, not exceeding 40 penalty units for an individual or 200 penalty units for a body corporate, for an offence.

(2) The regulations may provide for an offence against the regulations to be an offence of strict liability.

Division 4 Transitional matters for Transport of Dangerous Goods by Road and Rail (National Uniform Legislation) Act 2010

150 Definitions

In this Division:

commencement day means the day on which section 151 of the *Transport of Dangerous Goods by Road and Rail (National Uniform Legislation) Act 2010* commences.

repealed Act means the *Dangerous Goods (Road and Rail Transport) Act 2003*.

151 Savings – authorised officers

(1) A person whose appointment as an authorised officer under the repealed Act was in force immediately before the commencement day is taken to be appointed as an authorised officer under this Act on and from that day.

(2) An identification card issued to the person under the repealed Act is taken to be an authorised officer identity card for this Act.

Division 5 Validation for Transport of Dangerous Goods by Road and Rail (National Uniform Legislation) Amendment Act 2013

152 Validation provision

Any thing done before the commencement of the *Transport of Dangerous Goods by Road and Rail (National Uniform Legislation) Amendment Act 2013* by a person who was not the Competent Authority but who was purporting to exercise a power or perform a function of the Competent Authority is as valid, and is taken always to have been as valid, as if that person had been the Competent Authority.

Part 9 Transitional matters for Statute Law Amendment (Directors' Liability) Act 2015

153 Offences – before and after commencement

(1) Section 126, as amended by the *Statute Law Amendment (Directors' Liability) Act 2015*, (the ***new section***) applies in relation to a relevant offence committed by a body corporate after the commencement of Part 2, Division 39 of that Act (the ***commencement***) only if:

(a) all the conduct constituting the relevant offence occurred after the commencement; and

(b) all the conduct of the executive officer constituting the offence against the new section occurred after the commencement.

(2) Section 126, as in force before the commencement:

(a) continues to apply in relation to offences committed by a body corporate before the commencement; and

(b) applies in relation to relevant offences committed by a body corporate after the commencement to which, as a result of subsection (1), the new section does not apply.

Part 10 Transitional matters for Transport of Dangerous Goods by Road and Rail Legislation Amendment Act 2022

154 Application of section 84

(1) Section 84, as in force before the commencement, continues to apply in relation to offences committed before the commencement.

(2) For subsection (1), if any of the conduct constituting an offence occurred before the commencement, the offence is taken to have been committed before the commencement.

(3) In this section:

commencement means the commencement of section 8 of the *Transport of Dangerous Goods by Road and Rail Legislation Amendment Act 2022*.

ENDNOTES

1 KEY

Key to abbreviations

amd = amended
app = appendix
bl = by-law
ch = Chapter
cl = clause
div = Division
exp = expires/expired
f = forms
Gaz* = *Gazette
hdg = heading
ins = inserted
lt = long title
nc = not commenced
od = order
om = omitted
pt = Part
r = regulation/rule
rem = remainder
renum = renumbered
rep = repealed
s = section
sch = Schedule
sdiv = Subdivision
SL = Subordinate Legislation
sub = substituted

2 LIST OF LEGISLATION

***Transport of Dangerous Goods by Road and Rail (National Uniform Legislation) Act 2010* (Act No. 32, 2010)**

Assent date	9 September 2010
Commenced	31 March 2011 (*Gaz* G 13, 30 March 2011, p 14)

***Oaths, Affidavits and Declarations (Consequential Amendments) Act 2010* (Act No. 40, 2010)**

Assent date	18 November 2010
Commenced	1 March 2011 (s 2, s 2 *Oaths, Affidavits and Declarations Act 2010* (Act No. 39, 2010) and *Gaz* G7, 16 February 2011, p 4)

***Transport of Dangerous Goods by Road and Rail (National Uniform Legislation) Amendment Act 2013* (Act No. 16, 2013)**

Assent date	6 June 2013
Commenced	6 June 2013

***Local Government Amendment Act 2014* (Act No. 19, 2014)**

Assent date	2 June 2014
Commenced	s 16: 1 July 2014; s 18: 1 December 2014; rem: 2 June 2014 (s 2)

***Statute Law Amendment (Directors' Liability) Act 2015* (Act No. 26, 2015)**

Assent date	18 September 2015
Commenced	14 October 2015 (*Gaz* G41, 14 October 2015, p 3)

***Local Court (Related Amendments) Act 2016* (Act No. 8, 2016)**

Assent date	6 April 2016
Commenced	1 May 2016 (s 2, s 2 *Local Court (Repeals and Related Amendments) Act 2016* (Act No. 9, 2016) and *Gaz* S34, 29 April 2016)

***Transport of Dangerous Goods by Road and Rail Legislation Amendment Act 2022* (Act No. 29, 2022)**

Assent date 16 December 2022
Commenced 2 February 2023 (*Gaz* G3, 2 February 2023, p 1)

3 GENERAL AMENDMENTS

General amendments of a formal nature (which are not referred to in the table of amendments to this reprint) are made by the *Interpretation Legislation Amendment Act 2018* (Act No. 22, 2018) to: ss 1, 5, 19, 28, 78, 124 and 150.

4 LIST OF AMENDMENTS

s 3	amd No. 29, 2022, s 4
s 5	amd No. 19, 2014, s 26; No. 29, 2022, s 5
s 19	amd No. 8, 2016, s 45; No. 29, 2022, s 6
s 22	amd No. 16, 2013, s 3
s 33	amd No. 29, 2022, s 16
s 60	amd No. 8, 2016, s 45
s 61	amd No. 40, 2010, s 118; No. 8, 2016, s 45
s 67	amd No. 29, 2022, s 7
s 84	sub No. 29, 2022, s 8
s 115	amd No. 29, 2022, s 9
s 117	amd No. 29, 2022, s 10
s 118	sub No. 29, 2022, s 11
s 126	amd No. 26, 2015, s 121
s 126A	ins No. 29, 2022, s 12
s 129	amd No. 29, 2022, s 13
s 133	amd No. 29, 2022, s 16
s 147	amd No. 29, 2022, s 14
s 149	exp No. 32, 2010, s 149(5)
s 150	amd No. 16, 2013, s 4
pt 8	
div 5 hdg	exp No. 32, 2010, s 156 ins No. 16, 2013, s 5
s 152	exp No. 32, 2010, s 156 ins No. 16, 2013, s 5
pt 9 hdg	ins No. 26, 2015, s 122
s 153	exp No. 32, 2010, s 156 ins No. 26, 2015, s 122
pt 10 hdg	ins No. 29, 2022, s 15
s 154	exp No. 32, 2010, s 156 ins No. 29, 2022, s 15
ss 155 – 156	exp No. 32, 2010, s 156