

NORTHERN TERRITORY OF AUSTRALIA

TRANSPORT OF DANGEROUS GOODS BY ROAD AND RAIL
LEGISLATION AMENDMENT ACT 2022

Act No. 29 of 2022

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Schedule 1 Act further amended

Schedule 2 Regulations further amended



NORTHERN TERRITORY OF AUSTRALIA

Act No. 29 of 2022

An Act to amend the *Transport of Dangerous Goods by Road and Rail (National Uniform Legislation) Act 2010* and the *Transport of Dangerous Goods by Road and Rail (National Uniform Legislation) Regulations 2011*

[Assented to 16 December 2022]
[Introduced 13 October 2022]

The Legislative Assembly of the Northern Territory enacts as follows:

Part 1 Preliminary matters

1 Short title

This Act may be cited as the *Transport of Dangerous Goods by Road and Rail Legislation Amendment Act 2022*.

2 Commencement

- (1) Subject to subsection (2), this Act commences on the day fixed by the Administrator by *Gazette* notice.
- (2) If a provision of this Act does not commence before 16 October 2024, it commences on that day.

Part 2 Amendment of Transport of Dangerous Goods by Road and Rail (National Uniform Legislation) Act 2010

3 Act amended

This Part amends the *Transport of Dangerous Goods by Road and Rail (National Uniform Legislation) Act 2010*.

4 Section 3 amended (Object of Act)

Section 3, note

omit

5 Section 5 amended (Definitions)

(1) Section 5, definitions ***driver licence*** and ***overpack***

omit

(2) Section 5

insert

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.

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.

6 Section 19 amended (Application of Acts Interpretation Act 1901 (Cth))

Section 19(1)(a), (c) and (d)

omit, insert

- (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.

7 Section 67 amended (Embargo notices)

After section 67(9)

insert

- (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.

8 Section 84 replaced

Section 84

repeal, insert

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).

9 Section 115 amended (Service of document)

- (1) Section 115(2)

omit

, except as otherwise allowed by the court in the interest of justice

(2) After section 115(2)

insert

- (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.

10 Section 117 amended (Recovery of costs)

After section 117(2)

insert

- (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.

11 Section 118 replaced

Section 118

repeal, insert

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.

12 Section 126A inserted

After section 126, in Part 7, Division 1

insert

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.

13 Section 129 amended (Evidence)

Section 129(1)(d) and (g)

omit (all references)

or overpack

14 Section 147 amended (Powers to make regulations and adoption of codes and standards)

After section 147(2)(v)

insert

- (va) procedures for reviews of decisions made under this Act and the regulations;

15 Part 10 inserted

After section 153

insert

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*.

16 Act further amended

Schedule 1 has effect.

Part 3 Amendment of Transport of Dangerous Goods by Road and Rail (National Uniform Legislation) Regulations 2011

17 Regulations amended

This Part amends the *Transport of Dangerous Goods by Road and Rail (National Uniform Legislation) Regulations 2011*.

18 Regulation 3 amended (Objects)

Regulation 3, note

omit

19 Regulation 4 amended (Definitions)

(1) Regulation 4, definitions **ADG Code**, **administrative determination**, **Australian Transport Council**, **placard load**, **retail distribution load**, **subsidiary risk** and **transport unit**

omit

(2) Regulation 4

insert

ADG Code, see regulation 4A.

administrative determination means a determination that applies to one or more persons under Part 18.

approved packaging means:

(a) packaging of a design that is approved under regulation 59; or

(b) foreign approved packaging.

article, see regulation 4B.

cargo transport unit means:

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

driving licences register, of a State or Territory, means a register kept by the driver licensing authority of the State or Territory containing information about any licence authorising the licensee to drive a road vehicle.

freight vehicle means a vehicle used to transport freight by road.

freight wagon means a rail wagon used to transport freight by rail.

ICAO Technical Instructions means the Technical Instructions for the Safe Transport of Dangerous Goods by Air published by the International Civil Aviation Organisation.

IMDG Code means the International Maritime Dangerous Goods Code published by the International Maritime Organisation.

nominally empty storage vessel, for Part 6, Division 3, see regulation 88A.

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

Examples for definition overpack

- 1 A pallet, together with strapping or shrink wrapping, designed to hold packages.
- 2 A box or crate into which packages are placed.

packed in excepted quantities, see regulation 9A.

placard load means a load containing dangerous goods that must be placarded under regulation 71.

rail wagon means a unit of rolling stock that:

- (a) is designed to carry freight by rail; and
- (b) bears a unique identifying number or alphanumeric identifier.

railway transport tank means a tank used to transport goods by rail.

register means any of the following:

- (a) the register of dangerous goods driver licences under regulation 184(1);
- (b) the register of dangerous goods vehicle licences under regulation 184(2);
- (c) the register of determinations under regulation 199(1);
- (d) the register of exemptions under regulation 202(1);
- (e) the register of approvals under regulation 213(1).

registered, in relation to any thing other than registration of a road vehicle, means registered under a Commonwealth, State or Territory law.

road transport tank means a tank used to transport goods by road whether or not the tank is an integral part of a vehicle.

subsidiary hazard, see regulation 19.

- (3) Regulation 4, definition **CAP**

omit

16 June 2008 and approved by the Australian Transport Council on 15 August

insert

13 June

20 Regulations 4A and 4B inserted

After regulation 4

insert

4A Meaning of *ADG Code*

- (1) The ***ADG Code*** is the Australian Code for the Transport of Dangerous Goods by Road and Rail approved by the Ministerial Council, as in force from time to time.
- (2) Despite subregulation (1), if the Code specified in subregulation (1) is remade, ***ADG Code*** is that remade edition and any reference in these Regulations to a provision of that Code extends to the corresponding provision (if any) of the remade Code.

4B Meaning of *article*

- (1) An ***article*** is a manufactured item, other than a fluid or particle, that:
 - (a) is formed into a particular shape or design during manufacture; and
 - (b) has hazard properties that are, and a function that is, wholly or partly dependent on that shape or design.
- (2) For subregulation (1), article includes batteries, aerosols, gas-filled lighters, seatbelt pre-tensioners and refrigerating machines.

21 Regulation 9A inserted

After regulation 9

insert

9A Meaning of *packed in excepted quantities*

Dangerous goods are ***packed in excepted quantities*** if:

- (a) the goods are assigned to code E1, E2, E3, E4 or E5 in column 7b of the Dangerous Goods List; and
- (b) the goods are packed in compliance with Chapter 3.5 of the ADG Code; and
- (c) the quantity of dangerous goods does not exceed the quantity specified in section 3.5.1.2 of the ADG Code.

22 Regulation 16 amended (Goods too dangerous to be transported)

Regulation 16, at the end

insert

Note for regulation 16

Section 84 of the Act provides that a person must not consign for transport, or arrange the transport of, goods that these Regulations identify as being too dangerous to be transported.

23 Regulation 17 amended (UN Class, UN Division and Category)

Regulation 17, at the end

insert

Notes for regulation 17

- 1 *Under the UN classification system there are 9 classes of dangerous goods. Under that system some Classes are further divided into Divisions, and some Divisions are divided into Categories.*
- 2 *Under the ADG Code, if particular dangerous goods are listed in the Dangerous Goods List, their UN Class or Division is that listed in column 2 of that list opposite the name and description of those goods, unless Chapter 3.3 of the ADG Code provides for those goods to be assigned to a different Class or Division. If applicable, Chapter 2 of the ADG Code describes how the UN Category of dangerous goods is to be determined. Once again the Category may be changed under Chapter 3.3 of the ADG Code.*

Example for regulation 17

UN Division 6.2 is the relevant division for dangerous goods that are infectious substances and is divided into:

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

24 Regulation 18 amended (Packing Groups)

Regulation 18, at the end

insert

Notes for regulation 18

- 1 *The assignment of particular dangerous goods to a Packing Group indicates the degree of danger, and the level of containment required for, the goods. The Packing Groups, and the degree of danger they indicate, are the following:*
 - (a) *Packing Group I (substances presenting high danger);*
 - (b) *Packing Group II (substances presenting medium danger);*
 - (c) *Packing Group III (substances presenting low danger).*
- 2 *The Packing Group of a substance can be determined from the Dangerous Goods List, although in some cases it is also necessary to refer to Chapter 3.3 of the ADG Code (the List identifies those cases).*

25 Regulation 19 replaced

Regulation 19

repeal, insert

19 Subsidiary hazard

For these Regulations, the **subsidiary hazard** of particular dangerous goods is the subsidiary hazard (if any):

- (a) determined under regulation 195(b)(iii) for the dangerous goods; or
- (b) if there is no determination under regulation 195(b)(iii) for the dangerous goods – ascertained in accordance with the ADG Code.

Note for regulation 19

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

26 Regulation 24 replaced

Regulation 24

repeal, insert

23A Mobile processing unit for explosives

- (1) These Regulations do not apply to the transport of dangerous goods by a mobile processing unit for the purpose of manufacturing explosives.
- (2) For subregulation (1), a **mobile processing unit** is a vehicle, or a moveable piece of equipment (other than a trailer), designed to transport the constituents of a bulk ammonium nitrate-based explosive to a place where the explosive will be manufactured and used.

24 UN Division 6.2 Infectious substances

These Regulations do not apply to the transport in or on a vehicle of dangerous goods that are UN Division 6.2 infectious substances in a consignment where the aggregate quantity of dangerous goods is not more than the quantity set out in subclause (3)(a) of the note to section 1.1.1.2 of the ADG Code.

27 Regulation 26 amended (Tools of trade and dangerous goods for private use)

Regulation 26(7)(c)(ii)

omit, insert

- (ii) in any other enclosed space in the vehicle, unless the space is sufficiently ventilated to prevent an accumulation of vapours or fumes.

28 Regulation 36 replaced

Regulation 36

repeal, insert

36 Part does not apply to dangerous goods packed in limited quantities or excepted quantities

This Part does not apply to dangerous goods that are:

- (a) goods packed in limited quantities; or

(b) goods packed in excepted quantities.

29 Regulation 66 amended (Meaning of *appropriately marked*)

(1) Regulation 66(2), before "transport"

insert

cargo

(2) Regulation 66(4), after "3.4"

insert

or 3.5

(3) Regulation 66(5)

omit, insert

(5) A package of dangerous goods that is packed in excepted quantities is ***appropriately marked*** if it is marked and labelled in compliance with Chapter 3.5 of the ADG Code.

30 Regulation 67 amended (Consignor's duties)

After regulation 67(4)

insert

(5) It is a defence to a prosecution for an offence against subregulation (3) if the defendant establishes that the marking or labelling of the package complies with the requirements of the ICAO Technical Instructions or the IMDG Code that relate to the contents of the package.

31 Regulation 68 amended (Packer's duties)

After regulation 68(3)

insert

(4) It is a defence to a prosecution for an offence against subregulation (3) if the defendant establishes that the marking or labelling of the package complies with the requirements of the ICAO Technical Instructions or the IMDG Code that relate to the contents of the package.

32 Regulation 69 amended (Prime contractor's and rail operator's duties)

After regulation 69(3)

insert

- (4) It is a defence to a prosecution for an offence against subregulation (3) if the marking or labelling of the package complies with the requirements of the ICAO Technical Instructions or the IMDG Code that relate to the contents of the package.

33 Regulation 71 amended (When load must be placarded)

- (1) Regulation 71(1)

omit

load of dangerous goods

insert

load containing dangerous goods

- (2) Regulation 71(2)

omit, insert

- (2) A load containing dangerous goods that are specified goods must be placarded if:
- (a) the specified goods include an aggregate quantity of 2 000 or more of any one UN number from a single place of consignment; or
- (b) the total gross mass of the specified goods is 8 tonnes or more.
- (3) A load containing dangerous goods that is not required to be placarded under subregulation (1) or (2) must be placarded if the load meets the following conditions:
- (a) the load contains a mixture of specified goods and other dangerous goods;

- (b) the following combined quantity calculation applies to the load containing dangerous goods:
- (i) if the load contains dangerous goods referred to in subregulation (1)(b)(i), (ii) or (iii) – the aggregate quantity of those goods, plus 10% of the total gross mass of the specified goods, is 250 or more;
 - (ii) in any other case – the aggregate quantity of dangerous goods that are not specified goods, plus 25% of the total gross mass of the specified goods, is 1 000 or more.
- (4) In this regulation:

specified goods means:

- (a) dangerous goods that are packed in limited quantities; or
- (b) any of the following:
 - (i) fireworks that are bon bons, party poppers or sparklers;
 - (ii) domestic smoke detectors containing radioactive material;
 - (iii) lighters or lighter refills containing flammable gas;
 - (iv) fire extinguishers containing compressed or liquefied gas, up to a net mass of 23 kg; or
- (c) a combination of the goods referred to in paragraphs (a) and (b).

34 Regulation 72 amended (Consignor's duties)

- (1) Regulation 72(3)(a)

omit

transport unit

insert

cargo transport unit

- (2) After regulation 72(3)

insert

- (4) It is a defence to a prosecution for an offence against subregulation (3) if the defendant establishes that the placarding of the load complies with the requirements of the ICAO Technical Instructions or the IMDG Code that relate to the contents of the load.

35 Regulation 73 amended (Loader's duties)

After regulation 73(3)

insert

- (4) It is a defence to a prosecution for an offence against subregulation (3) if the defendant establishes that the placarding of the load complies with the requirements of the ICAO Technical Instructions or the IMDG Code that relate to the contents of the load.

36 Regulation 74 amended (Prime contractor's and rail operator's duties)

- (1) Regulation 74(3)(b) and (c) and fault element, paragraphs (a) and (b)

omit

transport unit

insert

cargo transport unit

- (2) After regulation 74(3)

insert

- (4) It is a defence to a prosecution for an offence against subregulation (3) if the defendant establishes that the placarding of the cargo transport unit complies with the requirements of the ICAO Technical Instructions or the IMDG Code that relate to the contents of the cargo transport unit.

37 Regulation 86 amended (Loader's duties)

(1) Regulation 86(a)

omit

transport unit

insert

cargo transport unit

(2) Regulation 86, at the end

insert

Note for regulation 86

Section 84 of the Act provides that a person must not consign for transport, or arrange the transport of, goods that these Regulations identify as being too dangerous to be transported.

38 Regulation 87 amended (Prime contractor's and rail operator's duties)

Regulation 87, at the end

insert

Note for regulation 87

Section 84 of the Act provides that a person must not consign for transport, or arrange the transport of, goods that these Regulations identify as being too dangerous to be transported.

39 Regulation 88 amended (Driver's duties)

Regulation 88, at the end

insert

Note for regulation 88

Section 84 of the Act provides that a person must not consign for transport, or arrange the transport of, goods that these Regulations identify as being too dangerous to be transported.

40 Part 6, Division 3 inserted

After regulation 88

insert

Division 3 Nominally empty storage vessels

88A Definition

In this Division:

nominally empty storage vessel means a tank or hopper described in section 7.2.7.1 of the ADG Code.

88B Consignor's duties

- (1) A person may consign a load including a nominally empty storage vessel for transport in a cargo transport unit if the storage vessel is loaded or stowed, or can be transported or unloaded, in compliance with Chapter 7.2 of the ADG Code.
- (2) A person commits an offence if the person fails to comply with subregulation (1).

Maximum penalty: 20 penalty units.

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

88C Loader's duties

- (1) A person must load a nominally empty storage vessel for transport in a cargo transport unit in accordance with Chapter 7.2 of the ADG Code.
- (2) A person commits an offence if the person fails to comply with subregulation (1).

Maximum penalty: 20 penalty units.

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

88D Prime contractor's and rail operator's duties

- (1) A prime contractor or rail operator must transport a load including a nominally empty storage vessel in compliance with Chapter 7.2 of the ADG Code.

- (2) A person commits an offence if the person fails to comply with subregulation (1).

Maximum penalty: 20 penalty units.

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

88E Driver's duties

- (1) The driver of a road vehicle transporting a nominally empty storage vessel must do so in compliance with Chapter 7.2 of the ADG Code.

- (2) A person commits an offence if the person fails to comply with subregulation (1).

Maximum penalty: 15 penalty units.

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

41 Part 9, Division 3, Subdivision 1 heading inserted

After Part 9, Division 3 heading

insert

Subdivision 1 Filling ratio and ullage

42 Part 9, Division 3, Subdivision 2 inserted

After regulation 112, in Part 9

insert

Subdivision 2 Ullage requirements for vehicles licensed after commencement of Subdivision

112A Application of Subdivision

This Subdivision does not apply in relation to the transport of goods on or in a road vehicle that was licensed under Part 15 before the commencement of this Subdivision.

112B Transferor's duties

- (1) Subregulation (2) applies in relation to a person engaged in the bulk transfer of goods that are not dangerous goods to a tank (**tank A**) that is on, or part of, a vehicle if, before tank A is emptied of the non-dangerous goods:
 - (a) the vehicle is carrying dangerous goods in another tank or in another compartment of tank A; or
 - (b) the vehicle is likely to carry dangerous goods in another tank or in another compartment of tank A.
- (2) A person to whom this subregulation applies must ensure that the ullage in tank A in respect of the non-dangerous goods, complies with section 10.3.1 of the ADG Code as if the goods were dangerous goods.
- (3) A person commits an offence if the person:
 - (a) engages in the bulk transfer of goods; and
 - (b) fails to comply with subregulation (2).

Maximum penalty: 20 penalty units.
- (4) An offence against subregulation (3) is an offence of strict liability.

112C Prime contractor's and rail operator's duties

- (1) A prime contractor or rail operator using a vehicle to transport a tank (**tank A**) containing goods that are not dangerous goods at the same time as using the vehicle to transport dangerous goods in another tank or another compartment of tank A, must ensure the ullage in tank A in respect of the non-dangerous goods complies with section 10.3.1 of the ADG Code as if the non-dangerous goods were dangerous goods.
- (2) A person commits an offence if:
 - (a) the person is a prime contractor or rail operator; and
 - (b) the person fails to comply with subregulation (1).

Maximum penalty: 20 penalty units.
- (3) An offence against subregulation (2) is an offence of strict liability.

112D Driver's duties

- (1) Subregulation (2) applies in relation to a road tank vehicle if:
 - (a) the vehicle has a tank (**tank A**) containing goods that are not dangerous goods; and
 - (b) the vehicle also contains dangerous goods in a compartment in tank A or in another tank on the vehicle.
- (2) The driver of a road tank vehicle may only drive the road tank vehicle if the ullage in tank A in relation to the non-dangerous goods complies with section 10.3.1 of the ADG Code as if the non-dangerous goods were dangerous goods.
- (3) A person commits an offence if the person:
 - (a) drives a road tank vehicle; and
 - (b) fails to comply with subregulation (2).

Maximum penalty: 20 penalty units.

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

43 Regulation 113 amended (Misleading information in transport documentation)

Regulation 113, at the end

insert

Example for regulation 113

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

44 Regulation 116 replaced

Regulation 116

repeal, insert

116 Prime contractor's duties

- (1) A prime contractor must ensure that a person does not drive a road vehicle used by the prime contractor to transport dangerous goods if:
 - (a) the person has not been given transport documentation that complies with Chapter 11.1 of the ADG Code for the goods; or

- (b) the transport documentation:
 - (i) is not carried in the vehicle in accordance with Chapter 11.1 of the ADG Code; and
 - (ii) is not able to be readily located in the vehicle.
- (2) A prime contractor that is required to create or use a document under the Act, these Regulations or the ADG Code in relation to the transport of dangerous goods, must retain the document, or a copy of the document, for 3 months after the transport of the dangerous goods.
- (3) For subregulation (2):
 - (a) the document, or copy of the document, must be retained in hard copy and be readily legible; and
 - (b) a paper copy of the document must be readily able to be created on request of an authorised officer.
- (4) A person commits an offence if the person:
 - (a) is a prime contractor; and
 - (b) fails to comply with a requirement under this regulation.Maximum penalty: 20 penalty units.
- (5) An offence against subregulation (4) is an offence of strict liability.

45 Regulation 118 replaced

Regulation 118

repeal, insert

118 Driver's duties

- (1) The driver of a road vehicle transporting dangerous goods must:
 - (a) carry documentation for the goods that complies with Chapter 11.1 of the ADG Code; and
 - (b) ensure the documentation is:
 - (i) carried in the vehicle in accordance with Chapter 11.1 of the ADG Code; and
 - (ii) readily able to be located in the vehicle.

- (2) The driver of a road vehicle transporting dangerous goods must produce the transport documentation for the goods for inspection by an authorised officer or an officer of an emergency service on request.
- (3) A person commits an offence if the person:
- (a) is the driver of a road vehicle transporting dangerous goods; and
 - (b) fails to comply with subregulation (1) or (2).
- Maximum penalty: 15 penalty units.
- (4) An offence against subregulation (3) is an offence of strict liability.

46 Part 10, Division 3 inserted

After regulation 126

insert

Division 3 Dangerous goods packed in limited quantities

126A Consignor's duties

- (1) A person who consigns dangerous goods that are packed in limited quantities for transport in or on a vehicle must give the prime contractor the information mentioned in section 3.4.12.1 of the ADG Code in relation to the goods.
- (2) A person commits an offence if the person:
- (a) consigns goods for transport in or on a vehicle; and
 - (b) fails to comply with subregulation (1).
- Maximum penalty: 15 penalty units.
- (3) An offence against subregulation (2) is an offence of strict liability.

126B Prime contractor's duties

- (1) A prime contractor who receives information under regulation 126A must ensure the information is readily ascertainable during the transport of the dangerous goods.
- (2) A person commits an offence if the person:
- (a) is a prime contractor; and

(b) fails to comply with subregulation (1).

Maximum penalty: 15 penalty units.

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

126C Misleading information in documentation

(1) A person required to give information in relation to dangerous goods that are packed in limited quantities under section 3.4.12.1 of the ADG Code must ensure the information does not include false or misleading information.

(2) A person commits an offence if the person contravenes subregulation (1).

Maximum penalty: 40 penalty units.

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

47 Regulation 130 replaced

Regulation 130

repeal, insert

130 Driver's duties

(1) This regulation applies in relation to the driver of a road vehicle transporting a placard load if:

(a) the vehicle is broken-down or otherwise immobilised or has stopped on a road; and

(b) the vehicle is a hazard.

(2) The driver must alert other road users to the hazard in compliance with Part 13 of the ADG Code.

(3) Despite subregulation (2), the driver may, instead of using warning triangles in accordance with Part 13 of the ADG Code, use warning triangles in accordance with the requirements of rule 227 of the *Australian Road Rules*.

(4) A person commits an offence if the person

(a) drives a road vehicle transporting a placard load; and

(b) fails to comply with subregulation (2) or (3).

Maximum penalty: 10 penalty units

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

48 Regulation 131 amended (Prime contractor's duties)

After regulation 131(3)

insert

(4) A prime contractor must ensure that a vehicle containing a placard load that is broken-down or otherwise immobilised on a road is towed by a person who:

(a) holds a dangerous goods driver licence that authorises the driver of the tow truck to drive a vehicle with those dangerous goods; or

(b) is accompanied in the cabin of the tow truck by a person who holds a dangerous goods driver licence that authorises the accompanying person to drive a vehicle with those dangerous goods.

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

(a) is a prime contractor; and

(b) fails to comply with subregulation (4).

Maximum penalty: 20 penalty units.

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

49 Part 12, Division 2 heading amended

Part 12, Division 2 heading

omit

vehicles 4driver's

insert

vehicle driver's

50 Regulation 137 replaced

Regulation 137

repeal, insert

137 Detaching trailer

- (1) Subject to subregulation (2), the driver of a road vehicle that has attached to it a trailer transporting a placard load must detach the trailer in compliance with Part 13 of the ADG Code.
- (2) Despite subregulation (1), a driver may detach a trailer transporting a placard load from the vehicle other than in compliance with Part 13 of the ADG Code if:
 - (a) the vehicle is in a remote location; and
 - (b) the trailer to be detached contains dangerous goods that are UN Class 3 goods that are flammable liquids; and
 - (c) it is necessary to detach the trailer to enable the vehicle to access a location that would be inaccessible if the trailer were attached to the vehicle; and
 - (d) the trailer will not be a traffic hazard or a risk to safety when it is detached.
- (3) A person commits an offence if the person:
 - (a) is the driver of a road vehicle; and
 - (b) detaches a trailer in a manner that contravenes subregulation (1) or (2).

Maximum penalty: 40 penalty units.

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

51 Part 12, Division 3 inserted

After regulation 138

insert

Division 3 General precautions – prime contractor's duties

138A Parking

- (1) A prime contractor must not direct or induce the driver of a road vehicle transporting a placard load to park or otherwise leave the vehicle standing in a public or private place except in compliance with Part 13 of the ADG Code.
- (2) A person commits an offence if the person:
 - (a) is a prime contractor; and
 - (b) fails to comply with subregulation (1).

Maximum penalty: 15 penalty units.

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

138B Unloading

- (1) A prime contractor must not direct or induce the driver of a road vehicle transporting a placard load to permit a person to unload dangerous goods from the vehicle except in compliance with Part 13 of the ADG Code.
- (2) A person commits an offence if the person:
 - (a) is a prime contractor; and
 - (b) fails to comply with subregulation (1).

Maximum penalty: 40 penalty units.

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

138C Detaching trailer

- (1) Subject to subregulation (2), a prime contractor must not direct or induce the driver of a road vehicle that has a trailer transporting a placard load attached to it to detach the trailer or permit it to be detached from the vehicle unless it is detached in compliance with Part 13 of the ADG Code.

- (2) Despite subregulation (1), a prime contractor may direct or induce a driver to detach a trailer from the road vehicle other than in compliance with Part 13 of the ADG Code if:
- (a) the vehicle is in a remote location; and
 - (b) the trailer to be detached contains dangerous goods that are UN Class 3 goods that are flammable goods; and
 - (c) it is necessary to detach the trailer to enable the vehicle to access a location that would be inaccessible if the trailer were attached to the vehicle; and
 - (d) the trailer will not be a traffic hazard or a risk to safety when it is detached.
- (3) A person commits an offence if the person:
- (a) is a prime contractor; and
 - (b) detaches a trailer in a manner that contravenes subregulation (1) or (2).

Maximum penalty: 40 penalty units.

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

138D Road tank vehicle equipped with burner

- (1) A prime contractor who transports a placard load in or on a road vehicle that is equipped with a burner to heat a load must not permit a person to operate the burner except in compliance with Part 13 of the ADG Code.
- (2) A person commits an offence if the person:
- (a) is a prime contractor; and
 - (b) fails to comply with subregulation (1).

Maximum penalty: 40 penalty units.

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

52 Regulation 144 replaced

Regulation 144

repeal, insert

144 Emergency plans

- (1) A prime contractor or rail operator may only transport a placard load if the prime contractor or rail operator has an emergency plan for the transport of the goods.
- (2) A prime contractor or rail operator transporting a placard load must, on becoming aware of a dangerous situation involving the placard load, do everything that the emergency plan for the transport of the load requires the prime contractor or rail operator to do that is reasonably practicable in the circumstances.
- (3) A person may only consign a placard load for transport if the person has an emergency plan for the transport of the goods.
- (4) A consignor of a placard load being transported must, on becoming aware of a dangerous situation involving the placard load, do everything that the emergency plan for the transport of the load requires the consignor to do that is reasonably practicable in the circumstances.
- (5) A person commits an offence if the person:
 - (a) is a prime contractor, rail operator or consignor; and
 - (b) fails to comply with a requirement under this regulation.

Maximum penalty: 40 penalty units.

- (6) An offence against subregulation (5) is an offence of strict liability.
- (7) In this regulation:

emergency plan, for the transport of a placard load, means a written plan for dealing with any dangerous situation arising from the transport of the goods that is prepared having regard to any guidelines approved by the Ministerial Council.

53 Regulation 148 amended (Owner's duties)

Regulation 148(3)

omit, insert

- (3) For subregulation (1), each load bearing vehicle, whether or not it is a motor vehicle, is a single vehicle.
- (4) For subregulation (1) and despite subregulation (3), a road vehicle comprised of a combination of vehicles is covered by adequate insurance if it is insured as a single road vehicle.

54 Regulation 149 amended (Prime contractor's duties)

Regulation 149(3)

omit, insert

- (3) For subregulation (1), each load bearing vehicle, whether or not it is a motor vehicle, is a single vehicle.
- (4) For subregulation (1) and despite subregulation (3), a road vehicle comprised of a combination of vehicles is covered by adequate insurance if it is insured as a single road vehicle.

55 Regulation 155 amended (Road vehicles to be licensed)

- (1) Regulation 155, before "A road"

insert

- (1)

- (2) Regulation 155, at the end

insert

- (2) If the Competent Authority makes an administrative determination that a vehicle that is not licensed under this Part may be used to transport the dangerous goods described in subregulation (1), the vehicle may be used to transport the goods without complying with that subregulation.

56 Regulation 157 amended (Application for dangerous goods driver licence)

Regulation 157(1)

omit

licence.

insert

licence if the person holds a driver licence.

57 Regulation 161 amended (Medical fitness evidence)

Regulation 161(2)(b)

omit, insert

- (b) issued by a medical practitioner who, not more than 6 months before the day when the application is made, examined and passed the applicant in accordance with the standards in *Assessing fitness to drive for commercial and private vehicle drivers – Medical standards for licensing and clinical management guidelines* published by Austroads and the National Transport Commission, as in force at the time of the examination.

58 Regulation 167 amended (Condition as to evidence of fitness)

Regulation 167(1)(b)

omit, insert

- (b) issued by a medical practitioner who, not more than 6 months before the day when the certificate is given to the authority, examined and passed the licensee in accordance with the standards in *Assessing fitness to drive for commercial and private vehicle drivers – Medical standards for licensing and clinical management guidelines* published by Austroads and the National Transport Commission, as in force at the time of the examination.

59 Regulation 199A inserted

After regulation 199

insert

199A Records of determinations

The register of determinations kept under regulation 199(1) must include, for each determination in the register:

- (a) the provisions of the determination, including any conditions; and
- (b) the following information:
 - (i) if the determination was notified in the *Gazette* – the title of the notification and the date on which the *Gazette* was published;
 - (ii) the goods, dangerous goods, packaging, vehicle, transport routes, areas or times the determination applies to;
 - (iii) the date of the determination;
 - (vi) the provisions of these Regulations and of the ADG Code to which the determination relates.

60 Regulation 202A inserted

After regulation 202, in Part 17, Division 1

insert

202A Records of exemptions

The register of exemptions kept under regulation 202(1) must include, for each exemption in the register:

- (a) the terms of the exemption, including any conditions; and
- (b) the following information:
 - (i) if the exemption was notified in the *Gazette* – the title of the notification and the date on which the *Gazette* was published;
 - (ii) the name of the person to whom, or a description of the class of persons to which, the exemption applies;

-
- (iii) the date when the exemption was given;
 - (vi) the provisions of these Regulations or the ADG Code from which the exemption exempts a person;
 - (v) the period for which the exemption has effect;
 - (vi) the dangerous goods, equipment, packaging, vehicle or other thing to which the exemption relates.

61 Regulation 203 amended (Referral to CAP)

Regulation 203(1), after "an exemption"

insert

or an exemption granted by the Competent Authority

62 Regulation 204 amended (Effect of CAP decision about applications)

Regulation 204(1)(a), after "exemption"

insert

or an exemption granted by the Competent Authority

63 Regulation 206A inserted

Before regulation 207, in Part 18, Division 2

insert

206A Administrative determinations

The Competent Authority may make a determination that applies to one or more persons named in the administrative determination:

- (a) on application made under regulation 207; or
- (b) on the Competent Authority's own initiative under regulation 207A.

64 Regulation 207 amended (Applications)

- (1) Regulation 207, heading, at the end

insert

for administrative determination or approval

(2) Regulation 207(3)

omit

request

insert

requests

(3) After regulation 207(3)

insert

(4) The Competent Authority may decide to approve or refuse to approve an application made under this regulation.

65 Regulation 207A inserted

After regulation 207

insert

207A Administrative determination on initiative of Competent Authority

- (1) The Competent Authority may, on its own initiative, make an administrative determination in relation to a person in accordance with this regulation.
- (2) Before the Competent Authority makes the administrative determination, the Competent Authority must give the person a notice that:
 - (a) sets out the proposed determination; and
 - (b) sets out the reasons for proposing to make the determination; and
 - (c) outlines the facts and other circumstances forming the basis for those reasons; and
 - (d) invites the person to state in writing, within a specified period of at least 28 days after the day when the notice is given, why the determination should not be made.
- (3) If, after considering any written statement made within the specified period, the Competent Authority reasonably believes that the determination should be made, the Competent Authority may make the determination.

-
- (4) An administrative determination under this regulation may only impose a condition on a determination that is:
- (a) directly related to the determination; and
 - (b) reasonably required to give effect to the determination.

66 Regulation 208 amended (Form of administrative determination or approval)

Regulation 208(1)

omit

writing.

insert

writing and must specify the name of the holder.

67 Regulation 213 amended (Register of approvals)

Regulation 213(3) and (4)

omit, insert

- (3) The Competent Authority must record in the register:
- (a) each approval granted by the Competent Authority under these Regulations; and
 - (b) each corresponding approval.
- (4) The Competent Authority must note in the register:
- (a) any cancellation or variation of an approval; and
 - (b) any decision of the CAP reversing a decision that a corresponding approval should have effect in all participating jurisdictions including the Territory.

68 Regulation 213A inserted

After regulation 213, in Part 18, Division 2

insert

213A Records of approvals

The register of approvals kept under regulation 213(1) must include, for each approval in the register:

- (a) the terms of the approval, including any conditions; and
- (b) the following information:
 - (i) the name of the person to whom the approval was given;
 - (ii) the date when the approval was given;
 - (iii) the provisions of these Regulations and of the ADG Code to which the approval relates;
 - (iv) the period for which the approval has effect;
 - (v) the dangerous goods, equipment, packaging, vehicle or other thing to which the approval relates.

69 Regulation 214 amended

Regulation 214(1), after "determination"

insert

made on application

70 Regulation 215 amended (Grounds for varying administrative determinations and approvals)

(1) Regulation 215(1), after "determination"

insert

made on application

(2) After regulation 215(3)

insert

(3A) In the case of an administrative determination that applies to more than 1 person – the Competent Authority may vary the

determination by removing the name of a holder who is unsuitable in the manner described in subregulation (3), even if that person originally applied for the determination.

71 Regulation 221 amended (Referral to CAP)

Regulation 221(1), after "application for an approval"

insert

, or an approval that is granted by the Competent Authority,

72 Regulation 222 amended (Effect of CAP decision about application)

Regulation 222(1)(a), after "approval"

insert

, or an approval granted by the Competent Authority,

73 Part 18, Division 5 inserted

After regulation 223

insert

Division 5 Referral of determinations to CAP

223A Referral to CAP

- (1) The Competent Authority must refer to the CAP an administrative determination or an application for an administrative determination, if the Competent Authority considers the administrative determination should have effect in all participating jurisdictions or participating jurisdictions including the Territory.
- (2) The Competent Authority must refer to the CAP an administrative determination having effect in the Territory and one or more other participating jurisdictions if:
 - (a) the Competent Authority considers that the administrative determination should be cancelled or varied; or
 - (b) a corresponding authority recommends to the Competent Authority in writing that the administrative determination should be cancelled or varied.

223B Effect of CAP decision about administrative determination

If the Competent Authority refers an administrative determination or an application for an administrative determination to the CAP under regulation 223A(1), the Competent Authority must have regard to any decision of the CAP that:

- (a) the administrative determination should be granted, what the terms of the administrative determination should be and that the administrative determination should have effect in all participating jurisdictions or participating jurisdictions including the Territory; or
- (b) the administrative determination should not be granted or should not have effect in the Territory.

223C Effect of CAP decision about cancellation or variation

If the Competent Authority refers an administrative determination to the CAP under regulation 223A(2), the Competent Authority must have regard to any decision of the CAP that the administrative determination:

- (a) should, or should not, be cancelled; or
- (b) should be varied (whether as proposed by the Competent Authority or differently) and should have effect as varied in all participating jurisdictions or participating jurisdictions including the Territory; or
- (c) should not be varied.

74 Regulation 227A inserted

After regulation 227, in Part 19, Division 1

insert

227A Referral of determination, exemption or approval to CAP for purposes of mutual recognition

The Competent Authority may refer to the CAP any decision of a corresponding authority that the Competent Authority considers should be given effect in the Territory under regulation 224, 225 or 226.

75 Regulation 241 replaced

Regulation 241

repeal, insert

241 Review by NTCAT

- (1) NTCAT has jurisdiction to review a decision made under regulation 240.
- (2) A person whose interests are affected by a decision under regulation 240 may apply to NTCAT for review of the decision.

Note for regulation 241

The Northern Territory Civil and Administrative Tribunal Act 2014 sets out the procedure for applying to the Tribunal for review and other relevant matters in relation to reviews.

76 Regulation 242 amended (Persons in transport of dangerous goods to be appropriately trained)

- (1) Regulation 242, heading, after "**Persons**"

insert

involved

- (2) Regulation 242(3), definition **transport task**, after paragraph (d)

insert

- (da) handling fumigated cargo transport units;

77 Part 24 inserted

After regulation 254

insert

Part 24 Transitional matters for Transport of Dangerous Goods by Road and Rail Amendment Act 2022

255 Definition

In this Part:

amending Act means the *Transport of Dangerous Goods by Road and Rail Amendment Act 2022*.

256 Evidence of fitness

- (1) A certificate issued by a medical practitioner under regulation 161(2) as in force immediately before the commencement of section 57 of the amending Act (the ***commencement***) is taken to be a certificate issued under regulation 161(2) as in force after the commencement.
- (2) A certificate issued by a medical practitioner under regulation 167(1) as in force immediately before the commencement of section 58 of the amending Act (the ***commencement***) is taken to be a certificate issued under regulation 167(1) as in force after the commencement.

257 Reviews of decisions

An application for a review of a decision that was made under regulation 241 before the commencement of section 75 of the amending Act (the ***commencement***) that was not determined before the commencement is to be determined under regulation 241 as in force before the commencement.

78 Schedule 2 amended (Infringement notice offences and prescribed amounts)

- (1) Schedule 2, after entry for regulation 83(1)
- insert*
- | | |
|-------------------|---|
| regulation 88B(2) | 4 |
| regulation 88C(2) | 4 |
| regulation 88D(2) | 4 |
| regulation 88E(2) | 3 |
- (2) Schedule 2, after entry for regulation 111(1) or (2)
- insert*
- | | |
|--------------------|---|
| regulation 112B(3) | 4 |
| regulation 112C(2) | 4 |
| regulation 112D(3) | 4 |
- (3) Schedule 2
- omit*
- regulation 116(1)
- insert*
- regulation 116(4)
- (4) Schedule 2
- omit*
- regulation 118(1) or (2)
- insert*
- regulation 118(3)

(5)	Schedule 2, after entry for regulation 125(1) or (2)	
	<i>insert</i>	
	regulation 126A(2)	3
	regulation 126B(2)	3
	regulation 126C(2)	8
(6)	Schedule 2	
	<i>omit</i>	
	130(1)	
	<i>insert</i>	
	130(4)	
(7)	Schedule 2, after entry for regulation 130(1)	
	<i>insert</i>	
	regulation 131(5)	4
(8)	Schedule 2	
	<i>omit</i>	
	137(1)	
	<i>insert</i>	
	137(3)	
(9)	Schedule 2, after entry for regulation 138(1)	
	<i>insert</i>	
	regulation 138A(2)	3
	regulation 138B(2)	8
	regulation 138C(3)	8
	regulation 138D(2)	8

- (10) Schedule 2
omit
144(1) or (2)
insert
144(5)

79 Regulations further amended

Schedule 2 has effect.

Part 4 Repeal

80 Repeal of Act

This Act is repealed on the day after it commences.

Schedule 1 Act further amended

section 16

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
section 33(1)(a), after "licence"		, including a provisional or learner licence
section 133(1)(b)	Australian Transport Council	Ministerial Council

Schedule 2 Regulations further amended

section 79

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
regulation 6(2), definition IMO approved	<i>International Maritime Dangerous Goods Code</i> published by the International Maritime Organisation	<i>IMDG Code</i>
regulation 8(b), before "transport"		cargo
regulation 9	service equipment or	device and
regulation 10(a), after "3.4"		or 3.5
regulation 10(b)	column 7	column 7a
regulation 22(1)	load of dangerous goods	load containing dangerous goods
regulation 57(3)(a)(ii) and (b)(i), after "3.4"		or 3.5
regulation 81(1)(e)	risk	hazard
regulations 82(a), 83(1)(a), 89(2)(a) and (b) and fault element paragraph (a), 90(3)(a) and (b), 91(2)(b) and (c) and 92(2)(a) and (b)	transport unit	cargo transport unit
regulation 93, definition segregation load , paragraph (b)	of dangerous	containing dangerous
regulation 93, definition segregation load , paragraph (b)(i)(B)	risk	hazard

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
regulation 135(1)	load of dangerous	load containing dangerous
regulation 135(1)(b)(ii)	risk	hazard
regulation 158(1)(a) and (3)(a)	driver licence register	driving licences register
regulation 179(2), after "vehicle"		(otherwise than by way of a business transfer)
regulation 195(b)(iii)	risk	hazard
regulation 195(e)	transport unit	cargo transport unit