

NORTHERN TERRITORY OF AUSTRALIA

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

Subordinate Legislation No. 6 of 2011

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NORTHERN TERRITORY OF AUSTRALIA

Subordinate Legislation No. 6 of 2011*

Transport of Dangerous Goods by Road and Rail (National Uniform Legislation) Regulations

I, Thomas Ian Pauling, Administrator of the Northern Territory of Australia, acting with the advice of the Executive Council, make the following regulations under the *Transport of Dangerous Goods by Road and Rail (National Uniform Legislation) Act*.

Dated 23 March 2011

T. I. PAULING
Administrator

By His Honour's Command

D. P. LAWRIE
Minister for Justice and Attorney-General

* Notified in the *Northern Territory Government Gazette* on 30 March 2011.

Part 1 Introduction

Division 1 Preliminary matters

1 Citation

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

2 Commencement

These Regulations commence on the commencement of the *Transport of Dangerous Goods by Road and Rail (National Uniform Legislation) Act*.

3 Objects

The objects of these Regulations are:

- (a) to set out the obligations of persons involved in the transport of dangerous goods on land; and
- (b) to reduce, as far as practicable, the risks of personal injury, death, property damage and environmental harm arising from the transport of dangerous goods on land; and
- (c) to give effect to the standards, requirements and procedures of the ADG Code so far as they apply to the transport of dangerous goods on land; and
- (d) to promote consistency between the standards, requirements and procedures applying to the transport of dangerous goods by land transport and other modes of transport.

Note for regulation 3

These Regulations substantially duplicate Schedule 2 to the National Transport Commission (Model Legislation — Transport of Dangerous Goods by Road or Rail) Regulations 2007 as amended by the National Transport Commission (Model Amendments: Transport of Dangerous Goods by Road or Rail — Package No. 1) Regulations 2009.

Division 2 Interpretation

4 Definitions

In these Regulations:

adequate insurance, for Part 14, see regulation 147.

ADG Code means the Australian Code for the Transport of Dangerous Goods by Road and Rail, seventh edition, approved by the Australian Transport Council, as amended from time to time.

administrative determination means a determination:

- (a) made on the application of a person; and
- (b) applying only to that person.

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

- (a) the number of kilograms of solid dangerous goods in the load; and
- (b) the number of kilograms of articles that are dangerous goods, including aerosols, in the load; and
- (c) the number of litres or kilograms (whichever is used in the transport documentation for the load) of liquid dangerous goods in the load; and
- (d) the total capacity in litres of receptacles in the load containing dangerous goods of UN Class 2 that are not aerosols.

appropriately marked, see regulation 66.

appropriately placarded, see regulation 70(3).

approval means an approval granted by the Competent Authority under regulation 59, 63, 101, 102, 126, 151 or 160 and in force.

approved tank, for Part 15, Division 4, see regulation 170.

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

bulk container, see regulation 5.

bulk transfer, for Part 9, see regulation 103.

CAP means the Competent Authorities Panel established by the *Competent Authorities Panel Rules* made by the National Transport Commission on 16 June 2008 and approved by the Australian Transport Council on 15 August 2008, as amended from time to time.

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

Category, see regulation 17.

corresponding approval means an approval that has effect in the Territory under regulation 226.

corresponding dangerous goods driver licence means a licence that has effect in the Territory under regulation 227 and was granted under a provision that corresponds to regulation 162.

corresponding dangerous goods vehicle licence means a licence that has effect in the Territory under regulation 227 and was granted under a provision that corresponds to regulation 173.

corresponding determination means a determination that has effect in the Territory under regulation 224.

corresponding exemption means an exemption that has effect in the Territory under regulation 225.

dangerous goods driver licence means a licence granted under regulation 162.

Dangerous Goods List means the list set out in Section 3.2.3 of the ADG Code.

dangerous goods vehicle licence means a licence granted under regulation 173.

demountable tank means a tank, other than a portable tank, that is designed to be carried in or on a vehicle but that does not form part of and is not permanently attached to the vehicle and is designed to be removable.

determination means a determination made by the Competent Authority under Part 16 that is in force.

emergency service means:

- (a) an ambulance, fire, police or other emergency service of a participating jurisdiction; or
- (b) a unit of the Defence Force corresponding to a service mentioned in paragraph (a).

food includes:

- (a) a substance prepared or intended for human or animal consumption; and
- (b) a substance (except dangerous goods) intended to be an ingredient of food.

food packaging means:

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

foreign approved, see regulation 6.

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

general packaging, for Part 3, Division 2, see regulation 37.

holder, for Part 18, see regulation 206.

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

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

IBC or **intermediate bulk container**, see regulation 7.

incompatible, see regulation 20.

infringement notice, for Part 20, see regulation 232.

infringement notice offence, for Part 20, see regulation 231(1).

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

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

large packaging means outer packaging that:

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

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

licensee means the holder of a licence.

licensing authority means:

- (a) the Competent Authority; or
- (b) a person or body authorised by the Competent Authority under regulation 154.

load, as a noun, see regulation 8.

MEGC or **multiple-element gas container**, see regulation 9.

multimodal means applicable to, or suitable for use in or on, more than one mode of transport.

NATA, for Part 3, Division 6, see regulation 58.

other packaging, for Part 3, Division 3, see regulation 43.

outer packaging means external packaging (including absorbent materials, cushioning and any other components) necessary for the purposes of transport to contain and protect:

- (a) articles; or
- (b) receptacles in composite packagings, as defined in Section 1.2.1.1 of the ADG Code; or
- (c) inner packaging in combination packagings, as defined in Section 1.2.1.1 of the ADG Code.

packed in limited quantities, see regulation 10.

Packing Group, see regulation 18.

participating jurisdiction means:

- (a) the Territory; or
- (b) a State or another Territory that has a corresponding law.

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

placarded, see regulation 70(2).

portable tank means a multimodal tank that:

- (a) is designed primarily to be loaded into or onto a vehicle or ship; and
- (b) has a capacity of more than 450 L; and
- (c) is equipped with skids, mountings, stabilizers and accessories to facilitate mechanical handling; and
- (d) is capable of being loaded and unloaded without removing its service equipment or structural equipment; and
- (e) is capable of being lifted when full.

prescribed amount, for Part 20, see regulation 231(2).

prescribed fee, for a matter, means the fee (if any) for that matter, set out in Schedule 1.

pressure drum means a welded transportable pressure receptacle with a water capacity exceeding 150 L but not exceeding 1 000 L.

prime mover, for Part 15, Division 4, see regulation 170.

ratio goods, for Part 9, Division 3, see regulation 109.

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

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

recognised testing facility, for Part 3, Division 6, see regulation 61.

relevant provision of Part 4 of the ADG Code, for Part 3, see regulation 34.

required emergency information, for Part 10, Division 2, see regulation 120.

retail distribution load, means a load that is a retail distribution load within Chapter 7.3 of the ADG Code.

risk means risk of personal injury, death, property damage or harm to the environment.

segregation load, for Part 8, see regulation 93.

service equipment, in relation to a tank or MEGC, see Section 6.7.2.1, 6.7.3.1.2, 6.7.4.1.2 or 6.7.5.1.2, as appropriate, of the ADG Code.

special provision, for Part 2, see regulation 27(1).

structural equipment, in relation to a tank or MEGC, see Section 6.7.2.1, 6.7.3.1.2, 6.7.4.1.2 or 6.7.5.1.2, as appropriate, of the ADG Code.

subsidiary risk, see regulation 19.

tank, see regulation 11.

tank vehicle means a road vehicle or unit of rolling stock:

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

transport unit means:

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

tube means a seamless transportable pressure receptacle with a water capacity exceeding 150 L but not exceeding 3 000 L.

ullage, means ullage as defined in Section 1.2.1 of the ADG Code.

UN Class, see regulation 17.

UN Division, see regulation 17.

unsuitable, for Part 3, see regulation 35.

vehicle, for Part 15, Division 4, see regulation 170.

5 Meaning of **bulk container**

- (1) A **bulk container** is a container (with or without a liner or coating) that:
 - (a) has a capacity of 1 m³ or more; and
 - (b) is intended for use in the transport of solid dangerous goods that are in direct contact with the container.
- (2) Each of the following is not a **bulk container**:
 - (a) large packaging that complies with the requirements of Chapter 6.6 of the ADG Code;
 - (b) an IBC;
 - (c) a tank;
 - (d) a tank vehicle;
 - (e) any other packaging that complies with the requirements of Chapter 6.1 or 6.3 of the ADG Code.

6 Meaning of *foreign approved*

- (1) In these Regulations:

foreign approved, in relation to packaging (including a tank), means packaging that has the markings required by Part 6 of the ADG Code for packaging of its type, in confirmation that the packaging is ADR approved, ICAO approved, IMO approved, RID approved or UN approved.

- (2) In this regulation:

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

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

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

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

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

7 Meaning of *IBC or intermediate bulk container*

- (1) An ***IBC*** or ***intermediate bulk container*** is rigid or flexible portable packaging for use in the transport of dangerous goods that:
- (a) complies with the specifications in Chapter 6.5 of the ADG Code; and
 - (b) has a capacity of not more than:
 - (i) for solids of Packing Group I packed in a composite, fibreboard, flexible, wooden, or rigid plastics container – 1 500 L; and

- (ii) for solids of Packing Group I packed in a metal container – 3 000 L; and
 - (iii) for solids or liquids of Packing Groups II and III – 3 000 L; and
 - (iv) for any other dangerous goods – 3 000 L; and
- (c) is designed for mechanical handling.
- (2) Rigid or flexible portable packaging that complies with the requirements of Chapter 6.1, 6.3 or 6.6 of the ADG Code is not an **IBC**.

8 Meaning of *load*

Without limiting the meaning of load:

- (a) for goods in or on a road vehicle – all the goods in or on the vehicle constitute a single load; and
- (b) for goods in or on rolling stock – all of the goods in or on each transport unit that is in or on the rolling stock constitutes a separate load.

9 Meaning of *MEGC* or *multiple-element gas container*

An **MEGC** or **multiple-element gas container** is a multimodal assembly of cylinders, tubes and bundles of cylinders that are interconnected by a manifold and assembled within a framework, including the service equipment or structural equipment necessary for the transport of gases in the cylinders and tubes.

10 Meaning of *packed in limited quantities*

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

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

11 Meaning of *tank*

- (1) A ***tank*** is a receptacle for receiving and holding dangerous goods, including any service equipment or structural equipment that enables the receptacle to transport those goods.
- (2) A receptacle for receiving and holding dangerous goods of UN Class 2 is not a ***tank*** unless it has a capacity of more than 450 L.
- (3) Each of the following is not a ***tank***:
 - (a) packaging that complies with the requirements of Chapter 6.1, 6.3 or 6.6 of the ADG Code;
 - (b) an IBC;
 - (c) an MEGC;
 - (d) a cylinder;
 - (e) a pressure drum;
 - (f) a tube;
 - (g) a bulk container that complies with the requirements of Chapter 6.8 of the ADG Code.

12 References to codes, standards and rules

- (1) In these Regulations, a reference to an instrument includes a reference to another instrument as applied or adopted by, or incorporated in, the first instrument.
- (2) In these Regulations, unless the contrary intention appears, a reference to an instrument is a reference to the instrument as amended from time to time.
- (3) In this regulation:

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

13 Inconsistency between Regulations and codes etc.

- (1) This regulation applies if these Regulations apply, adopt or incorporate all or part of a code, standard or rule.

- (2) If there is any inconsistency between these Regulations and the code, standard or rule, these Regulations prevail to the extent of the inconsistency.
- (3) Despite subregulation (2), if an applied, adopted or incorporated provision uses a term that is defined both in the relevant code, standard or rule and in these Regulations, in that provision the term has the meaning given in the code, standard or rule, unless the contrary intention appears.

14 References to determinations, exemptions, approvals and licences

- (1) In these Regulations:
 - (a) a reference to a relevant document includes a reference to the document as varied; and
 - (b) a reference to the variation of a relevant document includes a reference to a variation by addition, omission or substitution.

- (2) In this regulation:

relevant document means any of the following:

- (a) a determination;
- (b) an exemption;
- (c) an approval;
- (d) a dangerous goods driver licence;
- (e) a dangerous goods vehicle licence;
- (f) a corresponding determination;
- (g) a corresponding exemption;
- (h) a corresponding approval;
- (i) a corresponding dangerous goods driver licence;
- (j) a corresponding dangerous goods vehicle licence.

Division 3 Key concepts

15 Dangerous goods

- (1) For the definition ***dangerous goods*** in section 5 of the Act, a substance or article is dangerous goods if:
 - (a) it is determined under regulation 195(a) to be dangerous goods; or
 - (b) it satisfies the dangerous goods classification criteria mentioned in Part 2 of the ADG Code.
- (2) However a substance or article to which subregulation (1)(b) applies is not dangerous goods if:
 - (a) it is determined under regulation 195(a) not to be dangerous goods; or
 - (b) it is described as not subject to the ADG Code in a special provision in Chapter 3.3 of the ADG Code that applies to it under column 6 of the Dangerous Goods List.

16 Goods too dangerous to be transported

For the definition ***goods too dangerous to be transported*** in section 5 of the Act, a substance or article is goods too dangerous to be transported if:

- (a) it is listed in Appendix A to the ADG Code; or
- (b) it is determined under regulation 195(d) to be goods too dangerous to be transported; or
- (c) it is so sensitive or unstable that it cannot be safely transported even if the relevant requirements of these Regulations and the ADG Code are complied with.

17 UN Class, UN Division and Category

For these Regulations, dangerous goods are of the ***UN Class***, ***UN Division*** or ***Category***:

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

18 Packing Groups

For these Regulations, dangerous goods are of the **Packing Group** (if any):

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

19 Subsidiary risk

For these Regulations, the **subsidiary risk** for dangerous goods is the subsidiary risk (if any):

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

20 Incompatibility

(1) Goods (whether dangerous goods or not) are **incompatible** with dangerous goods if:

- (a) the goods and the dangerous goods are incompatible under Chapter 9.1 of the ADG Code; or
- (b) the goods are determined under regulation 195(c) to be incompatible with the dangerous goods; or
- (c) when the goods are mixed, or otherwise brought into contact, with the dangerous goods, the goods are likely to interact with the dangerous goods and increase risk because of the interaction.

(2) Packaging or equipment for use in the transport of dangerous goods is **incompatible** with the dangerous goods if any component of the packaging or equipment that is intended or likely to come into contact with the goods during transport:

- (a) is likely to interact with the goods and increase risk because of the interaction; and
- (b) is not protected from contact under foreseeable circumstances by a protective coating or other effective means.

Division 4 Application of Regulations

21 Dangerous situations

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

22 Dangerous goods less than 25% of placard load and in small receptacles

(1) These Regulations do not apply to the transport by a person of a load of dangerous goods if:

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

(2) In this regulation:

designated dangerous goods means dangerous goods:

- (a) of UN Class 1 (explosives), except:
 - (i) dangerous goods of UN Division 1.4S; and
 - (ii) track signals carried in or on a unit of rolling stock for the safety of persons working in rail transport; or
- (b) of Category A of UN Division 6.2 (infectious substances); or
- (c) of UN Class 7 (radioactive material).

23 Explosives and radioactive material

These Regulations do not apply to the transport of dangerous goods of UN Class 1 (explosives) or UN Class 7 (radioactive material) unless those goods are being transported with other dangerous goods.

24 Dangerous goods less than quantity for which inner package is required

These Regulations do not apply to the transport in or on a vehicle of dangerous goods in a consignment where the aggregate quantity of dangerous goods is less than the quantity for which an inner package is required by Section 5.2.1.8 of the ADG Code to be marked with a proper shipping name or technical name.

25 Dangerous goods that are part of vehicle or its equipment

These Regulations do not apply to the transport in or on a vehicle of dangerous goods:

- (a) in the vehicle's fuel tank; or
- (b) in an appliance or plant that forms part of the vehicle and is necessary for its operation; or
- (c) that are:
 - (i) portable fire fighting equipment or other portable safety equipment; and
 - (ii) part of the safety equipment of the vehicle.

26 Tools of trade and dangerous goods for private use

(1) For this regulation, a load that includes dangerous goods is a **private use load** if:

- (a) subregulation (2) or (3) applies to the load; and
- (b) the dangerous goods:
 - (i) are not being transported in the course of a business of transporting goods; and
 - (ii) are being transported:
 - (A) by a person who intends to use them; or

(B) so that they can be used for a commercial purpose.

- (2) This subregulation applies to a load if:
- (a) the aggregate quantity of dangerous goods in the load is less than 500; and
 - (b) the load does not include dangerous goods of any of the following:
 - (i) UN Division 2.1, other than aerosols;
 - (ii) UN Division 2.3;
 - (iii) Packing Group I.
- (3) This subregulation applies to a load if:
- (a) the aggregate quantity of dangerous goods in the load is less than 250; and
 - (b) the load includes dangerous goods of one or more of the following:
 - (i) UN Division 2.1, other than aerosols;
 - (ii) UN Division 2.3;
 - (iii) Packing Group I; and
 - (c) the aggregate quantity of dangerous goods of UN Division 2.3 or Packing Group I together is less than 100.
- (4) These Regulations, other than this regulation, do not apply in relation to a private use load.
- (5) A person commits an offence if:
- (a) the person transports a private use load; and
 - (b) a package of dangerous goods in the load:
 - (i) does not comply with the packaging requirements appropriate to the quantity of dangerous goods, specified in Part 4 of the ADG Code; or
 - (ii) is not appropriately marked (as defined in regulation 66); or

- (iii) is not loaded, secured, segregated, unloaded and otherwise transported in a way that:
 - (A) ensures the packaging of the dangerous goods remains fit for its purpose; and
 - (B) eliminates risk, or if it is not possible to eliminate risk, that minimises risk to the maximum extent that is practicable.

Fault elements:

The person:

- (a) intentionally transports the load; and
- (b) is reckless as to whether the load is a private use load; and
- (c) is reckless as to the circumstance mentioned in subregulation (5)(b).

Maximum penalty: 40 penalty units.

- (6) A person commits an offence if:
 - (a) the person transports a private use load in or on a vehicle; and
 - (b) the aggregate quantity of dangerous goods of UN Class 3, 4, 5 or 6 in the load is more than 250; and
 - (c) the person transports the load:
 - (i) in the passenger compartment of the vehicle; or
 - (ii) in an enclosed space that is not separated from the passenger compartment of the vehicle.

Fault elements:

The person:

- (a) intentionally transports the load; and
- (b) is reckless as to whether the load is a private use load; and
- (c) is reckless as to the quantity of dangerous goods of the kind mentioned in subregulation (6)(b) in the load; and

- (d) intentionally transports the load as mentioned in subregulation (6)(c).

Maximum penalty: 40 penalty units.

- (7) A person commits an offence if:

- (a) the person transports a private use load in or on a vehicle; and
- (b) the aggregate quantity of dangerous goods of UN Division 2.1, UN Division 2.3 or Packing Group I in the load is more than 50; and
- (c) the person transports the load:
- (i) in the passenger compartment of the vehicle; or
 - (ii) in any other enclosed space in the vehicle.

Fault elements:

The person:

- (a) intentionally transports the load; and
- (b) is reckless as to whether the load is a private use load; and
- (c) is reckless as to the quantity of dangerous goods of the kind mentioned in subregulation (7)(b) in the load; and
- (d) intentionally transports the load as mentioned in subregulation (7)(c).

Maximum penalty: 40 penalty units.

Part 2 Transport of dangerous goods to which special provision applies

27 Meaning of *special provision*

- (1) In this Part:

special provision means a Special Provision set out in Chapter 3.3 of the ADG Code.

- (2) A special provision applies to the transport of dangerous goods if column 6 of the Dangerous Goods List specifies that the special provision applies to the transport of the goods.

28 Application of Part

This Part applies if:

- (a) a special provision applies to the transport of dangerous goods; and
- (b) the special provision:
 - (i) prohibits the transport of the goods by road or rail; or
 - (ii) imposes a restriction on the way the goods are to be transported by road or rail.

29 Consignor's duties

A person commits an offence if:

- (a) the person consigns dangerous goods for transport; and
- (b) a special provision applies to the transport of the goods; and
- (c) the transport of the goods does not, or will not, comply with the special provision.

Fault elements:

The person:

- (a) intentionally consigns the goods for transport; and
- (b) is reckless as to whether the goods are dangerous goods; and
- (c) knows, or ought reasonably to know, of the application of the special provision; and
- (d) knows, or ought reasonably to know, of the non-compliance.

Maximum penalty: 20 penalty units.

30 Packer's duties

A person commits an offence if:

- (a) the person packs dangerous goods for transport; and
- (b) a special provision applies to the transport of the goods; and

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

Fault elements:

The person:

- (a) intentionally packs the goods for transport; and
- (b) is reckless as to whether the goods are dangerous goods; and
- (c) knows, or ought reasonably to know, of the application of the special provision; and
- (d) knows, or ought reasonably to know, of the non-compliance.

Maximum penalty: 20 penalty units.

31 Loader's duties

A person commits an offence if:

- (a) the person loads dangerous goods for transport; and
- (b) a special provision applies to the transport of the goods; and
- (c) the transport of the goods does not, or will not, comply with the special provision.

Fault elements:

The person:

- (a) intentionally loads the goods for transport; and
- (b) is reckless as to whether the goods are dangerous goods; and
- (c) knows, or ought reasonably to know, of the application of the special provision; and
- (d) knows, or ought reasonably to know, of the non-compliance.

Maximum penalty: 20 penalty units.

32 Prime contractor's and rail operator's duties

A person commits an offence if:

- (a) the person is a prime contractor or rail operator; and
- (b) the person transports dangerous goods; and
- (c) a special provision applies to the transport of the goods; and
- (d) the transport of the goods does not comply with the special provision.

Fault elements:

The person:

- (a) intentionally transports the goods; and
- (b) is reckless as to whether the goods are dangerous goods; and
- (c) knows, or ought reasonably to know, of the application of the special provision; and
- (d) knows, or ought reasonably to know, of the non-compliance.

Maximum penalty: 20 penalty units.

33 Driver's duties

A person commits an offence if:

- (a) the person is the driver of a road vehicle transporting dangerous goods; and
- (b) a special provision applies to the transport of the goods; and
- (c) the transport of the goods does not comply with the special provision.

Fault elements:

The person:

- (a) intentionally acts as the driver of the vehicle transporting the goods; and

- (b) is reckless as to whether the goods are dangerous goods; and
- (c) knows, or ought reasonably to know, of the application of the special provision; and
- (d) knows, or ought reasonably to know, of the non-compliance.

Maximum penalty: 10 penalty units.

Part 3 Packaging

Division 1 Interpretation and application

34 Definitions

In this Part:

relevant provision of Part 4 of the ADG Code, for dangerous goods, means a provision of Part 4 of the ADG code mentioned in column 8, 9, 10 or 11 of the Dangerous Goods List for those goods.

unsuitable, in relation to packaging, see regulation 35.

35 Meaning of *unsuitable*

Packaging is ***unsuitable*** for use in the transport of dangerous goods if any of the following apply:

- (a) the packaging is of a design that:
 - (i) is required by Part 6 of the ADG Code to undergo tests; and
 - (ii) is neither:
 - (A) approved under regulation 59; nor
 - (B) foreign approved;
- (b) the packaging does not meet any relevant standards or requirements mentioned in Part 4 or 6 of the ADG Code (including requirements with respect to inspection, maintenance and repair);
- (c) the use, or reuse, of the packaging in the transport of the goods does not comply with Part 4 or 6 of the ADG Code;

- (d) the use of the packaging in the transport of the goods is prohibited by a determination;
- (e) the packaging is incompatible with the goods;
- (f) the packaging is damaged or defective to the extent that it is not safe to use in the transport of the goods;
- (g) for a freight container that is a bulk container – the container does not have affixed to it a Safety Approval Plate as required under the *International Convention for Safe Containers 1972*.

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

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

Division 2 Offences relating to general packaging

37 Meaning of *general packaging*

In this Division:

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

38 Consignor's duties

A person commits an offence if:

- (a) the person consigns dangerous goods for transport; and
- (b) the goods are packed in general packaging; and
- (c) either:
 - (i) the packaging is unsuitable for use in the transport of the goods; or
 - (ii) the goods are packed in a way that does not comply with a relevant provision of Part 4 of the ADG Code.

Fault elements:

The person:

- (a) intentionally consigns the goods for transport; and

- (b) is reckless as to whether the goods are dangerous goods; and
- (c) is reckless as to whether the packaging is general packaging; and
- (d) knows, or ought reasonably to know, of the unsuitability or non-compliance.

Maximum penalty: 40 penalty units.

39 Packer's duties

A person commits an offence if:

- (a) the person packs dangerous goods for transport; and
- (b) the goods are packed in general packaging; and
- (c) either:
 - (i) the packaging is unsuitable for use in the transport of the goods; or
 - (ii) the goods are packed in a way that does not comply with a relevant provision of Part 4 of the ADG Code.

Fault elements:

The person:

- (a) intentionally packs the goods for transport; and
- (b) is reckless as to whether the goods are dangerous goods; and
- (c) is reckless as to whether the packaging is general packaging; and
- (d) knows, or ought reasonably to know, of the unsuitability or non-compliance.

Maximum penalty: 40 penalty units.

40 Loader's duties

A person commits an offence if:

- (a) the person loads dangerous goods for transport; and
- (b) the goods are packed in general packaging; and

- (c) the packaging is damaged or defective to the extent that it is not safe to use in the transport of the goods.

Fault elements:

The person:

- (a) intentionally loads the goods for transport; and
- (b) is reckless as to whether the goods are dangerous goods; and
- (c) is reckless as to whether the packaging is general packaging; and
- (d) knows, or ought reasonably to know, the packaging is damaged or defective to that extent mentioned in paragraph (c).

Maximum penalty: 40 penalty units.

41 Prime contractor's and rail operator's duties

A person commits an offence if:

- (a) the person is a prime contractor or rail operator; and
- (b) the person transports dangerous goods; and
- (c) the goods are packed in general packaging; and
- (d) the packaging is damaged or defective to the extent that it is not safe to use in the transport of the goods.

Fault elements:

The person:

- (a) intentionally transports the goods; and
- (b) is reckless as to whether the goods are dangerous goods; and
- (c) is reckless as to whether the packaging is general packaging; and
- (d) knows, or ought reasonably to know, the packaging is damaged or defective to the extent mentioned in paragraph (d).

Maximum penalty: 40 penalty units.

42 Driver's duties

A person commits an offence if:

- (a) the person is the driver of a road vehicle transporting dangerous goods; and
- (b) the goods are packed in general packaging; and
- (c) the packaging is damaged or defective to the extent that it is not safe to use in the transport of the goods.

Fault elements:

The person:

- (a) intentionally acts as the driver of the vehicle transporting the goods; and
- (b) is reckless as to whether the goods are dangerous goods; and
- (c) is reckless as to whether the packaging is general packaging; and
- (d) knows, or ought reasonably to know, the packaging is damaged or defective to the extent mentioned in paragraph (c).

Maximum penalty: 20 penalty units.

Division 3 Offences relating to other packaging

43 Meaning of *other packaging*

In this Division:

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

44 Manufacturer's duties – compliance plates for portable tanks, MEGCs and tank vehicles

- (1) A person commits an offence if:
 - (a) the person manufactures a portable tank or an MEGC for use in the transport of dangerous goods; and

- (b) the person fails to attach a compliance plate to it in compliance with Chapter 6.7 of the ADG Code.

Maximum penalty: 40 penalty units.

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

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

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

- (3) A person commits an offence if:

- (a) the person manufactures a tank vehicle for use in the transport of dangerous goods; and

- (b) fails to attach a compliance plate to it in compliance with Section 6.9.2.2 of the ADG Code.

Maximum penalty: 40 penalty units.

- (4) An offence against subregulation (1) or (3) is an offence of strict liability.

- (5) In this regulation:

compliance plate means a plate that complies with the requirements of Part 6 of the ADG Code.

45 Owner's duties – portable tanks, demountable tanks and MEGCs

- (1) A person commits an offence if:

- (a) the person owns a portable tank, demountable tank or MEGC; and

- (b) the person uses the tank or MEGC, or permits it to be used, in the transport of dangerous goods; and

- (c) the tank or MEGC is unsuitable for use in the transport of the goods.

Maximum penalty: 40 penalty units.

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

46 Consignor's duties

- (1) A person commits an offence if:
- (a) the person consigns dangerous goods for transport; and
 - (b) the goods are packed in other packaging provided by the person; and
 - (c) either:
 - (i) the packaging is unsuitable for use in the transport of the goods; or
 - (ii) the goods are packed in a way that does not comply with a relevant provision of Part 4 of the ADG Code.

Maximum penalty: 40 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.
- (3) A person commits an offence if:
- (a) the person consigns dangerous goods for transport; and
 - (b) the goods are packed in other packaging that was provided by another person; and
 - (c) either:
 - (i) the packaging is unsuitable for use in the transport of the goods; or
 - (ii) the goods are packed in a way that does not comply with a relevant provision of Part 4 of the ADG Code.

Fault elements:

The person:

- (a) intentionally consigns the goods for transport; and
- (b) is reckless as to whether the goods are dangerous goods; and
- (c) is reckless as to whether the packaging is other packaging; and

- (d) knows, or ought reasonably to know, of the unsuitability or non-compliance.

Maximum penalty: 40 penalty units.

47 Packer's duties

A person commits an offence if:

- (a) the person packs dangerous goods for transport; and
- (b) the goods are packed in other packaging; and
- (c) either:
 - (i) the packaging is unsuitable for use in the transport of the goods; or
 - (ii) the person packs the goods in a way that does not comply with a relevant provision of Part 4 of the ADG Code.

Fault elements:

The person:

- (a) intentionally packs the goods for transport; and
- (b) is reckless as to whether the goods are dangerous goods; and
- (c) is reckless as to whether the packaging is other packaging; and
- (d) knows, or ought reasonably to know, of the unsuitability or non-compliance.

Maximum penalty: 40 penalty units.

48 Loader's duties

A person commits an offence if:

- (a) the person loads dangerous goods for transport; and
- (b) the goods are packed in other packaging; and

- (c) the packaging is unsuitable for use in the transport of the goods.

Fault elements:

The person:

- (a) intentionally loads the goods for transport; and
- (b) is reckless as to whether the goods are dangerous goods; and
- (c) is reckless as to whether the packaging is other packaging; and
- (d) knows, or ought reasonably to know, of the unsuitability.

Maximum penalty: 40 penalty units.

49 Prime contractor's and rail operator's duties

- (1) A person commits an offence if:
 - (a) the person is a prime contractor or rail operator; and
 - (b) the person transports dangerous goods; and
 - (c) the goods are packed in other packaging provided by the person; and
 - (d) either:
 - (i) the packaging is unsuitable for use in the transport of the goods; or
 - (ii) the goods are packed in a way that does not comply with a relevant provision of Part 4 of the ADG Code.

Maximum penalty: 40 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.
- (3) A person commits an offence if:
 - (a) the person is a prime contractor or rail operator; and
 - (b) the person transports dangerous goods; and
 - (c) the goods are packed in other packaging provided by another person; and

- (d) either:
- (i) the packaging is unsuitable for use in the transport of the goods; or
 - (ii) the goods are packed in a way that does not comply with a relevant provision of Part 4 of the ADG Code.

Fault elements:

The person:

- (a) intentionally transports the goods; and
- (b) is reckless as to whether the goods are dangerous goods; and
- (c) is reckless as to whether the packaging is other packaging; and
- (d) knows, or ought reasonably to know, of the unsuitability or non-compliance.

Maximum penalty: 40 penalty units.

50 Driver's duties

A person commits an offence if:

- (a) the person is the driver of a road vehicle transporting dangerous goods; and
- (b) the goods are packed in other packaging; and
- (c) either:
 - (i) the packaging is unsuitable for use in the transport of the goods; or
 - (ii) the goods are packed in a way that does not comply with a relevant provision of Part 4 of the ADG Code.

Fault elements:

The person:

- (a) intentionally acts as the driver of the vehicle transporting the goods; and
- (b) is reckless as to whether the goods are dangerous goods; and

- (c) is reckless as to whether the packaging is other packaging; and
- (d) knows, or ought reasonably to know, of the unsuitability or non-compliance.

Maximum penalty: 15 penalty units.

Division 4 Offences relating to overpacks

51 Consignor's duties

- (1) A person commits an offence if:
 - (a) the person consigns dangerous goods for transport; and
 - (b) the goods are packed in an overpack; and
 - (c) the preparation of the overpack and its contents does not comply with:
 - (i) Section 5.1.2 of the ADG Code; or
 - (ii) an approval under regulation 63.

Maximum penalty: 20 penalty units.

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

52 Packer's duties

A person commits an offence if:

- (a) the person packs dangerous goods for transport in an overpack; and
- (b) either:
 - (i) the packing of the goods into the overpack does not comply with:
 - (A) Section 5.1.2 of the ADG Code; or
 - (B) an approval under regulation 63; or
 - (ii) the preparation of the overpack or its contents does not comply with:
 - (A) Section 5.1.2 of the ADG Code; or

(B) an approval under regulation 63.

Fault elements:

The person:

- (a) intentionally packs the goods for transport; and
- (b) is reckless as to whether the goods are dangerous goods; and
- (c) is reckless as to whether the packaging is an overpack; and
- (d) knows, or ought reasonably to know, of the non-compliance.

Maximum penalty: 20 penalty units.

53 Loader's duties

A person commits an offence if:

- (a) the person loads dangerous goods for transport; and
- (b) the goods are packed in an overpack; and
- (c) the preparation of the overpack or its contents does not comply with:
 - (i) Section 5.1.2 of the ADG Code; or
 - (ii) an approval under regulation 63.

Fault elements:

The person:

- (a) intentionally loads the goods for transport; and
- (b) is reckless as to whether the goods are dangerous goods; and
- (c) is reckless as to whether the packaging is an overpack; and
- (d) knows, or ought reasonably to know, of the non-compliance.

Maximum penalty: 20 penalty units.

54 Prime contactor's and rail operator's duties

A person commits an offence if:

- (a) the person is a prime contractor or rail operator; and
- (b) the person transports dangerous goods; and
- (c) the goods are packed in an overpack; and
- (d) the preparation of the overpack or its contents does not comply with:
 - (i) Section 5.1.2 of the ADG Code; or
 - (ii) an approval under regulation 63.

Fault elements:

The person:

- (a) intentionally transports the goods; and
- (b) is reckless as to whether the goods are dangerous goods; and
- (c) is reckless as to whether the packaging is an overpack; and
- (d) knows, or ought reasonably to know, of the non-compliance.

Maximum penalty: 20 penalty units.

55 Driver's duties

A person commits an offence if:

- (a) the person is the driver of a road vehicle transporting dangerous goods; and
- (b) the goods are in an overpack; and
- (c) the preparation of the overpack or its contents does not comply with:
 - (i) Section 5.1.2 of the ADG Code; or

- (ii) an approval under regulation 63.

Fault elements:

The person:

- (a) intentionally acts as the driver of the vehicle transporting the goods; and
- (b) is reckless as to whether the goods are dangerous goods; and
- (c) is reckless as to whether the packaging is an overpack; and
- (d) knows, or ought reasonably to know, of the non-compliance.

Maximum penalty: 10 penalty units.

Division 5 Miscellaneous offences relating to packaging

56 Incorrect marking of packaging

- (1) A person commits an offence if:
 - (a) the person applies a marking mentioned in Part 6 of the ADG Code to packaging; and
 - (b) either:
 - (i) the packaging is not of a design approved under regulation 59; or
 - (ii) the marking is not appropriate for the packaging.

Maximum penalty: 40 penalty units.

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

57 Sale or supply of non-compliant packaging

- (1) A person commits an offence if:
 - (a) the person sells, supplies, or offers to sell or supply, packaging for use in the transport of dangerous goods; and

- (b) the packaging does not comply with subregulation (3) for those goods.

Maximum penalty: 40 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.
- (3) Packaging complies with this subregulation for dangerous goods if:
 - (a) the packaging:
 - (i) is of a design that has been approved under regulation 59; and
 - (ii) is marked in compliance with Part 6 (or, if applicable, Chapter 3.4) of the ADG Code; and
 - (iii) is appropriate for those goods; or
 - (b) the packaging:
 - (i) complies with Parts 4 and 6 (or, if applicable, Chapter 3.4) of the ADG Code; and
 - (ii) is appropriate for those goods.

Division 6 Approvals relating to packaging

58 Definitions

In this Division:

NATA means the National Association of Testing Authorities.

recognised testing facility, see regulation 61.

59 Approval of packaging designs

- (1) The Competent Authority may, on application, approve a design for packaging for use in the transport of dangerous goods if satisfied packaging of that design:
 - (a) will comply with, or is permitted by, Part 6 of the ADG Code; and
 - (b) satisfies all the applicable testing and inspection requirements mentioned in that Part.

- (2) An application must include the information required under Part 6 of the ADG Code.
- (3) In determining whether a design for packaging satisfies a testing requirement the Competent Authority may rely on a test certificate issued by a recognised testing facility under regulation 62.
- (4) The Competent Authority may approve a design for packaging subject to any condition about the construction, packing, use or maintenance of packaging of that design that the Competent Authority considers necessary for the safe use of the packaging in the transport of dangerous goods.

60 Offences relating to approvals

- (1) A person commits an offence if:
 - (a) the person constructs packaging for use in the transport of dangerous goods; and
 - (b) the design for the packaging is approved under regulation 59 subject to a condition about its construction; and
 - (c) the packaging is constructed in contravention of the condition.

Fault elements:

The person:

- (a) intentionally constructs the packaging for use in the transport of dangerous goods; and
- (b) knows, or ought reasonably to know, of the condition; and
- (c) knows, or ought reasonably to know, of the contravention.

Maximum penalty: 40 penalty units.

- (2) A person commits an offence if:
 - (a) the person packs dangerous goods for transport; and
 - (b) the design for the packaging is approved under regulation 59 subject to a condition about how it is packed; and

(c) the packaging is packed in contravention of the condition.

Fault elements:

The person:

- (a) intentionally packs the goods in the packaging for transport; and
- (b) is reckless as to whether the goods are dangerous goods; and
- (c) knows, or ought reasonably to know, of the condition; and
- (d) knows, or ought reasonably to know, of the contravention.

Maximum penalty: 40 penalty units.

(3) A person commits an offence if:

- (a) the person uses packaging in the transport of dangerous goods; and
- (b) the design for the packaging is approved under regulation 59 subject to a condition about its maintenance; and
- (c) the packaging has not been maintained in compliance with the condition.

Fault elements:

The person:

- (a) intentionally uses the packaging in the transport of the goods; and
- (b) is reckless as to whether the goods are dangerous goods; and
- (c) knows, or ought reasonably to know, of the condition; and
- (d) knows, or ought reasonably to know, of the contravention.

Maximum penalty: 40 penalty units.

(4) A person commits an offence if:

- (a) the person uses packaging in the transport of dangerous goods; and

- (b) the design for the packaging is approved under regulation 59 subject to a condition about its use; and
- (c) the packaging is used in contravention of the condition.

Fault elements:

The person:

- (a) intentionally uses the packaging in the transport of the goods; and
- (b) is reckless as to whether the goods are dangerous goods; and
- (c) knows, or ought reasonably to know, of the condition; and
- (d) knows, or ought reasonably to know, of the contravention.

Maximum penalty: 40 penalty units.

61 Recognised testing facilities

For these Regulations, the following are **recognised testing facilities** in relation to a performance test of a kind mentioned in Part 6 of the ADG Code:

- (a) a testing facility registered by NATA to conduct tests of that kind;
- (b) if NATA has not registered a testing facility for conducting tests of that kind – a testing facility in Australia capable of conducting the test;
- (c) a testing facility in another country approved by a public authority of that country to conduct tests of that kind.

62 Test certificates and observation of testing

- (1) A recognised testing facility may certify in writing that a design for packaging has passed a performance test of a kind mentioned in Part 6 of the ADG Code.
- (2) The test certificate must include the details required under Part 6 of the ADG Code.
- (3) If the testing facility is registered by NATA, the test certificate and any report on the test must be in the form approved by NATA for such a certificate or report.

- (4) A test conducted by a testing facility mentioned in regulation 61(b) must be observed by the Competent Authority or a person nominated by the Competent Authority.

63 Approval of overpack preparation method

- (1) The Competent Authority may, on application, approve a method of preparing an overpack for transport that does not comply with Section 5.1.2 of the ADG Code if the Competent Authority considers that the risk involved in using the method is not greater than the risk involved in using a method that does comply with that Section.
- (2) The Competent Authority may approve a method of preparing an overpack subject to conditions about the use of the overpack that the Competent Authority considers necessary for the safe use of the overpack in the transport of dangerous goods.
- (3) A person commits an offence if:
- (a) the person uses an overpack in the transport of dangerous goods; and
 - (b) the method used to prepare the overpack is approved under subregulation (1) subject to a condition imposed under subregulation (2); and
 - (c) the person uses the overpack in contravention of the condition.

Fault elements:

The person:

- (a) intentionally uses the overpack in the transport of the goods; and
- (b) is reckless as to whether the goods are dangerous goods; and
- (c) knows, or ought reasonably to know, of the condition; and
- (d) knows, or ought reasonably to know, of the contravention.

Maximum penalty: 40 penalty units.

64 Authorisation of person or body to grant approvals

- (1) The Competent Authority may authorise a person or body to exercise the functions of the Competent Authority under regulations 59 and 63.
- (2) The Competent Authority may authorise a person or body subject to any conditions it considers appropriate in relation to the granting of approvals by the person or body.
- (3) The Competent Authority may withdraw an authorisation at any time.
- (4) The withdrawal of an authorisation does not affect any approval granted by the authorised person or body before the withdrawal took effect.

65 Exercise of functions by authorised body

- (1) In exercising functions under regulations 59 and 63 an authorised body must comply with:
 - (a) the provisions of Part 6 of the ADG Code relating to the granting of an approval; and
 - (b) any conditions imposed under regulation 64(2).
- (2) An authorised body that grants an approval must give to the Competent Authority the information necessary to enable the Competent Authority to maintain the register mentioned in regulation 213.
- (3) If an authorised body exercises a function mentioned in subregulation (1), the following provisions apply as if a reference in them to the Competent Authority were a reference to the authorised body:
 - (a) regulation 4, definition **approval**;
 - (b) regulations 59 and 63;
 - (c) Part 18, Divisions 2 and 3, to the extent they relate to approvals.
- (4) In this regulation:

authorised body means a person or body authorised under regulation 64.

Part 4 Consignment procedures

Division 1 Marking and labelling

66 Meaning of *appropriately marked*

- (1) Subject to this regulation, a package of dangerous goods is ***appropriately marked*** if it is marked and labelled in compliance with Chapter 5.2 of the ADG Code.
- (2) A receptacle with a capacity of more than 500 kg or L, other than a transport unit or an overpack, is ***appropriately marked*** if it is marked and labelled in compliance with Chapters 5.2 and 5.3.3 of the ADG Code.
- (3) An overpack is ***appropriately marked*** if it is marked and labelled in compliance with Section 5.1.2 of the ADG Code.
- (4) A package of dangerous goods packed in limited quantities is ***appropriately marked*** if it is marked and labelled in compliance with Chapter 3.4 of the ADG Code.
- (5) A package of dangerous goods that is a retail distribution load is ***appropriately marked*** if it is marked and labelled in compliance with Chapter 7.3 of the ADG Code.

67 Consignor's duties

- (1) A person commits an offence if:
 - (a) the person consigns dangerous goods for transport; and
 - (b) the goods are in a package; and
 - (c) the package is not appropriately marked.

Maximum penalty:

- (a) if the packaging is large packaging or an overpack – 20 penalty units; or
 - (b) otherwise – 10 penalty units.
- (2) A person commits an offence if:
 - (a) the person consigns dangerous goods for transport; and
 - (b) the goods are in a package; and

- (c) a marking or label on the package about its contents contains misleading information.

Maximum penalty:

- (a) if the packaging is large packaging or an overpack – 20 penalty units; or
- (b) otherwise – 10 penalty units.

- (3) A person commits an offence if:

- (a) the person consigns a package of goods for transport; and
- (b) the package does not contain dangerous goods; and
- (c) the package is marked or labelled as if it contained dangerous goods.

Maximum penalty:

- (a) if the packaging is large packaging or an overpack – 20 penalty units; or
- (b) otherwise – 10 penalty units.

- (4) An offence against subregulation (1), (2) or (3) is an offence of strict liability.

68 Packer's duties

- (1) A person commits an offence if:

- (a) the person packs dangerous goods for transport in a package; and
- (b) the package is not, or will not be once the package is ready to be transported, appropriately marked.

Fault elements:

The person:

- (a) intentionally packs the goods for transport; and
- (b) is reckless as to whether the goods are dangerous goods; and

- (c) knows, or ought reasonably to know, the package is not or will not be appropriately marked.

Maximum penalty:

- (a) if the packaging is large packaging or an overpack – 20 penalty units; or
- (b) otherwise – 10 penalty units.

(2) A person commits an offence if:

- (a) the person packs dangerous goods for transport in a package; and
- (b) the person marks or labels the package with a marking or label about its contents; and
- (c) the marking or label contains misleading information.

Fault elements:

The person:

- (a) intentionally packs the goods for transport; and
- (b) is reckless as to whether the goods are dangerous goods; and
- (c) intentionally marks or labels the package; and
- (d) knows, or ought reasonably to know, the information is misleading information.

Maximum penalty:

- (a) if the packaging is large packaging or an overpack – 20 penalty units; or
- (b) otherwise – 10 penalty units.

(3) A person commits an offence if:

- (a) the person packs goods in a package for transport; and
- (b) the package does not contain dangerous goods; and

- (c) the person marks or labels the package as if it contained dangerous goods.

Fault elements:

The person:

- (a) intentionally packs the goods in the package; and
- (b) knows, or ought reasonably to know, the package does not contain dangerous goods; and
- (c) intentionally marks or labels the package as if it contained dangerous goods.

Maximum penalty:

- (a) if the packaging is large packaging or an overpack – 20 penalty units; or
- (b) otherwise – 10 penalty units.

69 Prime contractor's and rail operator's duties

- (1) A person commits an offence if:

- (a) the person is a prime contractor or rail operator; and
- (b) the person transports dangerous goods in a package; and
- (c) the package is not appropriately marked.

Fault elements:

The person:

- (a) intentionally transports the goods; and
- (b) knows, or ought reasonably to know, the goods are dangerous goods; and
- (c) knows, or ought reasonably to know, the package is not appropriately marked.

Maximum penalty:

- (a) if the packaging is large packaging or an overpack – 20 penalty units; or
- (b) otherwise – 10 penalty units.

- (2) A person commits an offence if:
- (a) the person is a prime contractor or rail operator; and
 - (b) the person transports dangerous goods in a package; and
 - (c) a marking or label on the package about its contents contains misleading information.

Fault elements:

The person:

- (a) intentionally transports the goods; and
- (b) is reckless as to whether the goods are dangerous goods; and
- (c) knows, or ought reasonably to know, the information is misleading information.

Maximum penalty:

- (a) if the packaging is large packaging or an overpack – 20 penalty units; or
- (b) otherwise – 10 penalty units.

- (3) A person commits an offence if:
- (a) the person is a prime contractor or rail operator; and
 - (b) the person transports a package of goods; and
 - (c) the package does not contain dangerous goods; and
 - (d) the package is marked or labelled as if it contained dangerous goods.

Fault elements:

The person:

- (a) intentionally transports the package; and
- (b) knows, or ought reasonably to know, the package does not contain dangerous goods; and

- (c) is reckless as to whether the package is marked or labelled as if it contained dangerous goods.

Maximum penalty:

- (a) if the packaging is large packaging or an overpack – 20 penalty units; or
- (b) otherwise – 10 penalty units.

Division 2 Placarding

70 Meaning of *placards*, *placarded* and *appropriately placarded*

- (1) A person ***placards*** a load if the person affixes, stencils, prints or places a label or emergency information panel on anything being used, or to be used, to transport the load.
- (2) A load is ***placarded*** if a label or emergency information panel about the load is affixed to, or stencilled, printed or placed on, anything being used, or to be used, to transport the load.
- (3) A placard load is ***appropriately placarded*** if it is placarded in compliance with Chapter 5.3 of the ADG Code.
- (4) In this regulation:

emergency information panel means an emergency information panel as defined in Section 5.3.1.3 of the ADG Code.

label means a label as defined in Section 1.2.1 of the ADG Code.

71 When load must be placarded

- (1) A load of dangerous goods must be placarded if the load:
 - (a) contains:
 - (i) dangerous goods in a single receptacle with a capacity of more than 500 L; or
 - (ii) more than 500 kg of dangerous goods in a single receptacle; or

- (b) contains an aggregate quantity of dangerous goods of 250 or more and those goods include:
 - (i) dangerous goods of UN Division 2.1 that are not aerosols; or
 - (ii) dangerous goods of UN Division 2.3; or
 - (iii) dangerous goods of Packing Group I; or
 - (c) contains dangerous goods of Category A of UN Division 6.2; or
 - (d) contains an aggregate quantity of dangerous goods of UN Division 6.2, other than Category A, of 10 or more; or
 - (e) contains an aggregate quantity of dangerous goods of 1 000 or more.
- (2) However, a retail distribution load that complies with Chapter 7.3 of the ADG Code is not a load that must be placarded.

72 Consignor's duties

- (1) A person commits an offence if:
- (a) the person consigns a placard load for transport; and
 - (b) the load is not appropriately placarded.

Fault elements:

The person:

- (a) intentionally consigns the load for transport; and
- (b) is reckless as to whether the load is a placard load; and
- (c) is reckless as to whether the load is appropriately placarded.

Maximum penalty: 40 penalty units.

- (2) A person commits an offence if:
- (a) the person consigns a placard load for transport; and

(b) placarding on the load contains misleading information.

Fault elements:

The person:

- (a) intentionally consigns the load for transport; and
- (b) is reckless as to whether the load is a placard load; and
- (c) is reckless as to whether the load is placarded; and
- (d) is reckless as to whether the information is misleading information.

Maximum penalty: 40 penalty units.

(3) A person commits an offence if:

- (a) the person consigns a load of goods for transport in or on a transport unit; and
- (b) the load is not a placard load; and
- (c) the load is placarded as if it were a placard load.

Fault elements:

The person:

- (a) intentionally consigns the goods for transport; and
- (b) is reckless as to whether the load is a placard load; and
- (c) is reckless as to whether the load is placarded as a placard load.

Maximum penalty: 40 penalty units.

73 Loader's duties

(1) A person commits an offence if:

- (a) the person loads a placard load for transport; and
- (b) the load is not appropriately placarded.

Fault elements:

The person:

- (a) intentionally loads the placard load for transport; and

- (b) knows, or ought reasonably to know, the load is a placard load; and
- (c) is reckless as to whether the load is appropriately placarded.

Maximum penalty: 40 penalty units.

(2) A person commits an offence if:

- (a) the person loads a placard load for transport; and
- (b) the person placards the load; and
- (c) the placard contains misleading information.

Fault elements:

The person:

- (a) intentionally loads the placard load for transport; and
- (b) is reckless as to whether the load is a placard load; and
- (c) intentionally placards the load; and
- (d) knows, or ought reasonably to know, the information is misleading information.

Maximum penalty: 40 penalty units.

(3) A person commits an offence if:

- (a) the person loads a load of goods for transport; and
- (b) the load is not a placard load; and
- (c) the person placards the load as if it were a placard load.

Fault elements:

The person:

- (a) intentionally loads the goods for transport; and
- (b) knows, or ought reasonably to know, the load is not a placard load; and
- (c) intentionally placards the load as if it were a placard load.

Maximum penalty: 40 penalty units.

74 Prime contractor's and rail operator's duties

- (1) A person commits an offence if:
- (a) the person is a prime contractor or rail operator; and
 - (b) the person transports a placard load; and
 - (c) the load is not appropriately placarded.

Fault elements:

The person:

- (a) intentionally transports the load; and
- (b) knows, or ought reasonably to know, the load is a placard load; and
- (c) knows, or ought reasonably to know, the load is not appropriately placarded.

Maximum penalty: 40 penalty units.

- (2) A person commits an offence if:
- (a) the person is a prime contractor or rail operator; and
 - (b) the person transports a placard load; and
 - (c) placarding on the load contains misleading information.

Fault elements:

The person:

- (a) intentionally transports the load; and
- (b) knows, or ought reasonably to know, the load is a placard load; and
- (c) knows, or ought reasonably to know, the placarding contains misleading information.

Maximum penalty: 40 penalty units.

- (3) A person commits an offence if:
- (a) the person is a prime contractor or rail operator; and
 - (b) the person uses a transport unit that is placarded as if it contained a placard load; and
 - (c) the transport unit does not contain a placard load.

Fault elements:

The person:

- (a) intentionally uses the transport unit; and
- (b) knows, or ought reasonably to know, the transport unit does not contain a placard load.

Maximum penalty: 40 penalty units.

75 Driver's duties

- (1) A person commits an offence if:
- (a) the person is the driver of a road vehicle transporting a placard load; and
 - (b) the load is not appropriately placarded.

Fault elements:

The person:

- (a) intentionally acts as the driver of the vehicle transporting the load; and
- (b) knows, or ought reasonably to know, the load is a placard load; and
- (c) knows, or ought reasonably to know, the load is not appropriately placarded.

Maximum penalty: 20 penalty units.

- (2) A person commits an offence if:
- (a) the person is the driver of a road vehicle transporting a placard load; and

(b) placarding on the load contains misleading information.

Fault elements:

The person:

- (a) intentionally acts as the driver of the vehicle transporting the load; and
- (b) is reckless as to whether the load is a placard load; and
- (c) knows, or ought reasonably to know, the placarding contains misleading information.

Maximum penalty: 20 penalty units.

(3) A person commits an offence if:

- (a) the person is the driver of a road vehicle that is placarded as if it were carrying a placard load; and
- (b) the vehicle is not carrying a placard load.

Fault elements:

The person:

- (a) intentionally acts as the driver of the vehicle; and
- (b) knows, or ought reasonably to know, the vehicle is not carrying a placard load.

Maximum penalty: 20 penalty units.

Part 5 Safety standards for vehicles and equipment

76 Owner's duties

(1) A person commits an offence if:

- (a) the person owns a vehicle; and
- (b) the person uses the vehicle, or permits it to be used, to transport dangerous goods; and
- (c) the vehicle or its equipment does not comply with Chapters 4.4 and 6.9 of the ADG Code.

Maximum penalty: 40 penalty units.

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

77 Consignor's duties

A person commits an offence if:

- (a) the person consigns dangerous goods for transport in or on a vehicle; and
- (b) the vehicle or its equipment does not comply with Chapters 4.4 and 6.9 of the ADG Code.

Fault elements:

The person:

- (a) intentionally consigns the goods for transport in or on the vehicle; and
- (b) is reckless as to whether the goods are dangerous goods; and
- (c) knows, or ought reasonably to know, of the non-compliance.

Maximum penalty: 40 penalty units.

78 Loader's duties

A person commits an offence if:

- (a) the person loads dangerous goods into or onto a vehicle for transport; and
- (b) the vehicle or its equipment does not comply with Chapters 4.4 and 6.9 of the ADG Code.

Fault elements:

The person:

- (a) intentionally loads the goods into or onto the vehicle for transport; and
- (b) is reckless as to whether the goods are dangerous goods; and

- (c) knows, or ought reasonably to know, of the non-compliance.

Maximum penalty: 40 penalty units.

79 Prime contractor's and rail operator's duties

- (1) A person commits an offence if:

- (a) the person is a prime contractor or rail operator; and
- (b) the person transports dangerous goods in or on a vehicle; and
- (c) the vehicle or its equipment does not comply with Chapters 4.4 and 6.9 of the ADG Code.

Maximum penalty: 40 penalty units.

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

80 Driver's duties

A person commits an offence if:

- (a) the person is the driver of a road vehicle transporting dangerous goods; and
- (b) the vehicle or its equipment does not comply with Chapters 4.4 and 6.9 of the ADG Code.

Fault elements:

The person:

- (a) intentionally acts as the driver of the vehicle transporting the goods; and
- (b) is reckless as to whether the goods are dangerous goods; and
- (c) knows, or ought reasonably to know, of the non-compliance.

Maximum penalty: 20 penalty units.

Part 6	Transport of certain dangerous goods and goods too dangerous to transport
Division 1	Self-reactive substances, organic peroxides and certain other substances

Part 6 Transport of certain dangerous goods and goods too dangerous to transport

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

81 Application of Division

(1) This Division applies to the following types of dangerous goods:

- (a) gases of UN Class 2;
- (b) self-reactive substances of UN Division 4.1;
- (c) organic peroxides of UN Division 5.2;
- (d) other substances for which:
 - (i) the proper shipping name contains the word "STABILIZED"; and
 - (ii) the self-accelerating decomposition temperature when presented for transport in packaging is 50 °C or lower;
- (e) toxic substances of UN Division or subsidiary risk 6.1;
- (f) infectious substances of UN Division 6.2;
- (g) dangerous when wet substances of UN Division 4.3.

(2) In this regulation:

proper shipping name means the proper shipping name as defined in Section 1.2.1 of the ADG Code.

self-accelerating decomposition temperature means the self-accelerating decomposition temperature ascertained in accordance with Section 2.4.2.3.4 of the ADG Code.

82 Consignor's duties

A person commits an offence if:

- (a) the person consigns dangerous goods for transport in or on a transport unit; and
- (b) the goods are goods to which this Division applies; and

- (c) the goods are not loaded or stowed, or cannot be transported or unloaded, in compliance with Chapter 7.1 of the ADG Code.

Fault elements:

The person:

- (a) intentionally consigns the goods for transport; and
- (b) is reckless as to whether the goods are dangerous goods; and
- (c) is reckless as to whether the goods are goods to which this Division applies; and
- (d) knows, or ought reasonably to know, of the non-compliance.

Maximum penalty: 20 penalty units.

83 Loader's duties

- (1) A person commits an offence if:
 - (a) the person loads dangerous goods that are in or on a transport unit for transport; and
 - (b) the goods are goods to which this Division applies; and
 - (c) the person loads the goods other than in compliance with Chapter 7.1 of the ADG Code.

Maximum penalty: 20 penalty units.

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

84 Prime contractor's and rail operator's duties

- (1) A person commits an offence if:
 - (a) the person is a prime contractor or rail operator; and
 - (b) the person transports dangerous goods; and
 - (c) the goods are goods to which this Division applies; and

- (d) the transport does not comply with Chapter 7.1 of the ADG Code.

Fault elements:

The person:

- (a) intentionally transports the goods; and
- (b) is reckless as to whether the goods are dangerous goods; and
- (c) is reckless as to whether the goods are goods to which this Division applies; and
- (d) knows, or ought reasonably to know, of the non-compliance.

Maximum penalty: 20 penalty units.

- (2) A person commits an offence if:

- (a) the person is a prime contractor or rail operator; and
- (b) the person transports a package of infectious substances of UN Division 6.2; and
- (c) the package is damaged or leaks; and
- (d) the person fails to comply with Section 7.1.7.2.2 of the ADG Code.

Fault elements:

The person:

- (a) intentionally transports the package; and
- (b) is reckless as to whether the package contains infectious substances of UN Division 6.2; and
- (c) knows of the damage or leak.

Maximum penalty: 20 penalty units.

85 Driver's duties

A person commits an offence if:

- (a) the person is the driver of a road vehicle transporting dangerous goods; and
- (b) the goods are goods to which this Division applies; and
- (c) the goods are not transported in compliance with Chapter 7.1 of the ADG Code.

Fault elements:

The person:

- (a) intentionally acts as the driver of the vehicle transporting the goods; and
- (b) is reckless as to whether the goods are dangerous goods; and
- (c) is reckless as to whether the goods are goods to which this Division applies; and
- (d) knows, or ought reasonably to know, of the non-compliance.

Maximum penalty: 15 penalty units.

Division 2 Goods too dangerous to be transported

86 Loader's duties

A person commits an offence if:

- (a) the person loads goods into or onto a transport unit for transport; and
- (b) the goods are goods too dangerous to be transported.

Fault elements:

The person:

- (a) intentionally loads the goods for transport; and

- (b) knows, or ought reasonably to know, the goods are goods too dangerous to be transported.

Maximum penalty: 20 penalty units.

87 Prime contractor's and rail operator's duties

A person commits an offence if:

- (a) the person is a prime contractor or rail operator; and
(b) the person transports goods; and
(c) the goods are goods too dangerous to be transported.

Fault elements:

The person:

- (a) intentionally transports the goods; and
(b) knows, or ought reasonably to know, the goods are goods too dangerous to be transported.

Maximum penalty: 20 penalty units.

88 Driver's duties

A person commits an offence if:

- (a) the person is the driver of a vehicle transporting goods; and
(b) the goods are goods too dangerous to be transported.

Fault elements:

The person:

- (a) intentionally acts as the driver of the vehicle; and
(b) knows, or ought reasonably to know, the goods are goods too dangerous to be transported.

Maximum penalty: 15 penalty units.

Part 7 Stowage and restraint

89 Consignor's duties

(1) A person commits an offence if:

- (a) the person consigns a placard load for transport; and
- (b) the dangerous goods in the load or their packaging are not, or will not be, stowed, loaded and restrained in compliance with Part 8.1 of the ADG Code.

Fault elements:

The person:

- (a) intentionally consigns the load for transport; and
- (b) is reckless as to whether the load is a placard load; and
- (c) knows, or ought reasonably to know, of the non-compliance.

Maximum penalty: 20 penalty units.

(2) A person commits an offence if:

- (a) the person consigns dangerous goods for transport in or on a transport unit; and
- (b) the transport unit is not, or will not be, restrained in compliance with Chapter 8.2 of the ADG Code.

Fault elements:

The person:

- (a) intentionally consigns the goods for transport in or on the transport unit; and
- (b) is reckless as to whether the goods are dangerous goods; and
- (c) knows, or ought reasonably to know, of the non-compliance.

Maximum penalty: 20 penalty units.

90 Loader's duties

- (1) A person commits an offence if:
- (a) the person loads a placard load for transport; and
 - (b) the dangerous goods in the load or their packaging are not stowed, loaded and restrained in compliance with Part 8.1 of the ADG Code.

Maximum penalty: 20 penalty units.

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

- (3) A person commits an offence if:
- (a) the person loads dangerous goods that are in or on a transport unit for transport; and
 - (b) the transport unit is not restrained in compliance with Chapter 8.2 of the ADG Code.

Fault elements:

The person:

- (a) intentionally loads the goods into or onto the vehicle for transport; and
- (b) is reckless as to whether the goods are dangerous goods; and
- (c) is reckless as to the non-compliance.

Maximum penalty: 20 penalty units.

91 Prime contractor's and rail operator's duties

- (1) A person commits an offence if:
- (a) the person is a prime contractor or rail operator; and
 - (b) the person transports a placard load; and

- (c) the dangerous goods in the load or their packaging have not been stowed or loaded, or are not restrained, in compliance with Part 8.1 of the ADG Code.

Fault elements:

The person:

- (a) intentionally transports the load; and
- (b) is reckless as to whether the load is a placard load; and
- (c) knows, or ought reasonably to know, of the non-compliance.

Maximum penalty: 20 penalty units.

- (2) A person commits an offence if:

- (a) the person is a prime contractor or rail operator; and
- (b) the person transports dangerous goods in or on a transport unit; and
- (c) the transport unit is not restrained in compliance with Chapter 8.2 of the ADG Code.

Fault elements:

The person:

- (a) intentionally transports the goods; and
- (b) is reckless as to whether the goods are dangerous goods; and
- (c) knows, or ought reasonably to know, of the non-compliance.

Maximum penalty: 20 penalty units.

92 Driver's duties

- (1) A person commits an offence if:

- (a) the person is the driver of a road vehicle transporting a placard load; and

-
- (b) the dangerous goods in the load or their packaging have not been stowed or loaded, or are not restrained, in compliance with Part 8.1 of the ADG Code.

Fault elements:

The person:

- (a) intentionally acts as the driver of the vehicle transporting the load; and
- (b) is reckless as to whether the load is a placard load; and
- (c) knows, or ought reasonably to know, of the non-compliance.

Maximum penalty: 15 penalty units.

(2) A person commits an offence if:

- (a) the person is the driver of a road vehicle transporting dangerous goods that are in a transport unit; and
- (b) the transport unit is not restrained in compliance with Chapter 8.2 of the ADG Code.

Fault elements:

The person:

- (a) intentionally acts as the driver of the vehicle transporting the goods; and
- (b) is reckless as to whether the goods are dangerous goods; and
- (c) knows, or ought reasonably to know, of the non-compliance.

Maximum penalty: 15 penalty units.

Part 8 Segregation

93 Meaning of *segregation load*

In this Part:

segregation load means:

- (a) a placard load; or

- (b) a load of dangerous goods that:
 - (i) contains:
 - (A) dangerous goods of UN Division 2.3 or UN Class 6 or 8; or
 - (B) dangerous goods that have a subsidiary risk of 6.1 or 8; and
 - (ii) is being, or is to be, transported with food or food packaging.

94 Application of Part

- (1) This Part applies in relation to the transport of a segregation load.
- (2) Dangerous goods packed in limited quantities do not need to comply with this Part.

95 Exception for certain goods for driver's personal use

Despite regulations 96 to 100, food and food packaging may be transported in the cabin of a road vehicle that is transporting dangerous goods if the food or packaging is for the driver's personal use.

96 Consignor's duties

A person commits an offence if:

- (a) the person consigns a segregation load for transport in or on a vehicle; and
- (b) the vehicle will, in the same journey, be transporting incompatible goods; and
- (c) the dangerous goods in the segregation load will not be segregated from the incompatible goods in compliance with:
 - (i) Part 9 of the ADG Code; or
 - (ii) an approval under regulation 102.

Fault elements:

The person:

- (a) intentionally consigns the load; and

- (b) is reckless as to whether the load is a segregation load; and
- (c) knows, or ought reasonably to know, the vehicle will be transporting incompatible goods; and
- (d) knows, or ought reasonably to know, of the non-compliance.

Maximum penalty: 40 penalty units.

97 Loader's duties

A person commits an offence if:

- (a) the person loads a segregation load for transport in or on a vehicle; and
- (b) the vehicle will, in the same journey, be transporting incompatible goods; and
- (c) the dangerous goods in the segregation load will not be segregated from the incompatible goods in compliance with:
 - (i) Part 9 of the ADG Code; or
 - (ii) an approval under regulation 102.

Fault elements:

The person:

- (a) intentionally loads the segregation load into or onto the vehicle for transport; and
- (b) is reckless as to whether the load is a segregation load; and
- (c) knows, or ought reasonably to know, the vehicle will be transporting incompatible goods; and
- (d) knows, or ought reasonably to know, of the non-compliance.

Maximum penalty: 40 penalty units.

98 Prime contractor's duties

A person commits an offence if:

- (a) the person is a prime contractor; and
- (b) the person transports a segregation load in or on a road vehicle; and
- (c) the vehicle is, in the same journey, transporting incompatible goods; and
- (d) the dangerous goods in the segregation load are not segregated from the incompatible goods in compliance with:
 - (i) Part 9 of the ADG Code; or
 - (ii) an approval under regulation 102.

Fault elements:

The person:

- (a) intentionally transports the load; and
- (b) is reckless as to whether the load is a segregation load; and
- (c) knows, or ought reasonably to know, the vehicle is transporting incompatible goods; and
- (d) knows, or ought reasonably to know, of the non-compliance.

Maximum penalty: 40 penalty units.

99 Rail operator's duties

A person commits an offence if:

- (a) the person is a rail operator; and
- (b) the person transports a segregation load in or on a train; and
- (c) the train is, in the same journey, transporting incompatible goods; and

- (d) the dangerous goods in the segregation load are not segregated from the incompatible goods in compliance with:
 - (i) Part 9 of the ADG Code; or
 - (ii) an approval under regulation 102.

Fault elements:

The person:

- (a) intentionally transports the load; and
- (b) is reckless as to whether the load is a segregation load; and
- (c) knows, or ought reasonably to know, the train is transporting incompatible goods; and
- (d) knows, or ought reasonably to know, of the non-compliance.

Maximum penalty: 40 penalty units.

100 Driver's duties

A person commits an offence if:

- (a) the person is the driver of a road vehicle transporting a segregation load; and
- (b) the vehicle is, in the same journey, transporting incompatible goods; and
- (c) the dangerous goods in the segregation load are not segregated from the incompatible goods in compliance with:
 - (i) Part 9 of the ADG Code; or
 - (ii) an approval under regulation 102.

Fault elements:

The person:

- (a) intentionally acts as the driver of the vehicle transporting the load; and

- (b) is reckless as to whether the load is a segregation load; and
- (c) knows, or ought reasonably to know, the vehicle is transporting incompatible goods; and
- (d) knows, or ought reasonably to know, of the non-compliance.

Maximum penalty: 15 penalty units.

101 Approval of Type II segregation devices

- (1) The Competent Authority may, on application, approve a design for a Type II segregation device if satisfied the design complies with Chapter 6.11 of the ADG Code.
- (2) An application must include any information required under Chapter 6.11 of the ADG Code.
- (3) In this regulation:

Type II segregation device means a device of the kind described in Section 6.11.4 of the ADG Code.

102 Approval of methods of segregation

- (1) The Competent Authority may, on application, approve a method of segregation not complying with Part 9 of the ADG Code for transporting dangerous and incompatible goods, if satisfied:
 - (a) it is impracticable to segregate the goods by a segregation device, or method of segregation, complying with that Part; and
 - (b) the risk involved in using the method to transport the goods is not greater than the risk involved in using a device or method complying with that Part to transport the goods.
- (2) The Competent Authority may approve a method of segregation subject to any condition necessary for the safe transport of dangerous goods.
- (3) A person commits an offence if:
 - (a) the person is granted an approval under this regulation; and

(b) the person contravenes a condition of the approval.

Maximum penalty: 40 penalty units.

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

Part 9 Bulk transfer of dangerous goods

Division 1 Interpretation

103 Meaning of *bulk transfer*

In this Part:

bulk transfer means the transfer by gravity, pump or pressure differential of liquid, solid or gaseous dangerous goods, by the use of a hose assembly, into or out of:

- (a) a tank vehicle; or
- (b) a portable tank, demountable tank, bulk container, pressure drum, tube, MEGC or IBC that is in or on a vehicle.

Division 2 Equipment and transfer

104 Transferor's duties – hose assembly

- (1) A person commits an offence if:
 - (a) the person uses a hose assembly for the bulk transfer of dangerous goods; and
 - (b) the assembly is damaged or defective to the extent that it is not safe to use to transfer the goods.

Fault elements:

The person:

- (a) intentionally uses the hose assembly for the bulk transfer of the goods; and
- (b) is reckless as to whether the goods are dangerous goods; and

- (c) knows, or ought reasonably to know, the hose assembly is damaged or defective to the extent mentioned in subregulation (1)(b).

Maximum penalty: 20 penalty units.

- (2) A person commits an offence if:

- (a) the person uses a hose assembly for the bulk transfer of dangerous goods; and
- (b) the hose assembly:
 - (i) has not been constructed, assembled and maintained in compliance with Chapter 10.1 of the ADG Code; or
 - (ii) has not been inspected and tested at the intervals, or in the way, required under that Chapter; or
 - (iii) has not satisfied a test under that Chapter.

Fault elements:

The person:

- (a) intentionally uses the hose assembly for the bulk transfer of the goods; and
- (b) is reckless as to whether the goods are dangerous goods; and
- (c) knows, or ought reasonably to know, of the circumstance mentioned in subregulation (2)(b).

Maximum penalty: 40 penalty units.

105 Transferor's duties – general

- (1) A person commits an offence if:

- (a) the person is engaged in the bulk transfer of dangerous goods; and
- (b) the goods are not transferred:
 - (i) in compliance with Chapter 10.2 of the ADG Code; and

- (ii) in a way that eliminates risk, or if it is not possible to eliminate risk, that minimises risk to the maximum extent practicable.

Fault elements:

The person:

- (a) intentionally engages in the transfer of the goods; and
- (b) is reckless as to whether the goods are dangerous goods; and
- (c) is reckless as to whether the goods are transferred as mentioned in subregulation (1)(b).

Maximum penalty: 20 penalty units.

(2) A person commits an offence if:

- (a) the person is engaged in the bulk transfer of dangerous goods; and
- (b) either:
 - (i) the receiving receptacle or the transfer equipment is incompatible with the dangerous goods; or
 - (ii) the receptacle contains incompatible goods.

Fault elements:

The person:

- (a) intentionally engages in the transfer of the goods; and
- (b) is reckless as to whether the goods are dangerous goods; and
- (c) knows, or ought reasonably to know, of the incompatibility.

Maximum penalty: 20 penalty units.

(3) A person commits an offence if:

- (a) the person is engaged in the bulk transfer of dangerous goods; and
- (b) the dangerous goods leak, spill or accidentally escape; and

- (c) the person:
 - (i) fails to immediately stop transferring the goods; or
 - (ii) fails to take all practicable steps to avert, eliminate or minimise risk; or
 - (iii) starts transferring the goods again before the conditions causing the leak, spill or escape have been rectified.

Fault elements:

The person:

- (a) intentionally engages in the transfer of the goods; and
- (b) is reckless as to whether the goods are dangerous goods; and
- (c) is reckless as to the leak, spill or escape; and
- (d) intentionally engages in the conduct mentioned in subregulation (3)(c).

Maximum penalty: 20 penalty units.

106 Occupier's duties

- (1) A person commits an offence if:
 - (a) the person is the occupier of premises where the bulk transfer of dangerous goods occurs; and
 - (b) a hose assembly on the premises (other than a hose assembly brought onto the premises on a vehicle involved in a transfer) is, or is intended to be, used for the bulk transfer of dangerous goods; and
 - (c) the hose assembly:
 - (i) has not been constructed, assembled and maintained in compliance with Chapter 10.1 of the ADG Code; or
 - (ii) has not been inspected and tested at the intervals, and in the way, required under that Chapter; or

(iii) has not satisfied each test under that Chapter.

Fault elements:

The person:

- (a) is reckless as to the transfer of the goods occurring at the premises; and
- (b) is reckless as to whether the goods are dangerous goods; and
- (c) is reckless as to whether the hose assembly is, or is intended to be used, for the bulk transfer of dangerous goods; and
- (d) is reckless as to the circumstance mentioned in subregulation (1)(c).

Maximum penalty: 20 penalty units.

(2) A person commits an offence if:

- (a) the person is the occupier of premises where the bulk transfer of dangerous goods occurs; and
- (b) the goods are not transferred:
 - (i) in compliance with Chapter 10.2 of the ADG Code; and
 - (ii) in a way that averts, eliminates or minimises risk.

Fault elements:

The person:

- (a) is reckless as to the transfer of the goods occurring at the premises; and
- (b) is reckless as to whether the goods are dangerous goods; and
- (c) is reckless as to whether the goods are transferred as mentioned in subregulation (2)(b).

Maximum penalty: 40 penalty units.

- (3) A person commits an offence if:
- (a) the person is the occupier of premises where the bulk transfer of dangerous goods occurs; and
 - (b) the person fails to keep accurate records in compliance with Section 10.1.3.4 of the ADG Code of all maintenance work, and each inspection and test, carried out on a hose assembly mentioned in subregulation (1)(b).

Maximum penalty: 10 penalty units.

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

107 Prime contractor's duties

- (1) A person commits an offence if:
- (a) the person is a prime contractor; and
 - (b) the person is engaged in the bulk transfer of dangerous goods; and
 - (c) the person is responsible for a hose assembly that is, or is intended to be, used for the bulk transfer of the dangerous goods; and
 - (d) the hose assembly:
 - (i) has not been constructed, assembled and maintained in compliance with Chapter 10.1 of the ADG Code; or
 - (ii) has not been inspected and tested at the intervals, and in the way, required under that Chapter; or
 - (iii) has not satisfied each test under that Chapter.

Maximum penalty: 20 penalty units.

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

- (3) A person commits an offence if:
- (a) the person is a prime contractor; and
 - (b) the person is engaged in the bulk transfer of dangerous goods; and

- (c) the goods are not transferred:
 - (i) in compliance with Chapter 10.2 of the ADG Code; and
 - (ii) in a way that averts, eliminates or minimises risk.

Fault elements:

The person:

- (a) intentionally engages in the transfer of the goods; and
- (b) is reckless as to whether the goods are dangerous goods; and
- (c) is reckless as to whether the goods are transferred as mentioned in subregulation (3)(c).

Maximum penalty: 40 penalty units.

- (4) A person commits an offence if:

- (a) the person is a prime contractor; and
- (b) the person is engaged in the bulk transfer of dangerous goods; and
- (c) the person fails to keep accurate records in compliance with Section 10.1.3.4 of the ADG Code of all maintenance work, and each inspection and test, carried out on a hose assembly mentioned in subregulation (1)(c).

Maximum penalty: 10 penalty units.

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

108 Rail operator's duties

- (1) A person commits an offence if:

- (a) the person is a rail operator; and
- (b) the person is engaged in the bulk transfer of dangerous goods; and
- (c) the person is responsible for a hose assembly that is, or intended to be, used for the bulk transfer of the dangerous goods; and

- (d) the hose assembly:
 - (i) has not been constructed, assembled and maintained in compliance with Chapter 10.1 of the ADG Code; or
 - (ii) has not been inspected and tested at the intervals, and in the way, required under that Chapter; or
 - (iii) has not satisfied each test under that Chapter.

Maximum penalty: 20 penalty units.

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

Division 3 Filling ratio and ullage

109 Meaning of *ratio goods*

In this Division:

ratio goods means dangerous goods of UN Class 2 that are not in the form of refrigerated liquid.

110 Transferor's duties

- (1) A person commits an offence if:
 - (a) the person is engaged in the bulk transfer of dangerous goods into a tank vehicle; and
 - (b) the goods are ratio goods; and
 - (c) the quantity of the goods in the tank into which the goods are transferred exceeds the maximum permitted filling ratio set out in Section 10.3.2 of the ADG Code.

Fault elements:

The person:

- (a) intentionally engages in the transfer of the goods; and
- (b) is reckless as to whether the goods are dangerous goods; and
- (c) is reckless as to whether the goods are ratio goods; and
- (d) is reckless as to whether the filling ratio is exceeded.

Maximum penalty: 20 penalty units.

- (2) A person commits an offence if:
- (a) the person is engaged in the bulk transfer of dangerous goods into a tank vehicle; and
 - (b) the goods are not ratio goods; and
 - (c) the ullage in the tank does not comply with Section 10.3.1 of the ADG Code.

Fault elements:

The person:

- (a) intentionally engages in the transfer of the goods; and
- (b) is reckless as to whether the goods are dangerous goods; and
- (c) is reckless as to whether the goods are not ratio goods; and
- (d) is reckless as to the non-compliance.

Maximum penalty: 20 penalty units.

111 Prime contractor's and rail operator's duties

- (1) A person commits an offence if:
- (a) the person is a prime contractor or rail operator; and
 - (b) the person transports dangerous goods in a tank vehicle; and
 - (c) the goods are ratio goods; and
 - (d) the quantity of goods in the tank exceeds the maximum permitted filling ratio set out in Section 10.3.2 of the ADG Code.

Maximum penalty: 20 penalty units.

- (2) A person commits an offence if:
- (a) the person is a prime contractor or rail operator; and
 - (b) the person transports dangerous goods in a tank vehicle; and

- (c) the goods are not ratio goods; and
- (d) the ullage in the tank does not comply with Section 10.3.1 of the ADG Code.

Maximum penalty: 20 penalty units.

- (3) An offence against subregulation (1) or (2) is an offence of strict liability.

112 Driver's duties

- (1) A person commits an offence if:

- (a) the person is the driver of a road tank vehicle transporting dangerous goods; and
- (b) the goods are ratio goods; and
- (c) the quantity of goods in the tank exceeds the maximum permitted filling ratio set out in Section 10.3.2 of the ADG Code.

Fault elements:

The person:

- (a) intentionally acts as the driver of the vehicle transporting the goods; and
- (b) is reckless as to whether the goods are dangerous goods; and
- (c) is reckless as to whether the goods are ratio goods; and
- (d) knows, or ought reasonably to know, the filling ratio is exceeded.

Maximum penalty: 20 penalty units.

- (2) A person commits an offence if:

- (a) the person is the driver of a road tank vehicle transporting dangerous goods; and
- (b) the goods are not ratio goods; and

- (c) the ullage in the tank does not comply with Section 10.3.1 of the ADG Code.

Fault elements:

The person:

- (a) intentionally acts as the driver of the vehicle transporting the goods; and
- (b) is reckless as to whether the goods are dangerous goods; and
- (c) is reckless as to whether the goods are not ratio goods; and
- (d) knows, or ought reasonably to know, of the non-compliance.

Maximum penalty: 20 penalty units.

Part 10 Documentation

Division 1 Transport documentation

113 Misleading information in transport documentation

A person commits an offence if:

- (a) the person includes information in transport documentation for dangerous goods; and
- (b) the information is misleading information.

Fault elements:

The person:

- (a) intentionally includes the information in the documentation; and
- (b) is reckless as to whether the documentation is transport documentation; and
- (c) knows, or ought reasonably to know, the information is misleading information.

Maximum penalty: 40 penalty units.

114 Consignor's duties – transport by road

- (1) A person commits an offence if:
- (a) the person consigns dangerous goods for transport in or on a road vehicle; and
 - (b) the prime contractor for the goods or driver of the road vehicle does not have documentation for the goods that complies with Chapter 11.1 of the ADG Code.

Maximum penalty: 15 penalty units.

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

- (3) A person commits an offence if:
- (a) the person consigns dangerous goods for transport by road; and
 - (b) the goods will be divided into, and transported in, separate loads; and
 - (c) separate documentation that complies with Chapter 11.1 of the ADG Code for each load has not been given to the prime contractor for the goods or the driver of each road vehicle that is or will be transporting the load.

Fault elements:

The person:

- (a) intentionally consigns the goods for transport by road; and
- (b) is reckless as to whether the goods are dangerous goods; and
- (c) knows, or ought reasonably to know, the goods will be divided and transported as separate loads.

Maximum penalty: 15 penalty units.

115 Consignor's duties – transport by rail

- (1) A person commits an offence if:
- (a) the person consigns dangerous goods for transport in or on a unit of rolling stock; and

- (b) the rail operator for the goods does not have documentation that complies with Chapter 11.1 of the ADG Code for the goods.

Maximum penalty: 15 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.
- (3) For subregulation (1), a rail operator is taken to have documentation if the contents of the documentation have been communicated to the rail operator by means of electronic data processing or electronic data interchange.

116 Prime contractor's duties

- (1) A person commits an offence if:
 - (a) the person is a prime contractor; and
 - (b) the person transports dangerous goods in or on a road vehicle; and
 - (c) the driver of the vehicle has not been given documentation that complies with Chapter 11.1 of the ADG Code for the goods.

Maximum penalty: 20 penalty units.

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

117 Rail operator's duties

- (1) A person commits an offence if:
 - (a) the person is a rail operator; and
 - (b) the person transports dangerous goods in or on a train; and
 - (c) the driver of the train has not been given documentation that complies with Chapter 11.1 of the ADG Code for the goods.

Maximum penalty: 20 penalty units.

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

- (3) For subregulation (1), the driver is taken to have been given documentation if the contents of the documentation have been communicated to the driver by means of electronic data processing or electronic data interchange.

118 Driver's duties

- (1) A person commits an offence if:
- (a) the person is the driver of a road vehicle transporting dangerous goods; and
 - (b) the person is not carrying documentation that complies with Chapter 11.1 of the ADG Code for the goods.

Maximum penalty: 15 penalty units.

- (2) A person commits an offence if:
- (a) the person is the driver of a road vehicle transporting dangerous goods; and
 - (b) an authorised officer or an officer of an emergency service asks the person to produce for inspection documentation that complies with Chapter 11.1 of the ADG Code for the goods; and
 - (c) the person fails to produce the documentation.

Maximum penalty: 15 penalty units.

- (3) An offence against subregulation (1) or (2) is an offence of strict liability.

119 Train driver's duties

- (1) A person commits an offence if:
- (a) the person is the driver of a train transporting dangerous goods; and
 - (b) the person does not have documentation that complies with Chapter 11.1 of the ADG Code for the goods.

Maximum penalty: 15 penalty units.

- (2) A person commits an offence if:
- (a) the person is the driver of a train transporting dangerous goods; and
 - (b) an authorised officer or an officer of an emergency service asks the person to produce for inspection documentation that complies with Chapter 11.1 of the ADG Code for the goods; and
 - (c) the person fails to produce the documentation.

Maximum penalty: 15 penalty units.

- (3) An offence against subregulation (1) or (2) is an offence of strict liability.
- (4) It is a defence to a prosecution for an offence against subregulation (1) if the defendant establishes a reasonable excuse.
- (5) This regulation does not apply if:
- (a) the train is in a depot or yard or is engaged in shunting operations; and
 - (b) the documentation is readily available elsewhere in the immediate vicinity of the depot or yard or of those operations.

Division 2 Emergency information

120 Meaning of *required emergency information*

In this Division:

required emergency information means information:

- (a) that complies with Chapter 11.2 of the ADG Code; or
- (b) approved under regulation 126.

121 Consignor's duties

A person commits an offence if:

- (a) the person consigns a placard load for transport in or on a vehicle; and

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

Fault elements:

The person:

- (a) intentionally consigns the load for transport in or on the vehicle; and
- (b) is reckless as to whether the load is a placard load; and
- (c) knows, or ought reasonably to know, the information is not in the vehicle.

Maximum penalty: 15 penalty units.

122 Prime contractor's duties

- (1) A person commits an offence if:
 - (a) the person is a prime contractor; and
 - (b) the person transports a placard load in or on a road vehicle; and
 - (c) either:
 - (i) the vehicle is not equipped with an emergency information holder that complies with Chapter 11.2 of the ADG Code; or
 - (ii) the required emergency information for the dangerous goods in the load is not in the holder.

Maximum penalty: 20 penalty units.

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

123 Rail operator's duties

- (1) A person commits an offence if:
 - (a) the person is a rail operator; and
 - (b) the person transports a placard load in or on a train; and

- (c) the required emergency information for the dangerous goods in the load is not in the train driver's cab.

Maximum penalty: 20 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.
- (3) This regulation does not apply if:
 - (a) the train is engaged in shunting operations; and
 - (b) the documentation is readily available elsewhere in the immediate vicinity of those operations.

124 Driver's duties

- (1) A person commits an offence if:
 - (a) the person is the driver of a road vehicle transporting a placard load; and
 - (b) either:
 - (i) the vehicle is not equipped with an emergency information holder that complies with Chapter 11.2 of the ADG Code; or
 - (ii) the required emergency information for the dangerous goods in the load provided by the consignor of the goods, or by the prime contractor for the transport of the goods, is not in the holder.

Maximum penalty: 15 penalty units.

- (2) A person commits an offence if:
 - (a) the person is the driver of a road vehicle transporting a placard load; and
 - (b) the road vehicle's emergency information holder contains anything other than:
 - (i) the required emergency information for the dangerous goods in the load; and
 - (ii) the transport documentation for the dangerous goods.

Maximum penalty: 15 penalty units.

- (3) A person commits an offence if:
- (a) the person is the driver of a road vehicle transporting a placard load; and
 - (b) an authorised officer or an officer of an emergency service asks the person to produce for inspection the required emergency information for the dangerous goods in the load; and
 - (c) the person fails to produce the information.

Maximum penalty: 15 penalty units.

- (4) An offence against subregulation (1), (2) or (3) is an offence of strict liability.

125 Train driver's duties

- (1) A person commits an offence if:
- (a) the person is the driver of a train transporting a placard load; and
 - (b) the required emergency information for the dangerous goods in the load is not in the train driver's cab.

Maximum penalty: 15 penalty units.

- (2) A person commits an offence if:
- (a) the person is the driver of a train transporting a placard load; and
 - (b) an authorised officer or an officer of an emergency service asks the person to produce for inspection the required emergency information for the dangerous goods in the load; and
 - (c) the person fails to produce the information.

Maximum penalty: 15 penalty units.

- (3) An offence against subregulation (1) or (2) is an offence of strict liability.

- (4) This regulation does not apply if:
- (a) the train is in a depot or yard or is engaged in shunting operations; and

- (b) the information is readily available elsewhere in the immediate vicinity of the depot or yard or of those operations.

126 Approval of emergency information

The Competent Authority may, on application or on its own initiative, approve information that does not comply with Chapter 11.2 of the ADG Code as required emergency information if satisfied the information is as accurate, and its use would be at least as convenient and efficient, as information that complies with the Chapter.

Part 11 Safety equipment

127 Owner's duties

- (1) A person commits an offence if:
 - (a) the person owns a road vehicle; and
 - (b) the person uses the vehicle, or permits it to be used, to transport a placard load; and
 - (c) the vehicle is not equipped with:
 - (i) fire extinguishers and portable warning devices that comply with Part 12 of the ADG Code; and
 - (ii) any other equipment required under that Part.

Maximum penalty: 40 penalty units.

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

128 Prime contractor's duties

- (1) A person commits an offence if:
 - (a) the person is a prime contractor; and
 - (b) the person transports a placard load in or on a road vehicle; and
 - (c) the vehicle is not equipped with:
 - (i) fire extinguishers and portable warning devices that comply with Part 12 of the ADG Code; and

- (ii) any other equipment required under that Part.

Maximum penalty: 40 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.
- (3) A person commits an offence if:
 - (a) the person is a prime contractor; and
 - (b) the person transports a placard load in or on a road vehicle; and
 - (c) the equipment for the vehicle mentioned in subregulation (1)(c):
 - (i) has not been inspected or tested in compliance with Part 12 of the ADG Code; or
 - (ii) is not in good repair and proper working order.

Maximum penalty: 40 penalty units.

Fault element: The person knows, or ought reasonably to know, of the circumstance mentioned in subregulation (3)(c).

129 Driver's duties

- (1) A person commits an offence if:
 - (a) the person is the driver of a road vehicle transporting a placard load; and
 - (b) the vehicle is not equipped with:
 - (i) fire extinguishers and portable warning devices that comply with Part 12 of the ADG Code; and
 - (ii) any other equipment required under that Part.

Maximum penalty: 15 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.
- (3) A person commits an offence if:
 - (a) the person is the driver of a road vehicle transporting a placard load; and

- (b) the equipment for the vehicle mentioned in subregulation (1)(b):
 - (i) is not stowed in compliance with Part 12 of the ADG Code; or
 - (ii) has not been inspected or tested in compliance with the that Part; or
 - (iii) is not in good repair and proper working order.

Fault elements:

The person:

- (a) intentionally acts as the driver of the vehicle transporting the load; and
- (b) is reckless as to whether the load is a placard load; and
- (c) knows, or ought reasonably to know, of the circumstance mentioned in subregulation (3)(b).

Maximum penalty: 15 penalty units.

Part 12 Procedures during transport

Division 1 Immobilised and stopped vehicles

130 Driver's duties

- (1) A person commits an offence if:
 - (a) the person is the driver of a road vehicle transporting a placard load; and
 - (b) the vehicle is broken-down or otherwise immobilised, or has stopped, on a road; and
 - (c) the vehicle is a traffic hazard; and
 - (d) the person fails to alert other road users to the hazard in compliance with Part 13 of the ADG Code.

Maximum penalty: 10 penalty units.

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

131 Prime contractor's duties

- (1) A person commits an offence if:
- (a) the person is a prime contractor; and
 - (b) the person transports a placard load in or on a road vehicle; and
 - (c) the vehicle is broken-down or otherwise immobilised on a road; and
 - (d) the person fails to ensure the vehicle is, as soon as practicable:
 - (i) repaired so that it can be driven safely off the road; or
 - (ii) towed to a place where it can be repaired.

Fault elements:

The person:

- (a) intentionally transports the load; and
- (b) is reckless as to whether the load is a placard load; and
- (c) knows, or ought reasonably to know, of the breakdown or immobilisation; and
- (d) intentionally fails to ensure the vehicle is repaired or towed as soon as practicable.

Maximum penalty: 20 penalty units.

- (2) A person commits an offence if:
- (a) the person is a prime contractor; and
 - (b) the person transports a placard load in or on a road vehicle; and
 - (c) the vehicle is broken-down or otherwise immobilised on a road; and
 - (d) the person fails to:
 - (i) remove the dangerous goods from the road vehicle before the road vehicle is repaired or towed; and

- (ii) transport the dangerous goods from the place of the breakdown or immobilisation.

Fault elements:

The person:

- (a) intentionally transports the load; and
- (b) is reckless as to whether the load is a placard load; and
- (c) knows, or ought reasonably to know, of the breakdown or immobilisation; and
- (d) intentionally fails to remove and transport the dangerous goods.

Maximum penalty: 20 penalty units.

- (3) Subregulation (2) does not apply if the risk involved in complying with subregulation (2)(d) is greater than the risk involved in not doing so.

132 Rail operator's duties

A person commits an offence if:

- (a) the person is a rail operator; and
- (b) the person transports a placard load in or on a train; and
- (c) the train fails or is otherwise immobilised; and
- (d) the person fails to take, as soon as practicable, appropriate steps to ensure a dangerous situation does not arise.

Fault elements:

The person:

- (a) intentionally transports the load; and
- (b) is reckless as to whether the load is a placard load; and
- (c) intentionally fails to take the steps mentioned in paragraph (d).

Maximum penalty: 20 penalty units.

Division 2 Road vehicles 4driver's duties

133 Driving

- (1) A person commits an offence if:
- (a) the person is the driver of a road vehicle transporting a placard load; and
 - (b) the person allows someone else to ride in the vehicle other than in compliance with Part 13 of the ADG Code.

Maximum penalty: 10 penalty units.

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

134 Parking

- (1) A person commits an offence if:
- (a) the person is the driver of a road vehicle transporting a placard load; and
 - (b) the person parks the vehicle, or leaves it standing, in a public or private place other than in compliance with Part 13 of the ADG Code.

Maximum penalty: 15 penalty units.

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

135 Control of ignition sources

- (1) This regulation applies in relation to a road vehicle transporting a load of dangerous goods if:
- (a) the load contains:
 - (i) dangerous goods in a single receptacle with a capacity of more than 500 L; or
 - (ii) more than 500 kg of dangerous goods in a single receptacle; and
 - (b) the load contains dangerous goods that:
 - (i) are of UN Division 2.1 or UN Class 3, 4 or 5; or

(ii) have a subsidiary risk of 2.1, 3, 4 or 5.1.

(2) A person commits an offence if:

(a) the person is the driver of the road vehicle; and

(b) the person:

(i) has matches or a cigarette lighter in his or her possession in the vehicle; or

(ii) smokes in the vehicle.

Maximum penalty: 40 penalty units.

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

(4) A person commits an offence if:

(a) the person is the driver of the road vehicle; and

(b) another person:

(i) has matches or a cigarette lighter in his or her possession in the vehicle; or

(ii) smokes in the vehicle.

Fault elements:

The person:

(a) is reckless as to whether the load contains dangerous goods of the kind mentioned in subregulation (1); and

(b) is reckless as to the circumstance mentioned in subregulation (4)(b).

Maximum penalty: 40 penalty units.

136 Unloading

(1) A person commits an offence if:

(a) the person is the driver of a road vehicle transporting a placard load; and

- (b) the person permits the dangerous goods to be unloaded from the vehicle other than in compliance with Part 13 of the ADG Code.

Maximum penalty: 40 penalty units.

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

137 Detaching trailer

- (1) A person commits an offence if:

- (a) the person is the driver of a road vehicle that has attached to it a trailer transporting a placard load; and
- (b) the person detaches the trailer, or permits it to be detached, from the vehicle other than in compliance with Part 13 of the ADG Code.

Maximum penalty: 40 penalty units.

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

138 Road tank vehicle equipped with burner

- (1) A person commits an offence if:

- (a) the person is the driver of a road tank vehicle that is transporting a placard load; and
- (b) the vehicle is equipped with a burner to heat the load; and
- (c) the person operates the burner, or permits it to be operated, other than in compliance with Part 13 of the ADG Code.

Maximum penalty: 40 penalty units.

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

Part 13 Emergencies

Division 1 Emergencies generally

139 Road vehicle – driver's duties

A person commits an offence if:

- (a) the person is the driver of a road vehicle transporting dangerous goods; and
- (b) the vehicle is involved in an incident resulting in a dangerous situation; and
- (c) the person:
 - (i) fails to notify the prime contractor for the goods, the Competent Authority, and the police or fire service, of the incident as soon as practicable; or
 - (ii) fails to provide any reasonable assistance required by an authorised officer or an officer of an emergency service to deal with the situation.

Fault elements:

The person:

- (a) is reckless as to whether the vehicle is transporting dangerous goods; and
- (b) is reckless as to whether the vehicle is involved in an incident resulting in a dangerous situation; and
- (c) intentionally fails to notify persons or provide assistance as mentioned in paragraph (c)(i) or (ii).

Maximum penalty: 15 penalty units.

140 Train – driver's and rail operator's duties

(1) A person commits an offence if:

- (a) the person is the driver of a train transporting dangerous goods; and
- (b) the train is involved in an incident resulting in a dangerous situation; and

- (c) the person:
 - (i) fails to notify the rail operator for the goods of the incident as soon as practicable; or
 - (ii) fails to provide any reasonable assistance required by an authorised officer or an officer of an emergency service to deal with the situation.

Fault elements:

The person:

- (a) is reckless as to whether the train is transporting dangerous goods; and
- (b) is reckless as to whether the train is involved in an incident resulting in a dangerous situation; and
- (c) intentionally fails to notify persons or provide assistance as mentioned in subregulation (1)(c)(i) or (ii).

Maximum penalty: 15 penalty units.

(2) A person commits an offence if:

- (a) the person is the rail operator for a train transporting dangerous goods; and
- (b) the train is involved in an incident resulting in a dangerous situation; and
- (c) the person:
 - (i) fails to notify the Competent Authority, and the police or fire service, of the incident as soon as practicable; or
 - (ii) fails to provide any reasonable assistance required by an authorised officer or an officer of an emergency service to deal with the situation.

Maximum penalty: 15 penalty units.

Fault element: The person knows the train is involved in the incident resulting in the dangerous situation.

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

- (1) This regulation applies if:
- (a) dangerous goods are being transported in or on a vehicle; and
 - (b) the vehicle is involved in an incident resulting in:
 - (i) the leakage, spillage or accidental escape of the dangerous goods; or
 - (ii) a fire or explosion; and
 - (c) there is food or food packaging in the vicinity of the incident (the **site**) that is within the control of the prime contractor or rail operator for the goods.

- (2) A person commits an offence if:
- (a) the vehicle is a road vehicle; and
 - (b) the person is the prime contractor for the goods; and
 - (c) the Competent Authority has not given permission to the person to transport the food or food packaging from the site; and
 - (d) the food or food packaging is transported from the site.

Maximum penalty: 40 penalty units.

- (3) A person commits an offence if:
- (a) the vehicle is rolling stock; and
 - (b) the person is the rail operator for the goods; and
 - (c) the person:
 - (i) fails to notify the Competent Authority of the incident as soon as is practicable; or
 - (ii) fails to deal with the food or food packaging as directed by the Competent Authority.

Maximum penalty: 40 penalty units.

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

- (5) A permission mentioned in subregulation (2)(c) or a direction mentioned in subregulation (3)(c)(ii):
- (a) must be in writing; and
 - (b) must state the name of the person to whom it is given; and
 - (c) must identify the relevant incident; and
 - (d) must identify the food or food packaging to which it relates; and
 - (e) must take into consideration any requirements of the appropriate food and health authorities; and
 - (f) may contain any other information the Competent Authority considers necessary.

142 Prime contractor or rail operator to inform Competent Authority

- (1) A person commits an offence if:
- (a) a vehicle transporting dangerous goods is involved in an incident resulting in a dangerous situation; and
 - (b) the person is the prime contractor or rail operator for the goods; and
 - (c) the person fails to comply with subregulation (3) or (4).

Maximum penalty: 20 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.
- (3) As soon as practicable after becoming aware of the incident, the person must give to the Competent Authority information about the incident stating the following:
- (a) where the incident occurred;
 - (b) the time and date of the incident;
 - (c) the nature of the incident;
 - (d) the dangerous goods being transported when the incident occurred;
 - (e) any other details the Competent Authority may require.

- (4) Within 21 days after the day when the incident occurred, the person must give to the Competent Authority a written report about the incident stating the following:
- (a) where the incident occurred;
 - (b) the time and date of the incident;
 - (c) the nature of the incident;
 - (d) what the driver of the vehicle believes to be the likely cause of the incident;
 - (e) what the person believes to be the likely cause of the incident;
 - (f) the dangerous goods being transported when the incident occurred;
 - (g) the measures taken to control any leak, spill or accidental escape of dangerous goods and any fire or explosion, arising out of the incident;
 - (h) the measures taken after the incident in relation to the dangerous goods involved in the incident.

Division 2 Emergencies involving placard loads

143 Telephone advisory service

- (1) A person commits an offence if:
- (a) the person is a prime contractor or rail operator; and
 - (b) the person transports a relevant load; and
 - (c) a telephone advisory service is not available during the journey.

Maximum penalty: 40 penalty units.

- (2) A person commits an offence if:
- (a) the person consigns a relevant load for transport; and
 - (b) a telephone advisory service is not available during the journey.

Maximum penalty: 40 penalty units.

(3) An offence against subregulation (1) or (2) is an offence of strict liability.

(4) In this regulation:

relevant load means a load that contains:

- (a) dangerous goods in a single receptacle with a capacity of more than 500 L; or
- (b) more than 500 kg of dangerous goods in a single receptacle.

telephone advisory service, for the transport of dangerous goods, means a service:

- (a) provided by the prime contractor or rail operator for, or consignor of, the goods, or someone else for the prime contractor, rail operator or consignor; and
- (b) providing access by a continuously monitored telephone, not located on the vehicle or train carrying the goods, to a person competent to give advice about:
 - (i) the construction and properties of the receptacles in which the dangerous goods are being transported; and
 - (ii) the use of equipment on the vehicle or train on which the dangerous goods are being transported; and
 - (iii) the properties of the dangerous goods; and
 - (iv) methods of safely handling the dangerous goods; and
 - (v) methods of safely containing and controlling the dangerous goods in a dangerous situation.

144 Emergency plans

(1) A person commits an offence if:

- (a) the person is a prime contractor or rail operator; and
- (b) the person transports a placard load; and
- (c) the person does not have an emergency plan for the transport of the load.

Maximum penalty: 40 penalty units.

- (2) A person commits an offence if:
- (a) the person consigns a placard load for transport; and
 - (b) the person does not have an emergency plan for the transport of the load.

Maximum penalty: 40 penalty units.

- (3) An offence against subregulation (1) or (2) is an offence of strict liability.

- (4) 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 Australian Transport Council.

145 Consignor's duties – information and resources

- (1) A person commits an offence if:
- (a) a vehicle transporting a placard load is involved in an incident resulting in a dangerous situation; and
 - (b) the person is the consignor of the load; and
 - (c) an authorised officer or an officer of an emergency service asks the person to do either or both of the following:
 - (i) to give to the officer the information that the officer requires about:
 - (A) the properties of the dangerous goods being transported; and
 - (B) safe methods of handling the goods; and
 - (C) safe methods of containing and controlling the goods in a dangerous situation;
 - (ii) to provide the equipment and other resources necessary:
 - (A) to control the dangerous situation; and
 - (B) to contain, control, recover and dispose of dangerous goods that have leaked, spilled or accidentally escaped; and

(d) the person fails to do so as soon as practicable.

Maximum penalty: 20 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.
- (3) It is a defence to a prosecution for an offence against subregulation (1) if the defendant proves that:
- (a) the prime contractor or rail operator for the goods was asked under regulation 146 to give the same information or provide the same resources for the incident; and
 - (b) the prime contractor or rail operator gave the information or provided the resources.

146 Prime contractor's and rail operator's duties – information and resources

- (1) A person commits an offence if:
- (a) a vehicle transporting a placard load is involved in an incident resulting in a dangerous situation; and
 - (b) the person is the prime contractor or rail operator for the goods; and
 - (c) an authorised officer or an officer of an emergency service asks the person to do either or both of the following:
 - (i) give to the officer the information that the officer requires about the vehicle's construction, properties and equipment;
 - (ii) provide the equipment and other resources necessary:
 - (A) to control the dangerous situation; and
 - (B) to recover a vehicle involved in the situation or its equipment; and
 - (d) the person fails to do so as soon as practicable.

Maximum penalty: 20 penalty units.

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

- (3) It is a defence to a prosecution for an offence against subregulation (1) if the defendant proves that:
- (a) the consignor was asked under regulation 145 to give the same information or provide the same resources for the incident; and
 - (b) the consignor gave the information or provided the resources.

Part 14 Insurance

147 Meaning of *adequate insurance*

In this Part:

adequate insurance, for the transport of dangerous goods in or on a road vehicle, means a policy of insurance or other form of indemnity, for a sum that is not less than \$5 000 000, in relation to:

- (a) personal injury, death, property damage and other damage (except consequential economic loss) arising out of any fire, explosion, leakage or spillage of dangerous goods in, on or from the vehicle or any packaging transported in or on the vehicle; and
- (b) costs incurred by or on behalf of a Commonwealth, State or Territory government authority in a clean-up resulting from such a fire, explosion, leakage or spillage.

148 Owner's duties

- (1) A person commits an offence if:
- (a) the person owns a road vehicle; and
 - (b) the person uses the vehicle, or permits it to be used, to transport a placard load; and
 - (c) the use of the vehicle to transport the load is not:
 - (i) covered by adequate insurance; or
 - (ii) approved under regulation 151.

Maximum penalty: 40 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.
- (3) Each load bearing vehicle, whether or not a motor vehicle and whether or not it is being used in combination with another vehicle, is a vehicle for the purposes of subregulation (1).

149 Prime contractor's duties

- (1) A person commits an offence if:
 - (a) the person is a prime contractor; and
 - (b) the person transports a placard load in or on a road vehicle; and
 - (c) the use of the vehicle to transport the load is not:
 - (i) covered by adequate insurance; or
 - (ii) approved under regulation 151.

Maximum penalty: 40 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.
- (3) Each load bearing vehicle, whether or not a motor vehicle and whether or not it is being used in combination with another vehicle, is a vehicle for the purposes of subregulation (1).

150 Requiring evidence of insurance or approval

- (1) A person commits an offence if:
 - (a) the person is:
 - (i) the owner of a road vehicle used to transport a placard load; or
 - (ii) the prime contractor for a placard load; and
 - (b) the Competent Authority, by written notice, requires the person to produce:
 - (i) written evidence of adequate insurance as mentioned in regulation 148(1)(c)(i) or 149(1)(c)(i); or
 - (ii) an approval as mentioned in regulation 148(1)(c)(ii) or 149(1)(c)(ii); and

- (c) the person fails to produce the evidence or approval to the Competent Authority within 14 days after the day when the notice is given to the person.

Maximum penalty: 15 penalty units.

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

151 Approval to use vehicle without insurance

- (1) The Competent Authority may, on application, approve the use of a vehicle to transport a placard load without adequate insurance if satisfied that the vehicle owner or prime contractor for the placard load is capable of adequately self-insuring for the sum, and in relation to the matters, mentioned in the definition ***adequate insurance*** in regulation 147.
- (2) An application may be made by the vehicle owner or prime contractor.
- (3) The Competent Authority may approve the use of a vehicle without adequate insurance:
 - (a) for a single use or for a period not longer than 5 years; and
 - (b) subject to any conditions the Competent Authority thinks fit.

Part 15 Dangerous goods driver licences and dangerous goods vehicle licences

Division 1 Preliminary matters

152 Application of Part

Despite anything to the contrary in this Part, this Part does not apply to the transport by road of dangerous goods in or on a vehicle if:

- (a) the goods are transported in an IBC; and
- (b) the IBC is not packed or unpacked on the vehicle; and
- (c) the total capacity of IBCs containing dangerous goods in or on the vehicle is not more than 3 000 L.

153 Part additional to other laws

This Part is in addition to any other law in force in the Territory about any of the following:

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

154 Licensing Authority

The Competent Authority may authorise a person or body to exercise the functions of a licensing authority under this Part.

Division 2 Road vehicles and drivers to be licensed under this Part

155 Road vehicles to be licensed

A road vehicle must not be used to transport:

- (a) dangerous goods in a single receptacle with a capacity of more than 500 L; or
- (b) more than 500 kg of dangerous goods in a single receptacle;

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

156 Drivers to be licensed

A person must not drive a road vehicle transporting:

- (a) dangerous goods in a single receptacle with a capacity of more than 500 L; or
- (b) more than 500 kg of dangerous goods in a single receptacle;

unless the person holds a dangerous goods driver licence that authorises the person to drive the vehicle transporting those goods.

Division 3 Dangerous goods driver licence

157 Application for dangerous goods driver licence

- (1) A person resident in the Territory who is not the holder of a dangerous goods driver licence or a corresponding dangerous goods driver licence may apply to the licensing authority for a dangerous goods driver licence.
- (2) The application must be accompanied by the following:
 - (a) the driver licence evidence required by regulation 158;
 - (b) the competency evidence required by regulation 159;
 - (c) the medical fitness evidence required by regulation 161;
 - (d) 2 photographs, of a size suitable for a passport, of the applicant taken not more than 6 months before the day when the application is made;
 - (e) the prescribed fee.

158 Driver licence evidence

- (1) The following documents are required as driver licence evidence for an application for the grant or renewal of a dangerous goods driver licence:
 - (a) a current certified extract of entries about the applicant in the driver licence register kept by the driver licensing authority in each jurisdiction where the applicant has held a licence to drive; and
 - (b) either:
 - (i) the document mentioned in subregulation (2); or
 - (ii) the authorisation mentioned in subregulation (3).
- (2) For subregulation (1)(b)(i), the document is a copy, certified by the appropriate authority of the jurisdiction where the applicant was convicted, of the records of any conviction of the applicant for an offence involving the driving of a road vehicle.
- (3) For subregulation (1)(b)(ii), the authorisation is authorisation by the applicant for the licensing authority to have access to:
 - (a) entries about the applicant in the driver licence register of any jurisdiction; and

- (b) records of any conviction of the applicant for an offence involving the driving of a road vehicle in any jurisdiction.
- (4) For subregulation (1)(a), a current certified extract is an extract certified by the driver licensing authority not more than 6 months before the day when the application is made.

159 Competency evidence

- (1) A document mentioned in subregulation (2) is required as competency evidence for an application for the grant or renewal of a dangerous goods driver licence.
- (2) The document must be either:
 - (a) a certificate issued, not more than 6 months before the day when the application is made, by a person who conducted an approved test or approved training course stating that the applicant passed the test or completed the course; or
 - (b) other written evidence that the applicant passed an approved test or completed an approved training course not more than 6 months before the day when the application is made.
- (3) In this regulation:

approved test means a test approved under regulation 160(1)(a).

approved training course means a training course approved under regulation 160(1)(b).

160 Approval of tests and training courses for drivers

- (1) The Competent Authority may, on application, approve:
 - (a) a test of competence for drivers of road vehicles transporting dangerous goods; or
 - (b) a training course for drivers of road vehicles transporting dangerous goods.
- (2) The Competent Authority may approve a test of competence or a training course only if satisfied that a person who passes the test, or completes the course, will have the skills and knowledge to perform the task to which the test or course relates safely and in accordance with these Regulations.

161 Medical fitness evidence

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

162 Grant of dangerous goods driver licence

- (1) The licensing authority must grant a dangerous goods driver licence if an application is made in accordance with regulation 157.
- (2) However, the licensing authority must not grant the licence if:
 - (a) in the 5 years before the day when the application is made:
 - (i) the applicant has been found guilty by a court in Australia of an offence that makes the applicant unsuitable to be the driver of a vehicle transporting dangerous goods; or
 - (ii) the applicant's driver licence has been cancelled or suspended on a ground that makes the applicant unsuitable to be the driver of a vehicle transporting dangerous goods; or
 - (b) the applicant is subject to a court order prohibiting the applicant from involvement in the transport of dangerous goods by road.
- (3) If the licensing authority refuses to grant a dangerous goods driver licence, the licensing authority must give the applicant written notice of the refusal and of the reasons for it.

163 Application for renewal of dangerous goods driver licence

- (1) A person who holds a dangerous goods driver licence may apply to the licensing authority for the renewal of the licence.
- (2) The application must be accompanied by the following:
 - (a) the driver licence evidence required by regulation 158;
 - (b) the competency evidence required by regulation 159;
 - (c) the medical fitness evidence required by regulation 161;
 - (d) 2 photographs, of a size suitable for a passport, of the applicant taken not more than 6 months before the day when the application is made;
 - (e) the prescribed fee.

164 Renewal of dangerous goods driver licence

- (1) The licensing authority must renew a dangerous goods driver licence if an application is made in accordance with regulation 163.
- (2) However, the licensing authority must not renew the licence if:
 - (a) while the licence had effect:
 - (i) the applicant was found guilty by a court in Australia of an offence that makes the applicant unsuitable to be the driver of a vehicle transporting dangerous goods; or
 - (ii) the applicant's driver licence has been cancelled or suspended on a ground that makes the applicant unsuitable to be the driver of a vehicle transporting dangerous goods; or
 - (b) the applicant is subject to a court order prohibiting the applicant from involvement in the transport of dangerous goods by road.
- (3) If the licensing authority refuses to renew a dangerous goods driver licence, the licensing authority must give the applicant written notice of the refusal and of the reasons for it.

165 Duration of dangerous goods driver licence

- (1) A dangerous goods driver licence is granted for the period specified in the licence, being a period not longer than 5 years.
- (2) A dangerous goods driver licence takes effect on the day when the licence is granted or a later day specified in the licence.
- (3) A dangerous goods driver licence is renewed for the period specified in the renewed licence, being a period not longer than 5 years.

166 Conditions on dangerous goods driver licence

- (1) The licensing authority may grant or renew a dangerous goods driver licence subject to conditions mentioned in subregulations (3) and (4).
- (2) A condition to which the licence is subject must be stated in the licence.
- (3) The licence may be subject to conditions about one or more of the following:
 - (a) the dangerous goods that may or may not be transported in or on a road vehicle driven by the licensee;
 - (b) the packaging that may or may not be used to transport dangerous goods in or on a road vehicle driven by the licensee;
 - (c) the road vehicles that may be driven by the licensee in transporting dangerous goods;
 - (d) the areas where the licensee may or may not drive a road vehicle transporting dangerous goods or particular dangerous goods;
 - (e) the supervision of the licensee when driving a road vehicle transporting dangerous goods.
- (4) The licence may be subject to any other condition necessary for the safe transport of dangerous goods by road.

167 Condition as to evidence of fitness

- (1) It is a condition of a dangerous goods driver licence that the licensing authority may, by written notice given to the licensee, require the licensee to produce to the authority a certificate:
 - (a) about the medical fitness of the licensee to drive a road vehicle; and
 - (b) issued by a medical practitioner who, not more than 6 months before the day when the certificate is given to the authority, examined and passed the licensee in accordance with the standards in *Assessing Fitness to Drive — Medical Standards for Licensing and Clinical Management Guidelines* published by Austroads and the National Road Transport Commission in September 2003, as in force at the time of the examination.
- (2) The written notice must specify a period of at least 2 months after the day when the notice is received by the licensee within which the licensee must produce the certificate.
- (3) The licensing authority must not give written notice under this regulation if the period of validity of the dangerous goods driver licence is less than 4 months.

168 Grounds for cancelling, suspending or varying dangerous goods driver licence

- (1) A dangerous goods driver licence may be cancelled, suspended or varied if the application for the licence or an application for its renewal:
 - (a) did not comply with these Regulations; or
 - (b) contained misleading information.
- (2) A dangerous goods driver licence may be cancelled or varied if the licensee is unsuitable to continue to be the driver of a road vehicle transporting dangerous goods because:
 - (a) the licensee has contravened the Act, these Regulations or a corresponding law; or
 - (b) the licensee has been found guilty by a court in Australia of an offence; or
 - (c) the licensee's driver licence is cancelled; or

- (d) the licensee is suffering from a medical condition, or has a physical or mental disability.

169 Dangerous goods driver licence to be carried

- (1) A person commits an offence if:
 - (a) the person holds a dangerous goods driver licence; and
 - (b) the person is the driver of a road vehicle transporting:
 - (i) dangerous goods in a single receptacle with a capacity of more than 500 L; or
 - (ii) more than 500 kg of dangerous goods in a single receptacle; and
 - (c) the person is not carrying his or her dangerous goods driver licence.

Maximum penalty: 10 penalty units.

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

Division 4 Dangerous goods vehicle licence

170 Definitions

In this Division:

approved tank means:

- (a) a tank of a design approved under regulation 59; or
- (b) a tank that is foreign approved.

business transfer, for a vehicle, means a transfer of the title to the vehicle as part of a transfer of ownership of the business in which the vehicle is used and is to continue to be used.

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

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

vehicle does not include:

- (a) a prime mover; or
- (b) a converter dolly, as defined in the *Australian Vehicles Standards Rules* set out in Schedule 6 to the *Motor Vehicles (Standards) Regulations*.

171 Application for dangerous goods vehicle licence

- (1) A person may apply to the licensing authority for a dangerous goods vehicle licence for a road vehicle:
 - (a) used, or intended to be used, to transport dangerous goods; and
 - (b) for which there is not a dangerous goods vehicle licence in force.
- (2) The application must include the following information:
 - (a) the registration number, make and type of the road vehicle;
 - (b) the type of dangerous goods intended to be transported in or on the road vehicle;
 - (c) if the applicant holds a dangerous goods vehicle licence for another vehicle – the number of that licence.
- (3) The application must be accompanied by the prescribed fee.
- (4) A single application may be made for licences for 2 or more road vehicles.

172 Additional information and inspections

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

- (2) A person who inspects a vehicle for the licensing authority must give a report of the inspection to the authority as soon as practicable after the inspection.
- (3) The licensing authority must give a copy of any report of an inspection to the applicant if the applicant asks for it.

173 Grant of dangerous goods vehicle licence

- (1) The licensing authority must grant a dangerous goods vehicle licence for a road vehicle if:
 - (a) an application is made in accordance with regulation 171; and
 - (b) the applicant has complied with any requirement made under regulation 172; and
 - (c) the road vehicle is suitable to transport each type of dangerous goods intended to be transported in or on the road vehicle.
- (2) Without limiting subregulation (1)(c), if a road vehicle is intended for use in the transport of dangerous goods in the form of a liquid or gas using a tank that will form part of the vehicle or be attached to it, the vehicle is suitable only if:
 - (a) the tank is an approved tank; and
 - (b) the vehicle complies with the requirements of Chapters 4.4 and 6.9 of the ADG Code applying to road vehicles for use in transporting dangerous goods in the form of a liquid or gas.
- (3) However, the licensing authority must not grant the licence if the applicant is subject to a court order prohibiting the applicant from involvement in the transport of dangerous goods by road.
- (4) The licensing authority may grant a single dangerous goods vehicle licence for 2 or more road vehicles.
- (5) If the licensing authority refuses to grant a dangerous goods vehicle licence, the licensing authority must give the applicant written notice of the refusal and of the reasons for it.

174 Application for renewal of dangerous goods vehicle licence

- (1) A person who holds a dangerous goods vehicle licence for a road vehicle may apply to the licensing authority for the renewal of the licence.

- (2) The application must:
- (a) include the information required under regulation 171(2) for an application for the grant of a dangerous goods vehicle licence for the road vehicle; and
 - (b) be accompanied by the prescribed fee.

175 Renewal of dangerous goods vehicle licence

- (1) The licensing authority must renew a dangerous goods vehicle licence for a road vehicle if:
- (a) an application is made in accordance with regulation 174; and
 - (b) the applicant has complied with any requirement made under regulation 172; and
 - (c) the road vehicle is suitable to transport each type of dangerous goods intended to be transported in or on the road vehicle.
- (2) Without limiting subregulation (1)(c), if a road vehicle is intended for use in the transport of dangerous goods in the form of a liquid or gas using a tank that will form part of the vehicle or be attached to it, the vehicle is suitable only if:
- (a) the tank is an approved tank; and
 - (b) the vehicle complies with the requirements of Chapters 4.4 and 6.9 of the ADG Code applying to road vehicles for use in transporting dangerous goods in the form of a liquid or gas.
- (3) However, the licensing authority must not renew the licence if the applicant is subject to a court order prohibiting the applicant from involvement in the transport of dangerous goods by road.
- (4) The licensing authority may do either or both of the following:
- (a) renew the licence for some but not all of the vehicles to which it relates;
 - (b) add other vehicles to the renewed licence.
- (5) If the licensing authority refuses to renew a dangerous goods vehicle licence, the licensing authority must give the applicant written notice of the refusal and of the reasons for it.

176 Duration of dangerous goods vehicle licence

- (1) A dangerous goods vehicle licence is granted for the period specified in the licence, being a period not longer than 5 years.
- (2) A dangerous goods vehicle licence takes effect on the day when the licence is granted or a later day specified in the licence.
- (3) A dangerous goods vehicle licence is renewed for the period specified in the renewed licence, being a period not longer than 5 years.

177 Conditions on dangerous goods vehicle licence

- (1) The licensing authority may grant or renew a dangerous goods vehicle licence subject to conditions mentioned in subregulations (3) and (4).
- (2) A condition to which the licence is subject must be stated in the licence.
- (3) The licence may be subject to conditions about one or more of the following:
 - (a) the dangerous goods that may or may not be transported in or on the vehicle;
 - (b) the areas where the vehicle may or may not be used to transport dangerous goods or particular dangerous goods;
 - (c) the inspections of the vehicle (if any) that are required.
- (4) The licence may be subject to any other condition necessary for the safe transport of dangerous goods by road.

178 Grounds for cancelling, suspending or varying dangerous goods vehicle licence

- (1) A dangerous goods vehicle licence may be cancelled, suspended or varied if the application for the licence or an application for its renewal:
 - (a) did not comply with these Regulations; or
 - (b) contained misleading information.
- (2) A dangerous goods vehicle licence for a road vehicle may be cancelled, suspended or varied if the road vehicle does not comply with the Act or these Regulations.

179 Disposal of licensed vehicle

- (1) Before transferring possession or otherwise disposing of a licensed vehicle (otherwise than by way of a business transfer), the licensee must:

- (a) attach the licence to the notice of the disposal required under subregulation (2); or
- (b) destroy the licence and, if required by the licensing authority, provide sufficient evidence to show that this has been done.

Maximum penalty: 10 penalty units.

- (2) Within the 21 days after transferring possession or otherwise disposing of the vehicle, the licensee must give notice of the transfer or disposal (a **notice of disposal**) to the licensing authority.

Maximum penalty: 10 penalty units.

- (3) If the dangerous goods vehicle licence for the vehicle also relates to another vehicle, the licensee must attach the licence to the notice of the disposal.

Maximum penalty: 10 penalty units.

- (4) If the dangerous goods vehicle licence for the vehicle does not relate to another vehicle, the licensee must:

- (a) attach the licence to the notice of the disposal; or
- (b) destroy the licence and, if required by the licensing authority, provide sufficient evidence to show that this has been done.

Maximum penalty: 10 penalty units.

- (5) On receiving notice of the disposal of a vehicle, the licensing authority must:

- (a) if the licence also relates to another vehicle:
 - (i) amend the licence by omitting reference to the vehicle being disposed of; and
 - (ii) return the licence to the licensee; or
- (b) otherwise – cancel the licence.

- (6) An offence against subregulations (1) to (4) is an offence of strict liability.

180 Transfer of licensed vehicle by business transfer

- (1) Within the 21 days after the transfer of a licensed vehicle by way of a business transfer, the person to whom the vehicle has been transferred (the **transferee**) must apply to the licensing authority for the transfer of the dangerous goods vehicle licence for the vehicle to the transferee.

Maximum penalty: 10 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.
- (3) An application under subregulation (1) must be accompanied by the licence and the prescribed fee.
- (4) On receipt of the application under subregulation (1), the licensing authority must:
- (a) if the dangerous goods vehicle licence relates only to the vehicle or vehicles that have been transferred to the transferee:
 - (i) amend the licence by making the transferee the licence holder; and
 - (ii) return the licence to the transferee; or
 - (b) if the dangerous goods vehicle licence also relates to other vehicles:
 - (i) amend the licence by omitting reference to the transferred vehicle or vehicles and return it to the licensee; and
 - (ii) grant to the transferee a dangerous goods vehicle licence for the transferred vehicle or vehicles.
- (5) Subregulation (4) does not apply if the transferee is ineligible to hold a dangerous goods vehicle licence.

Division 5 Licensing matters generally

181 Replacement licence

- (1) The licensing authority may issue a replacement licence to a licensee if:
 - (a) the licence is renewed; or
 - (b) the licence is varied; or
 - (c) a period of suspension of the licence ends or a suspension is withdrawn.
- (2) The licensing authority must issue a replacement licence to a licensee if satisfied that the licence has been defaced, destroyed, lost or stolen.

182 Failure to comply with licence conditions

- (1) A person commits an offence if:
 - (a) the person is a licensee; and
 - (b) the person fails to comply with a condition of the licence.

Maximum penalty: 40 penalty units.

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

183 Surrender of licence

- (1) A licensee may surrender his or her licence by giving notice of surrender to the licensing authority and returning the licence to the authority.
- (2) A licence ceases to have effect on its surrender.

184 Registers of licences

- (1) The licensing authority must keep a register of dangerous goods driver licences.
- (2) The licensing authority must keep a register of dangerous goods vehicle licences.
- (3) A register may have separate divisions for different kinds of licences.

- (4) The licensing authority must record the grant of each licence in the appropriate register.
- (5) The licensing authority must note in the register the renewal, cancellation, surrender, suspension or variation of a licence.

185 Records of licences

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

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

186 Change of information given in licence application

- (1) A person commits an offence if:
 - (a) the person is a licensee; and
 - (b) the person becomes aware that information given by the person to the licensing authority in, or in relation to, an application for the grant or renewal of the licence is or has become incorrect in a material respect; and
 - (c) the person fails, within 14 days after becoming aware of the matter, to:
 - (i) inform the licensing authority about the matter; and

- (ii) give the correct information to the licensing authority.

Maximum penalty: 10 penalty units.

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

187 Production of licences to licensing authority

- (1) A person commits an offence if:

- (a) the person is a licensee; and
- (b) the licensing authority, by written notice, requires the person to produce his or her licence to the licensing authority; and
- (c) the person fails to produce the licence within 14 days after the day when the notice is given to the person.

Maximum penalty: 10 penalty units.

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

188 Return of licence

- (1) This regulation applies if a licence is produced to the licensing authority or given to the authority by an authorised officer.
- (2) If the licence has not been cancelled or varied, and is not suspended, the licensing authority must return the licence to the licensee after inspecting it.
- (3) If the licence has been suspended, the suspension has ended and a replacement licence is not issued, the licensing authority must return the licence to the licensee.
- (4) If the licence has been varied, the variation is recorded on the licence and a replacement licence is not issued, the licensing authority must return the licence to the licensee.
- (5) However, if the licence has expired, the licensing authority is not required to return the licence to the licensee.

Division 6 Cancellation, suspension and variation

189 Cancellation, suspension and variation in dangerous situations

The licensing authority must cancel, suspend or vary a licence if the licensing authority reasonably believes that:

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

190 Cancellation and suspension giving effect to court orders

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

191 Variation of licence on application

- (1) The licensing authority may vary a licence on the application of the licensee.
- (2) An application under subregulation (1) must be accompanied by the licence.

192 Cancellation, suspension and variation in other circumstances

- (1) This regulation applies if:
 - (a) the licensing authority considers that a ground exists to cancel, suspend or vary a licence (the ***proposed action***); and
 - (b) regulations 189, 190 and 191 do not apply.
- (2) The licensing authority must give to the licensee a written notice that:
 - (a) states what the proposed action is; and
 - (b) if the proposed action is to suspend the licence – states what the proposed suspension period is; and
 - (c) if the proposed action is to vary the licence – sets out the proposed variation; and
 - (d) sets out the ground for the proposed action; and

- (e) outlines the facts and other circumstances forming the basis for the ground; and
 - (f) invites the licensee to state in writing, within a specified period of at least 28 days after the day when the notice is given to the licensee, why the proposed action should not be taken.
- (3) If, after considering any written statement made within the specified period, the licensing authority reasonably believes that a ground exists to take the proposed action, the licensing authority may:
- (a) cancel or vary the licence; or
 - (b) suspend the licence for a period not longer than 12 months (except if the suspension is to give effect to a court order specifying a longer period of suspension).
- (4) The licensing authority may withdraw a suspension before the suspension is due to expire if the licensing authority reasonably believes that it is appropriate to do so.

193 When cancellation, suspension or variation takes effect

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

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

194 Effect of loss of driver licence

- (1) A person's dangerous goods driver licence is taken to be suspended if the person's driver licence has no effect.
- (2) A person's dangerous goods vehicle licence for a road vehicle is taken to be suspended in relation to the road vehicle if the road vehicle is not registered.

Part 16 Determinations

195 Determinations about goods and packaging

The Competent Authority may determine any or all of the following:

- (a) that a substance or article is or is not dangerous goods;
- (b) that dangerous goods:
 - (i) are or are not of a particular UN Class, UN Division or Category; or
 - (ii) are or are not of a particular Packing Group; or
 - (iii) have a particular subsidiary risk;
- (c) that goods are incompatible with particular dangerous goods;
- (d) that a substance or article is goods too dangerous to be transported;
- (e) that dangerous goods may be, or must not be, transported in or on the same transport unit as other goods (whether dangerous goods or not);
- (f) that particular dangerous goods may be, or must not be, transported in particular packaging despite any prohibition or authorisation in the Dangerous Goods List.

196 Determinations about vehicles, routes, areas and times

The Competent Authority may determine any or all of the following:

- (a) that particular dangerous goods must or must not be transported as follows:
 - (i) in or on a particular vehicle or particular kind of vehicle;
 - (ii) by a particular route;
 - (iii) in or through a particular area;
 - (iv) at a particular time or during a particular period;

- (b) that particular dangerous goods must not be transported in quantities in excess of a particular amount;
- (c) that particular packaging must or must not be used in the transport of particular dangerous goods.

197 Determination must be complied with

- (1) A person commits an offence if:
 - (a) a determination prohibits or regulates the doing of a thing; and
 - (b) the determination applies to the person; and
 - (c) the person does the thing contrary to the determination.

Maximum penalty: 40 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.
- (3) It is a defence to a prosecution for an offence against subregulation (1) if the defendant proves that the defendant did not know, and could not reasonably have been expected to know, that the determination applied to the defendant.

198 Determinations may be subject to conditions

- (1) The Competent Authority may make a determination subject to any condition necessary for the safe transport of dangerous goods.
- (2) A person commits an offence if:
 - (a) a determination applies to the person; and
 - (b) the person contravenes a condition of the determination.

Maximum penalty: 40 penalty units.

- (3) An offence against subregulation (2) is an offence of strict liability.
- (4) It is a defence to a prosecution for an offence against subregulation (2) if the defendant proves that the defendant did not know, and could not reasonably have been expected to know, that the determination applied to the defendant.

199 Register of determinations

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

200 Determination contrary to regulations

If a provision of these Regulations imposes an obligation on a person, and the person is authorised or permitted to act contrary to that obligation by a determination made under this Part, the provision has effect as if it stated that the person could fulfil the obligation by acting in accordance with the determination.

Part 17 Exemptions

Division 1 General matters

201 Applications for exemptions

- (1) An application for an exemption must:
 - (a) be made in writing to the Competent Authority; and
 - (b) be signed and dated by or for the applicant; and
 - (c) be accompanied by the prescribed fee; and
 - (d) contain the following information:
 - (i) the applicant's name and address;
 - (ii) the name of the person for whom, or a description of the class of persons for which, the exemption is sought;
 - (iii) the provisions of these Regulations from which exemption is sought and any relevant provisions of the ADG Code;
 - (iv) the dangerous goods for which the exemption is sought;

- (v) if the exemption is to relate to a vehicle, equipment, packaging or other thing – a description of the thing;
 - (vi) the period for which the exemption is sought;
 - (vii) the geographical area within which the exemption is to have effect;
 - (viii) a statement of the applicant's opinion as to:
 - (A) why compliance with the provisions mentioned in subparagraph (iii) is not reasonably practicable; and
 - (B) why granting the exemption would be unlikely to create risk greater than that which would be the case if compliance with those provisions was required.
- (2) An applicant must give to the Competent Authority any additional information necessary for a proper consideration of the application that the Competent Authority request in writing.

202 Register of exemptions

- (1) The Competent Authority must keep a register of exemptions.
- (2) The register may have separate divisions for different kinds of exemptions.
- (3) The Competent Authority must record in the register each exemption granted by the Competent Authority.
- (4) The Competent Authority must note in the register the cancellation or variation of an exemption.

Division 2 Referral of matters to CAP

203 Referral to CAP

- (1) The Competent Authority must refer to the CAP an application for an exemption if the Competent Authority considers the exemption should have effect in all participating jurisdictions or participating jurisdictions including the Territory.

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

204 Effect of CAP decision about applications

- (1) This regulation applies if:
- (a) an application for an exemption is referred to the CAP under regulation 203(1); and
 - (b) the CAP decides:
 - (i) the exemption should be granted, what the terms of the exemption should be, and that the exemption should have effect in all participating jurisdictions or participating jurisdictions including the Territory; or
 - (ii) the exemption should not be granted or should not have effect in the Territory.
- (2) The Competent Authority must have regard to the CAP's decision.

205 Effect of CAP decision about cancellation or variation

- (1) This regulation applies if:
- (a) an exemption is referred to the CAP under regulation 203(2); and
 - (b) the CAP decides the exemption:
 - (i) should, or should not, be cancelled; or
 - (ii) 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
 - (iii) should not be varied.
- (2) The Competent Authority must have regard to the CAP's decision.

Part 18 Administrative determinations and approvals

Division 1 Interpretation

206 Meaning of *holder*

In this Part:

holder means:

- (a) for an administrative determination – the person to whom the determination applies; or
- (b) for an approval – the person to whom the approval was granted.

Division 2 General matters

207 Applications

- (1) An application for, or for the variation of, an administrative determination or approval must:
 - (a) be made in writing to the Competent Authority; and
 - (b) be accompanied by the prescribed fee.
- (2) An application for the variation of an administrative determination or approval must be accompanied by the determination or approval.
- (3) An applicant must give to the Competent Authority any additional information necessary for a proper consideration of the application that the Competent Authority request in writing.

208 Form of administrative determination or approval

- (1) An administrative determination, or an approval granted on application, must be in writing.
- (2) Any conditions to which the administrative determination or approval is subject must be specified in it.

209 Period of administrative determination or approval

An administrative determination or approval has effect for the period specified in it.

210 Notice and reasons for refusal of applications

- (1) This regulation applies if the Competent Authority refuses an application for, or for the variation of, an administrative determination or approval.
- (2) The Competent Authority must give the applicant written notice of the refusal and of the reasons for it.

211 When administrative determinations and approvals not to be made etc.

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

212 Replacement administrative determination or approval

- (1) This regulation applies if:
 - (a) an administrative determination or approval is varied; or
 - (b) the Competent Authority is satisfied an administrative determination or approval has been defaced, destroyed, lost or stolen.
- (2) The Competent Authority must give the holder a replacement administrative determination or approval.

213 Register of approvals

- (1) The Competent Authority must keep a register of approvals.
- (2) The register may have separate divisions for different kinds of approvals.
- (3) The Competent Authority must record in the register each approval granted by the Competent Authority.
- (4) The Competent Authority must note in the register the cancellation or variation of an approval.

Division 3 Cancellation or variation

214 Grounds for cancelling administrative determination or approval

- (1) An administrative determination or approval may be cancelled if the application for it:
 - (a) did not comply with these Regulations; or
 - (b) contained misleading information.
- (2) An administrative determination or approval may be cancelled if:
 - (a) a relevant change has occurred since the determination was made or approval was granted; and
 - (b) had the change occurred earlier the determination or approval would not have been made or granted.
- (3) An administrative determination or approval may be cancelled if the holder is unsuitable to continue to hold the determination or approval because the person has contravened the Act, these Regulations or a corresponding law.
- (4) In this regulation:

relevant change means a change about something that the Competent Authority may or must consider in deciding whether to make the determination or grant the approval.

215 Grounds for varying administrative determinations and approvals

- (1) An administrative determination or approval may be varied if the application for it:
 - (a) did not comply with these Regulations; or
 - (b) contained misleading information.
- (2) An administrative determination or approval may be varied if:
 - (a) a relevant change has occurred since the determination was made or approval was granted; and
 - (b) had the change occurred earlier, the determination or approval would have been made or granted in the way in which it is proposed to be varied.

(3) An administrative determination or approval may be varied if the holder is unsuitable to continue to hold the determination or approval without variation because the person has contravened the Act, these Regulations or a corresponding law.

(4) In this regulation:

relevant change means a change about something that the Competent Authority may or must consider in deciding whether to make the determination or grant the approval.

216 Cancellation and variation in dangerous situations

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

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

217 Cancellation giving effect to court orders

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

218 Variation on application

The Competent Authority may vary an administrative determination or approval on the application of the holder.

219 Cancellation and variation in other circumstances

- (1) This regulation applies if:
 - (a) the Competent Authority considers that a ground exists to cancel or vary an administrative determination or approval (the **proposed action**); and
 - (b) regulations 216, 217 and 218 do not apply.

- (2) The Competent Authority must give to the holder a written notice that:
 - (a) states what the proposed action is; and
 - (b) if the proposed action is to vary the determination or approval – sets out the proposed variation; and
 - (c) sets out the ground for the proposed action; and
 - (d) outlines the facts and other circumstances forming the basis for the ground; and
 - (e) invites the holder to state in writing, within a specified period of at least 28 days after the day when the notice is given, why the proposed action should not be taken.
- (3) If, after considering any written statement made within the specified period, the Competent Authority reasonably believes that a ground exists to take the proposed action, the Competent Authority may cancel or vary the determination or approval.

220 When cancellation or variation take effect

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

- (a) the day when the holder is given written notice by the Competent Authority of the cancellation or variation and of the reasons for it; or
- (b) a later day specified in the notice.

Division 4 Referral of approval matters to CAP

221 Referral to CAP

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

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

222 Effect of CAP decision about application

- (1) This regulation applies if:
 - (a) an application for an approval is referred to the CAP under regulation 221(1); and
 - (b) the CAP decides:
 - (i) the approval should be granted, what the terms of the approval should be, and that the approval should have effect in all participating jurisdictions or participating jurisdictions including the Territory; or
 - (ii) the approval should not be granted or should not have effect in the Territory.
- (2) The Competent Authority must have regard to the CAP's decision.

223 Effect of CAP decision about cancellation or variation

- (1) This regulation applies if:
 - (a) an approval is referred to the CAP under regulation 221(2); and
 - (b) the CAP decides the approval:
 - (i) should, or should not, be cancelled; or
 - (ii) 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
 - (iii) should not be varied.
- (2) The Competent Authority must have regard to CAP's decision.

Part 19 Mutual recognition

Division 1 Mutual recognition of determinations, exemptions, approvals and licences

224 Corresponding determinations

- (1) This regulation applies to a determination made by the corresponding authority of another jurisdiction if:
- (a) the determination is made under a provision of a corresponding law that corresponds to regulation 195 or 196 (the **relevant NT provision**); and
 - (b) the determination has effect in the other jurisdiction; and
 - (c) either:
 - (i) the CAP:
 - (A) has decided that the determination should have effect in all participating jurisdictions or participating jurisdictions including the Territory; and
 - (B) has not reversed the decision; or
 - (ii) the determination is an administrative determination.
- (2) The determination has effect in the Territory as if it were a determination made by the Competent Authority under the relevant NT provision.

225 Corresponding exemptions

- (1) This regulation applies to an exemption granted by the corresponding authority of another jurisdiction if:
- (a) the exemption is an exemption from a provision of a corresponding law that corresponds to a provision (the **relevant NT provision**) of these Regulations; and
 - (b) the exemption has effect in the other jurisdiction; and
 - (c) the CAP:
 - (i) has decided that the exemption should have effect in all participating jurisdictions or participating jurisdictions including the Territory; and

- (ii) has not reversed the decision.
- (2) The exemption has effect in the Territory as if it were an exemption granted by the Competent Authority from the relevant NT provision for 10 years after the day on which the CAP made its decision unless:
- (a) the decision is sooner reversed by the CAP; or
 - (b) the exemption is sooner cancelled or varied by the corresponding authority; or
 - (c) the exemption sooner expires or otherwise ceases to have effect.

226 Corresponding approvals

- (1) This regulation applies to an approval granted by the corresponding authority of another jurisdiction if:
- (a) the approval is granted under a provision of a corresponding law that corresponds to regulation 59, 63, 101, 102, 126, 151 or 160 (the **relevant NT provision**); and
 - (b) the approval has effect in the other jurisdiction; and
 - (c) the CAP:
 - (i) has decided that the approval should have effect in all participating jurisdictions or participating jurisdictions including the Territory; and
 - (ii) has not reversed the decision.
- (2) The approval has effect in the Territory as if it were an approval granted by the Competent Authority under the relevant NT provision.

227 Corresponding licences

- (1) This regulation applies to a licence granted for the transport of dangerous goods by road in another participating jurisdiction if:
- (a) the licence is granted under a provision of a corresponding law that corresponds to regulation 162 or 173 (the **relevant NT provision**); and
 - (b) the licence has effect in the other jurisdiction.

- (2) Except for circumstances that do not exist in the Territory, the licence has effect in the Territory as if it were a licence granted by the licensing authority under the relevant NT provision.

Division 2 Recommendations by Competent Authority and corresponding authorities

228 Recommendations by Competent Authority

- (1) This regulation applies if the Competent Authority considers that a ground exists for a corresponding authority to do any of the following (the ***proposed action***):
- (a) revoke or vary a corresponding determination that is not a corresponding administrative determination;
 - (b) cancel or vary a corresponding administrative determination;
 - (c) cancel or vary a corresponding approval or exemption;
 - (d) cancel, suspend or vary a corresponding dangerous goods driver licence or corresponding dangerous goods vehicle licence.
- (2) The Competent Authority may recommend, in writing, that the corresponding authority take the proposed action.
- (3) The Competent Authority must provide written reasons to the corresponding authority for the recommendation.
- (4) If the recommendation is about a determination (except an administrative determination), approval or exemption that has effect in one or more other participating jurisdictions, the Competent Authority must also refer the recommendation to the CAP.

229 Recommendations by corresponding authorities

- (1) This regulation applies if a corresponding authority recommends to the Competent Authority in writing that the Competent Authority do any of the following:
- (a) revoke or vary a determination that is not an administrative determination;
 - (b) cancel or vary an administrative determination;
 - (c) cancel or vary an approval or exemption;

-
- (d) cancel, suspend or vary a dangerous goods driver licence or dangerous goods vehicle licence.
 - (2) If the recommendation is about a determination (except an administrative determination), approval or exemption that has effect in one or more other participating jurisdictions, the Competent Authority need not take any action on the recommendation until the CAP has considered the recommendation.
 - (3) In any other case the Competent Authority must have regard to the recommendation.

Part 20 Infringement notices

230 Definitions

In this Part:

infringement notice, see regulation 232.

infringement notice offence, see regulation 231(1).

prescribed amount, see regulation 231(2).

231 Infringement notice offence and prescribed amount payable

- (1) An *infringement notice offence* is an offence against a provision of the Act or these Regulations specified in Schedule 2.
- (2) The *prescribed amount* payable for an infringement notice offence is the amount specified opposite the offence in Schedule 2.

232 When infringement notice may be given

If an authorised officer reasonably believes a person has committed an infringement notice offence, the authorised officer may give a notice (an *infringement notice*) to the person.

233 Contents of infringement notice

- (1) The infringement notice must specify the following:
 - (a) the name and address of the person, if known;
 - (b) the date the infringement notice is given to the person;
 - (c) the date, time and place of the infringement notice offence;

- (d) a description of the offence;
 - (e) the prescribed amount payable for the offence;
 - (f) the enforcement agency, as defined in the *Fines and Penalties (Recovery) Act*, to whom the prescribed amount is payable.
- (2) The infringement notice must include a statement to the effect of the following:
- (a) the person may expiate the infringement notice offence and avoid any further action in relation to the offence by paying the prescribed amount to the specified enforcement agency within 28 days after the notice is given;
 - (b) the person may elect under section 21 of the *Fines and Penalties (Recovery) Act* to have the matter dealt with by a court instead of under that Act by completing a statement of election and giving it to the specified enforcement agency;
 - (c) if the person does nothing in response to the notice, enforcement action may be taken under the *Fines and Penalties (Recovery) Act*, including (but not limited to) action for the following:
 - (i) suspending the person's driver licence;
 - (ii) seizing personal property of the person;
 - (iii) deducting an amount from the person's wages or salary;
 - (iv) registering a statutory charge on land owned by the person;
 - (v) making a community work order for the person and imprisonment of the person if the person breaches the order.
- (3) Also, the infringement notice must include an appropriate form for making the statement of election mentioned in subregulation (2)(b).

234 Payment by cheque

If the person tenders a cheque in payment of the prescribed amount, the amount is not taken to have been paid unless the cheque is cleared on first presentation.

235 Withdrawal of infringement notice

- (1) The Competent Authority may withdraw an infringement notice by written notice given to the person.
- (2) The notice must be given:
 - (a) within 28 days after the infringement notice is given to the person; and
 - (b) before payment of the prescribed amount.

236 Application of Part

- (1) This Part does not prejudice or affect the start or continuation of proceedings for an infringement notice offence for which an infringement notice has been given unless the offence is expiated.
- (2) Also, this Part does not:
 - (a) require an infringement notice to be given; or
 - (b) affect the liability of a person to be prosecuted in a court for an offence for which an infringement notice has not been given; or
 - (c) prevent more than one infringement notice for the same offence being given to a person.
- (3) If more than one infringement notice for the same offence has been given to a person, the person may expiate the offence by paying the prescribed amount in accordance with any of the notices.

Part 21 Reconsideration and review of decisions**237 Application of Part**

- (1) This Part applies to the following decisions of the Competent Authority:
 - (a) a decision under Part 3 of the Act to:
 - (i) refuse to grant an exemption; or
 - (ii) cancel an exemption; or
 - (iii) impose a new condition on an exemption; or

- (iv) vary or cancel a condition on an exemption;
 - (b) a decision to grant or not to grant an approval:
 - (i) under regulation 59 for a design for a packaging; or
 - (ii) under regulation 63 for a method of preparing an overpack; or
 - (iii) under regulation 101 for a design for a Type II segregation device; or
 - (iv) under regulation 102 for a method of segregation; or
 - (v) under regulation 126 for emergency information; or
 - (vi) under regulation 151 for the use of a vehicle without adequate insurance; or
 - (vii) under regulation 160 for a test or training course;
 - (c) a decision under regulation 195 or 196 to make or not to make an administrative determination;
 - (d) a decision under regulation 216, 218 or 219 to cancel or vary or refuse to vary an administrative determination or approval.
- (2) This Part also applies to the following decisions of an authorised officer:
- (a) a decision under section 86 of the Act to issue an improvement notice;
 - (b) a decision under section 88 of the Act to amend an improvement notice;
 - (c) a decision under section 93 of the Act to issue a prohibition notice;
 - (d) a decision under section 96 of the Act to amend a prohibition notice.
- (3) This Part also applies to the following decisions of the licensing authority:
- (a) a decision to grant or refuse to grant:
 - (i) under regulation 162, a dangerous goods driver licence; or

- (ii) under regulation 173, a dangerous goods vehicle licence;
 - (b) a decision to renew or refuse to renew:
 - (i) under regulation 164, a dangerous goods driver licence; or
 - (ii) under regulation 175, a dangerous goods vehicle licence;
 - (c) a decision under regulation 181 to issue or refuse to issue a replacement licence;
 - (d) a decision under regulation 189, 191 or 192 to cancel, suspend, vary or refuse to vary a licence.
- (4) This Part also applies to the following decisions of an authorised body (as defined in regulation 65(5)) exercising functions under regulations 64 and 65:
- (a) a decision to grant or not to grant an approval:
 - (i) under regulation 59 for a design for a packaging; or
 - (ii) under regulation 63 for a method of preparing an overpack;
 - (b) a decision under regulation 216, 218 or 219 to cancel or vary or refuse to vary an approval.

238 Who may apply for reconsideration of decisions

A person whose interests are affected by a decision may apply in writing to the Competent Authority for reconsideration of the decision.

239 Applications for reconsideration

- (1) An application must be made within:
 - (a) 28 days after the day when the person was informed of the decision by the decision maker; or
 - (b) a longer period allowed by the Competent Authority, either before or after the end of the 28 days.
- (2) The application must set out the grounds on which reconsideration of the decision is sought.

240 Competent Authority to reconsider decisions

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

241 Review of certain decisions

Application may be made to the Local Court for review of a decision by the Competent Authority under regulation 240.

Part 22 Miscellaneous matters

Division 1 Miscellaneous offences

242 Persons in transport of dangerous goods to be appropriately trained

- (1) A person commits an offence if:
 - (a) the person is responsible for the management or control of a transport task; and
 - (b) the person employs, engages or permits someone else to perform the transport task; and
 - (c) the other person:
 - (i) has not received, or is not receiving, appropriate instruction and training to ensure that he or she is able to perform the transport task safely and in accordance with these Regulations; or
 - (ii) is not appropriately supervised in performing the transport task to ensure that he or she is able to perform the transport task safely and in accordance with these Regulations.

Fault elements:

The person:

- (a) intentionally employs, engages or permits the other person to perform the transport task; and

- (b) is reckless as to the circumstance mentioned in subregulation (1)(c).

Maximum penalty: 40 penalty units.

- (2) A person commits an offence if:

- (a) the person manages, controls or supervises a transport task; and
- (b) the person has not received instruction and training to enable the person to manage, control or supervise another person to perform the task safely and in compliance with these Regulations.

Fault elements:

The person:

- (a) intentionally manages, controls or supervises the transport task; and
- (b) is reckless as to whether the person has received the instruction and training.

Maximum penalty: 40 penalty units.

- (3) In this regulation:

transport task means any task involved in the transport of dangerous goods including the following:

- (a) packing dangerous goods;
- (b) consigning dangerous goods;
- (c) loading dangerous goods;
- (d) unloading dangerous goods;
- (e) marking packages;
- (f) placarding placard loads;
- (g) preparing transport documentation for dangerous goods;
- (h) maintaining vehicles and equipment used in the transport of dangerous goods;
- (i) driving a vehicle transporting dangerous goods;

- (j) being the consignee of dangerous goods;
- (k) following the appropriate procedures in accordance with these Regulations in a dangerous situation.

243 Goods suspected of being dangerous goods

- (1) If a person suspects, or reasonably ought to suspect, that goods are dangerous goods, the person must not consign or transport them until:
 - (a) the goods have been classified in accordance with the ADG Code; or
 - (b) a determination has been made under regulation 195(1)(a) in respect of the goods.
- (2) A person commits an offence if the person consigns or transports goods in contravention of subregulation (1).

Fault elements:

The person:

- (a) intentionally consigns or transports the goods; and
- (b) is reckless as to whether or not the event mentioned in subregulation (1)(a) or (b) has occurred.

Maximum penalty: 40 penalty units.

Division 2 Registers form and inspection

244 Application of Division

This Division applies in relation to 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).

245 Register may be kept electronically

A register may be kept electronically.

246 Inspection of registers

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

Part 23 Transitional matters for Transport of Dangerous Goods by Road and Rail (National Uniform Legislation) Regulations**247 Definitions**

In this Part:

commencement means the commencement of these Regulations.

repealed NT law means:

- (a) the *Dangerous Goods (Road and Rail Transport) Act* as in force before the commencement; or
- (b) any other TDG law of the Territory in force before the commencement.

TDG law means a law regulating the transport of dangerous goods by road or rail.

248 Licences

- (1) This regulation applies to a licence (however described) that:
 - (a) was granted under the repealed NT law; and
 - (b) was in force immediately before the commencement; and
 - (c) is a licence of a kind that may be granted under regulation 162 or 173 (the **new NT provision**).

- (2) The licence has effect as if it were a licence granted by the licensing authority under the new NT provision.
- (3) The Competent Authority must record the licence in the relevant register of licences kept under regulation 184.

249 Licence applications

- (1) This regulation applies if:
 - (a) a person had, before the commencement, lodged an application under regulation 18.10, 18.12, 18.19 or 18.22 of the *Dangerous Goods (Road and Rail Transport) Regulations* (the **repealed Regulations**) for the grant or renewal of a licence; and
 - (b) as at the commencement, the Competent Authority under the repealed Regulations (the **former authority**) had not granted, renewed or refused to grant or renew, the licence.
- (2) The former authority must deal with the application and grant, renew or refuse to grant or renew, the licence in accordance with the repealed Regulations as if they had not been repealed.
- (3) If the former authority grants or renews the licence, the licence is taken to be a licence granted or renewed by the licensing authority under regulation 162, 164, 173 or 175, as appropriate.
- (4) For Part 21, the decision of the former authority to grant, renew or refuse to grant or renew, the licence is taken to be a decision of a kind mentioned in regulation 237(3)(a) or (b), as appropriate.

250 Corresponding determinations

- (1) This regulation applies to a determination (however described) that:
 - (a) was made under a TDG law of a State or another Territory; and
 - (b) was in force in that State or Territory immediately before the commencement; and
 - (c) is a determination about something that may be determined under a provision of the corresponding law of that State or Territory (the **interstate provision**) that corresponds to regulation 195 or 196.

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

251 Corresponding exemptions

- (1) This regulation applies to an exemption (however described) that:
- (a) was granted under a TDG law of a State or another Territory; and
 - (b) was in force in that State or Territory immediately before the commencement; and
 - (c) is an exemption from compliance with a provision of the corresponding law of that State or Territory (the ***interstate provision***) that corresponds to a provision of these Regulations.
- (2) Except for circumstances that do not exist in the Territory, the exemption has effect in the Territory as if it were an exemption granted by the corresponding authority for that State or Territory from compliance with the interstate provision.

252 Corresponding approvals

- (1) This regulation applies to an approval (however described) that:
- (a) was granted under a TDG law of a State or another Territory; and
 - (b) was in force in that State or Territory immediately before the commencement; and
 - (c) is an approval of something that may be approved under a provision of the corresponding law of that State or Territory (the ***interstate provision***) that corresponds to regulation 59, 63, 101, 102, 126, 151 or 160.
- (2) Except for circumstances that do not exist in the Territory, the approval has effect in the Territory as if it were an approval granted by the corresponding authority for that State or Territory under the interstate provision.

253 Corresponding licences

- (1) This regulation applies to a licence (however described) that:
 - (a) was granted under a TDG law of a State or another Territory; and
 - (b) was in force in that State or Territory immediately before the commencement; and
 - (c) is a licence of a kind that may be granted under a provision of the corresponding law of that State or Territory (the *interstate provision*) that corresponds to regulation 162 or 173.
- (2) Except for circumstances that do not exist in the Territory, the licence has effect in the Territory as if it were a licence granted by the corresponding authority for that State or Territory under the interstate provision.

254 Expiry of continued exemption or approval

If an exemption or approval to which this Part applies does not have an expiry date, it expires on the fifth anniversary of the commencement.

Schedule 1 Fees

regulation 4, definition *prescribed fee*

Item	Matter	Fee (\$)
1	Dangerous goods driver licence	
	(a) application for grant (regulation 157)	60
	(b) application for renewal (regulation 163)	60
2	Dangerous goods vehicle licence	
	(a) application for grant (regulation 171)	86
	(b) application for renewal (regulation 174)	86
	(c) application for transfer after business transfer (regulation 180)	86
3	Exemption – application for grant (regulation 201)	265
4	Administrative determination	
	(a) application for grant (regulation 207)	265
	(b) application for variation (regulation 207)	265
5	Approval	
	(a) application for grant (regulation 207)	265
	(b) application for variation (regulation 207)	265

Schedule 2 Infringement notice offences and prescribed amounts

regulation 231

Act	Provision	Prescribed amount in penalty units
	section 25(1)	1
	section 31(5)	12
	section 32(2)	12
	section 33(2)	12
	section 34(3)	12
	section 35(5)	12
	section 40(3)	12
	section 41(5)	12
	section 44(2)	12
	section 45(2)	12
	section 46(2)	12
	section 47(2)	12
	section 50(3)	12
	section 51(5)	12
	section 56(4):	
	(a) for direction under section 56(2) because of section 56(1)(a)	12
	(b) for direction under section 56(2) because of section 56(1)(b)	8
	(c) for direction under section 56(3)	12
	section 57(4)	12
	section 58(3)	12
	section 59(3)	10
	section 68(3)	12
	section 80(7)	1
	section 83(4) or (5)	16

Provision	Prescribed amount in penalty units
Regulations	
regulation 44(1) or (3)	8
regulation 51(1)	4
regulation 56(1)	8
regulation 57(1)	8
regulation 67(1), (2) or (3):	
(a) if packaging is large packaging or overpack	4
(b) otherwise	2
regulation 76(1)	8
regulation 79(1)	8
regulation 83(1)	4
regulation 90(1)	4
regulation 102(3)	8
regulation 106(3)	2
regulation 107(1)	4
regulation 107(4)	2
regulation 108(1)	4
regulation 111(1) or (2)	4
regulation 114(1)	3
regulation 115(1)	3
regulation 116(1)	4
regulation 117(1)	4
regulation 118(1) or (2)	3
regulation 119(1) or (2)	3
regulation 122(1)	4
regulation 123(1)	4
regulation 124(1), (2) or (3)	3
regulation 125(1) or (2)	3
regulation 127(1)	8
regulation 128(1)	8
regulation 129(1)	3

Provision	Prescribed amount in penalty units
regulation 130(1)	2
regulation 133(1)	2
regulation 134(1)	3
regulation 135(2)	8
regulation 136(1)	8
regulation 137(1)	8
regulation 138(1)	8
regulation 141(2)	8
regulation 142(1)	4
regulation 143(1) or (2)	8
regulation 144(1) or (2)	8
regulation 148(1)	8
regulation 149(1)	8
regulation 150(1)	3
regulation 169(1)	2
regulation 179(1), (2), (3) or (4)	2
regulation 180(1)	2
regulation 182(1)	8
regulation 186(1)	2
regulation 187(1)	2
regulation 197(1)	8
regulation 198(2)	8