

Version No. 003
**Dangerous Goods (Transport by Road or
Rail) Regulations 2008**

S.R. No. 166/2008

Version incorporating amendments as at
10 February 2014

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PART 1—PRELIMINARY

Division 1—Introductory matters

1 Objectives

The objectives of these Regulations are—

- (a) to set out the obligations of persons involved in the transport of dangerous goods by land; and
- (b) to reduce as far as practicable the risk of personal injury, death, property damage and environmental harm arising from the transport of dangerous goods by 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 by land; and
- (d) to promote consistency between the standards, requirements and procedures applying to the land transport of dangerous goods and other modes of transport; and
- (e) to make consequential amendments to the Dangerous Goods (Storage and Handling) Regulations 2000 and the Dangerous Goods (Explosives) Regulations 2000.

2 Authorising provision

These regulations are made under section 52 of the **Dangerous Goods Act 1985**.

3 Commencement

These Regulations come into operation on 1 January 2009.

4 Revocation

The Regulations listed in the Schedule are **revoked**.

Division 2—Interpretation

Subdivision 1—General

5 Definitions

In these Regulations, unless the contrary intention appears—

administrative determination has the meaning given by regulation 32;

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

- (a) the number of kilograms of—
 - (i) solid dangerous goods; and
 - (ii) articles, including aerosols;in the load; and
- (b) the number of litres or kilograms, being whichever is used in the transport documentation for the load to describe the goods, of liquid dangerous goods in the load; and
- (c) the total capacity in litres of receptacles in the load containing dangerous goods of Class 2 (except aerosols);

appropriately marked has the meaning given by regulation 80;

appropriately placarded has the meaning given by regulation 85;

approval means an approval by the Authority or an authorised body under these Regulations which is in effect;

approved packaging means—

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

approved tank means—

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

approved test means a test that is approved under regulation 28(1)(a);

approved training course means a training course that is approved under regulation 28(1)(b);

* * * * *

Reg. 5 def. of
*Australian
Transport
Council*
revoked by
S.R. No.
125/2013
reg. 6(a).

authorised body means a person or body authorised to issue approvals under regulation 59;

bulk container has the meaning given by regulation 10;

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

Reg. 5 def. of
**Competent
Authorities
Panel or CAP**
amended by
S.R. No.
125/2013
reg. 6(b).

Class, for dangerous goods, means the class to which dangerous goods belong in accordance with regulation 40;

Competent Authorities Panel or CAP means the body established by the Competent Authorities Panel Rules made by the National Transport Commission, as amended from time to time by the Standing Council on Transport and Infrastructure;

consigns and **consignor** have the meanings given by regulation 19;

corresponding approval means an approval to which regulation 166 applies;

corresponding dangerous goods driver licence means a licence to which regulation 167 applies that has effect in Victoria under that regulation as a dangerous goods driver licence;

corresponding dangerous goods vehicle licence means a licence to which regulation 167 applies that has effect in Victoria under that regulation as a dangerous goods vehicle licence;

corresponding determination means a determination to which regulation 164 applies;

corresponding exemption means an exemption to which regulation 165 applies;

dangerous goods, for the purposes of these regulations, has the meaning given by regulation 38;

dangerous goods driver licence means a licence that is in effect under Division 3 of Part 18;

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

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

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

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

determination means a determination that is made by the Authority under Division 6 of this Part and that is in effect;

Division, for dangerous goods, means the Division to which dangerous goods of a particular Class belong in accordance with regulation 40;

driver licence means a licence (including a probationary and a conditional licence but not including a provisional or learner licence) issued under a State or Territory law authorising the licensee to drive a vehicle on a highway;

emergency service means—

- (a) an urban or rural fire brigade (including the Country Fire Authority) within the meaning of the **Country Fire Authority Act 1958**; or
- (b) a metropolitan fire brigade; or

-
- (c) Ambulance Victoria (including the Metropolitan Ambulance Service and the Rural Ambulance Victoria); or
 - (d) the Victoria State Emergency Service within the meaning of the **Victoria State Emergency Service Act 2005**; or
 - (e) Victoria Police;
 - (f) an ambulance, fire, police or other emergency service of a participating jurisdiction; or
 - (g) a unit of the Defence Force corresponding to a service mentioned in paragraphs (a) to (f);

exemption means an exemption in force under Part 16;

food includes—

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

food packaging means—

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

foreign approved, in relation to packaging, means packaging that has originated outside Australia and that has the markings required by Part 6 of the ADG Code for packaging of its type;

freight container has the same meaning as it has in paragraph (a) of the definition of ***freight container*** in the **Road Safety Act 1986**;

Note

The definition of ***freight container*** in paragraph (a) of the definition in the **Road Safety Act 1986** means a re-useable container of the kind mentioned in Australian/New Zealand Standard AS/NZS 3711.1:2000 that is designed for repeated use for the transport of goods by one or more modes of transport.

hose assembly means a hose, or hoses connected together, for use in the transfer of dangerous goods to or from a tank on a vehicle, 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*** has the meaning given by regulation 11;

incompatible, in relation to dangerous goods or other goods, has the meaning given by regulation 43;

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

jurisdiction means the Commonwealth or a State or Territory;

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 litres;

licence label means a dangerous goods vehicle licence label issued under regulation 214;

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

licensing authority has the meaning given in regulation 189;

load (noun) has the meaning given by regulation 16;

loads (verb) and **loader** have the meanings given by regulation 21;

MEGC or **multiple-element gas container** has the meaning given by regulation 12;

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

NATA means the National Association of Testing Authorities, Australia;

outer packaging, in relation to dangerous goods, means external packaging (including absorbent materials, cushioning and any other components) necessary to contain and protect—

- (a) articles; or

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

overpack, in relation to the transport of dangerous goods, means packaging (other than large packaging) used to hold and consolidate packages into a single unit for easier handling and stowage;

Example

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

owner, of a vehicle, has the meaning given by regulation 18;

package has the meaning given by regulation 51(1);

packs and ***packer*** has the meaning given by regulation 20;

packaging has the meaning given by regulation 51(2) and includes inner outer and composite packaging, overpacks, large packaging, IBCs, MEGCs, tanks (including the tank of a tank vehicle), bulk and freight containers, drums, barrels, jerry cans, boxes and bags;

packed in limited quantities has the meaning given by regulation 13;

Packing Group has the meaning given by regulation 42;

participating jurisdiction means—

- (a) the State of Victoria; and
- (b) another State or Territory that has a law corresponding or substantially corresponding to these Regulations;

person connected with Victoria has the meaning given by regulation 17;

placard load has the meaning given under regulation 84;

placards has the meaning given by regulation 85(1);

portable tank means a multimodal tank that—

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

pressure drum means a welded transportable pressure receptacle of a capacity exceeding 150 litres and of not more than 1000 litres;

prime contractor has the meaning given by regulation 22(1);

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;

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

rail operator has the meaning given by
regulation 22(2);

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

(a) used 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;

registered, in relation to a vehicle, means
registered under a Commonwealth, State or
Territory law;

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

road and **road-related area** have the meanings
given by regulation 14;

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

**Standing Council on Transport and
Infrastructure** or **SCOTI** means the
Standing Council of the Council of
Australian Governments (COAG) of that
name constituted by Commonwealth, State,
Territory and New Zealand Ministers with
responsibility for transport and infrastructure
issues, and the Australian Local Government
Association;

Reg. 5 def. of
**Standing
Council on
Transport
Infrastructure**
or **SCOTI**
inserted by
S.R. No.
125/2013
reg. 6(c).

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

subsidiary risk has the meaning given by regulation 41;

tank has the meaning given by regulation 15;

tank vehicle means a vehicle—

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

the Act means the **Dangerous Goods Act 1985**;

train means 2 or more units of rolling stock (at least 1 unit of which is a locomotive or self-propelled unit) that are coupled together;

Example

Rail wagon, rail tank wagon, locomotive, guard's van, crew or passenger carriage and track maintenance vehicle are units of rolling stock.

transport, in relation to dangerous goods, includes—

- (a) the packing, loading and unloading of the goods, and the transfer of the goods to or from a vehicle, for the purpose of their transport; and
- (b) the marking of packages containing dangerous goods, and the placarding of transport units in or on which dangerous goods are transported; and
- (c) other matters incidental to their transport;

transport documentation means documentation that complies with Chapter 11.1 of the ADG Code;

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 of a capacity exceeding 150 litres but not more than 3000 litres;

UN Number has the same meaning as in the ADG Code.

6 Documents applied, adopted, incorporated by, or referred to in, these Regulations

- (1) A reference to any document applied, adopted or incorporated by, or referred to in these Regulations is to be read as a reference to that document as in force from time to time.
- (2) If the effect of an amendment to any document, other than the ADG Code, applied, adopted or incorporated by, or referred to in these Regulations is to impose a new obligation or to alter an existing obligation under these Regulations, a person may choose to comply with these Regulations as if the amendment had not been made until the expiry of 6 months after the date the amendment takes effect.

Note

The ADG Code is covered under section 10 of the Act.

7 Inconsistencies between provisions

If a provision of any document applied, adopted or incorporated by, or referred to in these Regulations is inconsistent with any provision in these Regulations, the provision of these Regulations prevails to the extent of the inconsistency.

8 References to determinations, exemptions, approvals and licences

In these Regulations, a reference to—

- (a) a determination, exemption, approval, dangerous goods driver licence or dangerous goods vehicle licence; or
- (b) a corresponding determination, exemption, approval, dangerous goods driver licence or dangerous goods vehicle licence—

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

9 References to amendment of determinations etc.

In these Regulations, a reference to the amendment of—

- (a) a determination, exemption, approval, dangerous goods driver licence or dangerous goods vehicle licence; or
- (b) a corresponding determination, exemption, approval, dangerous goods driver licence or dangerous goods vehicle licence—

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

Example

The addition of a new condition to an existing administrative determination.

10 Meaning of bulk container

- (1) Subject to subregulation (2), *bulk container* means a container (with or without a liner or coating) that—
 - (a) has a capacity of 1.0 m³ or more; and
 - (b) is intended for the transport of solid dangerous goods that are in direct contact with the container.

-
- (2) To avoid doubt, the following are not bulk containers even if they have a capacity of 1.0 m³ or more and are intended for the transport of solid dangerous goods—
- (a) a large packaging that complies with the requirements of Chapter 6.6 of the ADG Code;
 - (b) an IBC;
 - (c) a tank;
 - (d) a tank vehicle;
 - (e) any other packaging that complies with the requirements of Chapter 6.1 or 6.3 of the ADG Code.

11 Meaning of *IBC*

- (1) Subject to subregulation (2), *IBC* or *intermediate bulk container* means a rigid or flexible portable packaging for the transport of dangerous goods that complies with the specifications in Chapter 6.5 of the ADG Code and that—
- (a) has a capacity of not more than—
 - (i) for solids of Packing Group I packed in a composite, fibreboard, flexible, wooden, or rigid plastics container, 1500 litres; and
 - (ii) for solids of Packing Group I packed in a metal container, 3000 litres; and
 - (iii) for solids or liquids of Packing Groups II and III, 3000 litres; and
 - (iv) for any other dangerous goods, 3000 litres; and
 - (b) is designed for mechanical handling.

-
- (2) Rigid or flexible portable packaging that complies with the requirements of Chapter 6.1, 6.3 or 6.6 of the ADG Code cannot be an IBC.

12 Meaning of *MEGC*

MEGC or *multiple-element gas container* means a container comprising—

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

13 Dangerous goods packed in limited quantities

Dangerous goods are packed in limited quantities if—

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

14 Road and road-related areas

- (1) Subject to subsection (2), *road* and *road-related area* have the same meanings as they have in the **Road Safety Act 1986**.
- (2) Each reference in these Regulations to a road includes a reference to a road-related area.

15 Meaning of *tank*

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

Note

The kinds of packaging dealt with under Chapter 6.1 of the ADG Code include drums, barrels, jerry cans, boxes, bags and composite packaging.

16 References to load

For the purposes of these regulations—

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

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- (b) all the goods in a transport unit being transported on a rail vehicle are a single load.

17 Person connected with Victoria

In relation to an applicant for an approval, determination or exemption under these regulations, a *person connected with Victoria*, means a person who—

- (a) in the case of a natural person is domiciled in Victoria or is permanently or temporarily resident in Victoria; or
- (b) in the case of a body corporate has a place of business in or carries on business in Victoria or is registered in or incorporated or established under a law of Victoria; or
- (c) demonstrates to the satisfaction of the Authority that there is a connection between Victoria and the application for an approval, determination or exemption.

Subdivision 2—Persons with special duties

18 Vehicle owners

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

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

19 Meaning of consigns and consignor

- (1) A person consigns dangerous or other goods for transport, and is the consignor of the goods, if—
 - (a) the person is named or otherwise identified in transport documentation, with the person's authority, as the consignor of the goods; or
 - (b) if no person is so named or identified, the person to whom subregulation (2) or (3) applies.
- (2) This subregulation applies to—
 - (a) the person who engages a prime contractor or rail operator, either directly or through an agent or other intermediary, to transport the goods; or
 - (b) if paragraph (a) does not apply to anyone, the person who has possession of, or control over, the goods immediately before the goods are transported; or
 - (c) if neither paragraph (a) nor (b) applies to anyone, the person who loads a vehicle with the goods, for transport, at a place—
 - (i) where the dangerous goods are awaiting collection; and
 - (ii) that is unattended (except by the driver) during loading.
- (3) If subregulation (2) does not apply to anyone, this subregulation applies to the person who imports the goods into Australia.

20 Meaning of packs and packer

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

- (a) puts the goods in a packaging (even if that packaging is already on a vehicle); or
- (b) assembles, places or secures packages in packaging designed to hold, enclose or otherwise contain more than one package (even if that packaging is already on a vehicle); or
- (c) supervises an activity mentioned in paragraph (a) or (b); or
- (d) manages or controls an activity mentioned in paragraph (a), (b) or (c).

21 Meaning of loads and loader

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

- (a) loads one or more packages of the goods in or on a vehicle; or
 - (b) places or secures one or more packages of the goods on a vehicle; or
 - (c) supervises an activity mentioned in paragraph (a) or (b); or
 - (d) manages or controls an activity mentioned in paragraph (a), (b) or (c).
- (2) Subregulation (1) does not apply to the loading of goods into packaging that is already on a vehicle, nor to the placing or securing of packages in or on a further packaging that is already on a vehicle.

22 Prime contractors and rail operators

- (1) A person is the prime contractor for the transport of dangerous or other goods by road if the person, in conducting a business for or involving the transport of dangerous goods by road, has undertaken to be responsible, or is responsible, for the transport of the goods by road.
- (2) A person is a rail operator for the transport of dangerous or other goods by rail if the person has undertaken to be responsible, or is responsible, for—
 - (a) the transport of the goods by rail; or
 - (b) the condition of a unit of rolling stock transporting the goods.

Division 3—Application

23 Regulations do not apply in certain circumstances relating to dangerous situations

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

24 Exempt transport

- (1) These Regulations do not apply to the transport of a load of dangerous goods if all of the following requirements are met—
 - (a) the load does not contain—
 - (i) explosives, other than exempt explosives; or
 - (ii) dangerous goods in a receptacle with a capacity of more than 500 litres; or
 - (iii) more than 500 kilograms of dangerous goods in a receptacle; and

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- (b) the aggregate quantity of the dangerous goods in the load is less than 25% of a placard load; and
 - (c) the goods are not being transported in the course of a business of transporting goods by road; and
 - (d) in relation to transport by rail, the goods are not being transported on a passenger train.
- (2) In this regulation—
- exempt explosives* means—
- (a) a substance or article that is within Division 1.4S;
 - (b) a track signal carried in a unit of rolling stock for the safety of persons working in rail transport.

Note

Explosives is defined in section 3 of the Act.

25 Further exemptions

- (1) These Regulations do not apply to the transport of explosives except when being transported with other dangerous goods.

Note

The transport of explosives is regulated by the Dangerous Goods (Explosives) Regulations 2000.

- (2) These Regulations do not apply to the transport by a vehicle of dangerous goods—
- (a) in a consignment if the aggregate quantity of dangerous goods is less than the quantity for which an inner package is required by Chapter 5.2.1.8 of the ADG Code to be marked with a proper shipping name or the technical name of those goods; or
 - (b) in the vehicle's fuel tank; or

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- (c) in an appliance or plant that forms part of the vehicle and that is necessary for its operation; or
 - (d) that are portable fire fighting equipment or other portable safety equipment and that are part of the safety equipment of the vehicle; or
 - (e) that are declared to be HCDG and which have no UN Number.

Note

The application of these Regulations is further restricted by section 9 of the Act.

26 Special provisions for tools of trade and dangerous goods for private use

- (1) This regulation applies to a load (an applicable load) if—
 - (a) the load includes—
 - (i) an aggregate quantity of dangerous goods of less than 500 that does not include any dangerous goods of Division 2.1 (that are not aerosols) or Division 2.3 or Packing Group I; or
 - (ii) an aggregate quantity of dangerous goods of less than 250 that does include dangerous goods of Division 2.1 (that are not aerosols) or Division 2.3 or Packing Group I, provided that dangerous goods of Division 2.3 and Packing Group 1 together constitute less than 100 of that aggregate quantity; and
 - (b) the goods are not being transported in the course of a business of transporting goods but are being transported—

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- (i) by a person who intends to use them; or
 - (ii) so that they can be used for a commercial purpose.
- (2) A person transporting an applicable load is exempt from all obligations imposed by these Regulations other than those imposed by this regulation.
- (3) A person must not transport an applicable load unless each package in the load—
- (a) complies with the packaging requirements appropriate to the quantity of dangerous goods, as specified in Part 4 of these Regulations; and
 - (b) is *appropriately marked* (defined in regulation 5); and
 - (c) is loaded, secured, segregated, unloaded and otherwise transported in such a way as to ensure that—
 - (i) its packaging remains fit for its purpose; and
 - (ii) the risk to any person, property or the environment is eliminated, or if it is not possible to eliminate the risk, is minimised to the maximum extent that is practicable.

Penalty: 35 penalty units for a natural person;
175 penalty units for a body corporate.

- (4) If an applicable load contains an aggregate quantity of dangerous goods of Class 3, 4, 5 or 6 of more than 250, a person must not transport the load—
- (a) in the passenger compartment of a vehicle;
or

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

Penalty: 35 penalty units for a natural person;
175 penalty units for a body corporate.

- (5) If an applicable load contains an aggregate quantity of dangerous goods of Division 2.1, Division 2.3 or Packing Group I of more than 50, a person must not transport the load—

- (a) in the passenger compartment of a vehicle;
or

- (b) in any other enclosed space in the vehicle.

Penalty: 35 penalty units for a natural person;
175 penalty units for a body corporate.

Division 4—Training

27 Instruction and training

- (1) This regulation applies to any task involved in the transport of dangerous goods, including the following—
- (a) packing dangerous goods;
 - (b) consigning dangerous goods;
 - (c) loading dangerous goods;
 - (d) unloading dangerous goods;
 - (e) marking packages;
 - (f) placarding placard loads;
 - (g) preparing transport documentation;
 - (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.

Example

Appropriate procedures would include those associated with the implementation of an emergency plan required under Part 14 of these Regulations.

- (2) A person who is responsible for management or control of a task must not employ, engage or permit someone else to perform the task if the other person—
 - (a) has not received, or is not receiving, appropriate instruction and training to enable that other person to perform the task safely and in accordance with these Regulations; or
 - (b) is not appropriately supervised in performing the task to ensure that other person is able to perform the task safely and in accordance with these Regulations.

Penalty: 35 penalty units for a natural person;
175 penalty units for a body corporate.

- (3) A person must not manage, control or supervise a task unless the person has received instruction and training to enable him or her to manage or control the task or supervise another person to perform the task safely and in accordance with these Regulations.

Penalty: 35 penalty units for a natural person;
175 penalty units for a body corporate.

28 Approvals—tests and training courses for drivers

- (1) The Authority may, on application in accordance with regulation 175, 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 Authority may approve a test of competence or a training course only if the Authority considers that a person who passes the test, or completes the course, will have the skills and knowledge to perform the task to which the test or course relates safely and in accordance with these Regulations.

Division 5—Provisions about offences generally

29 Goods suspected of being dangerous goods

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 30(1)(a) in respect of the goods.

Penalty: 35 penalty units for a natural person;

175 penalty units for a body corporate.

Division 6—Determinations

30 Determinations—dangerous goods and packaging

- (1) The Authority may determine that goods are or are not—
 - (a) dangerous goods for the purposes of subregulation (2); or

- (b) dangerous goods of a particular Class, Division or Category; or
- (c) dangerous goods with a particular subsidiary risk; or
- (d) substances of a particular Packing Group; or
- (e) incompatible with particular dangerous goods.

Note

Subsidiary risk is defined in regulation 41 and *Packing Group* is defined in regulation 42.

- (2) The Authority may determine that—
 - (a) particular dangerous goods are or are not too dangerous to be transported; or
 - (b) particular dangerous goods must not be or may be transported in or on the same transport unit or freight container as other goods, whether or not dangerous goods; or
 - (c) particular dangerous goods may or may not be transported in any packaging, despite any prohibition or authorisation in the Dangerous Goods List.

31 Determinations—vehicles, routes, areas and times

The Authority may determine that particular dangerous goods may be or must or must not be transported—

- (a) using a specified vehicle, or kind of vehicle; or
- (b) on a specified route; or
- (c) in or through a specified area; or
- (d) at a specified time; or

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- (e) in quantities in excess of a specified amount;
or
 - (f) in specified packaging.

32 Administrative determinations

A determination is an administrative determination if the determination—

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

Note

Part 17 contains provisions dealing with administrative determinations, including applications for administrative determinations and their revocation and amendment.

33 Determinations may be subject to conditions

In making a determination, the Authority may impose in relation to the determination any condition necessary for the safe transport of dangerous goods.

34 Effect of determinations on contrary obligations under these Regulations

If these Regulations impose an obligation on a person, and the person is authorised or permitted to act contrary to that obligation by a determination made under this Division, that person is deemed to have met that obligation if that person acts in accordance with the determination.

35 Register of determinations

- (1) Subject to subregulation (2), the Authority must keep a register of determinations.
- (2) Subregulation (1) does not apply if a corresponding Authority is endorsed or approved by the CAP to keep a central register of determinations.

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- (3) The register may have separate divisions for different kinds of determinations.
 - (4) The Authority must record in the register—
 - (a) each determination made under these Regulations that is not an administrative determination; and
 - (b) each corresponding determination.
 - (5) The Authority must note in the register—
 - (a) the revocation of a determination made under these Regulations; and
 - (b) a decision of CAP reversing a decision that a corresponding determination should have effect in all participating jurisdictions or participating jurisdictions including Victoria.

36 Records of determinations

The record of a determination in the register must include—

- (a) the provisions of the determination; or
- (b) the following information—
 - (i) the title of the Government Gazette if the determination was notified or published and the date of notification or publication;
 - (ii) the provisions of these Regulations and of the ADG Code, to which the determination relates;
 - (iii) the dangerous goods, equipment, packaging, vehicle or other thing to which the determination relates.

37 Offences related to determinations

- (1) If a determination under this Division, or a condition attached to the determination, prohibits or regulates the doing of any thing, a person to whom the determination applies must not do that thing contrary to the determination or condition.

Penalty: 35 penalty units for a natural person;
175 penalty units for a body corporate.

- (2) It is a defence to a prosecution for an offence against subregulation (1) that the person did not know, and could not reasonably have been expected to know, of the determination, or that the determination applied to the person.
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PART 2—KEY CONCEPTS

38 Dangerous goods

- (1) Goods are dangerous goods if the goods satisfy the dangerous goods classification criteria set out, or referred to, in Part 2 of the ADG Code for determining whether goods are dangerous goods but does not include goods—
 - (a) determined under regulation 30(1)(a) not to be dangerous goods; or
 - (b) described as not subject to the ADG Code in a special provision in Chapter 3.3 of the ADG Code that is applied to the goods by column 6 of the Dangerous Goods List.
- (2) In addition, goods are dangerous goods if the goods are determined under regulation 30(1)(a) to be dangerous goods.

39 Goods too dangerous to be transported

Dangerous goods are goods too dangerous to be transported if they are—

- (a) goods set out or described in Appendix A to the ADG Code; or
- (b) goods determined under regulation 30(2)(a) to be too dangerous to be transported; or
- (c) goods (other than goods mentioned in paragraph (a) or (b)) that are so sensitive or unstable that they cannot be safely transported even if the relevant requirements of these Regulations and the ADG Code are complied with.

Note

Section 31A of the Act provides that a person must not consign for transport goods that these Regulations identify as being too dangerous to be transported.

40 Classes, Divisions and Categories of dangerous goods

The Class, Division or Category of particular dangerous goods for the purposes of these Regulations is—

- (a) if a determination under regulation 30(1)(b) that the goods are of a particular Class, Division or Category is in effect in relation to the goods, the Class, Division or Category specified in the determination; or
- (b) if no such determination is in effect, the Class, Division or Category determined for the goods in accordance with the ADG Code.

41 Subsidiary risk

The subsidiary risk, if any, of particular dangerous goods for the purposes of these Regulations is—

- (a) if a determination under regulation 30(1)(c) that the goods have a particular subsidiary risk is in effect, the subsidiary risk specified in the determination; or
- (b) if no such determination is in effect, the subsidiary risk determined for the goods in accordance with the ADG Code.

42 Packing Group

The Packing Group, if any, of particular dangerous goods for the purposes of these Regulations is—

- (a) if a determination under regulation 30(1)(d) that the goods are of a particular Packing Group is in effect, the Packing Group specified in the determination; or

- (b) if no such determination is in effect, the Packing Group determined for the goods in accordance with the ADG Code.

Note

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

- (i) Packing Group I (substances presenting high danger);
- (ii) Packing Group II (substances presenting medium danger);
- (iii) Packing Group III (substances presenting low danger).

43 Incompatibility

- (1) Dangerous or other goods are incompatible with dangerous goods if—
- (a) the goods are incompatible under Chapter 9.1 of the ADG Code; or
 - (b) the goods are determined under regulation 30(1)(e) to be incompatible with the dangerous goods; or
 - (c) when the goods are mixed, or otherwise brought into contact, with the dangerous goods, the goods are likely to interact with the dangerous goods and increase risk because of the interaction.

Note

Risk means risk of personal injury, death, property damage or harm to the environment (see regulation 5).

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

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- (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.
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PART 3—TRANSPORT OF DANGEROUS GOODS TO WHICH SPECIAL PROVISIONS APPLY

44 Application of this Part

This Part applies—

- (a) if a special provision applies to dangerous goods in the Dangerous Goods List; and
- (b) that special provision prohibits the transport of the goods by road or rail, or imposes a restriction on the way the goods are to be transported by road or rail.

Note

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

45 Consignors

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

- (a) that a special provision applies to the transport of the goods; and
- (b) that the transport of the goods does not, or will not, comply with the special provision.

Penalty: 18 penalty units for a natural person;
90 penalty units for a body corporate.

46 Packers

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

- (a) that a special provision applies to the transport of the goods; and

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

Penalty: 18 penalty units for a natural person;
90 penalty units for a body corporate.

47 Loaders

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

- (a) that a special provision applies to the transport of the goods; and
(b) that the transport of the goods does not, or will not, comply with the special provision.

Penalty: 18 penalty units for a natural person;
90 penalty units for a body corporate.

48 Prime contractors and rail operators

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

- (a) that a special provision applies to the transport of the goods; and
(b) that the transport of the goods does not comply with the special provision.

Penalty: 18 penalty units for a natural person;
90 penalty units for a body corporate.

49 Drivers

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

- (a) that a special provision applies to the transport of the goods; and

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(b) that the transport of the goods does not
comply with the special provision.

Penalty: 9 penalty units.

PART 4—PACKAGING

Division 1—General

50 Packing of dangerous goods in limited quantities

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

Note

Packed in limited quantities is defined in regulation 13.

51 Package and packaging

- (1) A package of dangerous goods or other goods is the complete product of the packing of the goods for transport, and consists of the goods and their packaging.
- (2) The packaging of the goods is the container in which the goods are received or held for transport, and includes anything that enables the container—
 - (a) to receive or hold the goods; or
 - (b) to be closed.

Notes

- 1 It may be that the container constitutes the whole of the packaging as in the case of a drum in which is directly placed dangerous goods.
- 2 Unlike in United Nations publications relating to the transport of dangerous goods, the term packaging is used in these Regulations in its ordinary meaning. As such, packaging includes inner, outer and composite packaging; overpacks and large packaging; IBCs; MEGCs; tanks; bulk and freight containers; drums; barrels; jerry cans; boxes and bags (see regulation 5).

52 References to Part 4 of the ADG Code include Dangerous Goods List requirements

In this Part, a reference to dangerous goods being packed in accordance with any relevant provision in Part 4 of the ADG Code is to be read as including a reference to the goods being packed in accordance with any packing requirement specified in relation to the goods in the Dangerous Goods List.

Division 2—Suitability and design of packaging

53 Suitability of packaging for transport

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

Example

A freight container would be unsuitable for the transport of dangerous goods if it was not marked with a safety approval plate as required in section 6.8.3.4 of the ADG Code.

- (c) its use, or reuse, for the transport of the goods does not comply with Part 4 or 6 of the ADG Code; or
- (d) its use for the transport of the goods is prohibited by, or does not comply with, a determination made under Division 6 of Part 1; or

- (e) it is incompatible with the goods; or
 - (f) it is damaged or defective to the extent that it is not safe to use to transport the goods.
- (2) A freight container is also unsuitable for use as a bulk container for the transport of dangerous goods if it does not have affixed to it, or is not marked with, a Safety Approval Plate as required under section 6.8.3.4 of the ADG Code.

54 Marking packaging

- (1) A person must not apply any marking required by Part 6 of the ADG Code on packaging if the packaging is not of a design approved under regulation 56.

Penalty: 35 penalty units for a natural person;
175 penalty units for a body corporate.

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

Penalty: 35 penalty units for a natural person;
175 penalty units for a body corporate.

55 Applications for approval of packaging design

- (1) This regulation applies to packaging that is required to undergo performance tests under Part 6 of the ADG Code.

Example

Portable tanks, MEGCs, tanks on tank vehicles, pressure receptacles, aerosol dispensers, IBCs, bulk containers and drums, barrels, jerry cans, boxes, bags and composite packaging are some of the kinds of packaging required to undergo tests under Part 6 of the ADG Code. Performance tests include drop, leakproofness, hydraulic and stacking tests.

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- (2) A person connected with Victoria may apply to the Authority for the approval of a design of packaging to which this regulation applies for use in the transport of dangerous goods.

Note

A *person connected with Victoria* is defined in regulation 17.

- (3) An application for approval must—
- (a) be made in accordance with regulation 175; and
 - (b) include the information required under Part 6 of the ADG Code; and
 - (c) be accompanied by the prescribed fee (if any).

56 Approval of packaging designs

- (1) The Authority may, on application in accordance with regulation 55, approve a design for a packaging for use in the transport of dangerous goods if it is satisfied that a packaging of that design—
- (a) will comply with, or is permitted by, Part 6 of the ADG Code; and
 - (b) satisfies all the relevant testing and inspection requirements set out in that Part.
- (2) In determining whether packaging of a particular design satisfies any particular testing requirement, the Authority may rely on any test certificate issued by a recognised testing facility (as described in regulation 57(1)) that complies with regulation 57.
- (3) In giving its approval, the Authority may impose in relation to the approval any condition about the construction, packing, use or maintenance of a packaging manufactured in accordance with the

design necessary for the safe use of the packaging to transport dangerous goods.

- (4) A person must not construct, pack or fail to maintain packaging for use in the transport of dangerous goods, or use packaging to transport dangerous goods, if the person knows, or ought reasonably to know, that—
- (a) a condition about the construction, packing, maintenance or use of the packaging, as the case may be, was imposed in relation to the approval of the design for the packaging; and
 - (b) the construction, packing, failure to maintain, or use is in contravention of the condition.

Penalty: 35 penalty units for a natural person;
175 penalty units for a body corporate.

57 Test certificates

- (1) The following testing facilities may certify in writing that a packaging design type has passed particular performance tests for particular dangerous goods—
- (a) a testing facility registered by NATA to conduct performance tests under Part 6 of the ADG Code for the packaging design type;
 - (b) if NATA has not registered a testing facility to conduct performance tests of that kind, any other testing facility in Australia capable of conducting the tests;
 - (c) a facility in a foreign country approved by a public authority of the country to conduct performance tests of that kind.

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- (2) If a performance test is conducted by a testing facility registered by NATA, any test certificate or report on the test must—
 - (a) contain any details required under the relevant Chapter of Part 6 of the ADG Code; and
 - (b) be in the appropriate form used by NATA-registered testing facilities.
 - (3) If a performance test is conducted in Australia by any other testing facility—
 - (a) the test must be observed by or for the corresponding Authority; and
 - (b) any test certificate or report on the test must contain any details required under the relevant Chapter of Part 6 of the ADG Code.

58 Approval of overpacks

- (1) The Authority may, on application in accordance with regulation 175, approve a method of preparing an overpack for transport that does not comply with section 5.1.2 of the ADG Code if the Authority is satisfied that the applicant has demonstrated that the risk involved in using the method is not greater than the risk involved in using a method complying with the section.
- (2) In giving its approval, the Authority may impose in relation to the approval any condition about the use of the overpack necessary for the safe use of the overpack to transport dangerous goods.
- (3) A person must not use an overpack to transport dangerous goods if the person knows, or ought reasonably to know, that—

- (a) a condition about the use of the overpack was imposed in relation to the approval of the method of preparing the overpack; and
- (b) the use is in contravention of the condition.

Penalty: 35 penalty units for a natural person;
175 penalty units for a body corporate.

59 Authorised body may issue approvals

- (1) The Authority may authorise a person or body to issue approvals under regulations 56 and 58.
- (2) In giving its authorisation, the Authority may impose any condition it considers appropriate in relation to the issuing of approvals by the person or body.
- (3) In issuing an approval, in addition to complying with any condition imposed under subregulation (2), the person or body must also—
 - (a) comply with any relevant requirements imposed by Part 6 of the ADG Code in relation to the issuing of the approval; and
 - (b) give the Authority, in relation to the approval, all of the information listed in regulation 183.
- (4) If a person or body is authorised to issue approvals under this regulation—
 - (a) regulations 55, 56 and 58 apply as if a reference in those regulations to the Authority was a reference to the person or body; and
 - (b) Divisions 1 and 4 of Part 17 of these Regulations, to the extent that they deal with approvals, apply as if a reference in those Divisions to the Authority was a reference to the person or body; and

- (c) a reference in these regulations to an approval under regulation 56 or 58 includes a reference to an approval issued by the body or other person under regulation 56 or 58 as applied under paragraph (a); and
 - (d) regulations 234(c), (d) and (i) apply as if a reference in regulation 234 to the Authority was a reference to the person or body.
- (5) The Authority may withdraw an authorisation issued under this regulation at any time.
- (6) The withdrawal of an authorisation does not affect any approval issued by the person or body before the withdrawal took effect.

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

60 Offence to sell or supply non-compliant packaging

- (1) A person must not sell, supply, or offer to sell or supply any packaging for use in the transport of particular dangerous goods unless—
- (a) it is packaging of a design that has been approved under regulation 56, and it is marked in accordance with Part 6 (or, if applicable, Chapter 3.4) of the ADG Code, and, according to the marking, its use is appropriate for those goods; or
 - (b) it complies with the relevant requirements of Parts 4 and 6 (or, if applicable, Chapter 3.4) of the ADG Code (including any relevant marking requirements) and its use is appropriate for those goods.

Penalty: 35 penalty units for a natural person;
175 penalty units for a body corporate.

Division 4—Offences relating to general packaging

61 Meaning of general packaging in this Division

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

62 Consignors

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

Penalty: 35 penalty units for a natural person;
175 penalty units for a body corporate.

- (2) A person must not consign dangerous goods for transport in any general packaging if the person knows or ought reasonably to know, that the goods have not been packed in the packaging in accordance with any relevant provision in Part 4 of the ADG Code.

Penalty: 35 penalty units for a natural person;
175 penalty units for a body corporate.

63 Packers

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

Penalty: 35 penalty units for a natural person;
175 penalty units for a body corporate.

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

Penalty: 35 penalty units for a natural person;
175 penalty units for a body corporate.

64 Loaders

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

Penalty: 35 penalty units for a natural person;
175 penalty units for a body corporate.

65 Prime contractors and rail operators

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

Penalty: 35 penalty units for a natural person;
175 penalty units for a body corporate.

66 Drivers

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

Penalty: 18 penalty units.

Division 5—Offences relating to specific packaging

67 Meaning of *specific packaging* in this Division

In this Division, *specific packaging* means MEGCs, portable tanks, demountable tanks, bulk containers, freight containers and tanks on tank vehicles.

68 Manufacturers—compliance plates on portable tanks, MEGCs and tank vehicles

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

Penalty: 35 penalty units for a natural person;
175 penalty units for a body corporate.

- (2) Subregulation (1) does not apply to a person in relation to a portable tank if Chapter 6.7 of the ADG Code permits the marking of the tank instead of the attachment of a compliance plate, and if the tank is marked as required by that Chapter.

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

Penalty: 35 penalty units for a natural person;
175 penalty units for a body corporate.

- (4) A *compliance plate* means a plate that must be attached to a portable tank, MEGC or tank vehicle under Part 6 of the ADG Code, and includes identification plates.

69 Owners—portable tanks, demountable tanks and MEGCs

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

Penalty: 35 penalty units for a natural person;
175 penalty units for a body corporate.

70 Consignors

- (1) A person must not consign dangerous goods for transport in any specific packaging provided by the person if—
- (a) the packaging is unsuitable for the transport of the goods; or
 - (b) the goods have not been packed in the packaging in accordance with any relevant provision in Part 4 of the ADG Code.

Penalty: 35 penalty units for a natural person;
175 penalty units for a body corporate.

- (2) A person must not consign dangerous goods for transport in any specific packaging that was provided by any other person if the person knows or ought reasonably to know—
- (a) the packaging is unsuitable for the transport of the goods; or
 - (b) the goods have not been packed in the packaging in accordance with any relevant provision in Part 4 of the ADG Code.

Penalty: 35 penalty units for a natural person;
175 penalty units for a body corporate.

71 Packers

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

Penalty: 35 penalty units for a natural person;
175 penalty units for a body corporate.

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

Penalty: 35 penalty units for a natural person;
175 penalty units for a body corporate.

72 Loaders

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

Penalty: 35 penalty units for a natural person;
175 penalty units for a body corporate.

73 Prime contractors and rail operators

- (1) A prime contractor or rail operator must not transport dangerous goods in any specific packaging provided by the prime contractor or rail operator if—
- (a) the packaging is unsuitable for the transport of the goods; or

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

Penalty: 35 penalty units for a natural person;
175 penalty units for a body corporate.

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

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

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

Penalty: 35 penalty units for a natural person;
175 penalty units for a body corporate.

74 Road vehicle drivers

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

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

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

Penalty: 35 penalty units.

Division 6—Offences relating to overpacks

75 Consignors

A person must not consign dangerous goods for transport in an overpack if the preparation of the overpack and its contents does not comply with either—

- (a) Part 4 and section 5.1.2 of the ADG Code; or
- (b) an approval under regulation 58.

Penalty: 18 penalty units for a natural person;
90 penalty units for a body corporate.

76 Packers

A person must not pack dangerous goods for transport in an overpack if the person knows, or reasonably ought to know, that the packing of the packages into the overpack, or the preparation of the overpack or its contents, does not comply with either—

- (a) Part 4 and section 5.1.2 of the ADG Code; or
- (b) an approval under regulation 58.

Penalty: 18 penalty units for a natural person;
90 penalty units for a body corporate.

77 Loaders

A person must not load dangerous goods for transport in an overpack on to a vehicle for transport if the person knows, or reasonably ought to know, that the preparation of the overpack and its contents does not comply with either—

- (a) Part 4 and section 5.1.2 of the ADG Code; or
- (b) an approval under regulation 58.

Penalty: 18 penalty units for a natural person;
90 penalty units for a body corporate.

78 Prime contractors and rail operators

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

- (a) Part 4 and section 5.1.2 of the ADG Code; or
- (b) an approval under regulation 58.

Penalty: 18 penalty units for a natural person;
90 penalty units for a body corporate.

79 Drivers

A person must not drive a road vehicle transporting dangerous goods in an overpack if the person knows, or reasonably ought to know, that the preparation of the overpack and its contents does not comply with either—

- (a) Part 4 and section 5.1.2 of the ADG Code; or
- (b) an approval under regulation 58.

Penalty: 11 penalty units.

PART 5—CONSIGNMENT PROCEDURES

Division 1—Marking and labelling

80 Meaning of appropriately marked

- (1) Any receptacle (other than a transport unit or an overpack) that has a capacity of more than 500 kilograms or litres is appropriately marked if it is marked and labelled in accordance with Chapters 5.2 and 5.3.3 of the ADG Code.
- (2) Any other package of dangerous goods (other than an overpack) is appropriately marked if it is marked and labelled in accordance with Chapter 5.2 of the ADG Code.
- (3) An overpack is appropriately marked if it is marked and labelled in accordance with section 5.1.2 of the ADG Code.
- (4) A package of dangerous goods that are packed in limited quantities is also appropriately marked if it is marked and labelled in accordance with Chapter 3.4 of the ADG Code.
- (5) A package of dangerous goods that are to be transported as a retail distribution load in accordance with Chapter 7.3 of the ADG Code is also appropriately marked if it is marked and labelled in accordance with that Chapter.

81 Consignors

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

Penalty: (a) for large packaging or overpack—
18 penalty units for a natural person;
90 penalty units for a body corporate;

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- (b) in any other case—
6 penalty units for a natural person;
30 penalty units for a body corporate.
- (2) A person must not consign dangerous goods for transport in a package if a marking or label on the package about its contents is false or misleading in a material particular.
- Penalty: (a) for large packaging or overpack—
18 penalty units for a natural person;
90 penalty units for a body corporate;
- (b) in any other case—
6 penalty units for a natural person;
30 penalty units for a body corporate.
- (3) A person must not consign goods for transport in a package that does not contain dangerous goods but is marked or labelled as if it contained dangerous goods.
- Penalty: (a) for large packaging or overpack—
18 penalty units for a natural person;
90 penalty units for a body corporate;
-

(b) in any other case—

6 penalty units for a natural person;

30 penalty units for a body corporate.

82 Packers

- (1) A person must not pack dangerous goods for transport in a package if the person knows, or reasonably ought to know, that the package is not, or will not be once the package is ready to be transported, appropriately marked.

Penalty: (a) for large packaging or overpack—

18 penalty units for a natural person;

90 penalty units for a body corporate;

(b) in any other case—

6 penalty units for a natural person;

30 penalty units for a body corporate.

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

Penalty: (a) for large packaging or overpack—

18 penalty units for a natural person;

90 penalty units for a body corporate;

(b) in any other case—

6 penalty units for a natural person;

30 penalty units for a body corporate.

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

Penalty: (a) for large packaging or overpack—

18 penalty units for a natural person;

90 penalty units for a body corporate;

(b) in any other case—

6 penalty units for a natural person;

30 penalty units for a body corporate.

83 Prime contractors and rail operators

(1) A prime contractor or rail operator must not transport goods in a package if the prime contractor or rail operator knows, or reasonably ought to know, that—

(a) the goods are dangerous goods; and

(b) the package is not appropriately marked.

Penalty: (a) for large packaging or overpack—

18 penalty units for a natural person;

90 penalty units for a body corporate;

(b) in any other case—

6 penalty units for a natural person;

30 penalty units for a body corporate.

(2) A prime contractor or rail operator must not transport dangerous goods in a package if the prime contractor or rail operator knows, or reasonably ought to know, that a marking or label on the package about its contents is false or misleading in a material particular.

Penalty: (a) for large packaging or overpack—

18 penalty units for a natural person;

90 penalty units for a body corporate;

(b) in any other case—

6 penalty units for a natural person;

30 penalty units for a body corporate.

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

Penalty: (a) for large packaging or overpack—

18 penalty units for a natural person;

90 penalty units for a body corporate;

(b) in any other case—

6 penalty units for a natural person;

30 penalty units for a body corporate.

Division 2—Placarding

84 When a load is a placard load

(1) A load of dangerous goods is a placard load if—

(a) it comprises—

(i) dangerous goods in a receptacle with a capacity of more than 500 litres; or

(ii) more than 500 kilograms of dangerous goods in a receptacle; or

(b) it comprises an aggregate quantity of dangerous goods of 250 or more and those goods include—

(i) dangerous goods of Division 2.1 that are not aerosols; or

(ii) dangerous goods of Division 2.3; or

(iii) dangerous goods of Packing Group I; or

(c) it comprises an aggregate quantity of dangerous goods of 1000 or more.

(2) A retail distribution load that complies with Chapter 7.3 of the ADG Code is not a placard load.

85 Meaning of appropriately placarded

(1) A person placards a load of dangerous goods if the person affixes, stencils, prints or places a label (as defined in the ADG Code) or an emergency information panel (as defined in section 5.3.1.3 of the ADG Code) in relation to the load on any

thing that is being, or that is to be, used to transport the load.

- (2) In this Division, a placard load is appropriately placarded if it is placarded in accordance with Chapter 5.3 of the ADG Code.

86 Consignors

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

Penalty: 53 penalty units for a natural person;
265 penalty units for a body corporate.

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

Penalty: 53 penalty units for a natural person;
265 penalty units for a body corporate.

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

Penalty: 53 penalty units for a natural person;
265 penalty units for a body corporate.

87 Loaders

- (1) A person who loads dangerous goods onto a vehicle for transport must ensure that the load is appropriately placarded, if the person knows, or reasonably ought to know, that the goods are a placard load.

Penalty: 53 penalty units for a natural person;
265 penalty units for a body corporate.

- (2) A person who loads a placard load onto a vehicle for transport must not placard the load with placarding that the person knows, or reasonably ought to know, is false or misleading in a material particular.

Penalty: 53 penalty units for a natural person;
265 penalty units for a body corporate.

- (3) A person who loads goods onto a vehicle for transport must not placard the load as if it was a placard load if the person knows, or reasonably ought to know, that the load does not contain dangerous goods.

Penalty: 53 penalty units for a natural person;
265 penalty units for a body corporate.

88 Prime contractors and rail operators

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

- (a) the goods are a placard load; and
- (b) the load is not appropriately placarded.

Penalty: 53 penalty units for a natural person;
265 penalty units for a body corporate.

- (2) A prime contractor or rail operator must not transport a placard load if the prime contractor or rail operator knows, or reasonably ought to know, that the placarding of the load is false or misleading in a material particular.

Penalty: 53 penalty units for a natural person;
265 penalty units for a body corporate.

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

Penalty: 53 penalty units for a natural person;
265 penalty units for a body corporate.

89 Drivers

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

- (a) the goods are a placard load; and
- (b) the load is not appropriately placarded.

Penalty: 27 penalty units.

- (2) A person must not drive a road vehicle transporting a placard load if the person knows, or reasonably ought to know, that the placarding of the load is false or misleading in a material particular.

Penalty: 27 penalty units.

- (3) A person must not drive a road vehicle that is, or that incorporates, a transport unit that is placarded as if it was a placard load if the person knows or reasonably ought to know, that the load does not contain dangerous goods.

Penalty: 27 penalty units.

PART 6—SAFETY STANDARDS—VEHICLES AND EQUIPMENT

90 Owners

The owner of a vehicle must not use the vehicle, or permit it to be used, to transport dangerous goods if the vehicle or its equipment does not comply with Chapter 4.4 of the ADG Code.

Penalty: 35 penalty units for a natural person;
175 penalty units for a body corporate.

91 Consignors

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

Penalty: 35 penalty units for a natural person;
175 penalty units for a body corporate.

92 Loaders

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

Penalty: 27 penalty units for a natural person;
135 penalty units for a body corporate.

93 Prime contractors and rail operators

A prime contractor or rail operator must not use a vehicle to transport dangerous goods if the vehicle or its equipment does not comply with Chapter 4.4 of the ADG Code.

Penalty: 35 penalty units for a natural person;
175 penalty units for a body corporate.

94 Drivers

A person must not drive a road vehicle transporting dangerous goods if the person knows, or reasonably ought to know, that the vehicle or its equipment does not comply with Chapters 4.4 of the ADG Code.

Penalty: 27 penalty units.

**PART 7—TRANSPORT OPERATIONS RELATING TO
CERTAIN DANGEROUS GOODS**

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

95 Application

This Division applies to the transport of the following types of dangerous goods set out in the ADG Code—

- (a) gases of Class 2;
- (b) self-reactive substances of Division 4.1;
- (c) organic peroxides of Division 5.2;
- (d) other substances stabilised by temperature control for which—
 - (i) the proper shipping name contains the word "STABILISED"; and
 - (ii) the self-accelerating decomposition temperature (as determined in accordance with Part 2 of the ADG Code) when presented for transport in a packaging is 50°C or lower;
- (e) toxic substances of Division or Subsidiary Risk 6.1;
- (f) dangerous when wet substances of Division 4.3.

96 Consignors

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

Penalty: 18 penalty units for a natural person;
90 penalty units for a body corporate.

97 Loaders

A person must not load dangerous goods to which this Division applies that are in a transport unit onto a vehicle for transport other than in accordance with Chapter 7.1 of the ADG Code.

Penalty: 18 penalty units for a natural person;
90 penalty units for a body corporate.

98 Prime contractors and rail operators

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

Penalty: 18 penalty units for a natural person;
90 penalty units for a body corporate.

99 Drivers

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

Penalty: 11 penalty units.

Division 2—Goods too dangerous to be transported

Note

Section 31A of the Act provides for the duties of consignors of goods too dangerous to be transported, prescribes the people who are to be regarded as the consignors of such goods and provides for the relevant offence and penalty for consigning them for transport.

100 Application

This Division applies to goods too dangerous to be transported.

101 Loaders

A person must not load dangerous goods for transport in or on a transport unit if the person knows, or reasonably ought to know, that the dangerous goods are goods that are too dangerous to be transported.

Penalty: 18 penalty units for a natural person;
90 penalty units for a body corporate.

102 Prime contractors and rail operators

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

Penalty: 18 penalty units for a natural person;
90 penalty units for a body corporate.

103 Drivers

A person must not drive a vehicle transporting dangerous goods if the person knows, or reasonably ought to know, that the dangerous goods are goods that are too dangerous to be transported.

Penalty: 11 penalty units.

PART 8—STOWAGE AND RESTRAINT

104 Consignors

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

Penalty: 18 penalty units for a natural person;
90 penalty units for a body corporate.

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

Penalty: 18 penalty units for a natural person;
90 penalty units for a body corporate.

105 Loaders

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

Penalty: 18 penalty units for a natural person;
90 penalty units for a body corporate.

- (2) A person who loads for transport in or on a vehicle dangerous goods that are in a transport unit must ensure that the transport unit is restrained in accordance with Chapter 8.2 of the ADG Code.

Penalty: 18 penalty units for a natural person;
90 penalty units for a body corporate.

106 Prime contractors and rail operators

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

Penalty: 18 penalty units for a natural person;
90 penalty units for a body corporate.

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

Penalty: 18 penalty units for a natural person;
90 penalty units for a body corporate.

107 Drivers

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

Penalty: 11 penalty units.

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

Penalty: 11 penalty units.

PART 9—SEGREGATION

108 Application of Part

- (1) This Part applies to—
- (a) the transport of a placard load; and
 - (b) the transport of a load of dangerous goods that is not a placard load if the load contains dangerous goods of Division 2.3, Class 6 or Class 8, or dangerous goods that have a Subsidiary Risk of 6.1 or 8, that are being, or are to be, transported with food or food packaging.
- (2) Dangerous goods packed in limited quantities do not need to comply with this Part.

109 Exception for certain goods for driver's personal use

Despite regulations 110 to 114, food and food packaging may be transported on a road vehicle with dangerous goods if the food or packaging is in the road vehicle's cabin and is for the driver's personal use.

110 Consignors

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

- (a) the vehicle is, in the same journey, transporting incompatible goods; and
- (b) the dangerous goods will not be segregated from the incompatible goods in accordance with either—
 - (i) Part 9 of the ADG Code; or
 - (ii) any approval under regulation 116.

Penalty: 35 penalty units for a natural person;
175 penalty units for a body corporate.

111 Loaders

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

- (a) the vehicle is, in the same journey, transporting incompatible goods; and
- (b) the dangerous goods will not be segregated from the incompatible goods in accordance with either—
 - (i) Part 9 of the ADG Code; or
 - (ii) any approval under regulation 116.

Penalty: 35 penalty units for a natural person;
175 penalty units for a body corporate.

112 Prime contractors

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

- (a) the road vehicle is, in the same journey, transporting incompatible goods; and
- (b) the dangerous goods are not segregated from the incompatible goods in accordance with either—
 - (i) Part 9 of the ADG Code; or
 - (ii) any approval under regulation 116.

Penalty: 35 penalty units for a natural person;
175 penalty units for a body corporate.

113 Rail operators

A rail operator must not use a train to transport dangerous goods if the person knows, or reasonably ought to know, that—

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- (a) the train is, in the same journey, transporting incompatible goods; and
- (b) the dangerous goods are not segregated from the incompatible goods in accordance with either—
 - (i) Part 9 of the ADG Code; or
 - (ii) any approval under regulation 116.

Penalty: 35 penalty units for a natural person;
175 penalty units for a body corporate.

114 Drivers

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

- (a) the road vehicle is, in the same journey, transporting incompatible goods; and
- (b) the dangerous goods are not segregated from the incompatible goods in accordance with either—
 - (i) Part 9 of the ADG Code; or
 - (ii) any approval under regulation 116.

Penalty: 11 penalty units.

115 Approvals—Type II segregation devices

- (1) An application for approval of a design for a Type II segregation device for use in the transport of dangerous goods must—
 - (a) include any information required under Chapter 6.11 of the ADG Code; and
 - (b) be accompanied by the prescribed fee (if any).

-
- (2) The Authority may, on application in accordance with subregulation (1) and regulation 175, approve a design for a Type II segregation device if the design complies with Chapter 6.11 of the ADG Code.

116 Approvals—methods of segregation

- (1) The Authority may, on application made in accordance with regulation 175, approve a method of segregation not complying with Part 9 of the ADG Code for transporting dangerous and incompatible goods by road, if the Authority is satisfied the applicant has demonstrated that—
- (a) it is impracticable to segregate the goods by a segregation device, or method of segregation, complying with that Part; and
 - (b) the risk involved in using the method to transport the goods by road is not greater than the risk involved in using a device or method complying with that Part to transport the goods by road.
- (2) In giving its approval, the Authority may impose in relation to the approval any condition necessary for the safe transport of dangerous goods.
- (3) A person to whom an approval has been given must not contravene a condition of the approval.

Penalty: 35 penalty units for a natural person;
175 penalty units for a body corporate.

PART 10—BULK TRANSFER OF DANGEROUS GOODS

Division 1—General

117 Meaning of bulk transfer

In this Part—

bulk transfer means the transfer by gravity, pump or pressure differential of liquid, solid or gaseous dangerous goods, by the use of pipework or hose, into or out of a tank vehicle, or into or out of a portable tank, demountable tank, bulk container, pressure drum, tube, MEGC or IBC that is on a vehicle.

Division 2—Equipment and transfer

118 When must hose assemblies not be used?

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

Penalty: 27 penalty units for a natural person;
135 penalty units for a body corporate.

- (2) A person must not use a hose assembly for the bulk transfer of dangerous goods if the person knows, or reasonably ought to know, that the hose assembly—
- (a) has not been constructed, assembled or maintained in accordance with Chapter 10.1 of the ADG Code; or
 - (b) has not been inspected or tested at the intervals, or in the way, required under that Chapter; or

(c) did not satisfy a test under that Chapter.

Penalty: 35 penalty units for a natural person;
175 penalty units for a body corporate.

119 Bulk transfer of dangerous goods

- (1) A person engaged in the bulk transfer of dangerous goods must ensure, so far as is practicable, that the goods are transferred—
- (a) in accordance with Chapter 10.2 of the ADG Code; and
 - (b) in a way that eliminates risk, or if it is not possible to eliminate risk, that minimises the risk to the maximum extent that is practicable.

Penalty: 18 penalty units for a natural person;
90 penalty units for a body corporate.

- (2) A person engaged in the bulk transfer of dangerous goods must not transfer dangerous goods if the person knows, or reasonably ought to know, that—
- (a) the receiving receptacle or the transfer equipment is incompatible with the dangerous goods; or
 - (b) the receptacle contains incompatible goods.

Penalty: 18 penalty units for a natural person;
90 penalty units for a body corporate.

- (3) If dangerous goods leak, spill or accidentally escape during a bulk transfer, the person transferring the goods—
- (a) must immediately stop transferring the goods; and
 - (b) must take all practicable steps to avert, eliminate or minimise risk; and

- (c) must not start transferring the goods again until the conditions causing the leak, spill or escape have been rectified.

Penalty: 18 penalty units for a natural person;
90 penalty units for a body corporate.

120 Occupiers

- (1) The occupier of premises where the bulk transfer of dangerous goods occurs must ensure that any hose assembly on the premises that is used, or that is intended to be used, for the transfer (other than a hose assembly brought on to the premises on the vehicle involved in the transfer)—

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

Penalty: 18 penalty units for a natural person;
90 penalty units for a body corporate.

- (2) The occupier of premises where the bulk transfer of dangerous goods occurs must ensure, so far as is practicable, that the goods are transferred—

- (a) in accordance with Chapter 10.2 of the ADG Code; and
- (b) in a way that averts, eliminates or minimises risk.

Penalty: 35 penalty units for a natural person;
175 penalty units for a body corporate.

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- (3) The occupier must keep, in accordance with section 10.1.3.4 of the ADG Code, accurate records of all maintenance work, and each inspection and test, carried out on the hose assembly.

Penalty: 6 penalty units for a natural person;
30 penalty units for a body corporate.

121 Prime contractors

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

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

Penalty: 18 penalty units for a natural person;
90 penalty units for a body corporate.

- (2) A prime contractor engaged in the bulk transfer of dangerous goods must ensure, so far as is practicable, that dangerous goods are transferred—

- (a) in accordance with Chapter 10.2 of the ADG Code; and
- (b) in a way that averts, eliminates or minimises risk.

Penalty: 35 penalty units for a natural person;
175 penalty units for a body corporate.

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

Penalty: 6 penalty units.

122 Rail operators

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

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

Penalty: 18 penalty units for a natural person;
90 penalty units for a body corporate.

Division 3—Filling ratio and ullage

123 Application of Division

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

124 Filling ratio and ullage limit not to be exceeded

A person engaged in the bulk transfer of dangerous goods must ensure, so far as is practicable, that—

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

Penalty: 18 penalty units for a natural person;
90 penalty units for a body corporate.

125 Prime contractors and rail operators

A prime contractor or rail operator must not transport dangerous goods in a tank if—

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

Penalty: 18 penalty units for a natural person;
90 penalty units for a body corporate.

126 Drivers

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

- (a) for dangerous goods of Class 2 that are not in the form of refrigerated liquid, the quantity of goods in the tank exceeds the maximum permitted filling ratio set out in section 10.3.2 of the ADG Code; or

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

Penalty: 18 penalty units.

PART 11—DOCUMENTATION

Division 1—Transport documentation

127 False or misleading information

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

Example

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

Penalty: 35 penalty units for a natural person;
175 penalty units for a body corporate.

128 Consignors—transport by road

- (1) A person must not consign dangerous goods for transport in or on a road vehicle if the prime contractor or driver of the road vehicle does not have transport documentation for the goods.

Note

Transport documentation is defined in regulation 5.

Penalty: 11 penalty units for a natural person;
55 penalty units for a body corporate.

- (2) A person must not consign dangerous goods for transport by road if—
- (a) the person knows, or reasonably ought to know, that the goods will be divided into, and transported in, separate loads; and

- (b) the prime contractor, or the driver of each road vehicle transporting the load, has not been given separate transport documentation for each load.

Penalty: 11 penalty units for a natural person;
55 penalty units for a body corporate.

129 Consignors—transport by rail

- (1) A person must not consign dangerous goods for transport in or on a unit of rolling stock if the rail operator does not have transport documentation for the goods.

Penalty: 11 penalty units for a natural person;
55 penalty units for a body corporate.

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

130 Prime contractors

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

Penalty: 18 penalty units for a natural person;
90 penalty units for a body corporate.

131 Rail operators

- (1) A rail operator must not transport dangerous goods by rail unless the driver of the train transporting the goods has been given transport documentation for the goods.

Penalty: 18 penalty units for a natural person;
90 penalty units for a body corporate.

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

132 Drivers

- (1) The driver of a road vehicle transporting dangerous goods must carry transport documentation for the goods.

Penalty: 11 penalty units.

- (2) The driver of a road vehicle transporting dangerous goods must produce the transport documentation for the goods for inspection by an inspector or an officer of an emergency service, if requested by that inspector or officer.

Penalty: 11 penalty units.

133 Train drivers

- (1) A person must not drive a train, from a depot or yard, that the person knows, or reasonably ought to know, is transporting dangerous goods, if the person does not have transport documentation for the goods.

Penalty: 11 penalty units.

- (2) A train driver transporting dangerous goods must produce the transport documentation for the goods for inspection by an inspector or an officer of an emergency service, if requested by that inspector or officer.

Penalty: 11 penalty units.

- (3) This regulation does not apply if the train driver transporting dangerous goods is in a depot or yard, or is engaged in shunting operations, and the transport documentation for the goods is readily available elsewhere in the immediate vicinity of the depot, yard, or those operations.

Division 2—Emergency information

134 Meaning of required emergency information

In this Division—

required emergency information means—

- (a) emergency information that complies with Chapter 11.2 of the ADG Code; or
- (b) emergency information that is approved under regulation 140.

135 Consignors

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

Penalty: 11 penalty units for a natural person;
55 penalty units for a body corporate.

136 Prime contractors

- (1) A prime contractor must not use a road vehicle to transport a placard load if the road vehicle is not equipped with an emergency information holder that complies with Chapter 11.2 of the ADG Code.

Penalty: 18 penalty units for a natural person;
90 penalty units for a body corporate.

- (2) A prime contractor must not use a road vehicle to transport a placard load if the required emergency information for the dangerous goods in the load is not in the holder.

Penalty: 18 penalty units for a natural person;
90 penalty units for a body corporate.

137 Rail operators

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

Penalty: 18 penalty units for a natural person;
90 penalty units for a body corporate.

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

138 Drivers

- (1) A person must not drive a road vehicle transporting a placard load if the road vehicle is not equipped with an emergency information holder that complies with Chapter 11.2 of the ADG Code.

Penalty: 11 penalty units.

- (2) A person must not drive a road vehicle transporting a placard load if the required emergency information for the dangerous goods in the load provided by the consignor of the goods, or by the prime contractor for the transport of the goods, is not in the holder.

Penalty: 6 penalty units.

- (3) The driver of a road vehicle transporting a placard load must ensure that the road vehicle's emergency information holder contains only—

- (a) the required emergency information for the dangerous goods in the load; and
- (b) the transport documentation for the goods.

Penalty: 11 penalty units.

- (4) The driver of a road vehicle transporting a placard load must produce the required emergency information for the dangerous goods in the load for inspection by an inspector or an officer of an emergency service, if that person asks the driver to produce the information for inspection.

Penalty: 6 penalty units.

139 Train drivers

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

Penalty: 11 penalty units.

- (2) A train driver transporting a placard load must produce the required emergency information for the dangerous goods in the load for inspection by an inspector or an officer of an emergency service, if that person asks the driver to produce the information for inspection.

Penalty: 11 penalty units.

- (3) Subregulations (1) and (2) do not apply if the train driver transporting dangerous goods is in a depot or yard, or is engaged in shunting operations and the required emergency information for the dangerous goods in the load is readily available elsewhere in the immediate vicinity of the depot, yard or those operations.

140 Approvals—emergency information

The Authority may, on application in accordance with regulation 175 or on the Authority's own initiative, approve emergency information that does not comply with Chapter 11.2 of the ADG Code if the Authority considers that use of the information would be as accurate, and at least as convenient and efficient, as information that complies with the Chapter.

PART 12—SAFETY EQUIPMENT

141 Owners

The owner of a road vehicle must not use the road vehicle, or permit the road vehicle to be used, to transport a placard load if the road vehicle is not equipped with—

- (a) fire extinguishers and portable warning devices that comply with Part 12 of the ADG Code; and
- (b) any other equipment required under that Part.

Penalty: 35 penalty units for a natural person;
175 penalty units for a body corporate.

142 Prime contractors

- (1) A prime contractor must not use a road vehicle to transport a placard load if the road vehicle is not equipped with—

- (a) fire extinguishers and portable warning devices that comply with Part 12 of the ADG Code; and
- (b) any other equipment required under that Part.

Penalty: 35 penalty units for a natural person;
175 penalty units for a body corporate.

- (2) A prime contractor must not use a road vehicle to transport a placard load if the prime contractor knows, or reasonably ought to know, that the equipment for the road vehicle mentioned in subregulation (1) has not been inspected or tested in accordance with the Part.

Penalty: 35 penalty units for a natural person;
175 penalty units for a body corporate.

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- (3) A prime contractor must not use a road vehicle to transport a placard load if the prime contractor knows, or reasonably ought to know, that the equipment for the road vehicle mentioned in subregulation (1) is not in good repair or is not in proper working order.

Penalty: 35 penalty units for a natural person;
175 penalty units for a body corporate.

143 Drivers

- (1) A person must not drive a road vehicle transporting a placard load if the road vehicle is not equipped with—
- (a) fire extinguishers and portable warning devices that comply with Part 12 of the ADG Code; and
 - (b) any other equipment required under that Part.

Penalty: 11 penalty units.

- (2) A person must not drive a road vehicle transporting a placard load if the person knows, or reasonably ought to know, that the equipment for the road vehicle mentioned in subregulation (1) is not stowed in accordance with Part 12 of the ADG Code.

Penalty: 11 penalty units.

- (3) A person must not drive a road vehicle transporting a placard load if the person knows, or reasonably ought to know, that the equipment for the road vehicle mentioned in subregulation (1) has not been inspected or tested in accordance with Part 12 of the ADG Code.

Penalty: 11 penalty units.

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- (4) A person must not drive a road vehicle transporting a placard load if the person knows, or reasonably ought to know, that the equipment for the road vehicle mentioned in subregulation (1) is not in good repair or is not in proper working order.

Penalty: 11 penalty units.

PART 13—PROCEDURES DURING TRANSPORT

Division 1—Immobilised and stopped vehicles

144 Drivers

- (1) This regulation applies if a road vehicle transporting a placard load—
 - (a) is broken down or otherwise immobilised or stationary on a road; and
 - (b) is a traffic hazard.

Note

Stationary includes a scheduled stop for the purpose of unloading or other purposes. If that occurs on a road with traffic creating a traffic hazard, then subregulation (2) applies.

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

Penalty: 6 penalty units.

145 Prime contractors

- (1) This regulation applies if a prime contractor becomes aware that a road vehicle transporting a placard load for the prime contractor has broken down or is otherwise immobilised on a road.
- (2) The prime contractor must, as soon as practicable, ensure that the road vehicle is—
 - (a) repaired so that it can be driven safely off the road; or
 - (b) towed to a place where it can be repaired.

Penalty: 18 penalty units for a natural person;
90 penalty units for a body corporate.

- (3) The prime contractor must—
- (a) remove the dangerous goods from the road vehicle before the road vehicle is repaired or towed; and
 - (b) transport the dangerous goods from the place of the breakdown or immobilisation.
- Penalty: 18 penalty units for a natural person;
90 penalty units for a body corporate.
- (4) It is a defence to a prosecution for an offence against subregulation (3) if the prime contractor can prove, on the balance of probabilities, that the risk involved in complying with paragraphs (a) and (b) was greater than the risk involved in not complying with the paragraphs.

146 Rail operators

If a train transporting a placard load fails or is otherwise immobilised, the rail operator must, as soon as practicable, take all appropriate steps to ensure that a dangerous situation does not arise.

Note

Dangerous situation is defined in regulation 5.

Penalty: 18 penalty units for a natural person;
90 penalty units for a body corporate.

Division 2—Road vehicles—driver's duties

147 Driving

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

Penalty: 6 penalty units.

148 Parking

The driver of a road vehicle transporting a placard load must not park the road vehicle, or leave the road vehicle standing, in a public or private place except in accordance with Part 13 of the ADG Code.

Penalty: 11 penalty units.

149 Control of ignition sources

(1) This regulation applies if—

- (a) a road vehicle is transporting a load that contains dangerous goods that are Division 2.1, Class 3, 4 or 5 dangerous goods or dangerous goods that have a subsidiary risk of 2.1, 3, 4 or 5.1; and
- (b) the dangerous goods described in paragraph (a) are in a receptacle with a capacity of more than 500 litres or there are more than 500 kilograms of those dangerous goods in a receptacle.

(2) The driver of the road vehicle must not—

- (a) have matches or a cigarette lighter in his or her possession in the road vehicle; or
- (b) smoke in the road vehicle.

Penalty: 35 penalty units.

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

- (a) have matches or a cigarette lighter in his or her possession; or
- (b) smoke.

Penalty: 35 penalty units.

150 Unloading

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

Penalty: 35 penalty units.

151 Detaching a trailer

The driver of a road vehicle that has attached to it a trailer transporting a placard load must not detach the trailer or permit it to be detached from the vehicle except in accordance with Part 13 of the ADG Code.

Penalty: 35 penalty units.

152 Road tank vehicle equipped with burner

The driver of a road tank vehicle that is transporting a placard load and that is equipped with a burner must not operate the burner to heat the load or permit it to be operated except in accordance with Part 13 of the ADG Code.

Penalty: 35 penalty units.

PART 14—EMERGENCIES

Division 1—Emergencies generally

153 Drivers of road vehicles or trains

- (1) Drivers of road vehicles and rail operators are prescribed persons for the purposes of section 32(1) of the Act.

Notes

- 1 Under section 32(1) of the Act a driver of a road vehicle or a rail operator must, without delay, report to the nearest fire authority or police station any fire, explosion, spillage, leakage or escape involving dangerous goods in the ownership, possession or control of that person.
- 2 Part 5 of the **Occupational Health and Safety Act 2004** also contains obligations on employers and self-employed persons in relation to incident notification.
- (2) If a road vehicle transporting dangerous goods is involved in an incident resulting in a dangerous situation, the driver of the vehicle must—
- (a) notify the prime contractor of the incident as soon as practicable; and
 - (b) provide any reasonable assistance required by an inspector, or an officer of an emergency service, to deal with the situation.

Reg. 153(2)(b)
amended by
S.R. No.
37/2011
reg. 239(1)(a).

Penalty: 11 penalty units.

- (3) If a train transporting dangerous goods is involved in an incident resulting in a dangerous situation, the driver of the train must—
- (a) notify the rail operator of the incident as soon as practicable; and

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Reg. 153(3)(b)
amended by
S.R. No.
37/2011
reg. 239(1)(b).

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

Penalty: 11 penalty units.

154 Prime contractors and rail operators—food or food packaging

- (1) This regulation applies if—
- (a) an incident involving a vehicle transporting dangerous goods results in the leakage, spillage or accidental escape of the dangerous goods, or in a fire or explosion; and
 - (b) there is food or food packaging in the vicinity of the incident that is within the control of a prime contractor or rail operator.
- (2) If the vehicle involved is a road vehicle, the prime contractor must ensure that the food or food packaging is not transported from the site of the incident unless given permission to do so by the Authority.

Penalty: 35 penalty units for a natural person;
175 penalty units for a body corporate.

- (3) If the vehicle involved is a train, the rail operator must deal with the food or food packaging as directed by the Authority.

Penalty: 35 penalty units for a natural person;
175 penalty units for a body corporate.

- (4) A permission under subregulation (2) or a direction under subregulation (3) means a document that—

- (a) is in writing; and

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- (b) states the name of the person to whom it is given; and
 - (c) identifies the relevant incident; and
 - (d) identifies the food or food packaging to which it relates; and
 - (e) takes into consideration any requirements of the appropriate food and health authorities; and
 - (f) may contain any other information that the Authority considers necessary.

Division 2—Emergencies involving placard loads

155 Telephone advisory service

- (1) In this regulation—

telephone advisory service, for the transport of dangerous goods, means a service providing access by a continuously monitored telephone (which is not located on the carrying vehicle or train) to a person competent to give advice about—

- (a) the construction and properties of the receptacles in which the dangerous goods are being transported; and
- (b) the use of equipment on vehicles on which the dangerous goods are being transported; and
- (c) the properties of the dangerous goods; and
- (d) methods of safely handling the dangerous goods; and
- (e) methods of safely containing and controlling the dangerous goods in a dangerous situation.

- (2) A prime contractor or rail operator must not transport a load of—
- (a) dangerous goods in a receptacle with a capacity of more than 500 litres; or
 - (b) more than 500 kilograms of dangerous goods in a receptacle—
- if a telephone advisory service is not available during the journey.
- Penalty: 35 penalty units for a natural person;
175 penalty units for a body corporate.
- (3) A person must not consign a load of—
- (a) dangerous goods in a receptacle with a capacity of more than 500 litres; or
 - (b) more than 500 kilograms of dangerous goods in a receptacle—
- if a telephone advisory service is not available during the journey.
- Penalty: 35 penalty units for a natural person;
175 penalty units for a body corporate.
- (4) A telephone advisory service may be provided by the prime contractor, rail operator or consignor, or someone else on behalf of the prime contractor, rail operator or consignor.

156 Emergency plans

- (1) 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 SCOTI.

Reg. 156(1)
def. of
*emergency
plan*
amended by
S.R. No.
125/2013
reg. 7.

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- (2) A prime contractor or rail operator must not transport a placard load if the prime contractor or rail operator does not have an emergency plan for the transport of the goods.

Penalty: 35 penalty units for a natural person;
175 penalty units for a body corporate.

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

Penalty: 35 penalty units for a natural person;
175 penalty units for a body corporate.

157 Consignors—information and resources

- (1) This regulation applies if a vehicle transporting a placard load is involved in an incident resulting in a dangerous situation.

- (2) As soon as practicable after being asked by an inspector or an officer of an emergency service, the consignor of the goods must—

(a) provide any information that the inspector or officer requires about—

- (i) the properties of the dangerous goods being transported; and
- (ii) safe methods of handling the goods; and
- (iii) safe methods of containing and controlling the goods in a dangerous situation; and

- (b) provide the equipment and other resources necessary—
 - (i) to control the dangerous situation; and
 - (ii) to contain, control, recover and dispose of dangerous goods that have leaked, spilled or accidentally escaped.

Penalty: 18 penalty units for a natural person;
90 penalty units for a body corporate.

- (3) If the prime contractor and the consignor, or the rail operator and the consignor, of the dangerous goods are asked to give the same information or provide the same resources for the incident, it is sufficient if the consignor or, as the case may be, the prime contractor or the rail operator gives the information or provides the resources.

158 Prime contractors and rail operators—information and resources

- (1) This regulation applies if a vehicle transporting a placard load is involved in an incident resulting in a dangerous situation.
- (2) As soon as practicable after being asked by an inspector or an officer of an emergency service, the prime contractor or rail operator must—
 - (a) provide any information that the inspector or officer requires about the vehicle's construction, properties and equipment; and
 - (b) provide the equipment and other resources necessary—
 - (i) to control the dangerous situation; and
 - (ii) to recover a vehicle involved in the situation or its equipment.

Penalty: 18 penalty units for a natural person;
90 penalty units for a body corporate.

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- (3) If the prime contractor and the consignor, or the rail operator and the consignor, of the dangerous goods are asked to give the same information or provide the same resources for the incident, it is sufficient if the consignor gives the information or provides the resources.
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PART 15—MUTUAL RECOGNITION

**Division 1—Registers of determinations, exemptions,
approvals and licences**

159 Registers

This Division applies to each of the following—

- (a) the register of determinations kept under regulation 35;
- (b) the register of exemptions kept under regulation 172;
- (c) the register of approvals kept under regulation 182;
- (d) the register of dangerous goods driver licences kept under regulation 221(1);
- (e) the register of dangerous goods vehicle licences kept under regulation 221(2).

160 Registers may be kept electronically

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

161 Inspection of registers

- (1) The Authority must ensure that each register is available for inspection by corresponding Authorities and the public.
- (2) The 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.

**Division 2—Recommendations by Authority and
corresponding Authorities**

162 Recommendations by Authority

- (1) This regulation applies if the Authority considers that a ground exists for a corresponding Authority to do any of the following (the *proposed action*)—
 - (a) revoke or amend a corresponding determination that is not a corresponding administrative determination;
 - (b) revoke or amend a corresponding administrative determination;
 - (c) revoke or amend a corresponding approval or a corresponding exemption;
 - (d) revoke, suspend or amend a corresponding dangerous goods driver licence or a corresponding dangerous goods vehicle licence.
- (2) The Authority may recommend, in writing, that the corresponding Authority take the proposed action.
- (3) The 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 Authority must also refer the recommendation to CAP.

163 Recommendations by corresponding Authorities

- (1) This regulation applies if a corresponding Authority recommends to the Authority in writing that the Authority do any of the following—
 - (a) revoke or amend a determination that is not an administrative determination;

- (b) revoke or amend an administrative determination;
 - (c) revoke or amend an approval or exemption;
 - (d) revoke, suspend or amend 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 Authority need not take any action on the recommendation until CAP has considered the recommendation.
- (3) In any other case the Authority must have regard to the recommendation.

Division 3—Mutual recognition of determinations, exemptions, approvals and licences

164 Corresponding determinations

- (1) This regulation applies to a determination made by a corresponding Authority if—
- (a) the determination is made under a provision of the law of the other jurisdiction corresponding to a provision (the relevant provision) of regulation 30 or 31; and
 - (b) the determination has effect in the other jurisdiction; and
 - (c) either—
 - (i) CAP has decided that the determination should have effect in all participating jurisdictions or participating jurisdictions including Victoria and CAP has not subsequently reversed the decision; or

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- (ii) the determination is an administrative determination.
 - (2) The determination has effect in Victoria as if it were a determination made by the Authority under the relevant provision.

165 Corresponding exemptions

- (1) This regulation applies to an exemption issued by a corresponding Authority if—
 - (a) the exemption is issued for a provision of the law of the other jurisdiction corresponding to a provision (the *relevant provision*) of these Regulations, and
 - (b) the exemption has effect in the other jurisdiction; and
 - (c) CAP has decided that the exemption should have effect in all participating jurisdictions or participating jurisdictions including Victoria, and CAP has not subsequently reversed the decision.
- (2) The exemption has effect in Victoria as if it were an exemption issued by the Authority for the relevant provision for 10 years after the day on which CAP made its decision unless, in the meantime—
 - (a) the decision is reversed by CAP; or
 - (b) the exemption is revoked or varied by the corresponding Authority; or
 - (c) the exemption expires or otherwise ceases to have effect.

166 Corresponding approvals

- (1) This regulation applies to an approval given in another jurisdiction if—
 - (a) the approval is given under a provision of the law of the other jurisdiction corresponding to a provision (the *relevant provision*) of any of the following regulations—
 - (i) regulation 28;
 - (ii) regulation 56;
 - (iii) regulation 58;
 - (iv) regulation 115;
 - (v) regulation 116;
 - (vi) regulation 140;
 - (vii) regulation 243; and
 - (b) the approval has effect in the other jurisdiction; and
 - (c) CAP has decided that the approval should have effect in all participating jurisdictions or participating jurisdictions including Victoria, and CAP has not reversed the decision.
- (2) The approval has effect in Victoria as if it were an approval given by the Authority under the relevant provision.

167 Corresponding licences

- (1) This regulation applies to a licence issued for road transport in another jurisdiction if—
 - (a) the licence is a licence issued under a provision of the law of the other jurisdiction corresponding to a provision (the *relevant provision*) of either regulation 199 or 211; and

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- (b) the licence has effect in the other jurisdiction.
- (2) Except for circumstances that do not exist in Victoria, the licence has effect in Victoria as if it were a licence issued under the relevant provision.
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PART 16—EXEMPTIONS

Division 1—General

168 Exemptions

- (1) A person connected with Victoria, or a representative of a class of persons connected with Victoria, may apply to the Authority for an exemption from compliance with a provision of these Regulations in relation to the transport of particular dangerous goods.
- (2) The Authority may, on its own initiative or on application under subsection (1), exempt a person or class of persons from compliance with a provision of these Regulations in relation to the transport of particular dangerous goods if the Authority is satisfied that—
 - (a) it is not reasonably practicable for the person or class of persons to comply with the provision; and
 - (b) issuing the exemption—
 - (i) would not be likely to create a risk of death or injury to a person, or harm to the environment or to property, greater than that which would be the case if the person or class of persons were required to comply; and
 - (ii) would not cause unnecessary administrative or enforcement difficulties, particularly with respect to maintaining national uniformity of road and rail transport laws.
- (3) An exemption may be subject to conditions, including a condition that it applies to either or both of the following—

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- (a) the transport of dangerous goods by road;
 - (b) the transport of dangerous goods by rail.
- (4) If the Authority issues an exemption to a person, the Authority must send a notice to the person stating—
- (a) the provisions of these Regulations that are the subject of the exemption; and
 - (b) the dangerous goods to which the exemption applies; and
 - (c) the period of time for which the exemption remains in force; and
 - (d) the conditions to which the exemption is subject; and
 - (e) the geographical area for which the exemption is valid.
- (5) If the Authority—
- (a) issues an exemption to a class of persons; or
 - (b) issues an exemption that is to remain in force for longer than 6 months—
- the Authority must place publish a notice in the Government Gazette specifying all the details in subsection (4) and the person or class of persons to which the exemption applies.
- (6) A person operating under an exemption must comply with any condition subject to which the exemption was issued.
- Penalty: 53 penalty units for a natural person;
265 penalty units for a body corporate.
- (7) Subregulation (6) is a provision that is prescribed for the purposes of section 31C of the Act.

- (8) If an exemption is issued to a person, and the exemption applies to a vehicle or to premises, the person must keep a copy of the notice of exemption in the vehicle or premises.

Penalty: 6 penalty units for a natural person;
30 penalty units for a body corporate.

- (9) If the Authority—
- (a) issues an exemption to a class of persons; or
 - (b) issues an exemption that is to remain in force for longer than 6 months—

the Authority must notify the corresponding Authority of each other State and Territory of the details of the exemption.

169 Amendment and revocation of exemptions and conditions

- (1) The Authority may revoke an exemption if—
- (a) the Authority is satisfied that a condition to which the exemption is subject has not been complied with; or
 - (b) the Authority is no longer satisfied of the matters referred to in regulation 168(2).
- (2) The Authority may amend or revoke conditions to which an exemption is subject or impose new conditions.
- (3) An exemption issued to a person is to be varied or revoked by notice in writing given to the person, and the amendment or revocation takes effect from the day on which the notice is given, or from a later day specified in the notice.

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- (4) An exemption issued to a class of persons is to be varied or revoked by notice published in the Government Gazette, and the amendment or revocation takes effect on the day of publication, or from a later day specified in the notice.

170 Review of exemption etc.

If the Authority—

- (a) refuses to issue an exemption to a person or a class of persons; or
- (b) revokes an exemption issued to a person or a class of persons; or
- (c) issues an exemption to a person or a class of persons subject to conditions; or
- (d) varies or revokes conditions to which an exemption issued to a person or a class of persons is subject or imposes new conditions—

the person or a representative of the class of persons may apply for a review of the decision.

171 Applications for exemptions

- (1) An application for an exemption under regulation 168(1) must—
 - (a) be made in writing to the Authority; and
 - (b) be signed and dated by or for the applicant; and
 - (c) state the applicant's name and address; and
 - (d) state the name of the person to whom, or the name, or a description, of the class of persons to which, the application relates; and
 - (e) specify the provisions of these Regulations, and of the ADG Code, to which the application relates; and

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- (f) specify the dangerous goods to which the application relates; and
 - (g) state why, in the applicant's opinion, compliance with the provisions is not reasonably practicable; and
 - (h) state why, in the applicant's opinion, the exemption is not likely to involve a greater risk than the risk involved in complying with the provisions; and
 - (i) if the application relates to a vehicle, equipment, packaging or other thing, describe the thing; and
 - (j) state the period for which the exemption is sought; and
 - (k) state the geographical area within which the exemption is to have effect; and
 - (l) be accompanied by the prescribed fee (if any).
- (2) The Authority may, by written notice, require the applicant to give to the Authority any additional information necessary for a proper consideration of the application.

172 Register of exemptions

- (1) The Authority must keep a register of exemptions.
- (2) The register may have separate divisions for different kinds of exemptions.
- (3) The Authority must record in the register—
 - (a) each exemption issued by the Authority; and
 - (b) each corresponding exemption.

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- (4) The Authority must note in the register—
- (a) the revocation or amendment of an exemption issued by the Authority; and
 - (b) a decision of CAP reversing a decision that a corresponding exemption should have effect in all participating jurisdictions or participating jurisdictions including Victoria.

173 Records of exemptions

The record of an exemption in the register must include—

- (a) the terms of the exemption; or
- (b) the following information—
 - (i) if the exemption was notified in the Government Gazette of a participating jurisdiction (including Victoria), the title of the Gazette and the date of notification;
 - (ii) the name of the person to whom, or the name, or a description, of the class of persons to which, the exemption applies;
 - (iii) the date when the exemption was issued;
 - (iv) the provisions of these Regulations, and of the ADG Code, to which the exemption relates;
 - (v) the period for which the exemption has effect;
 - (vi) the dangerous goods, equipment, packaging, vehicle or other thing to which the exemption relates.

Division 2—Reference of matters to CAP

174 References to CAP

- (1) The Authority must refer an application for an exemption to CAP if the Authority considers that the exemption should have effect in other participating jurisdictions in addition to Victoria.
 - (2) The Authority must refer to CAP an exemption having effect in Victoria, and one or more other participating jurisdictions, if—
 - (a) the Authority considers that the exemption should be revoked or varied; or
 - (b) a corresponding Authority recommends to the Authority in writing that the exemption should be revoked or varied.
 - (3) If an exemption or an application for an exemption is referred to CAP under this regulation the Authority must have regard to CAP's decision.
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PART 17—ADMINISTRATIVE DETERMINATIONS AND APPROVALS

Note

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

Division 1—General

175 Applications

- (1) A person connected with Victoria may apply for an administrative determination or approval, or for the amendment of an administrative determination or approval.
- (2) An application under subregulation (1) must—
 - (a) be made to the Authority in writing; and
 - (b) be accompanied by the prescribed fee (if any).
- (3) An application for the amendment of an administrative determination or approval must have the determination or approval with it.
- (4) The Authority may, by written notice, require an applicant to give to the Authority any additional information necessary for a proper consideration of the application.

176 Administrative determinations and approvals

- (1) An administrative determination, or an approval given on application, must be in writing.
- (2) The 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 (made in any jurisdiction) from involvement in the transport of dangerous goods.

177 Reasons for refusal of applications

- (1) This regulation applies if the Authority refuses an application to—
 - (a) make or amend an administrative determination; or
 - (b) issue or amend an approval under these Regulations.
- (2) The Authority must inform the applicant in writing of the refusal and of the reasons for the refusal.

178 Periods and conditions

- (1) An administrative determination or a written approval under these Regulations has effect for the period specified in the determination or approval.
- (2) A condition to which an administrative determination, or a written approval, is subject must be specified in the determination or approval.

179 Replacement administrative determinations and approvals

The Authority must issue to a person to whom an administrative determination applies, or an approval is given, a replacement determination or approval if—

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

180 Grounds for revoking administrative determinations and approvals

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

(4) In subregulation (2)—

relevant change means a change to something that the Authority considered in deciding whether to make the determination or give the approval.

181 Grounds for amending administrative determinations and approvals

- (1) An administrative determination or approval may be varied if the application for the determination or approval—
 - (a) did not comply with these Regulations; or
 - (b) was false or misleading in a material respect.
- (2) An administrative determination or approval may be varied if—
 - (a) a relevant change has happened since the determination was made or the approval was given; and
 - (b) if the change had happened earlier—
 - (i) the determination would have been made in the way in which it is proposed to be varied; or
 - (ii) the approval would have been given in the way in which it is proposed to be varied.
- (3) An administrative determination or approval may be varied if the person on whose application the determination was made, or to whom the approval was given, is unsuitable to continue to be a person to whom the determination applies, or the approval was given, without amendment because the person has contravened—

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- (a) a provision of the Act or these Regulations;
or
 - (b) a provision of the law in force in another participating jurisdiction corresponding to a provision mentioned in paragraph (a).
- (4) In subregulation (2)—
- relevant change* means a change to something that the Authority considered in deciding whether to make the determination or give the approval.

Division 2—Register of approvals

182 Register of approvals

- (1) The Authority must keep a register of approvals.
- (2) The register may have separate divisions for different kinds of approvals.
- (3) The Authority must record in the register—
 - (a) each approval given in writing under these Regulations, and
 - (b) each corresponding approval.
- (4) The Authority must note in the register—
 - (a) the revocation or amendment of a written approval; and
 - (b) a decision of CAP reversing a decision that a corresponding approval should have effect in all participating jurisdictions or participating jurisdictions including Victoria.

183 Records of approvals

The record of an approval in the register must include—

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

Division 3—Reference of approval matters to CAP

184 References to CAP

- (1) The Authority must refer an application for an approval to CAP if the Authority considers that the approval should have effect in other participating jurisdictions in addition to Victoria.
- (2) The Authority must refer to CAP an approval having effect in Victoria, and one or more other participating jurisdictions, if—
 - (a) the Authority considers that the approval should be revoked or varied; or
 - (b) a corresponding Authority recommends to the Authority in writing that the approval should be revoked or varied.

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- (3) If an approval or an application for an approval is referred to CAP under this regulation the Authority must have regard to CAP's decision.

Division 4—Revocation and amendment

185 Revocation and amendment in dangerous situations etc.

- (1) The Authority must revoke or amend an administrative determination or an approval if the Authority reasonably believes that—
- (a) a ground exists to revoke or amend the determination or approval; and
 - (b) it is necessary to do so to avoid, eliminate or minimise a dangerous situation.
- (2) The Authority must revoke an administrative determination or an approval if the person to whom the determination or approval applies is prohibited by a court order (issued in any jurisdiction) from involvement in the transport of dangerous goods.

186 Amendment of administrative determinations and approvals on application

- (1) This regulation applies if—
- (a) an application is made to amend an administrative determination or an approval; and
 - (b) the application is made in accordance with regulation 175 by the person to whom the determination applies or to whom the approval is given.
- (2) The Authority may amend the determination or approval in accordance with the application.

187 Revocation and amendment in other circumstances

- (1) This regulation applies if—
 - (a) the Authority considers that a ground exists to revoke or amend an administrative determination or an approval (the *proposed action*); and
 - (b) regulations 185 and 186 do not apply to the proposed action.
- (2) The Authority must give to the person to whom the determination applies or the approval was given a written notice that—
 - (a) states what the proposed action is; and
 - (b) if the proposed action is to amend the determination or approval, sets out the proposed amendment; and
 - (c) sets out the ground for the proposed action; and
 - (d) outlines the facts and other circumstances forming the basis for the ground; and
 - (e) invites the person to state in writing, within a specified period of at least 28 days after the day when the notice is given to the person, why the proposed action should not be taken.
- (3) If, after considering any written statement made within the specified period, the Authority reasonably believes that a ground exists to take the proposed action, the Authority may—
 - (a) revoke or amend the determination or approval; or
 - (b) if the proposed action is to amend the determination or approval in a specified way, amend the determination or approval in that way.

188 When revocation or amendment takes effect

The revocation or amendment of an administrative determination or an approval by the Authority takes effect on—

- (a) the day when the person to whom the determination applies or the approval was given is given written notice by the Authority of the revocation or amendment and of the reasons for the revocation or amendment; or
 - (b) a later day specified in the notice.
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PART 18—LICENCES

Division 1—Preliminary

189 Meaning of terms used in this Part

In this Part—

licence means, according to the context—

- (a) a licence issued under this Part;
- (b) a document issued by the Authority that is evidence of the licence having been issued;

Example

An evidence of licence document given under regulation 200 or a licence label issued under regulation 214.

licensee means the holder of a dangerous goods driver licence or a dangerous goods vehicle licence;

licensing authority means—

- (a) the Authority; or
- (b) a person or body authorised by the Authority under regulation 191 to issue licences under this Part.

190 Application of Part

- (1) Despite anything to the contrary in this Part, this Part does not apply to the transport by road of dangerous goods on a vehicle if—
 - (a) the goods are transported in an IBC; and
 - (b) the IBC is not packed or unpacked on the vehicle; and
 - (c) the total capacity of IBCs containing dangerous goods on the vehicle is not more than 3000 litres.

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- (2) This Part is in addition to any other law about—
- (a) the licensing of drivers; or
 - (b) the employment or engaging of drivers; or
 - (c) the registration of vehicles; or
 - (d) the transport of goods by road.

191 Authority may authorise person or body to issue licences

The Authority may authorise, by notice published in the Government Gazette, a person or a body to issue licences under this Part.

Division 2—Requirement of drivers and vehicles to be licensed

192 Driver to be licensed

- (1) This regulation applies to a person driving a road vehicle transporting—
- (a) dangerous goods that are in a receptacle with a capacity of more than 500 litres; or
 - (b) more than 500 kilograms of dangerous goods in a receptacle.
- (2) It is a requirement that the person holds a dangerous goods driver licence issued under this Part or a corresponding dangerous goods driver licence.

Note

Under sections 21AA(6) and (9) of the Act it is an offence for a person to drive a vehicle referred to in subregulation (1) if the person is not so licensed.

193 Vehicle to be licensed

- (1) This regulation applies to a road vehicle used to transport—
 - (a) dangerous goods that are in a receptacle with a capacity of more than 500 litres; or
 - (b) more than 500 kilograms of dangerous goods in a receptacle.
- (2) It is a requirement that a dangerous goods vehicle licence issued under this Part or a corresponding dangerous goods vehicle licence has been issued for the vehicle.

Note

Under sections 21AA(2), (5) and (8) of the Act it is an offence for a vehicle to be used in the manner referred to in subregulation (1) if the vehicle is not so licensed.

Division 3—Dangerous goods driver licences

194 Competency standards and statement of attainment

- (1) The Authority may determine that any certificate issued by a specified RTO, or a specified class of RTOs, certifying that a person has achieved a competency standard, is not a statement of attainment.
- (2) For the purposes of this section—

competency standard means a standard, for the purposes of required competency evidence under regulation 197, that is endorsed by CAP;

RTO means a training organisation registered on the State Register and National Register under Chapter 4 of the **Education and Training Reform Act 2006**;

statement of attainment means a certificate issued by an RTO stating that the person to whom it is issued has achieved—

(a) a qualification or part of a qualification;
or

(b) one or more units of competency—

that meets or meet a competency standard, but does not include a certificate issued by the RTO after the Authority has made a determination under subregulation (1) in respect of the RTO or the class of RTOs to which the RTO belongs.

195 Application for licence

- (1) A person who is a resident in Victoria may apply to the licensing authority for a dangerous goods driver licence.
- (2) The application must be in the form required by the Authority and be accompanied by—
 - (a) the driver licence evidence required by regulation 196; and
 - (b) the competency evidence required by regulation 197; and
 - (c) the medical fitness evidence required by regulation 198; and
 - (d) if required by the Authority, a photograph of the applicant of the size, and in the form, specified by the Authority; and
 - (e) the declaration required by subregulation (3); and
 - (f) the prescribed fee (if any).

- (3) The declaration required for an application for a dangerous goods driver licence must state—
- (a) whether or not the applicant has ever been found guilty of any offence under any relevant occupational health and safety, dangerous goods or road transport legislation and, if so, the details of every such finding, including—
 - (i) when and where it occurred; and
 - (ii) details of the offence in respect of which it occurred; and
 - (iii) a brief description of the circumstances of the offence; and
 - (b) whether or not the applicant has ever had a licence or approval suspended or revoked under any relevant occupational health and safety, dangerous goods or road transport legislation, and if so, details of the suspension or revocation; and
 - (c) that the information contained in the application is, to the best of the applicant's knowledge, true.

Reg. 195(3)(b)
amended by
S.R. No.
37/2011
reg. 239(2)(a).

Reg. 195(3)(c)
amended by
S.R. No.
37/2011
reg. 239(2)(b).

196 Required driver licence evidence

- (1) The following documents are required for an application for the issue or renewal of a dangerous goods driver licence—
- (a) a current certified extract of entries about the applicant in the driving licences register kept by the driver licensing authority in each jurisdiction where the applicant has held a licence to drive; and

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- (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 certified copy, dated not more than 6 months before the day the application is made, 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 the authorisation by the applicant for the licensing authority to have access to—
- (a) entries about the applicant in the driver licences register of any State or Territory; and
 - (b) records of any conviction of the applicant for a driving offence in any State or Territory.
- (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.

197 Required competency evidence

One of the following documents is required as competency evidence for an application for the issue or renewal of dangerous goods drivers licence—

- (a) a certificate issued, not more than 6 months before the certificate being given to the Authority, 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 or accredited training course not more than 6 months before the day when the application is made; or
- (c) a statement of attainment issued by an RTO under regulation 194.

198 Required medical fitness evidence

- (1) A certificate required as medical fitness evidence for an application for the issue or renewal of a dangerous goods driver licence must—
 - (a) be issued by a registered medical practitioner who has examined the applicant, not more than 6 months before the day the application is made; and
 - (b) certify that the applicant is fit to drive a road vehicle in accordance with the standards set out 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 Authority may, with the consent of the applicant, forward the medical fitness evidence to one or more medical practitioners for an opinion as to the medical fitness of the applicant to drive a road vehicle.

199 Issue of dangerous goods driver licence

- (1) Subject to subregulation (2), the licensing authority must issue a dangerous goods driver licence if—

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- (a) an application is made to the licensing authority for the licence; and
- (b) the application is accompanied by the documents required by regulation 195 and otherwise complies with the regulation.
- (2) The licensing authority must not issue 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 revoked 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, issued in any jurisdiction, prohibiting the applicant from involvement in the transport of dangerous goods by road; or
- (c) it is not satisfied as to the identity of the applicant; or
- (d) it is satisfied that the application was false or misleading in a material respect; or
- (e) it is satisfied that the applicant has failed to disclose to the authority any significant information that should have been disclosed to the authority; or

Reg. 199(2)(b)
amended by
S.R. No.
37/2011
reg. 239(3).

- (f) it is not satisfied that the medical fitness of the applicant to drive a road vehicle has been established by the evidence provided or through further medical advice received under regulation 198(2).

Note

Section 21(6)(b) of the Act states that the Authority may refuse to issue a licence if it considers that the applicant is not a suitable person to hold the licence.

Section 21(7) of the Act requires that if the Authority decides to refuse to issue a licence, it must send by post to the applicant written notice of the refusal setting out the reasons for the refusal.

200 Form of evidence of licence document

After issuing a licence the licensing authority must give the licensee a document that includes—

- (a) the name and address of the licensee; and
- (b) the date on which the licence was issued and, if the licence specifies a date on which the licence takes effect, the date on which the licence takes effect; and
- (c) the date on which the licence expires; and
- (d) an identifying number; and
- (e) a photograph of the licensee; and
- (f) the date of birth of the licensee; and
- (g) either a copy of the signature of the licensee or provision for the signature of the licensee; and
- (h) the class or classes of dangerous goods authorised to be transported; and
- (i) any conditions, limitations or restrictions to which the licence is subject.

Reg. 200(i)
amended by
S.R. No.
37/2011
reg. 239(4).

201 Application for renewal of 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—
 - (a) the driver licence evidence required by regulation 196; and
 - (b) the competency evidence required by regulation 197; and
 - (c) the medical fitness evidence required by regulation 198; and
 - (d) if required by the Authority, a photograph of the applicant of the size, and in the form, specified by the Authority; and
 - (e) the declaration required by regulation 195(3); and
 - (f) the prescribed fee (if any).

202 Renewal of licence

- (1) Subject to subregulation (2), the licensing authority must renew a dangerous goods driver licence if—
 - (a) an application is made to it for renewal of the licence; and
 - (b) the application is accompanied by the documents required by regulation 201 and otherwise complies with the regulation.
- (2) The licensing authority must not renew the licence if, while the licence had effect—
 - (a) 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

Reg. 202(2)(c)
amended by
S.R. No.
37/2011
reg. 239(5).

- (b) the applicant's driver licence has been revoked or suspended on a ground that makes the applicant unsuitable to be the driver of a vehicle transporting dangerous goods; or
- (c) the applicant is subject to a court order, issued in any jurisdiction, prohibiting the applicant from involvement in the transport of dangerous goods by road; or
- (d) it is not satisfied as to the identity of the applicant; or
- (e) it is satisfied that the application was false or misleading in a material respect; or
- (f) it is satisfied that the applicant has failed to disclose to the authority any significant information that should have been disclosed to the authority; or
- (g) it is not satisfied that the medical fitness of the applicant to drive a road vehicle has been established by the evidence provided or through further medical advice received under regulation 198(2).

Note

Section 21(6)(b) of the Act states that the Authority may refuse to renew a licence if it considers that the applicant is not a suitable person to hold the licence.

Section 21(7) of the Act requires that if the Authority decides to refuse to renew a licence, it must send by post to the applicant written notice of the refusal setting out the reasons for the refusal.

203 Licence periods

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

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- (2) A dangerous goods driver licence takes effect on the day when the licence is issued 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.

204 Licence conditions

- (1) The licensing authority may issue or renew a dangerous goods driver licence subject to conditions mentioned in subregulations (2) and (3).
- (2) The licence may be subject to conditions about—
 - (a) the dangerous goods that may or may not be transported in or on a road vehicle driven by the licensee; and
 - (b) the packaging that may or may not be used to transport dangerous goods in or on a road vehicle driven by the licensee; and
 - (c) the road vehicles that may be driven by the licensee in transporting dangerous goods; and
 - (d) the areas where the licensee may or may not drive a road vehicle transporting dangerous goods or particular dangerous goods; and
 - (e) the supervision of the licensee when driving a road vehicle transporting dangerous goods; and
 - (f) the provision by the licensee of information as requested by the licensing authority relating to the licensee's ongoing medical fitness to drive a road vehicle.

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

Note

Under section 23(2) of the Act it is an offence to contravene or fail to comply with a condition, limitation or restriction inserted on a licence by the Authority.

205 Additional condition

Reg. 205(1)
substituted by
S.R. No.
37/2011
reg. 239(6).

- (1) The licensing authority may, by written notice given to the licensee, require the licensee to produce to the authority a certificate, issued by a registered medical practitioner who has examined the licensee, stating that the licensee is fit to drive a road vehicle in accordance with the standards set out 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.

Reg. 205(1A)
inserted by
S.R. No.
37/2011
reg. 239(6).

- (1A) A certificate under subregulation (1) must not have been issued earlier than 6 months prior to the date of the written notice from the Authority.

Reg. 205(1B)
inserted by
S.R. No.
37/2011
reg. 239(6).

- (1B) It is a condition of a dangerous goods driver licence that the licensee comply with a notice given under subregulation (1) within the period specified in the notice.
- (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.

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- (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.

Note

Under section 23(2) of the Act it is an offence to contravene or fail to comply with a condition, limitation or restriction inserted on a licence by the Authority.

206 Grounds for revoking, suspending or amending licence

- (1) A dangerous goods driver licence may be revoked, suspended or amended if the application for the licence or an application for its renewal—
- (a) did not comply with these Regulations; or
 - (b) was false or misleading in a material respect.
- (2) A dangerous goods driver licence may be revoked, suspended or amended if the licensee is unsuitable to continue to be the driver of a road vehicle transporting dangerous goods because, for example—
- (a) the licensee has contravened—
 - (i) a provision of the Act or these Regulations; or
 - (ii) a provision of the law in force in another participating jurisdiction corresponding to a provision mentioned in subparagraph (i); or
 - (b) the licensee has been found guilty by a court in Australia of an offence; or
 - (c) the licensee's driver licence is revoked; or
 - (d) the licensee is suffering from a medical condition, or has a physical or mental disability; or

- (e) the licensee is not complying, or has failed to comply, with any of the terms and conditions of the licence; or
- (f) the licence was issued on the basis of competency evidence required by regulation 197 that was obtained or provided on the basis of fraud or the provision of false or misleading information by any person or body.

Note

Any person or body would include the licensee or the provider of the training course.

207 Licence to be carried

The holder of a dangerous goods driver licence must carry his or her dangerous goods driver licence when driving a road vehicle transporting—

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

Penalty: 6 penalty units.

Division 4—Dangerous goods vehicle licences

208 Meaning of vehicle

In this Division—

vehicle means a vehicle that is registered in, and operates exclusively or predominantly within, Victoria but does not include—

- (a) a prime mover; or

- (b) a converter dolly (within the meaning of regulation 3 of the Road Safety (Drivers) Regulations 1999).

Note

The Road Safety (Drivers) Regulations 1999 define a *converter dolly* as a trailer with 1 axle group or single axle and a fifth wheel coupling, designed to convert a semi-trailer into a dog trailer.

209 Application for licence or renewal of 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, in transporting dangerous goods; and
 - (b) for which the person does not hold a dangerous goods vehicle licence.
- (2) 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.
- (3) An application under this regulation must include the following information—
 - (a) the registration number, place of registration, make and type of the road vehicle; and
 - (b) the type of dangerous goods intended to be transported in or on the road vehicle; and
 - (c) if a tank forms an integral part of the vehicle, the tank design approval number and jurisdiction of issue of that approval (proof of the approval is required if issued outside Victoria).
- (4) The application must be accompanied by the prescribed fee (if any).
- (5) An application may be made for licences or renewal of licences for two or more road vehicles in the same form.

210 Additional information and inspections

- (1) The licensing authority may, by written notice, require an applicant for a dangerous goods vehicle licence, or for the renewal of a dangerous goods vehicle licence, for a vehicle—
 - (a) to give to the licensing authority, or to someone 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 licensing authority, or by someone 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.

211 Issue of dangerous goods vehicle licence

- (1) Subject to subregulation (3), the licensing authority must issue or renew a dangerous goods vehicle licence for a road vehicle if—
 - (a) an application is made to the licensing authority for the licence; and
 - (b) the application complies with regulation 209; and
 - (c) the applicant has complied with any requirement made under regulation 210 in relation to the application; and
 - (d) the road vehicle is suitable to transport each type of dangerous goods intended to be transported in or on the road vehicle.

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- (2) Without limiting subregulation (1)(d), if a road vehicle is intended for use in the transport of dangerous goods in the form of a liquid or gas using a tank that will form part of the vehicle or be attached to it, the vehicle is suitable only if—
- (a) the tank is an approved tank; and
 - (b) the vehicle complies with the requirements of Chapters 4.4 and 6.9 of the ADG Code applying to road vehicles for use in transporting dangerous goods in the form of a liquid or gas.
- (3) The licensing authority must not issue the licence if—
- (a) the applicant is subject to a court order, issued in any jurisdiction, prohibiting the applicant from involvement in the transport of dangerous goods by road; or
 - (b) the licensing authority is not satisfied as to the identity of the applicant; or
 - (c) the licensing authority is satisfied—
 - (i) that the application was false or misleading in a material respect; or
 - (ii) that the applicant has failed to disclose to the authority any significant information that should have been disclosed to the authority.
- (4) The licensing authority may issue or renew a single dangerous goods vehicle licence for more than one road vehicle.

Note

Section 21(7) of the Act requires that if the Authority decides to refuse to issue a licence, it must send by post to the applicant written notice of the refusal setting out the reasons for the refusal.

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- (5) After issuing a licence the licensing authority must give the licensee a document that includes—
- (a) the name and address of the licensee; and
 - (b) the date on which the licence was issued and, if the licence specifies a date on which the licence takes effect, the date on which the licence takes effect; and
 - (c) an identifying number; and
 - (d) the information required under regulation 209(3) for the vehicle or vehicles to which the licence applies; and
 - (e) any terms of conditions to which the licence is subject.

212 Licence periods

- (1) A dangerous goods vehicle licence is issued 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 issued 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.

213 Licence conditions

- (1) The licensing authority may issue 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.

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

Note

Under section 23(2) of the Act it is an offence to contravene or fail to comply with a condition, limitation or restriction inserted on a licence by the Authority.

214 Licence labels

- (1) A licensing authority must issue to the holder of a dangerous goods vehicle licence a licence label for each road vehicle to which the licence relates.
- (2) A licence label must be capable of being securely attached to the road vehicle.
- (3) A person must not drive a road vehicle transporting dangerous goods if a current licence label for the road vehicle is not attached to the vehicle in a conspicuous place.

Penalty: 6 penalty units.

- (4) A prime contractor must not transport dangerous goods in a road vehicle if a current licence label for the road vehicle is not attached to the vehicle in a conspicuous place.

Penalty: 6 penalty units for a natural person;
30 penalty units for a body corporate.

215 Disposal and transfer of licensed vehicles

- (1) Before transferring possession or otherwise disposing of a licensed vehicle (other than by way of a business transfer) (the *disposed vehicle*), the person who holds the licence for the vehicle must remove the licence label from the vehicle and—
- (a) attach it to the notice of the disposal of the vehicle; or
 - (b) return it to the licensing authority.

Penalty: 6 penalty units for a natural person;
30 penalty units for a body corporate.

- (2) Within the 21 days after transferring possession or otherwise disposing of the disposed vehicle, the person who holds the licence for the vehicle must give notice of the disposal to the licensing authority.

Penalty: 6 penalty units for a natural person;
30 penalty units for a body corporate.

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

Penalty: 6 penalty units for a natural person;
30 penalty units for a body corporate.

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

- (a) attach the licence to the notice of the disposal; or
- (b) return it to the licensing authority.

Penalty: 6 penalty units for a natural person;
30 penalty units for a body corporate.

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- (5) On receipt of a licence, the licensing authority must—
- (a) if the licence also relates to another vehicle—
 - (i) amend the licence by omitting reference to the disposed vehicle; and
 - (ii) return the licence to the person who gave the licence to the licensing authority; or
 - (b) if paragraph (a) does not apply, revoke the licence.
- (6) Within the 21 days after the transfer by business transfer of a vehicle for which a dangerous goods vehicle licence has been issued, the person to whom the vehicle has been transferred must make an application to the licensing authority, accompanied by the licence and the prescribed fee, for the transfer of the licence to that person.
- Penalty: 6 penalty units for a natural person;
30 penalty units for a body corporate.
- (7) An application under subregulation (6) must contain the information set out in regulation 209(3).
- (8) On receipt of the application, licence and prescribed fee, the licensing authority must amend the licence to record the change in who holds the licence and reissue the licence.
- (9) Subregulation (8) does not apply if the person to whom the licence was to have been transferred is ineligible to hold the licence.

(10) In this regulation—

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

216 Grounds for revoking, suspending or amending licences generally

A dangerous goods vehicle licence may be revoked, suspended or amended if the application for the licence or an application for its renewal—

- (a) did not comply with these Regulations; or
- (b) was false or misleading in a material respect.

217 Grounds for revoking, suspending or amending licences for road vehicles

A dangerous goods vehicle licence for a road vehicle may be revoked, suspended or amended if—

- (a) the road vehicle does not comply with the Act or these Regulations; or
- (b) the licensee is not complying, or has failed to comply, with any of the terms and conditions of the licence; or
- (c) the licensee has been found guilty of by a court in Australia of an offence that makes the licensee unsuitable to be the holder of a licence of a road vehicle used in transporting dangerous goods; or
- (d) the licence was issued on the basis of a tank design approval that was obtained or provided on the basis of fraud or the provision of false or misleading information by any person.

Division 5—Licences generally

218 Procedure if licensing authority proposes to refuse to issue or renew a licence

- (1) If the licensing authority proposes to refuse to issue or renew a licence, the authority must give the applicant written notice and include in the notice—
 - (a) the reasons why it proposes to refuse to issue or renew the licence; and
 - (b) an invitation to the applicant to make a submission to the authority, within a specified period of not less than 14 days in relation to the proposed refusal.
- (2) After the end of the period set for the purposes of subregulation (1)(b), the licensing authority must—
 - (a) consider any submission made by, or on behalf of, the applicant; and
 - (b) decide whether it will issue or refuse the licence.

Note

Section 21(7) of the Act requires that if the Authority decides to refuse to issue or renew a licence, it must send by post to the applicant written notice of the refusal setting out the reasons for the refusal.

219 Replacement licences and licence labels

- (1) A licensing authority may issue a replacement licence to a licensee if—
 - (a) the licence is renewed; or
 - (b) the licence is amended; or
 - (c) a period of suspension of the licence ends or a suspension is withdrawn.

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

220 Surrender of licences

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

221 Registers of licences

- (1) The licensing authority must keep a register of dangerous goods driver licences.
- (2) The licensing authority must keep a register of dangerous goods vehicle licences.
- (3) A register may have separate divisions for different kinds of licences.
- (4) The licensing authority must record each licence issued under these Regulations in the appropriate register.
- (5) The licensing authority must note in the register the revocation, surrender, suspension or amendment of a licence.

222 Records of licences

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

- (a) the name of the licensee;
- (b) the date when the licence was issued or renewed;

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

223 Change of information given in licence applications

- (1) This regulation applies if a licensee becomes aware that information given by the licensee to the licensing authority in, or in relation to, an application for the issue or renewal of a licence is or has become incorrect in a material respect.
- (2) Within 14 days after becoming aware of the matter, the licensee must inform the licensing authority about the matter and give the correct information to the authority.

Penalty: 6 penalty units for a natural person;
30 penalty units for a body corporate.

224 Production of licences to licensing authority

- (1) The licensing authority may, by written notice, require a person to whom a licence has been issued to produce the licence to the authority.

- (2) The person must produce the licence to the licensing authority within 14 days after the day when the notice is given to the person.

Penalty: 6 penalty units for a natural person;
30 penalty units for a body corporate.

225 Return of licences

- (1) This regulation applies if a licence is produced to the licensing authority or given to the licensing authority by an inspector.
- (2) If the licence has not been revoked or amended and is not suspended, the licensing authority must return the licence after inspecting it.
- (3) If the licence has been suspended, the suspension has ended or been withdrawn and a replacement licence is not issued, the licensing authority must return the licence to the licensee.
- (4) If the licence has been amended, the amendment is recorded on the licence and a replacement licence is not issued, the licensing authority must return the licence to the licensee.
- (5) Despite subregulations (2) to (4), if the licence period has ended, the licensing authority is not required to return the licence to the licensee.

Division 6—Revocation, suspension and amendment

226 Revocation, suspension and amendment in dangerous situations

The Authority must revoke, suspend or amend any licence issued by it or by another licensing authority if it reasonably believes that—

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

227 Revocation and suspension giving effect to court orders

The licensing authority must revoke or suspend a licence if the licensee is prohibited by a court order (issued in any jurisdiction) from involvement in the transport of dangerous goods.

228 Amendment of licence on application

- (1) This regulation applies if—
 - (a) an application is made to amend a licence; and
 - (b) the application is made by the licensee and has the licence with it.
- (2) The licensing authority may amend the licence in accordance with the application.
- (3) If the licensing authority proposes to refuse to amend a licence in accordance with the application, it must give the licensee a written notice—
 - (a) that states that intention to refuse the application; and
 - (b) that sets out the reasons for refusing the application; and
 - (c) that invites the licensee to make a submission to the licensing authority in relation to the proposed refusal within a specified period of not less than 14 days.
- (4) The licensing authority must consider any submission made by, or on behalf of, the licensee in the time allowed before refusing the application.

229 Revocation, suspension and amendment in other circumstances

- (1) This regulation applies if—
 - (a) a licensing authority considers that a ground exists to revoke, suspend or amend a licence (the *proposed action*); and
 - (b) regulations 226, 227, 228 and 233 do not apply to the proposed action.
- (2) The licensing authority must give to the licensee a written notice that—
 - (a) states what the proposed action is; and
 - (b) if the proposed action is to suspend the licence, states what the proposed suspension period is; and
 - (c) if the proposed action is to amend the licence, sets out the proposed amendment; 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—

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- (a) revoke or amend the licence; or
 - (b) suspend the licence for a period not longer than 6 months (except if the suspension is to give effect to a court order specifying a longer period of suspension); or
 - (c) if the proposed action is to amend the licence in a specified way, amend the licence in that way.
- (4) The licensing authority may withdraw a suspension before the suspension is due to expire if it reasonably believes that it is appropriate to do so.

230 When revocation, suspension or amendment takes effect

Subject to regulation 231, the revocation, suspension or amendment of a licence by the licensing authority takes effect—

- (a) in the case of a court order under regulation 227, immediately or, if there is a later date referred to in the court order, that date;
- (b) in any other case—
 - (i) the day when the licensee is given written notice with reasons by the licensing authority of the revocation, suspension or amendment; or
 - (ii) a later day specified in the notice.

231 When licences taken to be suspended

- (1) A person's dangerous goods driver licence is taken to be suspended immediately 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 immediately in relation to the road vehicle if the road vehicle is not registered.

232 Evidence of licence document to be returned on request if licence is amended

- (1) If the licensing authority amends a licence, it must give the licensee an evidence of licence document containing the amended details to replace the former document.
- (2) If asked to do so by the licensing authority, the holder of the licence that has been amended by the Authority must return the evidence of licence document to the authority within 14 days after receiving the request in writing.

233 Automatic suspension or revocation of licence after recommendation by corresponding Authority

- (1) The Authority must suspend a licence if it is satisfied that, after a corresponding Authority has conducted an enquiry equivalent to the inquiry required by regulation 229, that authority has recommended that the licence be suspended.
 - (2) The period of suspension must be the same period recommended by the corresponding Authority, or if that authority recommended a termination date for the suspension, the suspension must end on that date.
 - (3) The Authority must revoke a licence if it is satisfied that, after a corresponding Authority has conducted an enquiry equivalent to the inquiry required by regulation 229, that authority has recommended that the licence be revoked.
 - (4) The revocation must occur as soon as is reasonably possible after the date the Authority receives the recommendation, but not less than 14 days after that date.
 - (5) If the Authority is required to suspend or revoke a licence, or a part of a licence, under this regulation, it must give the licensee written notice of the suspension or revocation, and must include
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in the notice a copy of the recommendation on which it based the suspension or revocation.

- (6) The 14-day minimum period specified in subregulation (4) does not apply if, in the opinion of the Authority, there are exceptional circumstances that pose an immediate significant risk to health or safety.
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PART 19—REVIEW OF DECISIONS

234 What is a reviewable decision?

For the purposes of this Part, the following are reviewable decisions made by the Authority—

- (a) a decision, under regulation 28, to approve or not approve a test or training course for drivers of road vehicles transporting dangerous goods;
- (b) an administrative determination under regulation 30 (dangerous goods and packaging) or regulation 31 (vehicles, routes, areas and times);
- (c) a decision, under regulation 56, to approve or not approve a design for a packaging;
- (d) a decision, under regulation 58, to approve or not approve a method of preparing an overpack;
- (e) a decision, under regulation 115, to approve or not approve a design for a Type II segregation device;
- (f) a decision, under regulation 116, to approve or not approve a method of segregation;
- (g) a decision, under regulation 140, to approve or not approve emergency information;
- (h) a decision, under Division 1 of Part 16 of these Regulations, to exempt from compliance with a provision of the Regulations;
- (i) a decision, under regulation 185, 186 or 187, to revoke, amend or refuse to amend a determination or approval;

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- (j) a decision, under regulation 199 or 211, to issue or refuse to issue a licence, or a decision to impose conditions under regulation 204 or 213;
 - (k) a decision, under regulation 202 or 211, to renew or refuse to renew a licence, or a decision to impose conditions under regulation 204 or 213;
 - (l) a decision, under regulation 219, to issue or refuse to issue a replacement licence or licence label;
 - (m) a decision, under regulation 226, 227, 228 or 229, to revoke, suspend, amend or refuse to amend a licence;
 - (n) a decision, under regulation 243, to approve or not approve the use of a vehicle that is not covered by a policy of insurance or other form of indemnity.

235 Who is an eligible person?

A person whose interests are affected by a reviewable decision under regulation 234 is an eligible person for the purposes of regulation 236.

236 Application for internal review

- (1) An eligible person may apply in writing to the Authority for a review of a decision listed in regulation 234.
- (2) An application for a review must be made within—
 - (a) 14 days after the day on which the decision first came to the applicant's notice; or
 - (b) such longer period as the Authority allows.
- (3) If an application is made to the Authority in accordance with this regulation, the Authority must make a decision—

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- (a) to confirm the reviewable decision either on the basis—
 - (i) that it was made in accordance with the Act and these Regulations; or
 - (ii) that even though it was not made in accordance with the Act or these Regulations, the failure was not reasonably likely to have affected the outcome of the decision; or
 - (b) to set aside the reviewable decision.

Note

A decision under subregulation (3) is a reviewable decision for the purposes of section 20 of the Act.

- (4) The Authority must give a written notice to the applicant setting out—
 - (a) the Authority's decision under subregulation (3) and the reasons for the decision; and
 - (b) the findings on material questions of fact that led to the decision, referring to the evidence or other material on which those findings were based.
- (5) The Authority must comply with subregulation (4)—
 - (a) within 14 days after the application is made; or
 - (b) with the consent of the applicant, within a further period of up to 14 days.
- (6) If the Authority does not notify an applicant of a decision in accordance with subregulations (4) and (5), the Authority is taken to have made a decision to confirm that the reviewable decision was made in accordance with the Act and these Regulations.

- (7) An application under this regulation does not affect the operation of the reviewable decision or prevent the taking of any action to implement it.

237 Process for new decisions to be started within 7 days

If the Authority sets a decision aside under regulation 236(3)(b), it must start the process to remake the decision within 7 days after it sets the decision aside.

238 Notices of decisions must contain a copy of review rights

Reg. 238 amended by S.R. No. 37/2011 reg. 239(7) (LA s. 39B(2)).

- (1) The Authority must ensure that any written notice it gives to an applicant for a licence, or a licence holder, of any reviewable decision it makes includes a copy of this Part (other than this regulation).
- (2) Subregulation (1) does not apply to the following reviewable decisions of the Authority—
- (a) a decision, under regulation 28, to approve a test of competence or a training course for drivers of road vehicles transporting dangerous goods;
 - (b) a decision, under regulation 56, to approve without conditions a design for a packaging;
 - (c) a decision, under regulation 58, to approve without conditions a method of preparing an overpack;
 - (d) a decision, under regulation 115, to approve a design for a Type II segregation device;
 - (e) a decision, under regulation 116, to approve without conditions a method of segregation;
 - (f) a decision, under regulation 140, to approve emergency information;

Reg. 238(2) inserted by S.R. No. 37/2011 reg. 239(7).

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- (g) a decision to grant an exemption without conditions under Division 1 of Part 16 of these Regulations;
 - (h) a decision, under regulation 199, to issue without conditions a dangerous goods driver licence;
 - (i) a decision, under regulation 202, to renew without conditions a dangerous goods driver licence;
 - (j) a decision, under regulation 211, to issue or renew without conditions a dangerous goods vehicle licence;
 - (k) a decision, under regulation 219, to issue a replacement licence or licence label;
 - (l) a decision, under regulation 243, to approve the use of a vehicle that is not adequately insured.

Note

Section 20B of the Act provides a right to apply to the Tribunal (VCAT) for a review of a reviewable decision made by the Authority.

PART 20—INSURANCE

239 Definitions

In this Part, unless the contrary intention appears—

adequately insured, in relation to a road vehicle, means the use of the vehicle is covered by a policy of insurance or other form of indemnity, for a sum that is not less than \$5 000 000, in respect of—

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

road vehicle means a load bearing vehicle, whether or not a motor vehicle and whether or not it is being used in combination with another vehicle.

240 Owners

The owner of a road vehicle must not use the vehicle, or permit it to be used, to transport a placard load unless the vehicle is adequately insured or the owner has an approval under regulation 243 in relation to the use of the vehicle and is complying with all relevant conditions to which the approval is subject.

Penalty: 53 penalty units for a natural person;
265 penalty units for a body corporate.

241 Prime contractors

A prime contractor must not use a road vehicle to transport a placard load unless the vehicle is adequately insured or the prime contractor has an approval under regulation 243 in relation to the use of the vehicle and is complying with all relevant conditions to which the approval is subject.

Penalty: 53 penalty units for a natural person;
265 penalty units for a body corporate.

242 Requiring evidence of insurance etc.

- (1) The Authority may, by written notice, require the owner of a road vehicle used to transport a placard load, or a prime contractor responsible for the condition of the vehicle, to produce—
 - (a) written evidence that the vehicle is adequately insured; or
 - (b) an approval under regulation 243 in relation to the vehicle.
- (2) The owner or prime contractor must produce the evidence or approval to the Authority within 14 days after the day when the notice is given to the person.

Penalty: 11 penalty units for a natural person;
55 penalty units for a body corporate.

243 Approvals—insurance

- (1) The owner of a road vehicle used to transport placard loads, or a prime contractor responsible for the condition of the vehicle, may make an application in accordance with regulation 175 to use the vehicle even if the vehicle is not adequately insured.

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- (2) If the Authority is satisfied that the owner or prime contractor is adequately capable of self-insurance for the purposes of regulation 240 or 241, the Authority may give written approval for the use of the vehicle.
- (3) An approval under subregulation (2) may be given by the Authority—
- (a) for a single use or for a period not longer than 5 years; and
 - (b) subject to any other condition.
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PART 21—FEES

244 Application fee for a dangerous goods vehicle licence

The prescribed fee to accompany an application made under regulation 209 for the issue or renewal of a dangerous goods vehicle licence is \$60 in respect of each vehicle.

PART 22—REGULATION REFERENCES IN ADG CODE

245 Modification of regulation references in ADG Code

A provision of the ADG Code which references a numbered Regulation (as defined in chapter 1.2.1 of the ADG Code) listed in column 1 of the Table is adopted into and forms part of these regulations subject to the modification that a reference in the ADG Code to a numbered Regulation listed in column 1 is to be read as a reference to the equivalent regulation listed in column 2 of the Table.

TABLE

<i>Column 1</i>	<i>Column 2</i>
<i>Reference to numbered Regulation in ADG Code</i>	<i>Corresponding reference in these Regulations</i>
1.1.6	24
1.1.7	25
1.1.7(1)	25(1)
1.1.7(2)	25(2)
1.1.8	26
1.2.1	5
1.2.6	10
1.2.7	11
1.2.8	12
1.2.9	13
1.2.12	15
1.2.13	16
1.2.14	17
1.2.15	18
1.2.18	21
1.2.19	22

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Part 22—Regulation References in ADG Code

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<i>Column 1</i>	<i>Column 2</i>
<i>Reference to numbered Regulation in ADG Code</i>	<i>Corresponding reference in these Regulations</i>
1.6.1(1)	30
1.6.1(1) & (2)	30(1) & (2)
1.6.1(1)(a)	30(1)(a)
1.6.1(1)(b)	30(1)(b)
1.6.1(1)(c)	30(1)(c)
1.6.1(1)(e)	30(1)(e)
1.6.1(2)	30(2)
1.6.1(2)(a)	30(2)(a)
2.1.1	38
2.1.2	39
2.1.3	40
2.1.4	41
4.1.2	51
14.2.1	155

PART 23—SAVINGS AND TRANSITIONAL PROVISIONS

246 Definition

In this Part—

template regulations means the Road Transport Reform (Dangerous Goods) Regulations 1995 of the Commonwealth as applied by the **Road Transport (Dangerous Goods) Act 1995**.

247 Continuing effect of certain determinations

- (1) This regulation applies to a determination (however described) that—
 - (a) was made under—
 - (i) the template regulations; or
 - (ii) the **Road Transport (Dangerous Goods) Act 1995**; or
 - (iii) regulations made under the **Dangerous Goods Act 1985**; and
 - (b) was in force in Victoria immediately before the commencement of these Regulations; and
 - (c) is a determination in respect of something that may be determined under a provision (the relevant provision) of regulation 30 or 31.
 - (2) The determination has effect for the purposes of these Regulations as if it were a determination made by the Authority under the relevant provision.
 - (3) The Authority may record the determination in the register of determinations kept under regulation 35.
 - (4) Subregulation (3) does not apply to a determination if it was made on the application of a person and applies only to the person.
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248 Continuing effect of corresponding determinations

- (1) This regulation applies to a determination (however described) that—
 - (a) was made under a law regulating the transport of dangerous goods by road or rail made by a State or Territory that has passed or has indicated that it intends to pass a law corresponding to the Act or these Regulations;
 - (b) was in force in that State or Territory immediately before the commencement of the Act; and
 - (c) is a determination about something that may be determined under a provision of the law of that State or Territory (the *corresponding provision*) that corresponds to a provision of a regulation mentioned in regulation 247(1)(c).
- (2) Except for circumstances that do not exist in Victoria, the determination has effect for the purposes of these Regulations as if it were a determination made by a corresponding Authority under the corresponding provision.

249 Continuing effect of certain exemptions

- (1) This regulation applies to an exemption (however described) that—
 - (a) was issued under the template regulations; and
 - (b) was in force in Victoria immediately before the commencement of the Act; and
 - (c) is an exemption from compliance with a provision of that law corresponding to a provision (the *relevant provision*) of these Regulations.

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- (2) The exemption has effect for the purposes of these Regulations as if it were an exemption issued by the Authority from compliance with the relevant provision.
 - (3) The Authority may record the exemption in the register of exemptions kept under regulation 172.

250 Continuing effect of corresponding exemptions

- (1) This regulation applies to an exemption (however described) that—
 - (a) was issued under a law regulating the transport of dangerous goods by road or rail made by a State or Territory that has passed or has indicated that it intends to pass a law corresponding to the Act or these Regulations; and
 - (b) was in force in that State or Territory immediately before the commencement of the Act; and
 - (c) is an exemption from compliance with a provision of the law of that State or Territory (the corresponding provision) corresponding to a provision of the Act or these Regulations.
- (2) Except for circumstances that do not exist in Victoria, the exemption has effect for the purposes of the Act or these Regulations as if it were an exemption issued by a corresponding Authority from compliance with the corresponding provision.

251 Continuing effect of certain approvals

- (1) This regulation applies to an approval (however described) if the approval—
 - (a) was given under the template regulations; and

- (b) was in force in Victoria immediately before the commencement of the Act; and
 - (c) is an approval of something that may be approved under a provision (the *relevant provision*) of regulation 28, 115, 116, 140 or Division 2 of Part 4 of these Regulations.
- (2) The approval has effect for the purposes of these Regulations as if it were an approval given by the Authority under the relevant provision.
- (3) The Authority may record the approval in the register of approvals kept under regulation 182.

252 Continuing effect of corresponding approvals

- (1) This subordinate law applies to an approval (however described) that—
- (a) was given under a law regulating the transport of dangerous goods by road or rail made by a State or Territory that has passed or has indicated that it intends to pass a law corresponding to the Act or these Regulations; and
 - (b) was in force in that State or Territory immediately before the commencement of the Act; and
 - (c) is an approval of something that may be approved under a provision of the law of that State or Territory (the *corresponding provision*) corresponding to a provision mentioned in paragraph 251(1)(c).
- (2) Except for circumstances that do not exist in this Victoria, the approval has effect for the purposes of these Regulations as if it were an approval given by a corresponding Authority under the corresponding provision.

253 Continuing effect of certain licences

- (1) This regulation applies to a licence (however described) that—
 - (a) was issued under the template regulations; and
 - (b) was in force in Victoria immediately before the commencement of the Act; and
 - (c) is a licence that may be issued under a provision (the *relevant provision*) of regulations 199 or 211.
- (2) The licence has effect for the purposes of these Regulations as if it were a licence issued by the Authority under the relevant provision.
- (3) Without limiting subregulation (2), the Authority may record the licence in the relevant register of licences kept under regulation 221.

254 Continuing effect of corresponding licences

- (1) This regulation applies to a licence (however described) that—
 - (a) was issued under a law regulating the transport of dangerous goods by road or rail made by a State or Territory that has passed or has indicated that it intends to pass a law corresponding to the Act or these Regulations; and
 - (b) was in force in that State or Territory immediately before the commencement of the Act; and
 - (c) is a licence that may be issued under a provision of the law of that State or Territory (the *corresponding provision*) corresponding to a provision mentioned in regulation 253(1)(c).

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- (2) Except for circumstances that do not exist in Victoria, the licence has effect for the purposes of these Regulations as if it were a licence issued by a corresponding Authority under the corresponding provision.
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PART 24—CONSEQUENTIAL AMENDMENTS

255 Amendments to the Dangerous Goods (Explosives) Regulations 2000

In regulation 106 of the Dangerous Goods (Explosives) Regulations 2000¹—

- (a) for the definition of *Class substitute*—
"*Class* in relation to dangerous goods, has the same meaning as it has in regulation 40 of the Dangerous Goods (Transport by Road or Rail) Regulations 2008";
- (b) in the definition of *Class label*, for "Transport Code" **substitute** "ADG Code";
- (c) in the definition of *United Nations number*, for "*United Nations number* in the Transport Code" **substitute** "UN number in the ADG Code".

256 Amendments to the Dangerous Goods (Storage and Handling) Regulations 2000

- (1) In regulation 105 of the Dangerous Goods (Storage and Handling) Regulations 2000²—
 - (a) in the definition of *bulk*, for "400" **substitute** "500";
 - (b) in the definition of *C1 combustible liquid*, for "61°C" **substitute** "60°C";
 - (c) in the definition of *Class* for "regulation 2.3 of the **Commonwealth Regulations**" **substitute** "regulation 40 of the Dangerous Goods (Transport by Road or Rail) Regulations 2008";
 - (d) in the definition of *combustible liquid*, for "61°C" **substitute** "60°C";

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- (e) **omit** the definition of *Commonwealth Regulations*;
- (f) in the definition of *control temperature*, for 'and "Transport of Dangerous Goods, Model Regulations ST/SG/AC.10/1/Rev.11", published by the United Nations as amended from time to time' **substitute** "as amended from time to time and the ADG Code";
- (g) for the definition of *goods too dangerous to be transported* **substitute**—
"*goods too dangerous to be transported* has the same meaning as it has in regulation 39 of the Dangerous Goods (Transport by Road or Rail) Regulations 2008";
- (h) for the definition of *IBC (intermediate bulk container)* **substitute**—
"*IBC (intermediate bulk container)* has the same meaning as in regulation 11 of the Dangerous Goods (Transport by Road or Rail) Regulations 2008";
- (i) for the definition of *package* **substitute**—
"*package* has the same meaning as in regulation 51(1) of the Dangerous Goods (Transport by Road or Rail) Regulations 2008";
- (j) for the definition of *packaged dangerous goods* **substitute**—
"*packaged dangerous goods* means dangerous goods, goods too dangerous to be transported or C1 combustible liquids, that are in a container with a capacity of not more than 500 L or a net mass of 500 kg";
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- (k) for the definition of ***packaging substitute***—
"***packaging*** has the same meaning as in regulation 51(2) of the Dangerous Goods (Transport by Road or Rail) Regulations 2008";
- (l) for the definition of ***Packing Group substitute***—
"***Packing Group*** has the same meaning as in regulation 42 of the Dangerous Goods (Transport by Road or Rail) Regulations 2008";
- (m) for the definition of ***Subsidiary Risk substitute***—
"***Subsidiary Risk*** has the same meaning as in regulation 41 of the Dangerous Goods (Transport by Road or Rail) Regulations 2008";
- (n) for the definition of ***UN Number, or UN substitute***—
"***UN Number, or UN No.*** has the same meaning as in the ADG Code".
- (2) In regulation 106(i) of the Dangerous Goods (Storage and Handling) Regulations 2000, for "UN 2509" **substitute** "UN 2590".
- (3) In regulation 301(2)(a) of the Dangerous Goods (Storage and Handling) Regulations 2000—
(a) for subparagraph (i) **substitute**—
"(i) dangerous goods of a particular Class, have regard to regulation 38 of the Dangerous Goods (Transport by Road or Rail) Regulations 2008; or";

- (b) for subparagraph (iii) **substitute**—
- "(iii) goods too dangerous to be transported, have regard to regulation 39 of the Dangerous Goods (Transport by Road or Rail) Regulations 2008; and".
- (4) In regulation 301(2)(b) of the Dangerous Goods (Storage and Handling) Regulations 2000, for "**Commonwealth Regulations**" **substitute** "Dangerous Goods (Transport by Road or Rail) Regulations 2008".
- (5) In regulation 302(1) of the Dangerous Goods (Storage and Handling) Regulations 2000, for "**Commonwealth Regulations**" **substitute** "Dangerous Goods (Transport by Road or Rail) Regulations 2008".
- (6) In regulation 304(2)(a) of the Dangerous Goods (Storage and Handling) Regulations 2000, for "**Commonwealth Regulations**" **substitute** "Dangerous Goods (Transport by Road or Rail) Regulations 2008".
- (7) In regulation 306(2) of the Dangerous Goods (Storage and Handling) Regulations 2000—
- (a) after "in" **insert** "legible";
- (b) in paragraph (f), for "Appendix 5" **substitute** "Appendix A".
- (8) Regulation 408 of the Dangerous Goods (Storage and Handling) Regulations 2000 is **revoked**.
- (9) In regulation 420(2)(b)(i) of the Dangerous Goods (Storage and Handling) Regulations 2000, for "Adopted National Exposure Standards for Atmospheric Contaminants in the Occupational Environment [NOHSC:1003(1995)] declared by the National Occupational Health and Safety Commission, as amended from time to time" **substitute** "Hazardous Substances Information

System (HSIS) published by the Australian Safety and Compensation Council on its Internet site, as amended from time to time".

- (10) In regulation 443(3) for "Packaging Group I" **substitute** "Packing Group I".
- (11) In Schedule 3 to the Dangerous Goods (Storage and Handling) Regulations 2000—
 - (a) in item 4(2)(c), for "Appendix 5" **substitute** "Appendix A";
 - (b) in item 5(c)(i), for "Appendix 5" **substitute** "Appendix A".
- (12) In Schedule 4 to the Dangerous Goods (Storage and Handling) Regulations 2000, in item 3(2)(a), for "Appendix 5" **substitute** "Appendix A".

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Sch.

SCHEDULE

Regulation 4

REVOCATION OF REGULATION

<i>S.R. No.</i>	<i>Title</i>
153/1998	Dangerous Goods (Transport by Rail) Regulations 1998

ENDNOTES

1. General Information

The Dangerous Goods (Transport by Road or Rail) Regulations 2008, S.R. No. 166/2008 were made on 16 December 2008 by the Governor in Council under section 52 of the **Dangerous Goods Act 1985**, No. 10189/1985 and came into operation on 1 January 2009: regulation 3.

The Dangerous Goods (Transport by Road or Rail) Regulations 2008 will sunset 10 years after the day of making on 16 December 2018 (see section 5 of the **Subordinate Legislation Act 1994**).

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Endnotes

2. Table of Amendments

This Version incorporates amendments made to the Dangerous Goods (Transport by Road or Rail) Regulations 2008 by statutory rules, subordinate instruments and Acts.

Dangerous Goods (Explosives) Regulations 2011, S.R. No. 37/2011

Date of Making: 21.6.11

Date of Commencement: Reg. 239 on 26.6.11: reg. 3

Dangerous Goods (Explosives) and (Transport by Road or Rail) Amendment Regulations 2013, S.R. No. 125/2013

Date of Making: 15.10.13

Date of Commencement: Regs 6, 7 on 10.2.14: reg. 3(2)

3. Explanatory Details

¹ Reg. 255: S.R. No. 61/2000. Reprint No. 1 incorporating amendments as at 16 March 2006. Reprinted to S.R. No. 96/2005 and subsequently amended by S.R. Nos 54/2007 and 24/2008.

² Reg. 256(1): S.R. No. 127/2000 as amended by S.R. Nos 96/2005 and 54/2007.

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Table of Applied, Adopted or Incorporated Matter

Note that the following table of applied, adopted or incorporated matter is included in accordance with the requirements of regulation 5 of the Subordinate Legislation Regulations 2004.

Statutory Rule Provision	Title of applied, adopted or incorporated document	Matter in applied, adopted or incorporated document
The following definitions in regulation 5— <i>Dangerous Goods List</i> <i>foreign approved</i> <i>outer packaging</i> <i>service equipment</i> <i>structural equipment</i> <i>transport</i> <i>documentation</i> <i>UN Number</i> Regulations 6(2), 10(2), 11, 13(a), 15(3), 25(2)(a), 29(a), 36(b)(ii),	The Australian Code for the Transport of Dangerous Goods by Road and Rail (Seventh edition or subsequent edition) as amended from time to time	The whole

Dangerous Goods (Transport by Road or Rail) Regulations 2008
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Statutory Rule Provision	Title of applied, adopted or incorporated document	Matter in applied, adopted or incorporated document
38(1), 39(a), 39(c), 40(b), 41(b), 42(b), 43(1)(a), 52, 53, 54(2), 55(1), 55(3)(b), 56(1)(a), 57, 58(1), 59(3)(a), 60(a), 60(b), 62(2), 63(2), 68, 70(1)(b), 70(2)(b), 71(2), 73(1)(b), 73(2)(b), 74(b), 75(a), 76(a), 77(a), 78(a), 79(a), 80, 84(2), 85, 90, 91, 92, 93, 94, 95, 95(d)(ii), 96, 97, 98, 99, 104, 105, 106, 107, 110(b)(i), 111(b)(i), 112(b)(i), 113(b)(i), 114(b)(i), 115(1)(a), 115(2), 116(1), 118(2)(a), 119(1)(a), 120, 121, 122(a), 124, 125, 126, 134(a), 136(1), 138(1), 140, 141(a), 142(1)(a), 143(1)(a), 143(2), 143(3), 144(2), 147, 148, 150, 151, 152, 171(1)(e), 173(b)(iv), 183(b)(iii), 211(2)(b), 245, 255(b), 255(c), 256(1)(f) and 256(1)(n)		

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Statutory Rule Provision	Title of applied, adopted or incorporated document	Matter in applied, adopted or incorporated document
Regulations 198 and 205	<i>Assessing Fitness to Drive—Medical Standards for Licensing and Clinical Management Guidelines</i> published by Austroads and the National Road Transport Commission in September 2003, as amended from time to time	The whole
Regulation 256	<i>Hazardous Substances Information System (HSIS)</i> published by Australian Safety and Compensation Council on its Internet site, as amended from time to time	The whole