



New South Wales

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

under the

Road and Rail Transport (Dangerous Goods) Act 1997

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Road and Rail Transport (Dangerous Goods) Act 1997*.

PAM ALLAN, M.P.,
Minister for the Environment

Explanatory note

The object of this Regulation is to apply as law in New South Wales, subject to minor modifications, the *Road Transport Reform (Dangerous Goods) Regulations* of the Commonwealth. These regulations establish a system of licences and standards for the transport of dangerous goods by road and also apply the *Australian Code for the Transport of Dangerous Goods by Road and Rail* to such transport.

This Regulation is made under section 11 (the general regulation making power) and sections 6, 12, 35, 36 38 and 52 of the *Road and Rail Transport (Dangerous Goods) Act 1997*.

This Regulation comprises or relates to matters that are substantially uniform or complementary with legislation of the Commonwealth.

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Contents

Contents

	Page
Part 1 Preliminary	
1 Name of Regulation	3
2 Commencement	3
3 Definitions	3
4 Notes	3
Part 2 Application of Commonwealth regulations relating to road transport of dangerous goods	
5 Application of Commonwealth regulations	4
6 Name of applied regulations	4
7 Penalty notices for offences	4
8 Short descriptions of offences	4
9 Transitional provision	5
Schedules	
1 Modifications to Commonwealth regulations	6
2 Short descriptions of offences	8
Note	
Commonwealth legislation	11

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998*.

2 Commencement

This Regulation commences on 20 April 1998.

3 Definitions

In this Regulation:

Commonwealth regulations means the *Road Transport Reform (Dangerous Goods) Regulations* of the Commonwealth, as applied by clause 5 as regulations for the purposes of the Act.

the Act means the *Road and Rail Transport (Dangerous Goods) Act 1997*.

4 Notes

The explanatory note, table of contents and notes in the text of this Regulation do not form part of this Regulation.

1998 No 202

Clause 5	Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998
Part 2	Application of Commonwealth regulations relating to road transport of dangerous goods

Part 2 Application of Commonwealth regulations relating to road transport of dangerous goods

5 Application of Commonwealth regulations

The *Road Transport Reform (Dangerous Goods) Regulations* of the Commonwealth, as in force from time to time, apply as regulations in force for the purposes of the Act, subject to the modifications set out in Schedule 1.

6 Name of applied regulations

The Commonwealth regulations, as applied by clause 5, may be referred to as the *Road Transport Reform (Dangerous Goods) (New South Wales) Regulations*.

7 Penalty notices for offences

For the purposes of section 38 of the Act:

- (a) each offence created by a provision specified in Column 2 of Schedule 2 to the Commonwealth regulations is prescribed as a penalty notice offence, and
- (b) the prescribed penalty for such an offence payable by an individual is the amount specified in Column 3 of Schedule 2 to the Commonwealth regulations, and
- (c) the prescribed penalty for such an offence payable by a body corporate is the amount specified in Column 4 of Schedule 2 to the Commonwealth regulations.

8 Short descriptions of offences

- (l) For the purposes of section 145B of the *Justices Act 1902*, the prescribed expression for an offence created by a provision specified in Column 1 of Schedule 2 to this Regulation is:
 - (a) the expression specified in Column 2 of that Schedule, or
 - (b) if a choice of words is indicated in that expression, the words remaining after the omission of the words irrelevant to the offence.

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998 Clause 8

Application of Commonwealth regulations relating to road transport of dangerous goods Part 2

- (2) For the purposes of any proceedings for an offence created by a provision specified in Column 1 of Schedule 2 to this Regulation, the prescribed expression for the offence is taken to relate to the offence created by the provision, as the provision was in force when the offence is alleged to have been committed.
- (3) The amendment or repeal of a prescribed expression does not affect the validity of any information, complaint, summons, warrant, notice, order or other document in which the expression is used, and any such document continues to have effect as if that expression had not been amended or repealed.
- (4) Subclause (3) applies to any information, complaint, summons, warrant, notice, order or other document (whether issued, given or made before or after the amendment or repeal) that relates to an offence alleged to have been committed before the amendment or repeal.

9 Transitional provision

An officer of the Environment Protection Authority constituted under the *Protection of the Environment Administration Act 1991* who was, immediately before the commencement of the *Road and Rail Transport (Dangerous Goods) Act 1997*, an inspector of dangerous goods under the *Dangerous Goods Act 1975* may continue to exercise the functions of an inspector under that Act for the purposes of carrying out functions relating to offences committed under that Act before that commencement.

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Schedule 1 Modifications to Commonwealth Regulations

Schedule 1 Modifications to Commonwealth Regulations

(Clause 5)

[1] Regulation 1.2 Commencement

Omit the regulation.

[2] Part 1, Division 4

Omit the Division.

[3] Regulation 1.30 Declaration of nonparticipating jurisdictions

Omit "the Northern".

[4] Regulation 1.30 (b)

Omit the paragraph. Insert instead:

- (b) the Minister, by notice in the Government Gazette, declares that the State or Territory is not a participating jurisdiction,

[5] Regulation 1.32 Identification cards

Omit regulation 1.32 (d).

[6] Part 8

Omit the note after the heading.

[7] Part 21 Infringement notices

Omit the Part.

[8] Regulation 23.1 Prescribed fees

Omit Column 3 of the table. Insert instead:

Column 3

Fee

\$

100

0 until 30 June 1998, 25 from 1 July 1998

0 until 30 June 1998, 25 from 1 July 1998
30 per vehicle until 30 June 1998, 75 per vehicle from 1 July 1998
30 per vehicle until 30 June 1998, 75 per vehicle from 1 July 1998

[9] Schedule 1 Strict liability offences

Omit the Schedule.

[10] Schedule 2

Omit “Infringement” from the heading. Insert instead “Penalty”.

[11] Schedule 3 Dictionary

Omit the definition of *Act*. Insert instead:

“**Act**” means the *Road and Rail Transport (Dangerous Goods) Act 1997*.

[12] Schedule 3, definition of “converter dolly”

Insert “of the Commonwealth” after “Regulations”.

[13] Schedule 3, definition of “Government Gazette”

Omit the definition. Insert instead:

“**Government Gazette**” means the New South Wales Government Gazette.

[14] Schedule 3, definition of “infringement notice”

Omit the definition.

[15] Schedule 3, definition of “participating jurisdiction”

Omit “the Northern”.

[16] Schedule 3, definition of “this jurisdiction”

Omit the definition. Insert instead:

“**this jurisdiction**” means New South Wales.

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Schedule 2 Short descriptions of offences

Schedule 2 Short descriptions of offences

(Clause 8)

Road Transport Reform (Dangerous Goods) (New South Wales) Regulations

Column 1	Column 2
Regulation 3.2	Mark unapproved packaging with markings
Regulation 3.12 (3)	Fail to produce test evidence to Competent Authority
Regulation 4.1 (1) (a)	Consign bulk goods for transport contrary to ADG Code
Regulation 4.1 (1) (b)	Consign bulk goods when goods too dangerous to transport
Regulation 4.1 (2)	Fail to comply with Ch 4 ADG Code in consigning bulk goods
Regulation 4.2 (1) (a)	Transport bulk dangerous goods contrary to Ch 4 ADG Code
Regulation 4.2 (1) (b)	Transport bulk goods when goods too dangerous to transport
Regulation 4.2 (2)	Fail to comply with Ch 4 ADG Code in transporting bulk goods
Regulation 4.3	Drive bulk load contrary to Ch 4 ADG Code
Regulation 4.7 (2)	Fail to attach compliance plate to bulk tank
Regulation 4.8	Attach compliance plate/purported plate to unapproved tank
Regulation 4.10 (1)	Consign bulk goods for transport in unapproved tank/tank not maintained/tested/inspected/tank contravening approval
Regulation 4.14 (1)	Consign goods in foreign tank contrary to determination
Regulation 4.16 (2)	Fail to mark IBC in accordance with IBC Supplement
Regulation 4.17	Mark unapproved IBC with IBC marking/purported marking
Regulation 4.18 (1)	Consign bulk dangerous goods for transport in unapproved IBC/IBC used improperly
Regulation 5.1 (1)	Consign goods in freight container contrary to Ch 5 ADG Code

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Short descriptions of offences

Schedule 2

Column 1	Column 2
Regulation 5.3 (3)	Transport goods when attachment system breaches ADG Code
Regulation 5.4	Drive when freight container attachment breaches ADG Code
Regulation 7.7 (1)	Consign inappropriately placarded load of dangerous goods
Regulation 8.3	Use vehicle and equipment breaching Ch 8 ADG Code
Regulation 8.5	Use/permit uninsured vehicle to transport placard load of goods
Regulation 8.7 (3)	Fail to produce insurance evidence within 14 days
Regulation 10.7 (2)	Fail to ensure hose assembly on premises complies with Code
Regulation 10.8 (2)	Fail to ensure hose assembly on vehicle satisfies Code
Regulation 11.3	Fail to supply dangerous goods shipping documents to driver
Regulation 11.4 (1)	Drive vehicle without shipping documents
Regulation 11.4 (2)	Drive vehicle without shipping documents in holder/in cabin
Regulation 11.7	Transport placard load without emergency information holder/emergency information in holder
Regulation 11.8 (1)	Drive placard load without emergency information holder/emergency information in holder
Regulation 11.8 (2)	Fail to ensure holder contains only permitted documents
Regulation 11.8 (3)	Fail to produce emergency information to authorised officer/emergency services
Regulation 12.1	Use/allow vehicle to transport load without fire extinguishers/warning devices/other equipment
Regulation 12.3 (1)	Drive vehicle without fire extinguishers/warning devices/other equipment
Regulation 13.1 (2)	Fail to alert other road users of hazard
Regulation 13.4	Allow unauthorised person in vehicle while transporting load
Regulation 13.5	Leave/park vehicle transporting goods in breach of Ch 13 ADG Code
Regulation 13.6 (2)	Possess ignition source/smoke while transporting flammable goods

Column 1	Column 2
Regulation 13.6 (3)	Fail to ensure no source of ignition/smoking in vehicle
Regulation 13.8	Transport goods along route/in area contrary to determination
Regulation 13.9	Drive vehicle along route/in area contrary to determination
Regulation 18.28 (2)	Drive vehicle without conspicuous current licence label
Regulation 18.28 (3)	Transport goods without conspicuous current licence label
Regulation 18.30	Fail to carry licence while driving bulk load of dangerous goods
Regulation 18.31	Fail to produce licence for inspection
Regulation 18.39 (2)	Fail to produce licence to Competent Authority within 14 days

Note. Commonwealth legislation

The *Road Transport Reform (Dangerous Goods) Regulations* of the Commonwealth are set out below. They are published as originally published in the Commonwealth Gazette. No amendments had been made to those Regulations as at the commencement of this Regulation.

Statutory Rules 1997 No. 241

Road Transport Reform (Dangerous Goods) Regulations

TABLE OF PROVISIONS

<i>Provision</i>	<i>Page</i>
PART 1—Preliminary	2
Division 1—Introductory	2
1.1 Citation	2
1.2 Commencement	2
1.3 Main objects of regulations.....	2
Division 2—Interpretation	3
1.4 Definitions—the dictionary	3
1.5 References to codes, standards and rules	3
1.6 Inconsistency between Regulations and codes etc	4
1.7 References to determinations, exemptions, approvals and licences	4
1.8 References to variation of administrative determinations etc	5
Division 3—Application of Regulations	5
1.9 Dangerous situations	5
1.10 Transport of small quantities	5
1.11 Short trips after import	6
Division 4—Appilcation of other laws to Regulations	6
1.12 Application of <i>Criminal Code</i>	6
1.13 Strict liability offences	7

ii *Road Transport Reform (Dangerous Goods)
1997 No. 241*

TABLE OF PROVISIONS—continued

<i>Provision</i>	<i>page</i>
1.14 Status of approved forms	7
1.15 Status of certain determinations	7
Division 5—Approved forms	8
1.16 Approval and use of forms	8
1.17 Requirements for approved forms	8
Division 6—Determinations.....	8
1.18 Determinations—dangerous goods	8
1.19 Administrative determinations	9
1.20 Conditions of administrative determinations	9
1.21 Register of determinations	9
1.22 Records of determinations	10
1.23 References to Panel	10
1.24 Effect of Panel decisions about draft determinations	11
1.25 Effect of Panel decisions about revoking or varying determinations	11
1.26 Inconsistent determinations	12
Division 7—Provisions about offences generally	12
1.27 Deciding whether someone reasonably ought to have known or suspected	12
1.28 Penalties	12
Division 8—Other matters.....	13
1.29 Duty to find out whether goods are dangerous goods	13
1.30 Declaration of non-participating jurisdictions	13
1.31 Competent Authority and authorised officers to act as soon as practicable	14
1.32 Identification cards.....	14
PART 2—KEY CONCEPTS	14
Division 1—Kinds of goods	15
2.1 Goods too dangerous to be transported.....	15
2.2 Dangerous goods	15
2.3 Classes of dangerous goods	16
2.4 Subsidiary Risk	16
2.5 Packing Groups	17
2.6 Incompatible goods etc	17

Road Transport Reform (Dangerous Goods) iii
1997 No. 241

TABLE OF PROVISIONS—continued

<i>Provision</i>	<i>page</i>
Division 2—Packages, packaging and loads	19
2.7 Packages and packaging	19
2.8 Capacity	19
2.9 What is a load of goods.....	19
2.10 Aggregate quantity.....	19
2.11 Packaged dangerous goods	20
2.12 Dangerous goods in bulk	20
2.13 Placard loads	20
2.14 Unit loads.....	20
Division 3—Kinds of containers	21
2.15 Freight containers	21
2.16 IBCs	21
2.17 Bulk containers	22
Division 4—Persons with special duties	22
2.18 Vehicle owners	22
2.19 Consignors	22
2.20 Packers	23
2.21 Loaders.....	23
2.22 Prime contractors	24
PART 3—PACKAGING	25
Division 1—Packaging duties	25
3.1 Suitability of packaging.....	25
3.2 Marking packaging	25
3.3 Consignor's duties	25
3.4 Packer's duties	26
3.5 Loader's duties	26
3.6 Prime contractor's duty	26
3.7 Driver's duty	26
Division 2—Approval of packaging design types	27
3.8 Approvals.....	27
3.9 Recognised testing facilities	27
3.10 Test certificates.....	27
Division 3—Competent Authority's performance testing powers	28
3.11 Requiring production of packaging for testing	28
3.12 Requiring evidence of performance tests	29

 iv *Road Transport Reform (Dangerous Goods)
1997 No. 241*
TABLE OF PROVISIONS—continued

<i>Provision</i>	<i>Page</i>
PART 4— DANGEROUS GOODS IN BULK	30
Division 1—Restrictions on transport of dangerous goods in bulk	30
4.1 Consignor's duties	30
4.2 Prime contractor's duties	30
4.3 Driver's duty	31
Division 2—Bulk containers	31
4.4 Consignor's duties	31
4.5 Prime contractor's duties	32
4.6 Driver's duties	33
Division 3—Tanks	33
4.7 Manufacturer's duties	33
4.8 Compliance plates	33
4.9 Owner's duties for certain vehicles	34
4.9 Consignor's duties	34
4.11 Loader's duty	35
4.12 Prime contractor's duties	35
4.13 Driver's duties	36
Division 4—Foreign approved tanks	36
4.14 Consignor's duties	36
4.15 Prime contractor's duties	37
Division 5—IBCs	37
4.16 Manufacturer's duties	37
4.17 IBC markings	38
4.18 Consignor's duties	38
4.19 Loader's duties	39
4.20 Prime contractor's duties	39
4.21 Driver's duties	40
Division 6—Foreign approved IBCs	40
4.22 Consignor's duties	40
4.23 Prime contractor's duties	41
Division 7—Approval of tank and IBC designs	41
4.24 Applications for approval	41
4.25 Approvals—tank designs	42
4.26 Approvals—IBC designs	42

Road Transport Reform (Dangerous Goods) v
1997 No. 241

Table of provisions —continued

<i>Provision</i>	<i>page</i>
Division 8—Determinations.....	43
4.27 Determinations—foreign approved tanks and IBCs	43
PART 5—FREIGHT CONTAINERS	44
5.1 Consignor’s duties	44
5.2 Loader’s duty	44
5.3 Prime contractor’s duties	45
5.4 Driver’s duty	45
PART 6—UNIT LOADS	46
6.1 Consignor’s duties	46
6.2 Loader’s duties	46
6.3 Prime contractor’s duties	47
6.4 Driver’s duties	47
6.5 Approvals—unit loads	47
PART 7—MARKING AND PLACARDING	48
Division 1—Marking packages and unit loads	48
7.1 Application of Division	48
7.2 Meaning of “appropriately marked”	48
7.3 Consignor’s duties	48
7.4 Packer’s duties	49
7.5 Prime contractor’s duties	50
Division 2—Placarding	51
7.6 Meaning of “appropriately placarded” etc	51
7.7 Consignor’s duties	51
7.8 Loader’s duties	52
7.9 Prime contractor’s duties	53
7.10 Driver’s duties	53
PART 8—VEHICLES	55
Division 1—Safety standards	55
8.1 Owner’s duty.....	55
8.2 Consignor’s duty	55
8.3 Prime contractor’s duty	55
8.4 Driver’s duty	56

vi *Road Transport Reform (Dangerous Goods)*
1997 No. 241

Table of provisions —continued

<i>Provision</i>	<i>page</i>
Division 2—Vehicle insurance.....	56
8.5 Owner's duty	56
8.6 Prime contractor's duty	56
8.7 Requiring evidence of insurance etc	56
PART 9—SEGREGATION AND STOWAGE	58
Division 1—Application of Part	58
9.1 Application	58
Division 2—Segregation of incompatible goods	58
9.2 Loads on combination road vehicles	58
9.3 Exception for certain goods for driver's personal use	58
9.4 Consignor's duties	59
9.5 Loader's duties	59
9.6 Prime contractor's duties	59
9.7 Driver's duties	60
9.8 Approvals — segregation	60
Division 2—Stowage	61
9.9 Consignor's duty	61
9.10 Loader's duty	61
9.11 Prime contractor's duty	61
9.12 Driver's duty	62
PART 10—TRANSFER OF DANGEROUS GOODS IN BULK	63
Division 1—Filling ratio and ullage	63
10.1 Transferor's duties	63
10.2 Prime contractor's duty	63
10.3 Driver's duty	64
Division 2—Transfer	63
10.4 Application	64
10.5 Transferor's duties—general	64
10.6 Transferor's duties —hose assemblies	65
10.7 Occupier's duties	66
10.8 Prime contractor's duties	67
10.9 Approvals—transfers of dangerous goods	68

Road Transport Reform (Dangerous Goods) **vii**
1997 No. 241

TABLE OF PROVISIONS—continued

<i>Provision</i>	<i>page</i>
PART 11—DOCUMENTS	69
Division 1—Shipping documentation	69
11.1 False or misleading information	69
11.2 Consignor's duties	69
11.3 Prime contractor's duty	70
11.4 Driver's duties	70
Division 2—Emergency information	71
11.5 Meaning of "required emergency information"	71
11.6 Consignor's duty	71
11.7 Prime contractor's duties	71
11.8 Driver's duties	72
11.9 Approvals—emergency information	72
PART 12—PERSONAL PROTECTIVE AND SAFETY EQUIPMENT	73
12.1 Owner's duties	73
12.2 Prime contractor's duties	73
12.3 Driver's duties	74
PART 13—PROCEDURES DURING TRANSPORT	75
Division 1—Immobilised and stopped vehicles	75
13.1 Driver's duty	75
13.2 Prime contractor's duties	75
13.3 Powers of authorised officers	76
Division 2—Drivers' duties	76
13.4 Driving	76
13.5 Parking	77
13.6 Control of ignition sources	77
Division 3—Routes, areas, vehicles and times	78
13.7 Determinations—routes, areas, vehicles and times	78
13.8 Prime contractor's duty	78
13.9 Driver's duty	78

viii *Road Transport Reform (Dangerous Goods)
1997 No. 241*

TABLE OF PROVISIONS—continued

<i>Provision</i>	<i>Page</i>
PART 14—EMERGENCIES	79
Division 1—Emergencies generally	79
14.1 Driver's duties	79
14.2 Prime contractor's duties—contaminated food and food packaging	79
14.3 Prime contractors and drivers to inform Competent Authority	80
Division 2—Emergencies involving placard loads	81
14.4 Telephone advisory service—bulk transport	81
14.5 Emergency plans	82
14.6 Consignor's duties—information and resources	82
14.7 Prime contractor's duties—information and resources	83
PART 15—MUTUAL RECOGNITION	85
Division 1—Registers of determinations, exemptions, approvals and licences	85
15.1 Registers	85
15.2 Registers may be kept by computer	85
15.3 Inspection of registers	85
Division 2—Competent Authorities Panel	86
15.4 Membership and function of Panel	86
15.5 Panel meetings	86
15.6 Decisions of Panel	86
Division 3—Recommendations by Competent Authority and corresponding Competent Authorities	87
15.7 Recommendations by Competent Authority	87
15.8 Recommendations by corresponding Competent Authorities	88
Division 4—Mutual recognition of determinations, exemptions, approvals and licences	88
15.9 Corresponding determinations	88
15.10 Corresponding exemptions	89
15.11 Corresponding approvals	90
15.12 Corresponding licences	91

Road Transport Reform (Dangerous Goods) ix
1997 No. 241

TABLE OF PROVISIONS—continued

<i>Provision</i>	<i>Page</i>
PART 16—EXEMPTIONS	92
Division 1—General	92
16.1 Applications for exemptions	92
16.2 Register of exemptions	93
16.3 Records of exemptions	93
Division 2—Reference of matters to Panel	94
16.4 References to Panel	94
16.5 Effect of Panel decisions about applications	94
16.6 Effect of Panel decisions about cancelling or varying exemptions	95
PART 17—ADMINISTRATIVE DETERMINATIONS AND APPROVALS	96
Division 1—General	96
17.1 Applications	96
17.2 Form of administrative determinations and approvals	96
17.3 When administrative determinations and approvals not to be made etc	97
17.4 Reasons for refusal of applications	97
17.5 Periods and conditions	97
17.6 Replacement administrative determinations and approvals	98
17.7 Failure to comply with conditions	98
17.8 Grounds for cancelling administrative determinations and approvals	98
17.9 Grounds for varying administrative determinations and approvals	99
Division 2—Register of approvals	100
17.10 Register	100
17.11 Records of approvals	101
Division 3—Reference of approval matters to Panel	102
17.12 References to Panel	102
17.13 Effect of Panel decisions about applications	102
17.14 Effect of Panel decisions about cancelling or varying approvals	103

x *Road Transport Reform (Dangerous Goods)*
1997 No. 241

TABLE OF PROVISIONS—continued

<i>Provision</i>	<i>Page</i>
PART 18—LICENCES	104
Division 1—Preliminary	104
18.1 Application of Part	104
18.2 Part additional to other laws	104
Division 2—Principal duties under Part	104
18.3 Prime contractor's duties	104
18.4 Driver's duties	105
18.5 Consignor's duty	105
Division 3—Bulk driver licences	105
18.6 Meaning of "licence" and "licensee" in Division	105
18.7 Required driving licence evidence	106
18.8 Required competency evidence	107
18.9 Required medical fitness evidence	107
18.10 Applications for licences	107
18.11 Grant of licences	108
18.12 Applications for renewal of licences.....	109
18.13 Renewal of licences	109
18.14 Licence periods	110
18.15 Licence conditions	110
18.16 Additional condition	111
18.17 Grounds for cancelling, suspending or varying licences	111
Division 4—Bulk vehicle licences	112
18.18 Meaning of "licence" and "licensee" in Division	112
18.19 Applications for licences	112
18.20 Additional information and inspections	113
18.21 Grant of licences	114
18.22 Applications for renewal of licences.....	115
18.23 Renewal of licences	115
18.24 Licence periods	116
18.25 Licence conditions	116
18.26 Disposal of licensed vehicles	117
18.27 Grounds for cancelling suspending or varying licences	117
18.28 Licence labels.....	118

Road Transport Reform (Dangerous Goods) xi
1997 No. 241

TABLE OF PROVISIONS—continued

<i>Provision</i>	<i>page</i>
Division 5—Carriage and production of bulk driver licences	8
18.29 Meaning of “licence” and “licensee” in Division	118
18.30 Licences to be carried	119
18.31 Licences to be produced for inspection	119
Division 6—Licences generally	119
18.32 Meaning of “licence” and “licensee” in Division	119
18.33 Replacement licences and licence labels	119
18.34 Failure to comply with licence conditions	120
18.35 Surrender of licences	120
18.36 Registers of licences	120
18.37 Records of licences	120
18.38 Change of information given in licence applications	121
18.39 Production of licences to Competent Authority	121
18.40 Seizure of licences etc	121
18.41 Return of licences	122
PART 19—CANCELLATION, SUSPENSION AND VARIATION	123
19.1 Meaning of “licence” and “licensee” in Part	123
19.2 Cancellation, suspension and variation in dangerous situations	123
19.3 Cancellation and suspension giving effect to court orders	123
19.4 Variation of administrative determinations and approvals on application	124
19.5 Cancellation, suspension and variation in other circumstances	124
19.6 When cancellation, suspension and variation take effect	126
19.7 When licences taken to be suspended	126
PART 20—INSTRUCTION AND TRAINING	127
20.1 Instruction and training	127
20.2 Approvals—tests and training courses for drivers	128
PART 21—INFRINGEMENT NOTICES	129
21.1 Offences, penalties and time for payment	129
21.2 Contents of infringement notices	129
21.3 Additional information in infringement notices	130
21.4 Reminder notices	131

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Note Commonwealth legislation

xii *Road Transport Reform (Dangerous Goods)*
1997 No. 241

TABLE OF PROVISIONS—continued

<i>Provision</i>	<i>page</i>
21.5 Additional information in reminder notices	131
21.6 Withdrawal of infringement notices	133
21.7 Effect of Part	133
PART 22—RECONSIDERATION AND REVIEW OF DECISIONS	135
22.1 Application of Part	135
22.2 Who may apply for reconsideration of decisions	135
22.3 Applications for reconsideration	135
22.4 Competent Authority to reconsider decisions	136
22.5 Review of certain decisions	136
PART 23—FEES	137
23.1 Prescribed fees	137
PART 24—TRANSITIONAL PROVISIONS	138
24.1 Lawful conduct under previous law	138
24.2 Continuing effect of certain determinations	138
24.3 Continuing effect of corresponding determinations ..	139
24.4 Continuing effect of certain exemptions	139
24.5 Continuing effect of corresponding exemptions	140
24.6 Continuing effect of certain approvals	140
24.7 Continuing effect of corresponding approvals	141
24.8 Continuing effect of certain licences	142
24.9 Continuing effect of corresponding licences	142

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Commonwealth legislation

Note

Road Transport Reform (Dangerous Goods) xiii
1997 No. 241

TABLE OF PROVISIONS—continued

SCHEDULE 1
Strict liability offences

SCHEDULE 2
Infringement notice offences and penalties

SCHEDULE 3
Dictionary

1. Words and expressions defined in *Road Transport Reform
(Dangerous Goods) Act 1995*

authorised officer	involvement in the transport of dangerous goods by road
Competent Authority	offence
dangerous goods	premises
dangerous situation	transport

2. Expression defined in Road Transport Reform (Heavy Vehicles
Standards) Regulations

converter dolly

3. Expressions defined in *Australian Code for the Transport of
Dangerous Goods by Road and Rail*

consumer commodity load	outer packaging
-------------------------	-----------------

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Note Commonwealth legislation

xiv *Road Transport Reform (Dangerous Goods)
1997 No. 241*

TABLE OF PROVISIONS—continued

4. Other definitions in the dictionary

Act	compliance plate
ADG Code	consignor
administrative determination	consigns
ADR approved	corresponding
aggregate quantity	corresponding administrative determination
another participating jurisdiction	corresponding approval
appropriately marked	corresponding bulk driver licence
appropriately placarded	corresponding bulk vehicle licence
approval	corresponding Competent Authority
approved IBC	corresponding determination
approved packaging	corresponding exemption
approved tank	dangerous goods in bulk determination
approved test	driving licence
approved training course	emergency service
attachment system	exemption
bulk container	filling ratio
bulk driver licence	fire-risk substance
bulk vehicle licence	food
capacity	food container
Class	food packaging
Code	
combination road vehicle	
Commonwealth Minister	

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Commonwealth legislation

Note

Road Transport Reform (Dangerous Goods)
1997 No. 241

xv

TABLE OF PROVISIONS—continued

foreign approved IBC	packaged dangerous goods
foreign approved packaging	packaging
foreign approved tank	packer
freight container	Parking Group
Government Gazette	packs
hose assembly	Panel
IATA Regulations	Panel member
IBC	participating jurisdiction
IBC marking	performance test
IBC Supplement	personal injury
ICAO Rules	placard load
IMDG Code	prescribed fee
IMO approved	prime contractor
incompatible	prime mover
infringement notice	recognised testing facility
licence	register
licence label	registered
licensed vehicle	reminder notice
licensee	required emergency information
loader	RID approved
loads	rigid vehicle
Ministerial Council	risk
NATA	semi-trailer
owner	Subsidiary Risk
package	tank

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Note Commonwealth legislation

xvi *Road Transport Reform (Dangerous Goods)*
1997No. 241

TABLE OF PROVISIONS—continued

test or training certificate

this jurisdiction

trailer

UN dangerous goods tests and
criteria

unit load

UN Recommendations

UN Recommendations, Manual
of Tests and Criteria

vehicle

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Commonwealth legislation

Note

Statutory Rules 1997 No. 241

**Road Transport Reform (Dangerous Goods)
Regulations**

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Road Transport Reform (Dangerous Goods) Act 1995*.

Dated 3 September 1997.

WILLIAM DEANE
Governor-General

By His Excellency's Command.

JOHN SHARP
Minister for Transport and Regional Development

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Note Commonwealth legislation

2 *Road Transport Reform (Dangerous Goods)*
1997 No. 241

PART 1—PRELIMINARY

Division 1—Introductory

Citation

- 1.1** These Regulations may be cited as the Road Transport Reform (Dangerous Goods) Regulations.

Commencement

- 1.2** These Regulations, except regulation 1.1 and this regulation, commence on a day or days specified by the Commonwealth Minister by notice in the *Commonwealth of Australia Gazette*.

[Note: Regulations 1.1 and 1.2 commence on gazettal: see *Acts interpretation Act 1901*, s 48.]

Main objects of Regulations

- 1.3** The main objects of these Regulations are:
- (a) to reduce as far as practicable the risks of personal injury, property damage and environmental harm arising from the transport of dangerous goods by road; and
 - (b) to give effect to the standards, requirements and procedures of the ADG Code so far as they apply to the transport of dangerous goods by road; and
 - (c) to promote consistency between the standards, requirements and procedures applying to the transport of dangerous goods by road and by other modes of transport.

Road Transport Reform (Dangerous Goods) 3
1997 No. 241

Division 2— Interpretation

Definitions—the dictionary

- 1.4 (1)** The dictionary in Schedule 3 defines particular words and expressions.
- (2)** A relevant definition found elsewhere in these Regulations is indicated by a signpost definition in the dictionary.

[Note: A signpost definition of a word or expression is included only if the definition is used outside the regulation defining the word or expression.]

- (3)** A definition outside these Regulations that applies particularly to these Regulations is also indicated by a signpost definition in the dictionary.

Example:

The signpost definition

“**converterdolly**” see clause 10.6 in the Schedule to the Road Transport Reform (Heavy Vehicles Standards) Regulations;”

indicates that the expression “converter dolly” is defined in clause 10.6 in the Schedule to those Regulations.

- (4)** A definition in or applying to these Regulations applies to words and expressions used in these Regulations unless the contrary intention appears.
- (5)** A definition in or applying to these Regulations applies to the entire Regulations unless the contrary intention appears.

References to codes, standards and rules

- 1.5 (I)** In this regulation:

“**instrument**” means a code, standard or rule (whether made in or outside Australia) relating to dangerous

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Note Commonwealth legislation

4 *Road Transport Reform (Dangerous Goods)*
1997 No. 241

goods or to transport by road, and includes a provision of an instrument.

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

[Note: See section 50 of the Act, which deals with notification in the Government Gazette of where an instrument may be obtained or inspected.]

Inconsistency between Regulations and codes etc

1.6 (1) In this regulation:

“instrument” means a code, standard or rule (whether made in or outside Australia) relating to dangerous goods or to transport by road.

- (2) If an instrument is applied or adopted by, or is incorporated in, these Regulations and the instrument is inconsistent with these Regulations, the Regulations prevail to the extent of the inconsistency.

References to determinations, exemptions, approvals and licences

1.7 In these Regulations, a reference to:

- (a) a determination, exemption, approval, bulk driver licence or bulk vehicle licence; or
- (b) a corresponding determination, exemption, approval, bulk driver licence or bulk vehicle licence:

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

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Commonwealth legislation

Note

Road Transport Reform (Dangerous Goods) 5
1997 No. 241

References to variation of administrative determinations etc

- 1.8** In these Regulations, a reference to the variation of:
- (a) an administrative determination, exemption, approval, bulk driver licence or bulk vehicle licence; or
 - (b) a corresponding administrative determination, exemption, approval, bulk driver licence or bulk vehicle licence;
- includes a reference to a variation by addition, omission or substitution.

Example:

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

Division 3—Application of Regulations

[Note: The *Defence Act 1903* (Cwlth) deals with the immunity of defence personnel from certain State and Territory laws.]

Dangerous situations

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

Transport of small quantities

- 1.10** (1) In this regulation:
“designated dangerous goods” means dangerous goods of Class 1 (except of Class 1.4S), Class 6.2 or Class 7.
- (2) These Regulations do not apply to the transport by a person of a load of dangerous goods if:
- (a) the goods are packaged dangerous goods; and
 - (b) the goods are not, and do not include, designated dangerous goods; and

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Note Commonwealth legislation

6 *Road Transport Reform (Dangerous Goods)*
1997 No. 241

- (c) the aggregate quantity of the dangerous goods in the load is less than 25% of a placard load; and
- (d) the goods are not being transported by the person in the course of a business of transporting goods by road.

Short trips after import

1.11 Regulations 3.1 to 3.4, and Divisions 5, 6 and 7 of Part 4, do not apply to the transport of dangerous goods by road if:

- (a) the goods have been imported into Australia; and
- (b) the goods are being transported in a closed freight container; and
- (c) the goods are not leaking from the container; and
- (d) the goods are being transported directly to a destination that is not more than 50 kilometres by road from the place of import; and
- (e) the container is placarded in accordance with the IATA Regulations, ICAO Rules or IMDG Code.

Division 4—Application of other laws to Regulations

[Note: Some provisions of this Division are only capable of applying in this jurisdiction. However, other provisions of this Division may be adopted in other participating jurisdictions.]

Application of *Criminal Code*

1.12 Chapter 2 of the Criminal Code set out in the Schedule to the *Criminal Code Act 1995* of the Commonwealth (except Part 2.5) applies to an offence against these Regulations as if the Chapter were in operation in this jurisdiction.

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Commonwealth legislation

Note

Road Transport Reform (Dangerous Goods) 7
1997 No. 241

[Notes:

1. Chapter 2 of the *Criminal Code* codifies the general principles of criminal responsibility.

2. Pan 2.5 of the *Criminal Code* provides for the imposition of criminal liability on bodies corporate. It is not appropriate to apply Pan 2.5 to the Regulations because section 42 of the Act deals with the matter in a different way.]

Strict liability offences

- 1.13** An offence created by a provision mentioned in Schedule 1 is an offence of strict liability.

Status of approved forms

- 1.14** An approved form is taken to be a disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989* of the Australian Capital Territory.

[Notes:

1 Section 10 of the *Subordinate Laws Act 1989* (ACT) provides that an Act or subordinate law of the Territory may provide that an instrument made under the Act or law is a disallowable Instrument for the purposes of the section.

2. Section 6 of the *Subordinate Laws Act 1989* (ACT) makes provision for the notification, tabling and disallowance of disallowable instruments.]

Status of certain determinations

- 1.15** A determination made under these Regulations (except an administrative determination) is taken to be a disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989* of the Australian Capital Territory.

[Note: See notes to regulation 1.14]

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Note Commonwealth legislation

8 *Road Transport Reform (Dangerous Goods)*
1997 No. 241

Division 5—Approved forms

Approval and use of forms

- 1.16** (1) The Competent Authority may approve a form for a provision or purpose of these Regulations.
- (2) The form must be used for the provision or purpose.

Requirements for approved forms

- 1.17** (1) Each approved form must have a heading that includes the name of these Regulations and briefly indicates the purpose of the form.
- (2) Each kind of approved form must be numbered using a system that gives forms of that kind a unique number.
- (3) Each version of a kind of approved form must be numbered consecutively using a system that gives the version a unique number.

Division 6—Determinations

Determinations—dangerous goods

- 1.18** The Competent Authority may determine that:
- (a) goods are dangerous goods; or
 - (b) goods are not dangerous goods; or
 - (c) goods are dangerous goods of a particular Class:
or
 - (d) goods are dangerous goods with a particular
Subsidiary Risk: or
 - (e) goods are dangerous goods of a particular
Parking Group: or
 - (f) goods are incompatible with particular
dangerous goods: or
 - (g) goods are too dangerous to be transported; or

<i>Road Transport Reform (Dangerous Goods)</i> <i>1997 No. 241</i>	9
---	---

- (h) goods are too dangerous to be transported in bulk; or
- (i) goods are **too** dangerous to be transported on the same combination road vehicle as other goods.

Administrative determinations

1.19 A determination is an *administrative determination* if the determination:

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

[Notes:

1. Part 17 contains provisions dealing with administrative determinations, including applications for administrative determinations and their cancellation and variation.

2. For additional provisions about cancelling and varying administrative determinations, see Part 19.]

Conditions of administrative determinations

1.20 An administrative determination may be subject to any condition necessary for the safe transport of dangerous goods by road.

Register of determinations

- 1.21** (1) The Competent Authority must keep a register of determinations.
- (2) The register may have separate divisions for different kinds of determinations.
- (3) The Competent Authority must record in the register:
- (a) each determination made under these Regulations that is not an administrative determination; and
 - (b) each determination made by a corresponding Competent Authority that would be a corresponding determination if it were recorded in the register.
-

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Note Commonwealth legislation

10 *Road Transport Reform (Dangerous Goods)*
1997 No. 241

- (4) The Competent Authority must note in the register:
- (a) the revocation of a determination made under these Regulations; and
 - (b) a decision of the Panel reversing a decision that a corresponding determination should have effect in all participating jurisdictions or participating jurisdictions including this jurisdiction.

Records of determinations

- 1.22 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 of the participating jurisdiction where 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.

References to Panel

- 1.23 (1) This regulation does not apply to an administrative determination.
- (2) The Competent Authority must refer a draft determination to the Panel if the Authority considers that the determination should have effect in all participating jurisdictions or participating jurisdictions including this jurisdiction.
- (3) The Competent Authority must refer to the Panel a determination having effect in this jurisdiction, and 1 or more other participating jurisdictions. if:

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Commonwealth legislation

Note

Road Transport Reform (Dangerous Goods) 11
1997 No. 241

- (a) the Authority considers that the determination should be revoked or varied; or
- (b) a corresponding Competent Authority recommends to the Authority in writing that the determination should be revoked or varied.

Effect of Panel decisions about draft determinations

- 1.24** (1) This regulation applies if:
- (a) a draft determination is referred to the Panel under subregulation 1.23 (2); and
 - (b) the Panel decides that:
 - (i) the draft determination should be made, what the provisions of the determination should be, and that the determination should have effect in all participating jurisdictions or participating jurisdictions including this jurisdiction; or
 - (ii) the determination should not have effect in this participating jurisdiction.
- (2) The Competent Authority must have regard to the Panel's decision.

Effect of Panel decisions about revoking or varying determinations

- 1.25** (1) This regulation applies if:
- (a) a determination is referred to the Panel under subregulation 1.23 (3); and
 - (b) the Panel decides that the determination:
 - (i) should, or should not, be revoked; or
 - (ii) should be varied (whether or not the Panel's decision is the same as the variation proposed by the Authority), and should have effect as varied in all participating jurisdictions or participating jurisdictions including this jurisdiction:
or

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Note Commonwealth legislation

12 *Road Transport Reform (Dangerous Goods)
1997 No. 241*

(iii) should not be varied.

(2) The Competent Authority must have regard to the Panel's decision.

Inconsistent determinations

- 1.26 (1) This regulation applies if:
- (a) the Panel decides that a determination (the **“national determination”**) should have effect in all participating jurisdictions or participating jurisdictions including this jurisdiction; and
 - (b) the national determination is inconsistent with a determination (the **“local determination”**) that only has effect in this jurisdiction.
- (2) The national determination prevails over the local determination to the extent of the inconsistency.

Division 7—Provisions about offences generally

Deciding whether someone reasonably ought to have known or suspected

- 1.27 If, in a prosecution for an offence against these Regulations, it is material to prove that someone reasonably ought to have known or suspected something, the issue is to be decided having regard to:
- (a) the person's abilities, experience, qualifications and training; and
 - (b) the circumstances of the alleged offence.

Penalties

- 1.28 (1) This regulation applies to a provision prescribing a penalty for an offence.
- (2) The penalty is the maximum fine for an individual who is found guilty of the offence.

Road Transport Reform (Dangerous Goods) 13
1997 No. 241

- (3) If a body corporate is found guilty of the offence, the maximum fine for the body corporate is 5 times the penalty.

Division 8—Other matters

Duty to find out whether goods are dangerous goods

- 1.29** (1) This regulation applies if:
- (a) a person manufactures goods in Australia or imports goods into Australia; and
 - (b) the goods are not dangerous goods under paragraph 2.2 (1) (a), (b), (c) or (d); and
 - (c) the goods are not goods to which a determination under paragraph 1.18 (b) applies; but
 - (d) the person suspects, or reasonably ought to suspect, that the goods satisfy the UN dangerous goods tests and criteria for determining whether goods are dangerous goods.
- (2) The person must not consign or transport the goods by road unless the person finds out whether the goods satisfy the tests and criteria.

Penalty: \$3,000

Declaration of non-participating jurisdictions

- 1.30** A State or the Northern Territory is not a participating jurisdiction if:
- (a) the Ministerial Council decides that the law of the State or Territory does not include provisions having the same, or substantially the same, effect as the Act and these Regulations; and
 - (b) the Commonwealth Minister, by notice in the *Commonwealth of Australia Gazette*, declares that the State or Territory is not a participating jurisdiction.

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Note Commonwealth legislation

14 *Road Transport Reform (Dangerous Goods)
1997 No. 241*

Competent Authority and authorised officers to act as soon as practicable

1.31 If:

- (a) the Competent Authority or an authorised officer is required to do something under these Regulations; and
- (b) no time limit is fixed within which the thing must be done;

the Authority or officer must do it as soon as practicable.

Identification cards

1.32 The identification card of an authorised officer must contain:

- (a) a recent photograph of the officer; and
- (b) the name of the officer; and
- (c) the date of issue of the card; and
- (d) a date of expiry for the card; and
- (e) the name of the Competent Authority.

Road Transport Reform (Dangerous Goods) 15
1997 No. 241

PART 2—KEY CONCEPTS

Division 1—Kinds of goods

Goods too dangerous to be transported

- 2.1** Goods are too dangerous to be transported if they are:
- (a) mentioned in Appendix 5 to the ADG Code; or
 - (b) determined under paragraph 1.18 (g) to be too dangerous to be transported.

[Note: Section 36 of the Act provides that a person must not transport by road goods that the regulations identify as being too dangerous to be transported.]

Dangerous goods

- 2.2 (1)** Goods are *dangerous goods* if they:
- (a) are named in a specific entry in column 2 in Appendix 2 to the ADG Code, but not in a generic entry or in an entry where the letters “N.O.S” are shown as part of the proper shipping name for the goods; or
 - (b) satisfy the criteria in column 2 or 9 in the Appendix: or
 - (c) satisfy the criteria in a Special Provision of the ADG Code that is applied by column 7 in the Appendix: or
 - (d) are determined under paragraph 1.18 (a) to be dangerous goods; or
 - (e) satisfy the UN dangerous goods tests and criteria for determining whether goods are dangerous goods.
- (2)** However, goods are not dangerous goods if they are determined under paragraph 1.18 (b) not to be dangerous goods.

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Note Commonwealth legislation

16 *Road Transport Reform (Dangerous Goods)*
1997 No. 241

Classes of dangerous goods

- 2.3 (1)** In these Regulations, a reference to:
- (a) a Class of dangerous goods is a reference to the Class to which the goods are assigned under subregulation (2); and
 - (b) a Class by number, or number and letter, is a reference to the number, or number and letter, of the Class to which the goods are assigned.
- (2)** Dangerous goods are assigned to a Class if the goods:
- (a) are assigned to the Class in column 3 in Appendix 2 to the ADG Code; or
 - (b) are assigned to the Class in a Special Provision of the ADG Code applying to the goods; or
 - (c) satisfy the criteria in column 9 in Appendix 2 to the ADG Code for assignment to the Class; or
 - (d) are determined under paragraph 1.18 (c) to be dangerous goods of the Class; or
 - (e) satisfy the UN dangerous goods tests and criteria for assignment to the Class.

Subsidiary Risk

- 2.4 (1)** In these Regulations, a reference to:
- (a) dangerous goods with a ***Subsidiary Risk*** is a reference to the dangerous goods assigned the Subsidiary Risk under subregulation (2); and
 - (b) a ***Subsidiary Risk*** by number is a reference to the number of the Subsidiary Risk with which the dangerous goods are assigned.
- (2)** Dangerous goods are assigned a Subsidiary Risk if the goods:
- (a) are assigned the Subsidiary Risk in column 4 in Appendix 2 to the ADG Code; or
 - (b) are assigned the Subsidiary Risk in a Special Provision of the ADG Code applying to the goods; or

Road Transport Reform (Dangerous Goods) 17
1997 No. 241

- (c) satisfy the criteria in column 9 in Appendix 2 to the ADG Code for assignment of the Subsidiary Risk; or
- (d) are determined under paragraph 1.18 (d) to be dangerous goods assigned the Subsidiary Risk; or
- (e) satisfy the UN dangerous goods tests and criteria for assignment to the Subsidiary Risk.

Packing Groups

- 2.5 (1)** In these Regulations, a reference to:
- (a) a ***Packing Group*** of dangerous goods is a reference to the Packing Group to which the goods are assigned under subregulation (2); and
 - (b) a ***Packing Group*** by number is a reference to the number of the Packing Group to which the goods are assigned.
- (2)** Dangerous goods (except dangerous goods of Class 1, 2 or 7) are assigned to a Packing Group if the goods:
- (a) are assigned to the Packing Group in column 5 in Appendix 2 to the ADG Code; or
 - (b) are assigned to the Packing Group in a Special Provision of the Code applying to the goods; or
 - (c) satisfy the criteria in column 9 in Appendix 2 to the ADG Code for assignment to the Packing Group; or
 - (d) are determined under paragraph 1.18 (e) to be assigned to the Packing Group; or
 - (e) satisfy the UN dangerous goods tests and criteria for assignment to the Packing Group.

Incompatible goods etc

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

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Note Commonwealth legislation

18 *Road Transport Reform (Dangerous Goods)*
1997 No. 241

- (b) the goods are determined under paragraph 1.18 (f) to **be** incompatible with the dangerous goods; or
 - (c) when the goods are mixed, or otherwise brought into contact, with the dangerous goods, the goods are likely to interact with the dangerous goods and increase risk because of the interaction.
- (2) However, goods **are** not to be regarded as incompatible with dangerous goods in a proceeding in which incompatibility is an issue if
- (a) the goods are incompatible with the dangerous goods only because of paragraph (1) (a) or (b); and
 - (b) it is established in the proceeding that, when the goods are mixed, or otherwise brought into contact with the dangerous goods, the goods are not likely to interact with the dangerous goods and increase risk because of the interaction.
- (3) A container is ***incompatible*** with dangerous goods if the container is constructed of material that, when the goods are brought into contact with the container, is likely to interact with the goods and increase risk because of the interaction.

Example of increased risk because of interaction:

Substantial structural weakening of the container.

- (4) Transfer equipment for use in the transport of dangerous goods is ***incompatible*** with the goods if the equipment is constructed of material that, when the goods are brought into contact with the equipment, is likely to interact with the goods and increase risk because of the interaction.

Example of increased risk because of interaction:

Failure of the transfer equipment resulting in leakage of dangerous goods.

Road Transport Reform (Dangerous Goods) 19
1997 No. 241

Division 2—Packages, packaging and loads

Packages and packaging

- 2.7 (1)** A *package* of dangerous goods or other goods is the complete product of the packing of the goods for transport by road, 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 by road, and includes anything that enables the container to receive or hold the goods or to be closed.

Capacity

- 2.8** The *capacity* of a container is the total internal volume of the container at a temperature of 15° Celsius expressed in litres or cubic metres.

What is a load of goods

- 2.9** All the goods in or on a vehicle are taken to be a single load.

Aggregate quantity

- 2.10** The *aggregate quantity* of dangerous goods in a load is the total of:
- (a) the number of kilograms of solid dangerous goods and aerosols in the load; and
 - (b) the number of litres or kilograms, whichever is used in the shipping documentation for the load to describe the goods, of liquid dangerous goods in the load (except dangerous goods of Class 2); and
 - (c) the total capacity in litres of containers in the load containing dangerous goods of Class 2 (except aerosols).

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Note Commonwealth legislation

20 *Road Transport Reform (Dangerous Goods)
1997 No. 241*

Packaged dangerous goods

2.11 Dangerous goods are *packaged dangerous goods* if:

- (a) they are dangerous goods of Class 2 in a container with a capacity of not more than 500 litres; or
- (b) they are dangerous goods of another Class in:
 - (i) a container with a capacity of not more than 450 litres; and
 - (ii) a container with a net mass of not more than 400 kilograms.

Dangerous goods in bulk

2.12 *Dangerous goods in bulk* are dangerous goods that are not packaged dangerous goods.

Placard loads

- 2.13** (1) A load of dangerous goods is a *placard load* if the load contains dangerous goods in bulk.
- (2) A load of dangerous goods is also a *placard load* if the load does not contain dangerous goods in bulk, or is not a consumer commodity load, but:
- (a) the load contains dangerous goods of Class 6.2; or
 - (b) for another load containing dangerous goods of Class 2.1 (except aerosols) or 2.3 or dangerous goods of Packing Group I—the aggregate quantity of dangerous goods in the load is at least 250; or
 - (c) for any other load—the aggregate quantity of dangerous goods in the load is at least 1,000.

Unit loads

- 2.14** Dangerous goods are in a *unit load* if the goods are packaged dangerous goods and are:
- (a) wrapped in plastics, and strapped or otherwise secured to a pallet or other base and to each other, for transport: or

<i>Road Transport Reform (Dangerous Goods)</i> <i>1997 No. 241</i>	21
---	----

- (b) placed together in a protective outer container (except a freight container) for transport; or
- (c) secured together in a sling for transport.

Division 3—Kinds of containers

Freight containers

2.15 A *freight Container* is a re-useable container of the kind mentioned in Australia/New Zealand Standard AS/NZS 3711 that is designed for repeated use for the transport of goods by 1 or more modes of transport.

IBCs

2.16 An *IBC* (or intermediate bulk container) is a rigid or flexible portable packaging for the transport of dangerous goods 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—1,500 litres; and
 - (ii) for solids of Packing Group I packed in a metal container—3,000 litres; and
 - (iii) for solids or liquids of Packing Groups II and III—3,000 litres;
- (b) is designed for mechanical handling; and
- (c) is resistant to the stresses produced in usual handling and transport.

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Note Commonwealth legislation

22 *Road Transport Refom (Dangerous Goods)*
1997 No. 241

Bulk containers

- 2.17** (1) A *bulk container* is an IBC or another container capable of transporting dangerous goods in bulk.
- (2) However, a tank that is part of a vehicle is not a *bulk container*.

Division 4—Persons with special duties

Vehicle owners

- 2.18** 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.

Consignors

- 2.19** (1) A person *consigns* dangerous or other goods for transport by road, and is the *consignor* of the goods, if:
- (a) subregulation (2) applies to the person; or
 - (b) subregulation (2) does not apply to the person or anyone else, but subregulation (3) applies to the person; or
 - (c) subregulations (2) and (3) do not apply to the person or anyone else, but subregulation (4) applies to the person.
- (2) This subregulation applies to a person who, with the person's authority, is named or otherwise identified as the consignor of the goods in shipping documentation for the transport of the goods by road.

Road Transport Reform (Dangerous Goods) 23
1997 No. 241

- (3)** This subregulation applies to a person who:
- (a) engages a prime contractor, either directly or through an agent or other intermediary, to transport the goods by road; or
 - (b) has possession of, or control over, the goods immediately before the goods are transported by road; or
 - (c) loads a vehicle with the goods, for transport by road, at a place:
 - (i) where dangerous goods in bulk are stored; and
 - (ii) that is unattended (except by the driver of the vehicle) during loading.
- (4)** This subregulation applies to a person if:
- (a) the goods are imported into Australia; and
 - (b) the person is the importer of the goods.

Packers

- 2.20** A person *packs* dangerous or other goods for transport by road, and is a *packer* of the goods, if the person:
- (a) puts the goods in a packaging; or
 - (b) assembles the goods as packaged goods in an outer packaging or unit load for transport by road; 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).

Loaders

- 2.21** A person *loads* dangerous or other goods for transport by road, and is a *loader* of the goods, if the person:
- (a) loads a vehicle with the goods for transport by road; or

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Note Commonwealth legislation

24 *Road Transport Reform (Dangerous Goods)*
1997 No. 241

- (b) loads a bulk container, freight container, or tank that is part of a vehicle, with the goods for transport by road; or
- (c) loads a vehicle with a freight container containing the goods for transport by road; or
- (d) supervises an activity mentioned in paragraph (a), (b) or (c); or
- (e) manages or controls an activity mentioned in paragraph (a), (b), (c) or (d).

Primecontractors

2.22 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, undertakes to be responsible, or is responsible, for the transport of the goods by road.

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Commonwealth legislation

Note

Road Transport Reform (Dangerous Goods) 25
1997 No. 241

PART 3—PACKAGING

Division I—Packaging duties

Suitability of packaging

- 3.1** For this Division, packaging is unsuitable for the transport by road of dangerous goods if
- (a) the packaging is not approved packaging; or
 - (b) the packaging does not comply with Chapter 3 of the ADG Code.

Marking packaging

- 3.2** A person must not mark packaging used, or intended to be used, to transport dangerous goods by road with performance and specification markings required under Division 3.5 of the ADG Code unless the packaging is approved packaging.

Penalty: \$3,000

Consignor's duties

- 3.3** A person must not consign packaged dangerous goods for transport by road in packaging if the person knows, or reasonably ought to know, that the packaging:
- (a) is unsuitable for the transport of the goods by road; or
 - (b) is not used in accordance with Chapter 3 of the ADG Code.

Penalty: \$1,500

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Note Commonwealth legislation

26 *Road Transport Reform (Dangerous Goods)
1997 No. 241*

Packer's duties

- 3.4** A person must not pack dangerous goods for transport by road in packaging if the person knows, or reasonably ought to know, that the packaging:
- (a) is unsuitable for the transport of the goods by road; or
 - (b) is not used in accordance with Chapter 3 of the ADG Code.

Penalty: \$1,500

Loader's duties

- 3.5** A person must not load packaged dangerous goods for transport by road in packaging if the person knows, or reasonably ought 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: \$1,500

Prime contractor's duty

- 3.6** A prime contractor must not transport packaged dangerous goods by road in packaging if the prime contractor knows, or reasonably ought 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: \$1,000

Driver's duty

- 3.7** A person must not drive a vehicle transporting packaged dangerous goods by road in packaging if the person knows, or reasonably ought 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: \$1,000

Road Transport Reform (Dangerous Goods) 27
1997 No. 241

Division 2—Approval of packaging design types

Approvals

- 3.8 (1)** The Competent Authority may, on application made in accordance with regulation 17.1, approve a packaging design type for use in the transport of dangerous goods by road if:
- (a) the applicant has carried out the tests required under Chapter 3 of the ADG Code; and
 - (b) the Authority considers that a packaging of that design type would be safe for use in the transport of the goods by road.
- (2)** The approval of a packaging design type may be subject to any condition necessary for the safe transport of dangerous goods by road in packaging of that design type

Recognised testing facilities

- 3.9** The following testing facilities are ***recognised testing facilities*** for a packaging design type:
- (a) a testing facility registered by NATA to conduct performance tests under Chapter 3 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—a testing facility in Australia capable of conducting the tests;
 - (c) a facility in a foreign country approved by a public authority of the country to conduct performance tests of that kind.

Test certificates

- 3.10 (1)** A recognised testing facility may certify in writing that a packaging design type has passed particular performance tests for particular dangerous goods.

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Note Commonwealth legislation

28 *Road Transport Reform (Dangerous Goods)
1997 No. 241*

- (2) If a performance test is conducted by a testing facility registered by NATA, any test certificate must:
 - (a) contain the details required under Division 3.7 of the ADG Code; and
 - (b) be in the appropriate form used by NATA registered testing facilities.
- (3) If a performance test is conducted in Australia by a recognised testing facility that is not registered by NATA:
 - (a) the test must be observed by or for the Competent Authority; and
 - (b) any test certificate must contain the details required under Division 3.7 of the ADG Code.

Division 3—Competent Authority’s performance testing powers

Requiring production of packaging for testing

- 3.11** (1) This regulation applies to a person who:
- (a) is:
 - (i) a manufacturer of packaging used, or intended to be used, to transport dangerous goods by road; or
 - (ii) the consignor or prime contractor for the transport of packaged dangerous goods by road; and
 - (b) has possession of, or control over, packaging of a design type used, or intended to be used, to transport dangerous goods by road.
- (2) The Competent Authority may, by written notice, require the person to produce packaging manufactured or used by the person for performance testing.

Road Transport Reform (Dangerous Goods) 29
1997 No. 241

- (3)** The person must produce the packaging to the Competent Authority, or someone nominated in the notice, within 14 days after the day when the notice is given to the person, unless the person, under an agreement with someone else, delivers the packaging to the other person before the end of that period.

Penalty: \$1,500

Requiring evidence of performance tests

- 3.12 (1)** This regulation applies to a person who is:
- (a) a manufacturer of packaging used, or intended to be used, to transport dangerous goods by road; or
 - (b) the consignor of packaged dangerous goods for the transport by road.
- (2)** The Competent Authority may, by written notice, require the person to produce written evidence that a packaging design type manufactured or used by the person has passed performance tests required under Chapter 3 of the ADG Code.
- (3)** The person must produce the evidence to the Competent Authority within 14 days after the day when the notice is given to the person.

Penalty: \$1,500

- (4)** A test certificate under regulation 3.10 is evidence for this regulation.

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Note Commonwealth legislation

30 *Road Transport Reform (Dangerous Goods)*
1997 No. 241

PART 4—DANGEROUS GOODS IN BULK

Division 1—Restrictions on transport of dangerous goods in bulk

Consignor's duties

4.1 (1) A person must not consign dangerous goods for transport by road in bulk if:

- (a) Chapter 4 of the ADG Code provides that the goods must not be transported by road in bulk; or
- (b) the goods are determined under paragraph 1.18 (h) to be too dangerous to be transported in bulk.

Penalty: \$3,000

(2) A person who consigns dangerous goods for transport by road in bulk must comply with Chapter 4 of the ADG Code.

Penalty: \$3,000

Prime contractor's duties

4.2 (1) A prime contractor must not transport dangerous goods by road in bulk if:

- (a) Chapter 4 of the ADG Code provides that the goods must not be transported by road in bulk; or
- (b) the goods are determined under paragraph 1.18 (h) to be too dangerous to be transported in bulk.

Penalty \$3,000

(2) A prime contractor who transports dangerous goods by road in bulk must comply with Chapter 4 of the ADG Code.

Penalty: \$3,000

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Commonwealth legislation

Note

Road Transport Reform (Dangerous Goods) 31
1997 No. 241

Driver's duty

4.3 A person who drives a vehicle transporting dangerous goods by road in bulk must comply with Chapter 4 of the ADG Code.

Penalty: \$1,500,

Division 2—Bulk containers**Consignor's duties**

4.4 (1) A person must not consign dangerous goods in bulk for transport by road in a bulk container provided by the person if:

- (a) the material of which the container is constructed is incompatible with the dangerous goods; or
- (b) the container is damaged or defective to the extent that it is not safe to use to transport the goods by road.

Penalty: \$3,000

(2) A person must not consign dangerous goods in bulk for transport by road in a bulk container provided by someone else if the person knows, or reasonably ought to know, that:

- (a) the material of which the container is constructed is incompatible with the dangerous goods; or
- (b) the container is damaged or defective to the extent that it is not safe to use to transport the goods by road.

Penalty: \$3,000

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Note Commonwealth legislation

32 *Road Transport Reform (Dangerous Goods)*
1997 No. 241

- (3) A person must not consign dangerous goods for transport by road in a bulk container if the person knows, or reasonably ought to know, that the attachment system does not comply with, or is not used in accordance with, Chapters 4 and 5 of the ADG Code.

Penalty: \$3,000

Prime contractor's duties

- 4.5 (1) A prime contractor must not transport dangerous goods in bulk by road in a bulk container provided by the prime contractor if:
- (a) the material of which the container is constructed is incompatible with the dangerous goods; or
 - (b) the container is damaged or defective to the extent that it is not safe to use to transport the goods by road.

Penalty: \$3,000

- (2) A prime contractor must not transport dangerous goods in bulk by road in a bulk container provided by someone else if the prime contractor knows, or reasonably ought to know, that:
- (a) the material of which the container is constructed is incompatible with the dangerous goods: or
 - (b) the container is damaged or defective to the extent that it is not safe to use to transport the goods by road.

Penalty: \$3,000

- (3) A prime contractor must not transport dangerous goods by road in a bulk container if the attachment system does not comply with, or is not used in accordance with, Chapters 4 and 5 of the ADG Code.

Penalty: \$3,000

<i>Road Transport Reform (Dangerous Goods)</i> <i>1997 No. 241</i>	33
---	----

Driver's duties

- 4.6 (1)** A person must not drive a vehicle transporting dangerous goods in bulk by road in a bulk container if the person knows, or reasonably ought to know, that the container is damaged or defective to the extent that it is not safe to use to transport the goods by road.

Penalty: \$3,000

- (2)** A person must not drive a vehicle transporting dangerous goods by road in a bulk container if the person knows, or reasonably ought to know, that the attachment system does not comply with, or is not used in accordance with, Chapters 4 and 5 of the ADG Code.

Penalty: \$3,000

Division 3—Tanks**Manufacturer's duties**

- 4.7 (1)** A person must not manufacture a tank designed to transport dangerous goods in bulk by road other than in accordance with a design that is approved under regulation 4.25.

Penalty: \$3,000

- (2)** A person who manufactures a tank designed to transport dangerous goods in bulk by road must attach a compliance plate to the tank in accordance with Chapter 4 of the ADG Code.

Penalty \$3,000

Compliance plates

- 4.8** A person must not attach a compliance plate, or something that purports to be a compliance plate, to a tank unless the tank is an approved tank.

Penalty: \$3,000

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Note Commonwealth legislation

34 *Road Transport Reform (Dangerous Goods)*
1997 No. 241

Owner's duties for certain vehicles

4.9 The owner of a vehicle of which a tank forms part, or to which a tank is attached, must not use the vehicle, or permit the vehicle to be used, to transport dangerous goods in bulk in the form of a liquid or gas by road, unless the tank:

- (a) is an approved tank; and
- (b) has been maintained, tested and inspected in accordance with Chapter 4 of the ADG Code; and
- (c) is used in accordance with the approval conditions (if any) specified on the tank's compliance plate.

Penalty: \$3,000

Consignor's duties

4.10 (1) A person must not consign dangerous goods in bulk for transport by road in a tank provided by the person unless the tank:

- (a) is an approved tank; and
- (b) has been maintained, tested and inspected in accordance with Chapter 4 of the ADG Code; and
- (c) is used in accordance with the approval conditions (if any) specified on the tank's compliance plate.

Penalty: \$3,000

(2) A person must not consign dangerous goods in bulk for transport by road in a tank provided by someone else if the person knows, or reasonably ought to know, that the tank:

- (a) is not an approved tank; or
- (b) has not been maintained, tested and inspected in accordance with Chapter 4 of the ADG Code; or
- (c) is used other than in accordance with the approval conditions (if any) specified on the tank's compliance plate.

Penalty: \$3,000

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Commonwealth legislation

Note

Road Transport Reform (Dangerous Goods) 35
1997 No. 241

Loader's duty

- 4.11** A person must not load dangerous goods in bulk for transport by road in a tank if the person knows, or reasonably ought to know, that the tank:
- (a) is not an approved tank; or
 - (b) is used other than in accordance with Chapter 4 of the ADG Code.

Penalty: \$1,500**Prime contractor's duties**

- 4.12 (1)** A prime contractor must not transport dangerous goods in bulk by road in a tank provided by the prime contractor unless the tank:
- (a) is an approved tank; and
 - (b) has been maintained, tested and inspected in accordance with Chapter 4 of the ADG Code; and
 - (c) is used in accordance with the approval conditions (if any) specified on the tank's compliance plate.

Penalty: \$3,000

- (2)** A prime contractor must not transport dangerous goods in bulk by road in a tank provided by someone else if the prime contractor knows, or reasonably ought to know, that the tank:
- (a) is not an approved tank; or
 - (b) has not been maintained, tested and inspected in accordance with Chapter 4 of the ADG Code; or
 - (c) is used other than in accordance with the approval conditions (if any) specified on the tank's compliance plate.

Penalty: \$ 3,000

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Note Commonwealth legislation

36 *Road Transport Reform (Dangerous Goods)*
1997 No. 241

- (3) A prime contractor must not transport dangerous goods in bulk by road in a tank forming part of a vehicle if:
- (a) the material of which the tank is constructed is incompatible with the dangerous goods; or
 - (b) the tank is damaged or defective to the extent that it is not safe to use to transport the goods by road.

Penalty: \$3,000

Driver's duties

- 4.13 A person must not drive a vehicle transporting dangerous goods in bulk by road in a tank if the person knows, or reasonably ought to know, that the tank:
- (a) is not an approved tank; or
 - (b) is used other than in accordance with the approval conditions (if any) specified on the tank's compliance plate.

Penalty: \$1,500

Division 4—Foreign approved tanks

Consignor's duties

- 4.14 (1) A person must not consign dangerous goods in bulk for transport by road in a foreign approved tank provided by the person if the transport of the goods by road in the tank is prohibited by a determination under subregulation 4.27 (1).

Penalty: \$3,000

Road Transport Reform (Dangerous Goods) 37
1997 No. 241

- (2) A person must not consign dangerous goods in bulk for transport by road in a foreign approved tank provided by someone else if the person knows, or reasonably ought to know, that the transport of the goods by road in the tank is prohibited by a determination under subregulation 4.27 (1).

Penalty: \$3,000

Prime contractor's duties

- 4.15 (1) A prime contractor must not transport dangerous goods in bulk by road in a foreign approved tank provided by the prime contractor if the transport of the goods by road in the tank is prohibited by a determination under subregulation 4.27 (1).

Penalty: \$3,000

- (2) A prime contractor must not transport dangerous goods in bulk by road in a foreign approved tank provided by someone else if the prime contractor knows, or reasonably ought to know, that the transport of the goods by road in the tank is prohibited by a determination under subregulation 4.27 (1).

Penalty: \$3,000

Division 5—IBCs

Manufactures's duties

- 4.16 (1) A person must not manufacture an IBC other than in accordance with a design that is approved under regulation 4.26.

Penalty: \$3,000

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Note Commonwealth legislation

38 *Road Transport Reform (Dangerous Goods)* *1997 No. 241*

- (2) A person who manufactures an IBC must mark ■ IBC with an IBC marking in accordance with the IBC Supplement.

Penalty: \$3,000

IBC markings

- 4.17** A person must not mark an IBC with an IBC marking, or something that purports to be an IBC marking, unless the IBC is an approved IBC.

Penalty: \$3,000

Consignor's duties

- 4.18** (1) A person must not consign dangerous goods in bulk for transport by road in an IBC provided by the person unless the IBC:
- (a) is an approved IBC; and
 - (b) is used in accordance with Chapter 4 of the ADG Code and the IBC Supplement.

Penalty: \$3,000

- (2) A person must not consign dangerous goods in bulk for transport by road in an IBC provided by someone else if the person knows, or reasonably ought to know, that the IBC:

- (a) is not an approved IBC; or
- (b) is used other than in accordance with Chapter 4 of the ADG Code and the IBC Supplement.

Penalty: \$3,000

*Road Transport Reform (Dangerous Goods) 39
1997 No. 241*

Loader's duties

- 4.19** A person must not load dangerous goods in bulk for transport by road in an IBC if the person knows, or reasonably ought to know, that the IBC:
- (a) is not an approved IBC; or
 - (b) is used other than in accordance with Chapter 4 of the ADG Code and the IBC Supplement.

Penalty: \$1,500

Prime contractor's duties

- 4.28** (1) A prime contractor must not transport dangerous goods in bulk by road in an IBC provided by the prime contractor unless the IBC:
- (a) is an approved IBC; and
 - (b) is used in accordance with Chapter 4 of the ADG Code and the IBC Supplement.

Penalty: \$3,000

- (2) A prime contractor must not transport dangerous goods in bulk by road in an IBC provided by someone else if the prime contractor knows, or reasonably ought to know, that the IBC:
- (a) is not an approved IBC; or
 - (b) is used other than in accordance with Chapter 4 of the ADG Code and the IBC Supplement.

Penalty: \$3,000

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Note Commonwealth legislation

40 *Road Transport Reform (Dangerous Goods)*
1997 No. 241

Driver's duties

- 4.21** A person must not drive a vehicle transporting dangerous goods in bulk by road in an IBC if the person knows, or reasonably ought to know, that the IBC;
- (a) is not an approved IBC; or
 - (b) is used other than in accordance with Chapter 4 of the ADG Code and the IBC Supplement.

Penalty: \$1,500

Division 6—Foreign approved IBCs

Consignor's duties

- 4.22 (1)** A person must not consign dangerous goods in bulk for transport by road in a foreign approved IBC provided by the person if the transport of the goods by road in the IBC is prohibited by a determination under subregulation 4.27 (2).

Penalty: \$3,000

- (2)** A person must not consign dangerous goods in bulk for transport by road in a foreign approved IBC provided by someone else if the person knows, or reasonably ought to know, that the transport of the goods by road in the IBC is prohibited by a determination under subregulation 4.27 (2).

Penalty: \$3,000

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Commonwealth legislation

Note

Road Transport Reform (Dangerous Goods) 41
1997 No. 241

Prime contractor's duties

- 4.23 (1)** A prime contractor must not transport dangerous goods in bulk by road in a foreign approved IBC provided by the prime contractor if the transport of the goods by road in the IBC is prohibited by a determination under subregulation 4.27 (2).

Penalty: \$3,000

- (2)** A prime contractor must not transport dangerous goods in bulk by road in a foreign approved IBC provided by someone else if the prime contractor knows, or reasonably ought to know, that the transport of the goods by road in the IBC is prohibited by a determination under subregulation 4.27 (2).

Penalty: \$3,000

Division 7—Approval of tank and IBC designs**Applications for approval**

- 4.24** An application for approval of a design for a tank or IBC for use in the transport of dangerous goods in bulk by road must:
- (a) for a tank—include the information required under Chapter 4 of the ADG Code; and
 - (b) for an IBC—include the information required under the IBC Supplement; and
 - (c) if a fee is prescribed for the application—be accompanied by the prescribed fee.

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Note Commonwealth legislation

42 *Road Transport Reform (Dangerous Goods)*
1997 No. 241

Approvals—tank designs

- 4.25** (1) The Competent Authority may, on application made in accordance with regulations 4.24 and 17.1, approve a design for a tank for use in the transport of dangerous goods in bulk of a particular type by road if:
- (a) the design complies with Chapter 4 of the ADG Code; or
 - (b) the design does not comply with the Chapter, but the Authority considers that the risk involved in using the tank is not greater than the risk involved in using a tank complying with the Chapter.
- (2) The approval of the design may be subject to any condition about the construction, use or maintenance of a tank manufactured in accordance with the design necessary for the safe use of the tank.
- (3) In this regulation, a reference to the design of a tank includes a reference to the design of:
- (a) the attachment system to any vehicle of which the tank is intended to form a part or to which it is intended to be attached; and
 - (b) the stability characteristics, and other attributes, of the vehicle affecting the suitability of a tank manufactured in accordance with the design to transport the dangerous goods.

Approvals—IBC designs

- 4.26** (1) The Competent Authority may, on application made in accordance with regulations 4.24 and 17.1, approve a design for an IBC for use in the transport of dangerous goods in bulk of a particular type by road if the Authority considers that the design complies with the IBC Supplement.
- (2) The approval of the design may be subject to any condition about the construction, use or maintenance of an IBC manufactured in accordance with the design necessary for the safe use of the IBC.

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Commonwealth legislation

Note

Road Transport Reform (Dangerous Goods) 43
1997 No. 241

Division 8—Determinations

Determinations—foreign approved tanks and IBCs

- 4.27 (1)** The Competent Authority may determine the dangerous goods in bulk that must not be transported by road in a foreign approved tank.
- (2)** The Competent Authority may determine the dangerous goods in bulk that must not be transported by road in a foreign approved IBC.

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Note Commonwealth legislation

44 *Road Transport Reform (Dangerous Goods)*
1997 No. 241

PART 5—FREIGHT CONTAINERS

Consignor's duties

5.1 (1) A person must not consign dangerous goods for transport by road in a freight container provided by the person unless the container complies with Chapter 5 of the ADG Code.

Penalty: \$1,500

(2) A person must not consign dangerous goods for transport by road in a freight container that is not provided by the person if the person knows, or reasonably ought to know, that the container does not comply with Chapter 5 of the ADG Code.

Penalty: \$1,500

(3) A person must not consign dangerous goods for transport by road in a freight container if the person knows, or reasonably ought to know, that the attachment system:

(a) does not comply with Chapter 5 of the ADG Code; or

(b) is used other than in accordance with the Chapter.

Penalty: \$1,500

Loader's duty

5.2 A person must not load dangerous goods for transport by road in a freight container if the person knows, or reasonably ought to know, that the container does not comply with Chapter 5 of the ADG Code.

Penalty: \$1,500

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Commonwealth legislation

Note

<i>Road Transport Reform (Dangerous Goods) 1997 No. 241</i>	45
---	----

Prime contractor's duties

5.3 (1) A prime contractor must not transport dangerous goods by road in a freight container provided by the prime contractor unless the container complies with Chapter 5 of the ADG Code.

Penalty: \$3,000

(2) A prime contractor must not transport dangerous goods by road in a freight container that is not provided by the prime contractor if the prime contractor knows, or reasonably ought to know, that the container does not comply with Chapter 5 of the ADC Code.

Penalty: \$3,000

(3) A prime contractor must not transport dangerous goods by road in a freight container unless the attachment system:

- (a) complies with Chapter 5 of the ADG Code; and
- (b) is used in accordance with the Chapter.

Penalty: \$3,000

Driver's duty

5.4 A person must not drive a vehicle transporting dangerous goods by road in a freight container unless the container is attached to the vehicle in accordance with Chapter 5 of the ADG Code.

Penalty: \$1,500

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Note Commonwealth legislation

46 *Road Transport Reform (Dangerous Goods)*
1997 No. 24I

PART 6—UNIT LOADS

Consignor's duties

- 6.1** A person must not consign packaged dangerous goods for transport by road in a unit load unless:
- (a) the packages can safely be transported by road in the unit load; and
 - (b) if Chapter 6 of the ADG Code requires the Competent Authority's approval for the transport by road of the unit load—the unit load is prepared in accordance with a method approved under subregulation 6.5 (1); and
 - (c) the unit load otherwise complies with the Chapter.

Penalty: \$1,500

Loader's duties

- 6.2** A person must not load packaged dangerous goods for transport by road in a unit load if the person knows, or reasonably ought to know, that:
- (a) the packages cannot safely be transported by road in the unit load: or
 - (b) if Chapter 6 of the ADC Code requires the Competent Authority's approval for the transport by road of the unit load—the unit load is not prepared in accordance with a method approved under subregulation 6.5 (1): or
 - (c) the unit load does not otherwise comply with the Chapter.

Penalty: \$1,500

Road Transport Reform (Dangerous Goods) 47
1997 No. 241

Prime contractor's duties

- 6.3** A prime contractor must not transport packaged dangerous goods by road in a unit load if the prime contractor knows, or reasonably ought to know, that:
- (a) the packages cannot safely be transported by road in the unit load; or
 - (b) the unit load does not comply with Chapter 6 of the ADG Code.

Penalty: \$1,500

Driver's duties

- 6.4** A person must not drive a vehicle transporting packaged dangerous goods by road in a unit load if the person knows, or reasonably ought to know, that:
- (a) the packages cannot safely be transported by road in the unit load; or
 - (b) the unit load does not comply with Chapter 6 of the ADG Code.

Penalty: \$1,500

Approvals—unit loads

- 6.5** (1) The Competent Authority may, on application made in accordance with regulation 17.1, approve a method of preparing a unit load of dangerous goods for transport by road that does not comply with Chapter 6 of the ADG Code if the Authority considers that the risk involved in using the method is not greater than the risk involved in using a method complying with the Chapter.
- (2) The approval of a method of preparing a unit load of dangerous goods for transport by road may be subject to any condition necessary for the safe transport of the dangerous goods using the method.

48 *Road Transport Reform (Dangerous Goods)*
1997 No. 241

PART 7—MARKING AND PLACARDING

Division 1—Marking packages and unit loads

Application of Division

7.1 This Division does not apply to the transport of dangerous goods by road if:

- (a) the goods have been imported into, or are to be exported from, Australia; and
- (b) the goods are being transported in a closed freight container; and
- (c) the goods are not leaking from the container; and
- (d) the goods are being transported directly:
 - (i) for imported goods—from the place of import; and
 - (ii) for goods for export—from the place of export; and
- (e) the container is placarded in accordance with the IATA Regulations, ICAO Rules or IMDG Code.

Meaning of “appropriately marked”

7.2 For this Division, a package or unit load is *appropriately marked* if the package or unit load is marked in accordance with Chapter 7 of the ADG Code.

Consignor’s duties

7.3 (1) A person must not consign dangerous goods for transport by road in a package or unit load unless the package or unit load is appropriately marked.

Penalty:

- (a) for a package—\$500
- (b) for a unit load—\$1,500

Road Transport Reform (Dangerous Goods) 49
1997 No. 241

- (2) A person must not consign dangerous goods for transport by road in a package or unit load if a marking on the package or unit load about its contents is false or misleading in a material particular.

Penalty:

- (a) for a package—\$500
(b) for a unit load—\$1,500

- (3) A person must not consign goods for transport by road in a package or unit load that does not contain dangerous goods but is marked as if it contained dangerous goods.

Penalty:

- (a) for a package—\$500
(b) for a unit load—\$1,500

Packer's duties

- 7.4 (1) A person must not pack dangerous goods for transport by road in a package or unit load if the person knows, or reasonably ought to know, that the packaging will not be appropriately marked when the goods are transported.

Penalty:

- (a) for a package—\$500
(b) for a unit load—\$1,500

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

Penalty:

- (a) for a package—\$500
(b) for a unit load—\$1,500

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Note Commonwealth legislation

50 *Road Transport Reform (Dangerous Goods)*
1997 No. 241

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

Penalty:

- (a) for a package—\$500
(b) for a unit load—\$1,500

Prime contractor's duties

- 7.5 (1)** A prime contractor must not transport goods by road in a package or unit load if the prime contractor knows, or reasonably ought to know, that:

- (a) the goods are dangerous goods; and
(b) the package or unit load is not appropriately marked.

Penalty:

- (a) for a package—\$500
(b) for a unit load—\$1,500

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

Penalty:

- (a) for a package—\$500
(b) for a unit load—\$1,500

<i>Road Transport Reform (Dangerous Goods)</i> <i>1997 No. 241</i>	51
---	----

- (3) A prime contractor must not transport goods by road in a package or unit load if the prime contractor knows, or reasonably ought to know, that the package or unit load does not contain dangerous goods but is marked as if it contained dangerous goods.

Penalty:

- (a) for a package—\$500
(b) for a unit load—\$1,500

Division 2—Placarding**Meaning of “appropriately placarded” etc**

- 7.6 (1) For this Division:
- (a) a person ***placards*** a load of goods if the person placards a bulk or freight container in which, or a vehicle in or on which, the goods are being, or are to be, transported by road; and
- (b) the ***placarding*** of a load of goods includes the placarding of a bulk or freight container in which, and the vehicle in or on which, the goods are being, or are to be, transported by road.
- (2) For this Division, a placard load of dangerous goods is ***appropriately placarded*** if the bulk or freight container in which, and the vehicle in or on which, the goods are being, or are to be, transported by road are placarded in accordance with Chapter 7 of the ADG Code.

Consignor’s duties

- 7.7 (1) A person must not consign a placard load of dangerous goods for transport by road unless the load is appropriately placarded.

Penalty: \$3,000

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Note Commonwealth legislation

52 *Road Transport Reform (Dangerous Goods)* *1997 No. 241*

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

Penalty: \$3,000

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

Penalty: \$3,000

Loader's duties

- 7.8 (1) A person who loads dangerous goods for transport by road must appropriately placard the load if the person knows, or reasonably ought to know, that the goods are a placard load.

Penalty: \$3,000

- (2) A person who loads a placard load of dangerous goods for transport by road 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: \$3,000

- (3) A person who loads goods for transport by road must not placard the load if the person knows, or reasonably ought to know, that the load does not contain dangerous goods.

Penalty: \$3,000

<i>Road Transport Reform (Dangerous Goods)</i> <i>1997 No. 241</i>	53
---	----

Prime Contractor's duties

- 7.9 (1)** A prime contractor must not transport dangerous goods by road if the prime contractor knows, or reasonably ought to know, that:
- (a) the goods are a placard load; and
 - (b) the load is not appropriately placarded.

Penalty: \$3,000

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

Penalty: \$3,000

- (3)** A prime contractor must not transport goods by road in a load if the prime contractor knows, or reasonably ought to know, that the load does not contain dangerous goods but is placarded as if it were a placard load.

Penalty: \$3,000

Driver's duties

- 7.10 (1)** A person must not drive a vehicle transporting dangerous goods by road 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: \$3,000

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

Penalty: \$3,000

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Note Commonwealth legislation

54 *Road Transport Reform (Dangerous Goods)*
1997 No. 241

- (3) A person must not drive a vehicle transporting goods by road in a load if the person knows, or reasonably ought to know, that the load does not contain dangerous goods but is placarded as if it were a placard load.

Penalty: \$3,000

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Commonwealth legislation

Note

Road Transport Reform (Dangerous Goods) 55
1997 No. 241

PART 8—VEHICLES

[Note: The design, construction, strength and roadworthiness of heavy vehicles is dealt with in the Road Transport Reform (Heavy Vehicles Standards) Regulations. There are penalties for failure to comply with those Regulations.]

Division 1—Safety standards

Owner's duty

- 8.1** The owner of a vehicle must not use the vehicle, or permit it to be used, to transport dangerous goods by road unless the vehicle and its equipment comply with Chapter 8 of the ADG Code.

Penalty: \$3,000

Consignor's duty

- 8.2** A person must not consign dangerous goods for transport by road on a vehicle if the person knows, or reasonably ought to know, that the vehicle or its equipment does not comply with Chapter 8 of the ADG Code.

Penalty: \$3,000

Prime contractor's duty

- 8.3** A prime contractor must not use a vehicle to transport dangerous goods by road unless the vehicle and its equipment comply with Chapter 8 of the ADG Code.

Penalty \$3,000

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Note Commonwealth legislation

56 *Road Transport Reform (Dangerous Goods)*
1997 No. 241

Driver's duty

8.4 A person must not drive a vehicle transporting dangerous goods by road if the person knows, or reasonably ought to know, that the vehicle or its equipment does not comply with Chapter 8 of the ADG Code.

Penalty: \$3,000

Division 2—Vehicle insurance

Owner's duty

8.5 The owner of a vehicle must not use the vehicle, or permit it to be used, to transport a placard load of dangerous goods by road unless the vehicle is insured, or the owner is otherwise indemnified, in accordance with Chapter 8 of the ADG Code.

Penalty: \$3,000

Prime contractor's duty

8.6 A prime contractor must not use a vehicle to transport a placard load of dangerous goods by road unless the vehicle is insured, or the prime contractor is otherwise indemnified, in accordance with Chapter 8 of the ADG Code.

Penalty: \$3,000

Requiring evidence of insurance etc.

- 8.7** (1) This regulation applies to a person who is:
- (a) the owner of a vehicle used to transport placard loads of dangerous goods by road: or
 - (b) a prime contractor responsible for the condition of the vehicle.

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Commonwealth legislation

Note

Road Transport Reform (Dangerous Goods) 57
1997 No. 241

- (2) The Competent Authority may, by written notice, require the person to produce written evidence that the vehicle is insured, or the person is otherwise indemnified, in accordance with Chapter 8 of the ADG Code.
- (3) The person must produce the evidence to the Competent Authority within 14 days after the day when the notice is given to the person.

Penalty: \$1,000

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Note Commonwealth legislation

58 *Road Transport Reform (Dangerous Goods)*
1997 No. 241

PART 9—SEGREGATION AND STOWAGE

Division 1—Application of Part

Application

- 9.1 (1)** This Part applies to dangerous goods if the goods are being, or are to be, transported by road in a placard load.
- (2)** This Part also applies to dangerous goods of Class 2.3, 6 or 8 if the goods are being, or are to be, transported by road in a load with food or food packaging.

Division 2—Segregation of incompatible goods

Loads on combination road vehicles

- 9.2 (1)** If dangerous and incompatible goods are transported on separate vehicles forming part of a combination road vehicle, the goods are taken to be segregated in accordance with Chapter 9 of the ADG Code.
- (2)** However, the goods are not taken to be segregated in accordance with Chapter 9 if, under the Chapter or a determination under paragraph 1.18(i), the goods are too dangerous to be transported on the same combination road vehicle as other goods transported on the vehicle.

Exception for certain goods for driver's personal use

- 9.3 (1)** In this regulation:
- "permitted goods"** means:
- (a) a fire-risk substance; or
 - (b) food or food packaging.

Road Transport Reform (Dangerous Goods) 59
1997 No. 241

- (2)** Despite regulations 9.4, 9.5, 9.6 and 9.7, permitted goods may be transported on a vehicle with incompatible goods if the permitted goods are in the vehicle's cabin for the driver's personal use.

Consignor's duties

- 9.4** A person must not consign dangerous goods for transport on a vehicle if the person knows, or reasonably ought to know, that:
- (a) the vehicle will also be transporting incompatible goods; and
 - (b) the dangerous goods will not be segregated from the incompatible goods in accordance with:
 - (i) Chapter 9 of the ADG Code; or
 - (ii) an approval under regulation 9.8.

Penalty: \$3,000

Loader's duties

- 9.5** A person must not load dangerous goods for transport on a vehicle or in a freight container if the person knows, or reasonably ought to know, that:
- (a) the vehicle or container will also be transporting incompatible goods; and
 - (b) the dangerous goods will not be segregated from the incompatible goods in accordance with:
 - (i) Chapter 9 of the ADG Code; or
 - (ii) an approval under regulation 9.8.

Penalty: \$3,000

Prime contractor's duties

- 9.6** A prime contractor must not use a vehicle to transport dangerous goods if:
- (a) the vehicle is also transporting incompatible goods; and

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Note Commonwealth legislation

60 *Road Transport Reform (Dangerous Goods)*
1997 No. 241

- (b) the dangerous goods are not be segregated from the incompatible goods in accordance with:
 - (i) Chapter 9 of the ADG Code; or
 - (ii) an approval under regulation 9.8.

Penalty: \$3,000

Driver's duties

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

- (a) the vehicle is also transporting incompatible goods; and
- (b) the dangerous goods are not segregated from the incompatible goods in accordance with:
 - (i) Chapter 9 of the ADG Code; or
 - (ii) an approval under regulation 9.8.

Penalty: \$1,000

Approvals—segregation

9.8 (1) The Competent Authority may, on application made in accordance with regulation 17.1, approve a segregation device, or a method of segregation, not complying with Chapter 9 of the ADG Code for transporting dangerous and incompatible goods by road, if the Authority considers that:

- (a) it is impracticable to segregate the goods by a segregation device, or method of segregation, complying with the Chapter; and
- (b) the risk involved in using the device or method to transport the goods by road is not greater than the risk involved in using a device or method complying with the Chapter to transport the goods by road.

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Commonwealth legislation

Note

Road Transport Reform (Dangerous Goods) 61
1997 No. 241

- (2) The approval of a device or method may be subject to any condition necessary for the safe transport of dangerous goods using the device or method.

Division 3—Stowage

Consignor's duty

- 9.9** A person must not consign dangerous goods for transport by road on a vehicle if the person knows, or reasonably ought to know, that the goods are not stowed in accordance with Chapter 9 of the ADG Code.

Penalty: \$1,500

Loader's duty

- 9.10** A person must not load dangerous goods on a vehicle for transport by road if the person knows, or reasonably ought to know, that the goods are not stowed in accordance with Chapter 9 of the ADG Code.

Penalty: \$1,500

Prime contractor's duty

- 9.11** A prime contractor must not transport dangerous goods by road on a vehicle if the prime contractor knows, or reasonably ought to know, that the goods are not stowed on the vehicle in accordance with Chapter 9 of the ADG Code.

Penalty: \$1,500

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Note Commonwealth legislation

62 *Road Transport Reform (Dangerous Goods)*
1997 No. 241

Driver's duty

9.12 A person must not drive a vehicle transporting dangerous goods by road if the person knows, or reasonably ought to know, that the goods are not stowed on the vehicle in accordance with Chapter 9 of the ADG Code.

Penalty: \$1,000

Road Transport Reform (Dangerous Goods) 63
1997 No. 241

PART 10—TRANSFER OF DANGEROUS GOODS IN BULK

Division 1—Filling ratio and ullage

Transferor's duties

- 10.1** (1) This regulation applies to a transfer of dangerous goods if the transfer is made:
- (a) in the transport of the goods by road in bulk; and
 - (b) to or from a tank, or bulk container, on a vehicle.
- (2) A person who transfers dangerous goods must ensure, as far as practicable, that:
- (a) for Class 2 dangerous goods not in the form of a refrigerated liquid—the quantity of the goods in the tank or container to which the goods are transferred does not exceed the maximum permitted filling ratio under Chapter 10 of the ADG Code; and
 - (b) in any other case—the ullage in the tank or container complies with the Chapter.

Penalty: \$1,500

Prime contractor's duty

- 10.2** A prime contractor must not use a vehicle to transport dangerous goods by road in a tank or bulk container if the prime contractor knows, or reasonably ought to know, that:
- (a) for Class 2 dangerous goods not in the form of a refrigerated liquid—the quantity of goods in the tank or container exceeds the maximum permitted filling ratio under Chapter 10 of the ADG Code; or
 - (b) in any other case—the ullage in the tank or container does not comply with the Chapter.

Penalty: \$1,500

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Note Commonwealth legislation

64 *Road Transport Reform (Dangerous Goods)*
1997 No. 241

Driver's duty

- 10.3** A person must not drive a vehicle transporting dangerous goods by road in a tank or bulk container if the person knows, or reasonably ought to know, that:
- (a) for Class 2 dangerous goods not in the form of a refrigerated liquid—the quantity of goods in the tank or container exceeds the maximum permitted filling ratio under Chapter 10 of the ADG Code; or
 - (b) in any other case—the ullage in the tank or container does not comply with the Chapter.

Penalty: \$1,500

Division 2—Transfer

Application

- 10.4** This Division applies to a transfer of dangerous goods if the transfer is made:
- (a) in the transport of the goods by road in bulk; and
 - (b) or from a tank, or bulk container, on a vehicle.

Transferor's duties—general

- 10.5 (1)** A person who transfers dangerous goods must, as far as practicable, ensure that the goods are transferred:
- (a) if Chapter 10 of the ADG Code applies to the transfer—in accordance with the Chapter: and
 - (b) if the transfer of the goods is approved under regulation 10.9—in accordance with the approval: and
 - (c) in every case—in a way that averts, eliminates or minimises risk.

Penalty: \$1,500

Road Transport Reform (Dangerous Goods) 65
1997 No. 241

- (2) A person must not transfer dangerous goods if the person knows, or reasonably ought to know, that:
- (a) the material of which the tank or container to which the goods are transferred, or the transfer equipment, is constructed is incompatible with the dangerous goods; or
 - (b) that tank or container contains incompatible goods.

Penalty: \$1,500

- (3) If dangerous goods leak, spill or accidentally escape during the transfer of the goods, 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: \$1,500

Transferor's duties—hose assemblies

- 10.6** (1) A person who uses a hose assembly to transfer dangerous goods must comply with Chapter 10 of the ADG Code.

Penalty: \$3,000

- (2) A person must not use a hose assembly to transfer dangerous goods if the hose assembly is damaged or defective to the extent that use of the hose assembly to transfer the goods involves a greater risk than the risk involved in using a hose assembly that is not damaged or defective.

Penalty: \$3,000

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Note Commonwealth legislation

66 *Road Transport Reform (Dangerous Goods)* *1997 No. 241*

- (3) A person must not transfer dangerous goods if the person knows, or reasonably ought to know, that a hose assembly used in the transfer:
- (a) has not been maintained in accordance with Chapter 10 of the ADG Code; or
 - (b) was not inspected or tested at the intervals, or in the way, required under the Chapter; or
 - (c) did not satisfy a test under the Chapter.

Penalty: \$1,500

Occupier's duties

- 10.7 (1)** The occupier of premises where dangerous goods are transferred must, as far as practicable, ensure that the goods are transferred:
- (a) if Chapter 10 of the ADG Code applies to the transfer—in accordance with the Chapter; and
 - (b) if the transfer of the goods is approved under regulation 10.9—in accordance with the approval; and
 - (c) in every case—in a way that averts, eliminates or minimises risk.

Penalty: \$3,000

- (2)** The occupier of premises where dangerous goods are transferred must ensure that a hose assembly on the premises that is used, or intended to be used, for the transfer (other than a hose assembly brought onto the premises on the vehicle involved in the transfer):
- (a) is maintained in accordance with Chapter 10 of the ADG Code; and
 - (b) is inspected and tested at the intervals, and in the way, required under the Chapter; and
 - (c) satisfies each test under the Chapter.

Penalty: \$1,500

Road Transport Reform (Dangerous Goods) 67
1997 No. 241

- (3) The occupier must keep accurate records of all maintenance work, and each inspection and test, carried out on the hose assembly.

Penalty: \$500

Prime contractor's duties

- 10.8 (1)** A prime contractor must, as far as practicable, ensure that dangerous goods being transferred to or from a tank, or bulk container, on a vehicle used by the prime contractor are transferred:

- (a) if Chapter 10 of the ADG Code applies to the transfer—~~in~~ accordance with the Chapter; and
- (b) if the transfer of the goods is approved under regulation 10.9—~~in~~ accordance with the approval; and
- (c) in every case—~~in~~ way that averts, eliminates or minimises risk.

Penalty: \$3,000

- (2) A prime contractor must not use a vehicle to transport dangerous goods by road unless each hose assembly on the vehicle that is used, or intended to be used, for the transfer of dangerous goods:

- (a) has been maintained in accordance with Chapter 10 of the ADG Code; and
- (b) was inspected and tested at the intervals, and in the way, required under the Chapter; and
- (c) satisfied each test

Penalty: \$1,500

- (3) The prime Contractor must keep accurate records of all maintenance work, and each inspection and test, carried out on the hose assembly

Penalty: \$500

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Note Commonwealth legislation

68 *Road Transport Reform (Dangerous Goods)*
1997 No. 241

Approvals—transfers of dangerous goods

- 10.9 (1)** The Competent Authority may, on application made in accordance with regulation 17.1, approve the transfer of dangerous goods otherwise than in accordance with Chapter 10 of the ADG Code if the Authority considers that the risk involved in the transfer of the goods is not greater than the risk involved in the transfer of the goods in accordance with the Chapter.
- (2)** The approval of a transfer of dangerous goods may be subject to any condition necessary for the safe transfer of the goods.

Road Transport Reform (Dangerous Goods) 69
1997 No. 241

PART 11—DOCUMENTS

Division I—Shipping documentation

False or misleading information

- 11.1** A person must not include information in shipping documentation for the transport of dangerous goods by road that the person knows is false or misleading in a material particular.

Penalty: \$3,000

Example of false information in shipping documentation:

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

Consignor's duties

- 11.2 (1)** A person must not consign dangerous goods for transport by road on a vehicle unless the prime contractor or driver of the vehicle has shipping documentation, complying with Chapter 11 of the ADG Code, for the goods.

Penalty: \$1,000

- (2)** A person must not consign dangerous goods for transport by road if the person knows, or reasonably ought to know, that the goods will be divided into, and transported in, separate loads, unless subregulation (3) is complied with for each load.

Penalty: \$1,000

- (3)** This subregulation is complied with for a load if the prime contractor, or the driver of the vehicle transporting the load, has been given separate shipping documentation, complying with Chapter 11 of the ADG Code, for the load.

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Note Commonwealth legislation

70 *Road Transport Reform (Dangerous Goods)
1997 No. 241*

Prime contractor's duty

- 11.3** The prime contractor must ensure that a person does not drive a vehicle used by the prime contractor to transport dangerous goods by road unless the person has been given shipping documentation, complying with Chapter 11 of the ADG Code, for the goods.

Penalty: \$1,500

Driver's duties

- 11.4** (1) The driver of a vehicle transporting dangerous goods by road must carry shipping documentation, complying with Chapter 11 of the ADG Code, for the goods.

Penalty: \$1,000

- (2) The driver of a vehicle transporting dangerous goods by road must carry the shipping documentation for the goods:
- (a) if the goods are a placard load—~~an~~ emergency information holder complying with Chapter 11 of the ADG Code; and
 - (b) if the goods are not a placard load—~~an~~ emergency information holder complying with the Chapter or elsewhere in the vehicle's cabin in a conspicuous location.

Penalty: \$500

- (3) The driver of a vehicle transporting dangerous goods by road must produce the shipping documentation for the goods for inspection by an authorised officer, or an officer of an emergency service, if the officer asks the driver to produce the documentation for inspection.

Penalty: \$1,000

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Commonwealth legislation

Note

Road Transport Reform (Dangerous Goods) 71
1997 No. 241

Division 2—Emergency information

Meaning of “required emergency information”

11.5 In this Division:

“required emergency information” means:

- (a) emergency information complying with Chapter 11 of the ADG Code; or
- (b) emergency information that is approved under regulation 11.9.

Consignor’s duty

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

Penalty: \$1,000

Prime contractor’s duties

11.7 A prime contractor must not use a vehicle to transport a placard load of dangerous goods by road unless:

- (a) the vehicle is equipped with an emergency information holder complying with Chapter 11 of the ADG Code; and
- (b) the required emergency information is in the holder.

Penalty: \$1,500

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Note Commonwealth legislation

72 *Road Transport Reform (Dangerous Goods)*
1997 No. 241

Driver's duties

- 11.8 (1)** A person must not drive a vehicle transporting a placard load of dangerous goods by road unless:
- (a) the vehicle is equipped with an emergency information holder complying with Chapter 11 of the ADG Code; and
 - (b) the required emergency information is in the holder.

Penalty: \$1,000

- (2)** The driver of a vehicle transporting a placard load of dangerous goods by road must ensure that the vehicle's emergency information holder contains only:
- (a) the required emergency information; and
 - (b) the shipping documentation for the goods.

Penalty: \$500

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

Penalty: \$1,000

Approvals—emergency information

- 11.9** The Competent Authority may, on application made in accordance with regulation 17.1 or on the Authority's own initiative, approve emergency information that does not comply with Chapter 11 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 complying with the Chapter.

Road Transport Reform (Dangerous Goods) 73
1997 No. 241

PART 12—PERSONAL PROTECTIVE AND SAFETY EQUIPMENT

Owner's duties

12.1 The owner of a vehicle must not use the vehicle, or allow the vehicle to be used, to transport a placard load of dangerous goods by road unless the vehicle is equipped with:

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

Penalty: \$3,000

Prime contractor's duties

12.2 A prime contractor must not use a vehicle to transport a placard load of dangerous goods by road unless:

- (a) the driver of the vehicle is provided with personal protective equipment of a type, quality and quantity reasonably necessary for the personal safety of the driver, both during the normal course of transport and in a dangerous situation: and
- (b) the vehicle is equipped with safety equipment of a type, quality and quantity reasonably necessary to allow the goods to be transported safely on the vehicle and the vehicle to operate safely, both in the normal course of transport and in a dangerous situation: and
- (c) the vehicle is equipped with:
 - (i) fire extinguishers that are stowed, and have been inspected and tested, in accordance with Chapter 12 of the ADG Code: and
 - (ii) portable warning devices complying with the Chapter: and

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Note Commonwealth legislation

74 *Road Transport Reform (Dangerous Goods)*
1997 No. 241

- (iii) any other equipment required under the Chapter; and
- (d) each item of equipment mentioned in paragraphs (a) to (c) is in good repair and proper working order.

Penalty: \$3,000

Driver's duties

- 12.3** (1) A person must not drive a vehicle transporting a placard load of dangerous goods by road unless the vehicle is equipped with:
- (a) fire extinguishers and portable warning devices complying with Chapter 12 of the ADG Code; and
 - (b) any other equipment required under the Chapter.

Penalty: \$1,000

- (2) A person must not drive a vehicle transporting a placard load of dangerous goods by road if the person knows, or reasonably ought to know, that the equipment for the vehicle mentioned in subregulation (1):
- (a) is not stowed in accordance with Chapter 12 of the ADG Code; or
 - (b) has not been inspected or tested in accordance with the Chapter.

Penalty: \$1,000

*Road Transport Reform (Dangerous Goods)
1997 No. 241*

75

PART 13—PROCEDURES DURING TRANSPORT*Division 1—Immobilised and stopped vehicles***Driver's duty**

- 13.1 (1)** This regulation applies if a vehicle transporting a placard load of dangerous goods by road:
- (a) is broken down or otherwise immobilised, or has stopped, on a road; and
 - (b) is a traffic hazard.
- (2)** The driver must alert other road users of the hazard in accordance with Chapter 13 of the ADG Code.

Penalty: \$500**Prime contractor's duties**

- 13.2 (1)** If a vehicle transporting a placard load of dangerous goods by road is broken down or otherwise immobilised on a road, the prime contractor must, as soon as practicable, ensure that the 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: \$1,500

- (2)** The prime contractor must:
- (a) remove the dangerous goods from the vehicle before the vehicle is repaired or towed; and
 - (b) transport the dangerous goods from the place of the breakdown;
- if the risk involved in complying with paragraphs (a) and (b) is not greater than the risk involved in not complying with the paragraphs.

Penalty: \$1,500

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Note Commonwealth legislation

76 *Road Transport Reform (Dangerous Goods)*
1997 No. 241

Powers of authorised officers

- 13.3** (1) This regulation applies to a vehicle transporting a placard load of dangerous goods that is broken down or otherwise immobilised on a road.
- (2) An authorised officer may give directions to a person who is involved in the transport of the dangerous goods about how:
- (a) repair work is to be carried out on the vehicle; or
 - (b) the vehicle is to be towed off the road; or
 - (c) the dangerous goods are to be removed from the vehicle; or
 - (d) the dangerous goods are to be dealt with after their removal from the vehicle.
- (3) The person must comply with the direction, unless the person has a reasonable excuse for not complying with it.

Penalty: \$1,500

Division 2—Drivers' duties

Driving

- 13.4** The driver of a vehicle transporting a placard load of dangerous goods by road must not allow anyone else to ride in the vehicle other than in accordance with Chapter 13 of the ADG Code.

Penalty: \$500

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Commonwealth legislation

Note

Road Transport Reform (Dangerous Goods) 77
1997 No. 241

Parking

- 13.5** The driver of a vehicle transporting a placard load of dangerous goods by road must not park the vehicle, or leave the vehicle standing, in any place (whether public or private) unless the person complies with Chapter 13 of the ADG Code.

Penalty: \$1,000

Control of ignition sources

- 13.6 (1)** This regulation applies to a vehicle transporting dangerous goods by road, in bulk:
- (a) of Class 2.1, 3,4 or 5; or
 - (b) with a Subsidiary Risk of 2.1, 3,4 or S.
- (2)** The driver of the vehicle must not:
- (a) have matches or a cigarette lighter in his or her possession in the vehicle; or
 - (b) smoke in the vehicle.

Penalty: \$3,000

- (3)** The driver must also do everything practicable to ensure that anyone else in the vehicle does not:
- (a) have matches or a cigarette lighter in his or her possession; or
 - (b) smoke.

Penalty: \$3,000

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Note Commonwealth legislation

78 *Road Transport Reform (Dangerous Goods)*
1997 No. 241

Division 3—Routes, areas, vehicles and times

Determinations—routes, areas, vehicles and times

13.7 The Competent Authority may determine:

- (a) that particular dangerous goods may only be transported by road on a particular route, or in or through a particular area; and
- (b) that only a particular vehicle, or kind of vehicle, may transport particular dangerous goods by road; and
- (c) that particular dangerous goods may only be transported by road at a particular time; and
- (d) that unodourised LP Gas may only be transported by road on a particular route, or in or through a particular area.

Prime contractor's duty

13.8 A prime contractor must not use a vehicle to transport goods along a route, or in or through an area, contrary to a determination under regulation 13.7.

Penalty: \$1,500

Driver's duty

13.9 A person must not drive a vehicle transporting goods by road along a route, or in or through an area, contrary to a determination under regulation 13.7.

Penalty: \$1,500

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Commonwealth legislation

Note

Road Transport Reform (Dangerous Goods) 79
1997 No. 241

PART 14—EMERGENCIES

Division 1—Emergencies generally

[Note: See also section 29 of the Act.]

Driver's duties

- 14.1** (1) This regulation applies if a vehicle transporting dangerous goods by road is involved in an incident resulting in a dangerous situation.
- (2) The driver of the vehicle must:
- (a) notify the police or fire service of the incident as soon as practicable; and
 - (b) notify the prime contractor of the incident as soon as practicable; and
 - (c) provide the reasonable assistance required by an authorised officer, or an officer of an emergency service, to deal with the situation.

Penalty: \$1,000

Prime contractor's duties—contaminated food and food packaging

- 14.2** (1) This regulation applies if an incident involving food or food packaging, and a vehicle transporting dangerous goods by road, results in the leakage, spillage or accidental escape of the dangerous goods, contamination of the food or food packaging, or a fire or explosion.
- (2) The food or food packaging must not be transported from the site of the incident, unless the Competent Authority gives written permission to the prime contractor to transport the food or food packaging from the site.

Penalty: \$3,000

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Note Commonwealth legislation

80 *Road Transport Reform (Dangerous Goods)*
1997 No. 241

- (3) If the Competent Authority gives the permission, the prime contractor must deal with the food or food packaging in accordance with the permission.

Penalty: \$3,000

- (4) A permission under subregulation (2) must:
- (a) be in writing; and
 - (b) state the name of the person to whom it is given; and
 - (c) identify the relevant incident; and
 - (d) identify the food or food packaging to which it relates.

Prime contractors and drivers to inform Competent Authority

14.3 (1) This regulation applies if a vehicle transporting dangerous goods by road is involved in an incident resulting in a dangerous situation.

- (2) The prime contractor and the driver of the vehicle must each comply with subregulations (3) to (5).

Penalty: \$1,500

- (3) As soon as practicable after the incident, the person must tell the Competent Authority about the incident, and provide details of:
- (a) where the incident happened; and
 - (b) the time and date of the incident; and
 - (c) the nature of the incident; and
 - (d) the dangerous goods being transported when the incident happened.
- (4) Not later than 21 days after the day when the incident happens, the person must give the Competent Authority a written report about the incident.
- (5) The report must provide details of:
- (a) where the incident happened; and

Road Transport Reform (Dangerous Goods) 81
1997 No. 241

- (b) the time and date of the incident; and
- (c) the nature of the incident; and
- (d) what the person believes to be the likely cause of the incident; and
- (e) the dangerous goods being transported when the incident happened; and
- (f) the measures taken to control any leak, spill or accidental escape of dangerous goods, and any fire or explosion, arising out of the incident; and
- (g) the measures taken after the incident in relation to the dangerous goods involved in the incident.

Division 2—Emergencies involving placard loads

Telephone advisory service—bulk transport

14.4 (1) In this regulation:

“journey” means the transport by road of dangerous goods from where the goods are consigned to where the goods are delivered to the consignee;

“telephone advisory service”. for the transport of dangerous goods. means a service providing access by telephone to persons competent to give advice about:

- (a) the construction and properties of the containers 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.

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Note Commonwealth legislation

82 *Road Transport Reform (Dangerous Goods)*
1997 No. 241

- (2) A prime contractor must not transport dangerous goods in bulk by road unless a telephone advisory service is available during the journey.

Penalty: \$3,000

- (3) A person must not consign dangerous goods in bulk for transport by road unless a telephone advisory service is available during the journey.

Penalty: \$3,000

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

Emergency plans

- 14.5 (1) In this regulation:

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

- (2) A prime contractor must not transport a placard load of dangerous goods by road unless the prime contractor has an emergency plan for the transport of the goods.

Penalty: \$3,000

- (3) A person must not consign a placard load of dangerous goods for transport by road unless the person has an emergency plan for the transport of the goods.

Penalty: \$3,000

Consignor’s duties — information and resources

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

Road Transport Reform (Dangerous Goods) 83
1997 No. 241

- (2) As soon as practicable after being asked by an authorised officer or an officer of an emergency service, the consignor of the goods must:
- (a) give the officer the information that the 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:** \$1,500
- (3) If the prime contractor and the consignor of the goods are asked to give the same information or provide the same resources for the incident, it is sufficient if the prime contractor gives the information or provides the resources.

Prime contractor's duties—information and resources

- 14.7** (1) This regulation applies if a vehicle transporting a placard load of dangerous goods by road is involved in an incident resulting in a dangerous situation.
- (2) As soon as practicable after being asked by an authorised officer or an officer of an emergency service, the prime contractor must:
- (a) give the officer the information that the officer requires about:
- (i) the vehicle's construction and properties: and

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998
Corr-onwealth legislation

Note

84

Road Transport Reform (Dangerous Goods)
1997 No. 241

- (ii) the vehicle's equipment, except any bulk container for which the prime contractor is not responsible; 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:** \$1,500
- (3) If the prime contractor and the consignor of the 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.

<i>Road Transport Reform (Dangerous Goods)</i>	85
<i>1997 No. 241</i>	

PART 15—MUTUAL RECOGNITION

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

Registers

- 15.1** Each of the following registers is a *register* for these Regulations:
- (a) the register of determinations kept under regulation 1.21;
 - (b) the register of exemptions kept under regulation 16.2;
 - (c) the register of approvals kept under regulation 17.2;
 - (d) the register of bulk driver licences kept under subregulation 13.36 (1);
 - (e) the register of bulk vehicle licences kept under subregulation 13.36 (2).

Registers may be kept by computer

- 15.2** (1) A register, or part of a register, under these Regulations may be kept by computer.
- (2) An entry made by computer for a register is taken to be a record made in the register.

Inspection of registers

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

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Note Commonwealth legislation

86 *Road Transport Reform (Dangerous Goods)*
1997 No. 241

Division 2—Competent Authorities Panel

Membership and function of Panel

- 15.4 (1)** The Competent Authorities Panel (the **“Panel”**) consists of the following members:
- (a) the Competent Authority;
 - (b) the Competent Authority or Authorities of each other participating jurisdiction;
 - (c) any authority of another participating jurisdiction who performs functions and exercises powers under a law of the other jurisdiction about the transport of dangerous goods by rail.
- (2)** The function of the Panel is to decide matters referred to the Panel by a person mentioned in subregulation (1) (a **“Panel member”**).

Panel meetings

- 15.5 (1)** The Panel may hold a meeting to decide a matter referred to the Panel.
- (2)** The Panel may invite a person to be present at a meeting of the Panel to advise or inform, or make a submission to, the Panel.

Decisions of Panel

- 15.6 (1)** A Panel member has a single vote on a decision to be made by the Panel.
- (2)** A matter that is referred to a meeting of the Panel must be decided by a majority of votes.
- (3)** However, if there are 2 or more Panel members representing a participating jurisdiction, the members jointly have a single vote on a decision to be made by the Panel.

Road Transport Reform (Dangerous Goods) 87
1997 No. 241

- (4) A decision is a valid decision of the Panel, even though it is not made at a meeting of the Panel, if each member of the Panel agrees in writing to the proposed decision.
- (5) However, if there are 2 or more Panel members representing a participating jurisdiction, it is sufficient if 1 or more of those members agree.
- (6) The Competent Authority must keep a record of each decision made by the Panel.

[Note: Section 33B of the *Acts interpretation Act 1901* (Cwlth) allows the Panel to permit its members to participate in a meeting by telephone, closed circuit television or any other means of communication.]

Division 3— Recommendations by Competent Authority and corresponding Competent Authorities

Recommendations by Competent Authority

- 15.7** (1) This regulation applies if the Competent Authority considers that a ground exists for a corresponding Competent Authority to do any of the following (the “**proposed action**”):
- (a) revoke or vary a corresponding determination that is not a corresponding administrative determination;
 - (b) cancel or vary a corresponding administrative determination;
 - (c) cancel or vary a corresponding approval or exemption;
 - (d) cancel, suspend or vary a corresponding bulk driver or vehicle licence.
- (2) The Competent Authority may recommend, in writing, that the corresponding Competent Authority take the proposed action.

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Note Commonwealth legislation

88 *Road Transport Reform (Dangerous Goods)*
1997 No. 241

- (3) The Competent Authority must provide written reasons to the corresponding Competent Authority for the recommendation.

Recommendations by corresponding Competent Authorities

- 15.8** (1) This regulation applies if a corresponding Competent Authority recommends in writing to the Competent Authority that the Authority do any of the following:
- (a) revoke or vary a determination that is not an administrative determination; or
 - (b) cancel or vary an administrative determination; or
 - (c) cancel or vary an approval or exemption; or
 - (d) cancel, suspend or vary a bulk driver or vehicle licence.
- (2) The Competent Authority must:
- (a) if the recommendation is about a determination (except an administrative determination), exemption or approval that has effect in 1 or more other participating jurisdictions—refer the recommendation to the Panel; and
 - (b) in any other case—have regard to the recommendation.

Division 4—Mutual recognition of determinations, exemptions, approvals and licences

Corresponding determinations

- 15.9** (1) This regulation applies to a determination made by a corresponding Competent Authority for another participating jurisdiction if:
- (a) the determination is made under a provision of the law of the other jurisdiction corresponding to a provision (the “**relevant provision**”) of either of the following regulations:

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Note

Commonwealth legislation

Road Transport Reform (Dangerous Goods) 89
1997 No. 241

- regulation 1.18 (Determinations—dangerous goods)
 - regulation 4.27 (Determinations—foreign approved tanks and IBCs)
 - regulation 13.7 (Determinations—routes, areas, vehicles and times); and
- [P] the determination is in force in the other jurisdiction; and
- [C] either of the following subparagraphs applies:
- (i) the Panel has decided that the determination should have effect in all participating jurisdictions or participating jurisdictions including this jurisdiction, the determination is recorded in the register kept under regulation 1.21, and the Panel has not reversed the decision;
 - (ii) the determination was made on the application of a person and applies only to the person.
- (2) Except for circumstances that do not exist in this jurisdiction, the determination has effect in this jurisdiction as if it were a determination made by the Competent Authority under the relevant provision.

Corresponding exemptions

- 15.10** (1) This regulation applies to an exemption granted by a corresponding Competent Authority for another participating jurisdiction if:
- (a) the exemption is granted for a provision of the law of the other jurisdiction corresponding to a provision (the “**relevant provision**”) of these Regulations; and
 - (b) the exemption is in force in the other jurisdiction; and

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Note Commonwealth legislation

90 *Road Transport Reform (Dangerous Goods)*
1997 No. 241

- (c) the Panel has decided that the exemption should have effect in all participating jurisdictions or participating jurisdictions including this jurisdiction, and has not reversed the decision.
- (2) Except for circumstances that do not exist in this jurisdiction, the exemption has effect in this jurisdiction as if it were an exemption granted by the Competent Authority for the relevant provision.

Corresponding approvals

- 15.11** (1) This regulation applies to an approval given by a corresponding Competent Authority for another participating jurisdiction if:
- (a) the approval is given under a provision of the law of the other jurisdiction corresponding to a provision (the “**relevant provision**”) of any of the following regulations:
- regulation 3.8 (Approvals—packaging design types)
 - regulation 4.25 (Approvals—tank designs)
 - regulation 4.26 (Approvals—IBC designs)
 - regulation 6.5 (Approvals—unit loads)
 - regulation 9.8 (Approvals—segregation)
 - regulation 10.9 (Approvals—transfer of dangerous goods)
 - regulation 11.9 (Approvals—emergency information)
 - regulation 20.2 (Approvals—tests and training courses for drivers); and
- (b) the approval is in force in the other jurisdiction; and
- (c) the Panel has decided that the approval should have effect in all participating jurisdictions or participating jurisdictions including this jurisdiction, and has not reversed the decision.

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Commonwealth legislation

Note

Road Transport Reform (Dangerous Goods) 91
1997 No. 241

- (2)** Except for circumstances that do not exist in this jurisdiction, the approval has effect in this jurisdiction as if it were an approval given by the Competent Authority under the relevant provision.

Corresponding licences

- 15.12 (1)** This regulation applies to a licence granted by a corresponding Competent Authority for another participating jurisdiction if:
- (a) the licence is a licence granted under a provision of the law of the other jurisdiction corresponding to either of the following regulations (the “**relevant provision**”):
- regulation 18.11 (which is about bulk driver licences)
 - regulation 18.21 (which is about bulk vehicle licences); and
- (b) the licence is in force in the other jurisdiction.
- (2)** Except for circumstances that do not exist in this jurisdiction, the licence has effect in this jurisdiction as if it were a licence granted by the Competent Authority under the relevant provision.

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998
Commonwealth legislation

92 *Road Transport Reform (Dangerous Goods)*
 1997 No. 241

PART 16—EXEMPTIONS

[Note: For other provisions about exemptions, see sections 32, 33
and 33A of the Act.]

Division 1—General

Applications for exemptions

16.1 (1) An application for an exemption must:

- (a) be made in writing to the competent Authority; and
 - (b) be signed and dated by or for the applicant; and
 - (c) 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 people to which, the application relates; and
 - (e) specify the provisions of these Regulations, and of the ADG Code, to which the application relates; and
 - (f) specify the dangerous goods to which the application relates; and
 - (g) state why, in the applicant's opinion, compliance with the provision 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 applicant 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 sought.
-

Road Transport Reform (Dangerous Goods) 93
1997 No. 241

- (2) The Competent Authority may, by written notice, require the applicant to give to the Authority any additional information necessary for a proper consideration of the application.

Register of exemptions

- 16.2** (1) The Competent Authority must keep a register of exemptions.
- (2) The register may have separate divisions for different kinds of exemptions.
- (3) The Competent Authority must record in the register:
- (a) each exemption granted under the Act; and
 - (b) each exemption granted by a corresponding Competent Authority that would be a corresponding exemption if it were recorded in the register.
- (4) The Competent Authority must note in the register:
- (a) the cancellation or variation of an exemption made under the Act; and
 - (b) a decision of the Panel reversing a decision that a corresponding exemption should have effect in all participating jurisdictions or participating jurisdictions including this jurisdiction.

Records of exemptions

- 16.3** The record of an exemption in the register must include:
- (a) the provisions of the exemption; or
 - (b) the following information:
 - (i) if the exemption was notified in the Government Gazette of a participating jurisdiction (including this Jurisdiction)—the title of the Gazette and the date of notification;

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Note Commonwealth legislation

94 *Road Transport Reform (Dangerous Goods)*
1997 No. 241

- (ii) the name of the person to whom, or the name, or a description, of the class of people to which, the exemption applies;
- (iii) the date when the exemption was granted;
- (iv) the provisions of these Regulations, and of the ADG Code, to which the exemption relates;
- (v) the period for which the exemption is in force;
- (vi) the dangerous goods, equipment, packaging, vehicle or other thing to which the exemption relates.

Division 2—Reference of matters to Panel

References to Panel

- 16.4** (1) The Competent Authority must refer an application for an exemption to the Panel if the Authority considers that the exemption should have effect in all participating jurisdictions or participating jurisdictions including this jurisdiction.
- (2) The Competent Authority must refer to the Panel an exemption having effect in this jurisdiction, and 1 or more other participating jurisdictions, if:
- (a) the Authority considers that the exemption should be cancelled or varied; or
 - (b) a corresponding Competent Authority recommends to the Authority in writing that the exemption should be cancelled or varied.

Effect of Panel decisions about applications

- 16.5** (1) This regulation applies if:
- (a) an application for an exemption is referred to the Panel under subregulation 16.4(1); and

<i>Road Transport Reform (Dangerous Goods)</i> <i>1997 No. 241</i>	95
---	----

- (b) the Panel decides:
- (i) that the exemption should be granted, what the provisions of the exemption should be, and that the exemption should have effect in all participating jurisdictions or participating jurisdictions including this jurisdiction; or
 - (ii) that the exemption should not have effect in this jurisdiction.

- (2) The Competent Authority must have regard to the Panel's decision.

Effect of Panel decisions about cancelling or varying exemptions

- 16.6** (1) This regulation applies if:
- (a) an exemption is referred to the Panel under subregulation 16.4(2); and
 - (b) the Panel decides that the exemption:
 - (i) should, or should not, be cancelled; or
 - (ii) should be varied (whether or not the Panel's decision is the same as the variation proposed by the Authority), and should have effect as varied in all participating jurisdictions or participating jurisdictions including this jurisdiction; or
 - (iii) should not be varied
- (2) The Competent Authority must have regard to the Panel's decision.

96 *Road Transport Reform (Dangerous Goods)*
1997 No. 241

PART 17—ADMINISTRATIVE DETERMINATIONS AND APPROVALS

[Notes:

1. For provisions about determinations generally, see Division 6 of Part 1.
2. For additional provisions about cancellation and variation of administrative determinations and approvals, see Part 19.]

Division 1—General

Applications

- 17.1** (1) An application for an administrative determination or approval, or for variation of an administrative determination or approval, must be made to the Competent Authority in writing.
- (2) However, an application for an approval, or variation of an approval, under regulation 10.9 may be made orally.
- (3) An application for variation of an administrative determination or written approval must have the determination or approval with it.
- (4) The Competent Authority may, by written notice, require an applicant to give to the Authority any additional information necessary for a proper consideration of the application.

[Note: Regulation 10.9 deals with applications for the transfer of dangerous goods otherwise than in accordance with Chapter 10 of the ADG Code.]

Form of administrative determinations and approvals

- 17.2** (1) An administrative determination, or an approval made on written application, must be in writing.

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998
Commonwealth legislation

Note

Road Transport Reform (Dangerous Goods) 97
1997 No. 241

- (2) However, an approval made on oral application under regulation 10.9 may be given orally.

When administrative determinations and approvals not to be made etc.

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

[Note: For court orders, see section 45 of the Act.]

Reasons for refusal of applications

- 17.4 (1) This regulation applies if the Competent Authority refuses an application to:
- (a) make or vary an administrative determination; or
 - (b) grant or vary an approval under these Regulations.
- (2) The Competent Authority must inform the applicant in writing of the refusal and of the reasons for the refusal.
- (3) However, if the Competent Authority refuses an oral application to vary an approval given under regulation 10.9, the Authority may inform the applicant orally.

Periods and conditions

- 17.5 (1) An administrative determination is made, and a written approval under these Regulations is given, for the period stated in the determination or approval.
- (2) However, if an approval under regulation 10.9 is given orally, the Competent Authority may tell the applicant orally of the period for which the approval is given when the Authority gives the approval.

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Note Commonwealth legislation

98 *Road Transport Reform (Dangerous Goods)*
1997 No. 241

- (3) A condition to which an administrative determination, or a written approval, is subject must be stated in the determination or approval.
- (4) However, if an approval under regulation 10.9 is given orally, the Competent Authority may tell the applicant orally of any condition when the Authority gives the approval.

Replacement administrative determinations and approvals

17.6 The Competent 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.

Failure to comply with conditions

17.7 A person to whom an administrative determination applies, or an approval is given, must not contravene a condition of the determination or approval.

Penalty: \$1,500

Grounds for cancelling administrative determinations and approvals

17.8 (1) An administrative determination or approval may be cancelled 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.

Road Transport Reform (Dangerous Goods) 99
1997 No. 241

- (2) An administrative determination or approval may be cancelled 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 also be cancelled 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 about something that the Competent Authority may or must consider in deciding whether to make the determination or give the approval.

Grounds for varying administrative determinations and approvals

- 17.9** (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.

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Note Commonwealth legislation

100 *Road Transport Reform (Dangerous Goods)*
1997 No. 241

- (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 also 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 variation because the person has contravened:
- (a) a provision of the Act or these Regulations; or
 - (b) a provision of the law in force in another participating jurisdiction corresponding to a provision mentioned in paragraph (a).
- (4) In subregulation (2):
- "relevant change"** means a change about something that the Competent Authority may or must consider in deciding whether to make the determination or give the approval.

Division 2—Register of approvals

Register

- 17.10 (1) The Competent Authority must keep a register of approvals.
- (2) The register may have separate divisions for different kinds of approvals.

Road Transport Reform (Dangerous Goods) 101
1997 No. 241

- (3) The Competent Authority must record in the register:
- (a) each approval given in writing under these Regulations; and
 - (b) each approval given in writing by a corresponding Competent Authority that would be a corresponding approval if it were recorded in the register.
- (4) The Competent Authority must note in the register:
- (a) the cancellation or variation of a written approval; and
 - (b) a decision of the Panel reversing a decision that a corresponding approval should have effect in all participating jurisdictions or participating jurisdictions including this jurisdiction.

Records of approvals

17.11 The record of an approval in the register must include:

- (a) the provisions 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 is in force;
 - (v) the dangerous goods, equipment, packaging, vehicle or other thing to which the approval relates.

1998 No 202

Road and Rail Transport⁶⁶ (Dangerous Goods) (Road) Regulation 1998

Note Commonwealth legislation

102 *Road Transport Reform (Dangerous Goods)*
1997 No. 241

Division 3—Reference of approval matters to Panel

References to Panel

- 17.12** (1) The Competent Authority must refer an application for an approval to the Panel if the Authority considers that the approval should have effect in all participating jurisdictions or participating jurisdictions including this jurisdiction.
- (2) The Competent Authority must refer to the Panel an approval having effect in this jurisdiction, and 1 or more other participating jurisdictions, if:
- (a) the Authority considers that the approval should be cancelled or varied; or
 - (b) a corresponding Competent Authority recommends to the Authority in writing that the approval should be cancelled or varied.

Effect of Panel decisions about applications

- 17.13** (1) This regulation applies if:
- (a) an application for an approval is referred to the Panel under subregulation 17.12 (1); and
 - (b) the Panel decides:
 - (i) that the approval should be given, what the provisions of the approval should be, and that the approval should have effect in all participating jurisdictions or participating jurisdictions including this jurisdiction; or
 - (ii) that the approval should not have effect in this jurisdiction.
- (2) The Competent Authority must have regard to the Panel's decision.
-

<i>Road Transport Reform (Dangerous Goods)</i>	103
<i>1997 No. 241</i>	

Effect of Panel decisions about cancelling or varying approvals

17.14 (1) This regulation applies if:

- (a) an approval is referred to the Panel under subregulation 17.12 (2); and
 - (b) the Panel decides that the approval:
 - (i) should, or should not, be cancelled; or
 - (ii) should be varied (whether or not the Panel's decision is the same as the variation proposed by the Authority), and should have effect as varied in all participating jurisdictions or in participating jurisdictions including this jurisdiction; or
 - (iii) should not be varied.
- (2) The Competent Authority must have regard to the Panel's decision.

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998
Commonwealth legislation
Note

104 *Road Transport Reform (Dangerous Goods)*
1997 No. 241

PART 18—LICENCES

[Note: For additional provisions about cancellation, suspension and variation of licences, see Part 19.]

Division 1—Preliminary

Application of Part

- 18.1** This Part does not apply to the transport by road of dangerous goods in bulk on a vehicle if:
- (a) the goods are transported in an IBC; and
 - (b) the IBC is not filled or emptied on the vehicle; and
 - (c) the total capacity of IBCs on the vehicle is not more than 3,000 litres.

Part additional to other laws

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

Division 2—Principal duties under Part

Prime contractor's duties

- 18.3** (1) If a prime contractor uses a vehicle to transport dangerous goods by road in bulk (other than as the driver of the vehicle), the vehicle must be licensed under this Part to transport the goods.
-

- (2) If a prime contractor employs, engages or permits another person to drive a vehicle transporting dangerous goods by road in bulk, the other person must be licensed under this Part to drive the vehicle.

[Note: The offence provisions to which this regulation relates are subsections 35 (1) and (2) of the Act.]

Driver's duties

- 18.4 (1) If a person drives a vehicle transporting dangerous goods by road in bulk, the vehicle must be licensed under this Part to transport the goods.
- (2) If a person drives a vehicle transporting dangerous goods by road in bulk, the person must be licensed under this Part to drive the vehicle.

[Note: The offence provisions to which this regulation relates are subsections 35 (3) and (5) of the Act.]

Consignor's duty

- 18.5 A person must not consign dangerous goods in bulk for transport by road on a vehicle if the person knows, or reasonably ought to know, that the vehicle is not licensed under this Part to transport the goods.

Penalty: \$3,000

Division 3—Bulk driver licences

Meaning of "licence" and "licensee" in Division

- 18.6 In this Division:
- “licence” means a bulk driver licence;
 - “licensee” means the holder of a licence

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998
Commonwealth legislation
Note

106 *Road Transport Reform (Dangerous Goods)*
1997 No. 241

Required driving licence evidence

18.7

- (1) The following documents are required as driving licence evidence for an application for grant or renewal of a licence:
- (a) a copy of the applicant's driving licence; and
 - (b) either:
 - (i) the 2 documents mentioned in subregulation (2), or
 - (ii) the authorisation mentioned in subregulation (3)
- (2) For subparagraph (1) (b) (i), the following 2 documents are required
- (a) a current certified extract of entries about the applicant in the driving licences register kept by the licensing authority of each jurisdiction where the applicant is licensed to drive
 - (b) a copy of the records of any conviction of the applicant for a driving offence certified by the appropriate authority of the jurisdiction where the applicant was convicted.
- (3) For subparagraph (1) (b) (ii), authorisation by the applicant is required for the competent Authority to have access to:
- (a) entries in the driving licences register about the applicant; and
 - (b) record of any conviction of the applicant for a driving offence.
- (4) For paragraph (2) (a), a current certified extract is an extract certified by the licensing authority not more than 6 months before the day when the application is made.

Required competency evidence

- 18.8 (1) A document mentioned in subregulation (2) is required as competency evidence for an application for grant or renewal of a licence.
- (2) The document must be either:
- (a) a test or training certificate issued to the applicant;
 - OR
 - (b) other written evidence that the applicant passed an approved test or completed an approved training course;
- not more than 6 months before the day when the application is made.

Required medical fitness evidence

- 18.9 (1) The certificate mentioned in subregulation (2) is required as medical fitness evidence for an application for grant or renewal of a licence.
- (2) The certificate must be:
- a) about the fitness of the applicant to drive a vehicle; and
 - b) issued by a registered medical practitioner who, not more than 6 months before the day when the application is made, examined and passed the applicant in accordance with the required standard.
- (3) For subregulation (2), the required standard is the *Medical Examinations of Commercial Vehicle Drivers* published by the Federal Office of Road Safety and the National Road Transport Commission.

Applications for licences

- 18.10 (1) A person who is not already the holder of a licence or a corresponding bulk driver licence may apply to the Competent Authority for a licence.

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Note Commonwealth legislation

108 *Road Transport Reform (Dangerous Goods)* *1997 No. 241*

- (2) The application must be accompanied by:
- (a) the driving licence evidence required by regulation 18.7; and
 - (b) the competency evidence required by regulation 18.8; and
 - (c) the medical fitness evidence required by regulation 18.9; and
 - (d) 2 recent passport-size photographs of the applicant; and
 - (e) if a fee is prescribed for the application—the prescribed fee.

Grant of licences

- 18.11 (1) The Competent Authority must grant a licence if:
- (a) an application is made to the Authority for the licence; and
 - (b) the application is accompanied by the documents required by regulation 18.10 and otherwise complies with the regulation; and
 - (c) the applicant is a least 21 years old.
- (2) However, the Competent Authority must not grant the licence if:
- (a) in the 5 years before the day when the application is made:
 - (i) the applicant has been found guilty by a court in Australia of an offence that makes the applicant unsuitable to be the driver of a vehicle transporting dangerous goods in bulk; or
 - (ii) the applicant's driving licence has been cancelled or suspended on a ground that makes the applicant unsuitable to be the driver of a vehicle transporting dangerous goods in bulk; or

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Note

Commonwealth legislation

Road Transport Reform (Dangerous Goods) 109
1997 No. 241

- (b) the applicant is subject to a court order prohibiting the applicant from involvement in the transport of dangerous goods by road.

[Note: For court orders, see section 45 of the Act.]

- (3) If the Competent Authority refuses to grant a licence, the Authority must inform the applicant in writing of the refusal and of the reasons for the refusal.

Applications for renewal of licences

18.12 (1) A person who holds a licence may apply to the Competent Authority for renewal of the licence

- (2) The application must be accompanied by:
 - (a) the driving licence evidence required by regulation 18.7; and
 - (b) the competency evidence required by regulation 18.8; and
 - (c) the medical fitness evidence required by regulation 18.9; and
 - (d) 2 recent passport-size photographs of the applicant; and
 - (e) if a fee is prescribed for the application—the prescribed fee.

Renewal of licences

- 18.13** (1) The Competent Authority must renew a licence if:
- (a) an application is made to the Authority for renewal of the licence; and
 - (b) the application is accompanied by the documents required by regulation 18.12 and otherwise complies with the regulation.

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Note Commonwealth legislation

110 *Road Transport Reform (Dangerous Goods)*
1997 No. 241

- (2) However, the Competent Authority must not renew the licence if:
- (a) while the licence was in force:
 - (i) the applicant was found guilty by a court in Australia of an offence that makes the applicant unsuitable to be the driver of a vehicle transporting dangerous goods in bulk; or
 - (ii) the applicant's driving licence was cancelled on a ground that makes the applicant unsuitable to be the driver of a vehicle transporting dangerous goods in bulk; or
 - (b) the applicant is subject to a court order prohibiting the applicant from involvement in the transport of dangerous goods by road.
- (3) If the Competent Authority refuses to renew a licence, the Authority must inform the applicant in writing of the refusal and of the reasons for the refusal.

Licence periods

- 18.14** (1) A licence is granted for the period of not longer than 3 years stated in the licence.
- (2) A licence takes effect on the day when the licence is granted.
- (3) A licence is renewed for the period of not longer than 3 years stated in the renewed licence.

Licence conditions

- 18.15** (1) The Competent Authority may grant or renew a 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.

Road Transport Reform (Dangerous Goods) 111
1997 N. 241

- (3) The licence may be subject to conditions about:
- (a) the dangerous goods that may or may not be transported in or on a vehicle driven by the licensee; and
 - (b) the containers that may or may not be used to transport dangerous goods in or on a vehicle driven by the licensee; and
 - (c) the vehicles that may be given by the licensee in transporting dangerous goods; and
 - (d) the areas where the licensee may or may not drive a vehicle transporting dangerous goods or particular dangerous goods; and
 - (e) the supervisor of the licensee when driving a vehicle transporting dangerous goods; and
 - (f) the medical examinations required to be undergone by the licensee in accordance with the standard mentioned in subregulation 18.9 (3).
- (4) The licence may also be subject to any other condition necessary for the safe transport by road of dangerous goods in bulk.

Additional condition

- 18.16 It is a condition of a licence that the Competent Authority may, by written notice given to a licensee at least 2 months before an anniversary of the day when the licence was granted, require the licensee to produce to the Authority the medical fitness evidence that would be required by regulation 18.9 if the licensee were to apply for renewal of the licence on the anniversary.

Grounds for cancelling, suspending or varying licences

- 18.17 (1) A licence may be cancelled, suspended or varied if the application for the licence or an application for its renewal:
- (a) did not comply with these Regulations; or

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998
Commonwealth legislation

112 *Road Transport Reform (Dangerous Goods)* *1997 No. 241*

- (b) was false or misleading in a material respect.
- (2) A licence may also be cancelled or varied if the licensee is unsuitable to continue to be the driver of a vehicle transporting dangerous goods in bulk because:
- (a) the licensee has contravened:
 - (i) a provision of the Act or these Regulations; or
 - (ii) a provision of the law in force in another participating jurisdiction corresponding to a provision 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 driving licence is cancelled; or
 - (d) the licensee is suffering from a medical condition, or has a physical or mental disability.

Division 4—Bulk vehicle licences

Meaning of “licence” and “licensee” in Division

- 18.18 In this Division:
- “licence” means a bulk vehicle licence;
 - “licensee” means the holder of a licence;
 - “vehicle” does not include a prime mover or converter dolly.

Applications for licences

- 18.19 (1) A person may apply to the Competent Authority for a licence for a vehicle:
- (a) used, or intended to be used, in transporting dangerous goods by road in bulk; and
 - (b) for which the person does not hold a licence.

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulator 1998
Commonwealth legislation

Note

Road Transport Reform (Dangerous Goods) 113
1997 No. 241

- (2)** The application must include the following information:
- (a) the registration number, make and type of the vehicle;
 - (b) the type of dangerous goods intended to be transported in or on the vehicle;
 - (c) if the applicant holds a licence for another vehicle—the number of the licence.
- (3)** If a fee is prescribed for the application, the application must be accompanied by the prescribed fee.
- (4)** An application may be made for 2 or more vehicles in the same form.

Additional information and inspections

- 18.20** **(1)** The Competent Authority may, by written notice, require an applicant for a licence, or for renewal of a licence, for a vehicle:
- (a) to give to the Authority, or to someone nominated by the Authority, any additional information necessary for a proper consideration of the application; and
 - (b) to make the vehicle available for inspection by the authority, or by someone nominated by the authority, at a stated place and time.
- (2)** A person who inspects a vehicle for the Competent Authority must give a report of the inspection to the Authority as soon as practicable after the inspection.
- (3)** The Competent Authority must give a copy of any report of an inspection to the applicant if the applicant asks for it.

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Note Commonwealth legislation

11A *Road Transport Reform (Dangerous Goods)* *1997 No. 241*

Grant of licences

- 18.21 (1)** Subject to subregulation (4), the Competent Authority must grant a licence for a vehicle if:
- (a) an application is made to the Authority for the licence; and
 - (b) the application complies with regulation 18.19; and
 - (c) the applicant has complied with any requirement made under regulation 18.20 in relation to the application; and
 - (4) the vehicle is suitable to transport by road in bulk each type of dangerous goods intended to be transported in or on the vehicle.
- (2)** Without limiting paragraph (1) (d), a vehicle to which this subregulation applies is suitable only if:
- (a) the tank forming part of, or attached or intended to be attached to, the vehicle is an approved tank; and
 - (b) the vehicle complies with the requirements of Chapter 4 of the ADG Code applying to a vehicle for use in transporting by road dangerous goods in the form of liquid or gas.
- (3)** Subregulation (2) applies to a vehicle:
- (a) intended for use in the transport by road of dangerous goods in bulk in the form of liquid or gas; and
 - (b) of which a tank forms part, or to which a tank is attached or intended to be attached.
- (4)** However, the Competent Authority must not grant the licence if the applicant is subject to a court order prohibiting the applicant from involvement in the transport of dangerous goods by road.
- [Note: For court orders, see section 45 of the Act.]
- (5)** The Competent Authority may issue a single licence to an applicant for a licence for more than 1 vehicle.

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Note

Commonwealth legislation

Road Transport Reform (Dangerous Goods) 115 *1997 No. 241*

- (6) If the Competent Authority refuses to grant a licence, the Authority must inform the applicant in writing of the refusal and of the reasons for the refusal.

Applications for renewal of licences

- 18.22 (1) A person who holds a licence for a vehicle may apply to the Competent Authority for renewal of the licence.
- (2) The application must include the information required under subregulation 18.19 (2) for an application for the grant of a licence for the vehicle.
- (3) If a fee is prescribed for the application, the application must be accompanied by the prescribed fee.

Renewal of licences

- 18.23 (1) Subject to subregulation (4), the Competent Authority must renew a licence for a vehicle if:
- (a) an application is made to the Authority for renewal of the licence; and
 - (b) the application complies with regulation 18.22; and
 - (c) the applicant has complied with any requirement made under regulation 18.20 in relation to the application; and
 - (d) the vehicle is suitable to transport by road each type of dangerous goods in bulk intended to be transported in or on the vehicle.
- (2) Without limiting paragraph (1)(d), a vehicle to which this subregulation applies is suitable only if:
- (a) the tank forming part of, or attached or intended to be attached to, the vehicle is an approved tank; and

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Note Commonwealth legislation

116 *Road Transport Reform (Dangerous Goods)*
1997 No. 241

- (b) the vehicle complies with the requirements of Chapter 4 of the ADG Code applying to a vehicle for use in transporting by road dangerous goods in the form of liquid or gas.
- (3) Subregulation (2) applies to a vehicle:
 - (a) intended for use in the transport by road of dangerous goods in bulk in the form of liquid or gas; and
 - (b) of which a tank forms a part, or to which a tank is attached or intended to be attached.
- (4) However, the Competent Authority must not renew the licence if the applicant is subject to a court order prohibiting the applicant from involvement in the transport of dangerous goods by road.
- (5) The Competent Authority may issue a single licence to an applicant for a licence for more than 1 vehicle.
- (6) If the Competent Authority refuses to grant a licence, the Authority must inform the applicant in writing of the refusal and of the reasons for the refusal.

Licence periods

- 18.24** (1) A licence is granted for the period of not longer than 3 years stated in the licence.
- (2) A licence takes effect on the day when the licence is granted.
 - (3) A licence is renewed for the period of not longer than 3 years stated in the renewed licence.

Licence conditions

- 18.25** (1) The Competent Authority may grant or renew a licence subject to condition mentioned in subregulations (3) and (4).

Road Transport Reform (Dangerous Goods) 117
1997 No. 241

- (2) A condition to which the licence is subject must be stated in the licence.
- (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 also be subject to any other condition necessary for the safe transport by road of dangerous goods in bulk.

Disposal of licensed vehicles

18.26 (1) As soon as practicable after selling or otherwise disposing of a licensed vehicle (the “**disposed vehicle**”), the licensee must give notice of the disposal to the Competent Authority with the licence attached.

Penalty: \$500

- (2) The Competent Authority must:
 - (a) if the licence for the disposed vehicle also relates to another vehicle:
 - (i) amend the licence by omitting reference to the disposed vehicle; and
 - (ii) return the licence to the licensee; and
 - (b) if paragraph (a) does not apply—revoke the licence.

Grounds for cancelling, suspending or varying licences

18.27 (1) A licence may be cancelled, suspended or varied if the application for the licence or an application for its renewal:

- (a) did not comply with these Regulations: or

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Note Commonwealth legislation

118 *Road Transport Reform (Dangerous Goods)*
1997 No. 241

(b) was false or misleading in a material respect.

- (2) A licence for a vehicle may also be cancelled, suspended or varied if the vehicle does not comply with the Act or these Regulations.

Licence labels

18.28 (1) The Competent Authority must issue to the holder of a licence a licence label for each vehicle to which the licence relates.

- (2) A person must not drive a vehicle transporting dangerous goods in bulk by road unless a current licence label for the vehicle is attached to the vehicle in a conspicuous place.

Penalty: \$500

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

Penalty: \$500

- (4) A licence label must be capable of being securely attached to the vehicle.

Division 5—Carriage and production of bulk driver licences

Meaning of “licence” and “licensee” in Division

18.29 In this Division:

“**licence**” means a bulk driver licence;

“**licensee**” means the holder of a licence.

Road Transport Reform (Dangerous Goods) 119
1997 No. 241

Licences to be carried

18.30 A licensee must carry his or her licence at all times when driving a vehicle transporting dangerous goods in bulk by road.

Penalty: \$500

Licences to be produced for inspection

18.31 The driver of a vehicle transporting dangerous goods in bulk by road must produce his or her licence for inspection by an authorised officer, if the officer asks the driver to produce the licence for inspection.

Penalty: \$500

*Division 6—Licences generally***Meaning of “licence” and “licensee” in Division**

18.32 In this Division:

“**licence**” means a bulk driver or bulk vehicle licence;

“**licensee**” means the holder of a licence.

Replacement licences and licence labels

18.33 (1) The Competent Authority may issue a replacement licence to a licensee if:

- (a) the licence is renewed; or
- (b) the licence is varied; or
- (c) a period of suspension of the licence ends.

(2) The Competent 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.

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Note Commonwealth legislation

120 *Road Transport Reform (Dangerous Goods)* *1997 No. 241*

Failure to comply with licence conditions

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

Penalty: \$3,000

Surrender of licences

18.35 (1) A licensee may surrender his or her licence by giving notice of surrender to the Competent Authority and returning the licence to the Authority.

(2) A licence ceases to be in force on its surrender.

Registers of licences

18.36 (1) The Competent Authority must keep a register of bulk driver licences.

(2) The competent Authority must keep a register of bulk vehicle licences.

(3) A register may have separate divisions for different kinds of licences.

(4) The Competent Authority must record each licence granted under these Regulations in the appropriate register.

(5) The Competent Authority must note in the register the cancellation, surrender, suspension or variation of a licence.

Records of licences

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

- (a) the name of the licensee;
- (b) the date when the licence was granted or renewed;
- (c) the period for which the licence was granted or renewed:

Road Transport Reform (Dangerous Goods) 121
1997 No. 241

- (d) for a bulk driver licence — the licensee's date of birth;
- (e) for a bulk vehicle licence — the registration number, make and type of each vehicle to which the licence relates;
- (f) any condition to which the licence is subject.

Change of information given in licence applications

18.38 (1) This regulation applies if a licensee becomes aware that information given by the licensee to the Competent Authority in, or in relation to, an application for the grant 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 Competent Authority about the matter and give the correct information to the Authority.

Penalty \$500

Production of licences to Competent Authority

18.39 (1) The Competent Authority may, by written notice, require a person to whom a licence has been granted to produce the licence to the Authority.

(2) The person must produce the licence to *the* Competent Authority within 14 days after the day when the notice is given to the person.

Penalty: \$500

Seizure of licences etc

18.40 (1) An authorised officer to whom a licence is produced for inspection may seize the licence if the officer reasonably believes:

- (a) the licence has been cancelled or suspended; or
- (b) the licence period has ended; or

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Note Commonwealth legislation

122 *Road Transport Reform (Dangerous Goods)*
1997 No. 241

- (c) the licence has been varied and the variation is not recorded on the licence; or
 - (d) the person who produces the licence is not the licensee.
- (2) An authorised officer to whom a document that appears to be a licence is produced for inspection may seize the document if the officer reasonably believes that the document is not a licence.
- (3) An authorised officer must give a seized licence or document to the Competent Authority.

Return of licences

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

Road Transport Reform (Dangerous Goods) 123
1997 No. 241

PART 19—CANCELLATION, SUSPENSION AND VARIATION

Meaning of “licence” and “licensee” in Part

19.1 In this Part:

“**licence**” means a bulk driver or bulk vehicle licence;

“**licensee**” means the holder of a licence.

Cancellation, suspension and variation in dangerous situations

19.2 (1) This regulation applies if the Competent Authority reasonably believes that:

(a) a ground exists to:

(i) cancel or vary an administrative determination or approval; or

(ii) cancel, suspend or vary a licence; and

(b) it is necessary to take action mentioned in paragraph (a) to avoid, eliminate or minimise a dangerous situation.

(2) The Competent Authority must:

(a) cancel or vary the determination or approval; or

(b) cancel, suspend or vary the licence.

Cancellation and suspension giving effect to court orders

19.3 The Competent Authority must cancel an administrative determination, or cancel or suspend a licence, if the person to whom the determination applies, or the licensee, is prohibited by a court order from involvement in the transport of dangerous goods by road.

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Note Commonwealth legislation

124 *Road Transport Reform (Dangerous Goods)*
1997 No. 241

Variation of administrative determinations and approvals on application

- 19.4** (1) This regulation applies if:
- (a) an application is made to vary an administrative determination, approval or licence; and
 - (b) for an administrative determination or approval—the application is made in accordance with regulation 17.1 by the person to whom the determination applies or the approval is given; and
 - (c) for a licence—the application is made by the licensee and has the licence with it.
- (2) The Competent Authority may vary the determination, approval or licence in accordance with the application.

Cancellation, suspension and variation in other circumstances

- 19.5** (1) This regulation applies if:
- (a) the Competent Authority considers that a ground exists to do any of the following (the **“proposed action”**):
 - (i) cancel an administrative determination or approval;
 - (ii) cancel or suspend a licence;
 - (iii) vary an administrative determination, approval or licence; and
 - (b) regulations 19.2, 19.3 and 19.4 do not apply to the proposed action.
- (2) The Competent Authority must give to the person to whom the determination applies or the approval was given, or the licensee, a written notice that:
- (a) states the proposed action; and
 - (b) if the proposed action is to vary the determination, approval or licence—states the proposed variation; and

Road Transport Reform (Dangerous Goods) 125
1997 No. 241

- (c) if the proposed action is to suspend the licence—states a proposed suspension period of not longer than 12 months; and
 - (d) states the ground for the proposed action; and
 - (e) outlines the facts and other circumstances forming the basis for the ground; and
 - (f) invites the person to state in writing, within a stated time 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 stated time, the Competent Authority reasonably believes that a ground exists to take the proposed action, the Authority may:
- (a) if the proposed action is to cancel the determination or approval—cancel or vary the determination or approval; or
 - (b) if the proposed action is to cancel the licence—cancel or vary the licence or suspend it for not longer than 12 months; or
 - (c) if the proposed action is to suspend the licence for a stated period—suspend the licence for not longer than the stated period; or
 - (d) if the proposed action is to vary the determination, approval or licence in a stated way—vary the determination, approval or licence in that way.
- (4) However, the Competent Authority may cancel or vary an oral approval given under regulation 10.9 by informing the person to whom the approval was given orally of the cancellation or variation and of the reasons for the cancellation or variation.

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Note Commonwealth legislation

126 *Road Transport Reform (Dangerous Goods)*
1997 No. 241

When cancellation, suspension and variation take effect

- 19.6** (1) The cancellation, suspension or variation of an administrative determination, approval (except an oral approval given under regulation 10.9) or licence by the Competent Authority takes effect on:
- (a) the day when the person to whom the determination applies or the approval was given, or the licensee, is given written notice by the Authority of the cancellation, suspension or variation and of the reasons for the cancellation, suspension or variation; or
 - (b) a later day stated in the notice.
- (2) The cancellation or variation of an oral approval given under regulation 10.9 by the Competent Authority takes effect on:
- (a) the day when the person to whom the approval was given is informed orally, or given written notice, by the Authority of the cancellation or variation and of the reasons for the cancellation or variation; or
 - (b) a later day of effect of which the person is informed orally or in the notice.

When licences taken to be suspended

- 19.7** (1) A person's bulk driver licence is taken to be suspended if the person's driving licence is not in force.
- (2) A person's bulk vehicle licence for a vehicle is taken to be suspended in relation to the vehicle if the vehicle is not registered.

Road Transport Reform (Dangerous Goods) 127
1997 No. 241

PART 20—INSTRUCTION AND TRAINING

Instruction and training

- 20.1** (1) This regulation applies to any task involved in the transport of dangerous goods by road, including, for example:
- (a) packing dangerous goods or marking packaged dangerous goods and unit loads;
 - (b) consigning dangerous goods;
 - (c) loading dangerous goods into or onto a vehicle, or into a container to be put in or on a vehicle;
 - (d) unloading dangerous goods;
 - (e) placarding containers and vehicles in or on which dangerous goods are transported;
 - (f) preparing shipping documentation;
 - (g) maintaining vehicles and equipment used in the transport of dangerous goods;
 - (h) driving a vehicle transporting dangerous goods;
 - (i) being the consignee of dangerous goods;
 - (j) following the appropriate procedures in accordance with these Regulations in a dangerous situation.
- (2) A person who is responsible for management or control of the task must not employ, engage or permit someone else to perform the task unless the other person:
- (a) has received, or is receiving, appropriate instruction and training to ensure that he or she is able to perform the task safely and in accordance with these Regulations: and
 - (b) is appropriately supervised in performing the task to ensure that he or she is able to perform the task safely and in accordance with these Regulations.

Penalty: \$3,000

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Note Commonwealth legislation

128 *Road Transport Reform (Dangerous Goods)*
1997 No. 241

Approvals — tests and training courses for drivers

- 20.2 (1)** The Competent Authority may, on application made in accordance with regulation 17.1, approve:
- (a) a test of competence for drivers of vehicles transporting dangerous goods in bulk by road; or
 - (b) a training course for drivers of vehicles transporting dangerous goods in bulk by road.
- (2)** The Competent Authority may approve a test of competence 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.

Road Transport Reform (Dangerous Goods) 129
1997 No. 241

PART 21—INFRINGEMENT NOTICES

[Note: For other provisions about infringement notices, see section 38 of the Act.]

Offences, penalties and time for payment

- 21.1** (1) If an authorised officer reasonably believes that a person has committed an offence created by a provision mentioned in column 2 of Schedule 2, the officer may serve an infringement notice on the person for the offence.
- (2) The penalty payable under the infringement notice by the person for the offence is specified:
- (a) for a penalty payable by an individual—in column 3 of Schedule 2 for the offence; and
 - (b) for a penalty payable by a body corporate—in column 4 of Schedule 2 for the offence.
- (3) The time within which the penalty must be paid is:
- (a) 28 days after the day when the notice is served on the person; or
 - (b) if a reminder notice is given to the person—28 days after the reminder notice is served on the person: or
 - (c) a longer time that may be allowed in writing by the authorised officer.

Contents of infringement notices

- 21.2** An infringement notice served by an authorised officer on a person for an offence must:
- (a) be identified by a unique number; and
 - (b) specify the date of service of the notice; and
 - (c) specify the full name, or surname and initials, and address of the person: and

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Note Commonwealth legislation

130 *Road Transport Reform (Dangerous Goods)
1997 No. 241*

- (d) give brief details of the offence, including:
 - (i) the date and approximate time of the offence; and
 - (ii) where the offence happened; and
 - (iii) the provision of these Regulations contravened; and
- (e) specify the penalty for the offence payable under the notice; and
- (f) specify the place where, and any method by which, the penalty may be paid; and
- (g) specify the Competent Authority's name and address; and
- (h) contain the additional information required by regulation 21.3; and
- (i) be signed by the authorised officer.

Additional information in infringement notices

21.3 The infringement notice must inform the person that:

- (a) the person may pay the penalty specified in the notice:
 - (i) by posting or delivering the payment to the place of payment specified in the notice; or
 - (ii) in any other way specified in the notice; and
- (b) if the person pays the penalty within 28 days after the day when the notice is served on the person or any longer time allowed in writing by the authorised officer, the person will not be prosecuted in court for the offence, unless the notice is withdrawn; and
- (c) if the person does not pay the penalty within that time, the person may be prosecuted in court for the offence: and

Road Transport Reform (Dangerous Goods) 131
1997 No. 241

- (d) if the person wishes a court to decide whether he or she is guilty of the offence, the person must notify the Competent Authority accordingly in writing within 28 days after the day when the notice is served on the person; and
- (e) if the person notifies the Competent Authority in writing of that wish within the 28 days:
 - (i) the infringement notice may be withdrawn; and
 - (ii) he or she may be prosecuted in court for the offence; and
- (f) if the person is prosecuted in court and found guilty of the offence, the person may be convicted of the offence and ordered to pay a penalty and costs, and be subject to any other order that the court makes.

Reminder notices

- 21.4** (1) If an infringement notice is served by an authorised officer on a person for an offence and the penalty specified in the notice is not paid within 28 days after the day when the notice is served on the person, the officer may give a reminder notice to the person.
- (2) The reminder notice must:
- (a) include the information mentioned in paragraphs 21.2 (a) to (h); and
 - (b) contain the additional information required by regulation 21.5; and
 - (c) be signed by the authorised officer.

Additional information in reminder notices

- 21.5** (1) The reminder notice must inform the person that:
- (a) the time for payment of the penalty specified in the infringement notice has been extended: and

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Note Commonwealth legislation

132 *Road Transport Reform (Dangerous Goods)*
1997 No. 241

- (b) the person may pay the penalty specified in the infringement notice:
 - (i) by posting or delivering the payment to the place of payment specified in the notice; or
 - (ii) in any other way specified in the notice; and
- (c) if the person pays the penalty within 28 days after the day when the reminder notice is served on the person or any longer time allowed in writing by the authorised officer, the person will not be prosecuted in court for the offence, unless the infringement notice is withdrawn; and
- (d) if the person does not pay the penalty within that time, the person may be prosecuted in court for the offence; and
- (e) if the person wishes a court to decide whether he or she is guilty of the offence, the person must notify the Competent Authority in writing within 28 days after the day when the reminder notice is given to the person; and
- (f) if the person notifies the Competent Authority in writing of that wish within the 28 days:
 - (i) the infringement notice may be withdrawn; and
 - (ii) he or she may be prosecuted in court for the offence; and
- (g) if the person is prosecuted in court and found guilty of the offence, the person may be convicted of the offence and ordered to pay a penalty and costs. and be subject to any other order that the court makes.

Road Transport Reform (Dangerous Goods) 133
1997 No. 241

Withdrawal of infringement notices

- 21.6 (1)** A notice withdrawing an infringement notice served on a person for an offence must:
- (a) include the following information:
 - (i) the full name, or surname and initials, and address of the person;
 - (ii) the number of the notice;
 - (iii) the date of service of the notice; and
 - (b) state that the notice is withdrawn; and
 - (c) if an authorised officer intends to bring a prosecution against the person in a court for the offence—state that a prosecution may be brought against the person in a court for the offence.
- (2)** If the person has already paid the penalty specified in the notice, the Competent Authority must refund it.

[Note: Subsection 38 (3) of the Act permits an infringement notice to be withdrawn.]

Effect of Part

- 21.7 (1)** This Part does not:
- (a) require an infringement notice to be served on a person for an offence; or
 - (b) affect the liability of a person to be prosecuted for an offence if an infringement notice is not served on the person for the offence; or
 - (c) prevent the service of 2 or more infringement notices on a person for an offence; or
 - (d) affect the liability of a person to be prosecuted for an offence if the person does not comply with an infringement notice for the offence; or
 - (e) limit or otherwise affect the penalty that may be imposed by a court on a person convicted of an offence.

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Note Commonwealth legislation

134 *Road Transport Reform (Dangerous Goods)*
1997No. 241

- (2) However, if the person on whom an infringement notice is served for an offence pays the penalty specified in the notice:
- (a) any liability of the person for the offence is discharged; and
 - (b) the person may not be prosecuted in a court for the offence; and
 - (c) the person is not taken to have been convicted of the offence.

Road Transport Reform (Dangerous Goods) 135
1997 No. 241

PART 22—RECONSIDERATION AND REVIEW OF DECISIONS

Application of Part

- 22.1** This Part applies to the following decisions made by the Competent Authority:
- (a) a decision under regulation 1.18 about an administrative determination;
 - (b) a decision under regulation 3.8, 4.25 or 4.26;
 - (c) a decision under regulation 4.27 about an administrative determination;
 - (d) a decision under regulation 6.5, 9.8, 10.9 or 11.9;
 - (e) a decision under regulation 13.7 about an administrative determination;
 - (f) a decision under regulation 18.11, 18.13, 18.21, 18.23, 18.33, 19.2, 19.4, 19.5 or 20.2.

Who may apply for reconsideration of decisions

- 22.2** (1) A person whose interests are affected by a decision may apply in writing to the Competent Authority for reconsideration of the decision.
- (2) However, a person whose interests are affected by a decision under regulation 10.9 that is given orally may apply to the Competent Authority orally for reconsideration of the decision.

Applications for reconsideration

- 22.3** (1) An application must be made within:
- (a) 28 days after the day when the person was informed of the decision by the Competent Authority; or
 - (b) a longer period allowed by the Authority, either before or after the end of the 28 days.

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Note Commonwealth legislation

136 *Road Transport Reform (Dangerous Goods)*
1997 No. 241

- (2) The application must set out the grounds on which reconsideration of the decision is sought.
- (3) However, if an application is made orally for reconsideration of a decision under regulation 10.9, the applicant must tell the Competent Authority of the grounds on which reconsideration of the decision is sought when the application is made.

Competent Authority to reconsider decisions

- 22.4** (1) Within 28 days after receiving the application, the Competent Authority must reconsider the decision, and confirm, revoke or vary the decision.
- (2) The Competent Authority must inform the applicant in writing of the result of the reconsideration and of the reasons for the result.
 - (3) However, the Competent Authority may tell an applicant mentioned in subregulation 22.3 (3) of the result of the reconsideration and of the reasons for the result.

Review of certain decisions

- 22.5** Application may be made for review of a decision if:
- (a) the decision has been reconsidered under regulation 22.4; and
 - (b) the person who applied for reconsideration of the decision was not an applicant mentioned in subregulation 22.3 (3).

[Note: For the review of decisions, see also section 3 of the Act.]

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Commonwealth legislation

Note

Road Transport Reform (Dangerous Goods) 137
1997 No. 241

PART 23—FEES**Prescribed fees**

23.1 The fees payable under these Regulations are prescribed in the following table:

Column 1	Column 2	Column 3
Item	Provision for which fee prescribed	Fee \$
1	paragraph 4.24 (c)	—
2	paragraph 18.10(2)(e)	—
3	paragraph 18.12 (2)(e)	—
4	subregulation 18.19(3)	75
5	subregulation 18.22(3)	—

(Note: A fee prescribed in this table may differ from the fee prescribed under a corresponding provision if the cost of providing the service to which that fee relates is different in the other participating jurisdiction.)

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Note Commonwealth legislation

138 *Road Transport Reform (Dangerous Goods)
1997 No. 241*

PART 24—TRANSITIONAL PROVISIONS

Lawful conduct under previous law

- 24.1** A person does not commit an offence against these Regulations if, within the period of 6 months after the commencement of this regulation, the person transports dangerous goods by road in accordance with the law about the transport of dangerous goods by road that was in force in this jurisdiction immediately before the commencement.

Continuing effect of certain determinations

- 24.2** (1) This regulation applies to a determination (however described) if the determination:
- (a) was made under a law about the transport of dangerous goods by road; and
 - (b) was in force in this jurisdiction immediately before the commencement of this regulation; and
 - (c) is a determination about something that may be determined under a provision (the “**relevant provision**”) of any of the following regulations:
 - regulation 1.18 (Determinations—dangerous goods)
 - regulation 4.27 (Determinations—foreign approved tanks and IBCs)
 - regulation 13.7 (Determinations—routes, areas, vehicles and times).
- (2) The determination has effect for these Regulations as if it were a determination made by the Competent Authority under the relevant provision.
- (3) Without limiting subregulation (2), the Competent Authority may record the determination in the register of determinations kept under regulation 1.21.

<i>Road Transport Reform (Dangerous Goods) 1997 No. 241</i>	139
---	-----

- (4) Subregulation (3) does not apply to a determination if the determination was made on the application of a person and applies only to the person.

Continuing effect of corresponding determinations

- 24.3** (1) This regulation applies to a determination (however described) if the determination:
- (a) was made under a law of another participating jurisdiction about the transport of dangerous goods by road; and
 - (b) was in force in the other jurisdiction immediately before the commencement of this regulation; and
 - (c) is a determination about something that may be determined under a provision of the law of the other jurisdiction (the **“corresponding provision”**) corresponding to a provision of a regulation mentioned in paragraph 24.2 (1) (c).
- (2) Except for circumstances that do not exist in this jurisdiction, the determination has effect for these Regulations as if it were a determination made by the corresponding Competent Authority for the other jurisdiction under the corresponding provision.

Continuing effect of certain exemptions

- 24.4** (1) This regulation applies to an exemption (however described) if the exemption:
- (a) was granted under a law about the transport of dangerous goods by road; and
 - (b) was in force in this jurisdiction immediately before the commencement of this regulation; and
 - (c) is an exemption from compliance with a provision of that law corresponding to a provision (the **“relevant provision”**) of these Regulations.
- (2) The exemption has effect for these Regulations as if it were an exemption granted by the Competent Authority from compliance with the relevant provision.

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Note Commonwealth legislation

140 *Road Transport Reform (Dangerous Goods)*
1997 No. 241

- (3) Without limiting subregulation (2), the Competent Authority may record the exemption in the register of exemptions kept under regulation 16.2.

Continuing effect of corresponding exemptions

- 24.5** (1) This regulation applies to an exemption (however described) if the exemption:
- (a) was granted under a law of another participating jurisdiction about the transport of dangerous goods by road; and
 - (b) was in force in the other jurisdiction immediately before the commencement of this regulation; and
 - (c) is an exemption from compliance with a provision of the law of the other jurisdiction (the “**corresponding** provision”) corresponding to a provision of these Regulations.
- (2) Except for circumstances that do not exist in this jurisdiction, the exemption has effect for these Regulations as if it were an exemption granted by the corresponding Competent Authority for the other jurisdiction from compliance with the corresponding provision.

Continuing effect of certain approvals

- 24.6** (1) This regulation applies to an approval (however described) if the approval:
- (a) was given under a law about the transport of dangerous goods by road; and
 - (b) was in force in this jurisdiction immediately before the commencement of this regulation; and
 - (c) is an approval of something that may be approved under a provision (the “**relevant provision**”) of any of the following regulations:
 - regulation 3.8 (Approvals—packaging designtypes)

Road Transport Reform (Dangerous Goods) 141
1997 No. 241

- regulation 4.25 (Approvals—tank designs)
 - regulation 4.26 (Approvals—IBC designs)
 - regulation 6.5 (Approvals—unit loads)
 - regulation 9.8 (Approvals—segregation)
 - regulation 10.9 (Approvals—transfer of dangerous goods)
 - regulation 10.9 (Approvals—emergency information)
 - regulation 20.2 (Approvals—tests and training courses for drivers).
- (2) The approval has effect for these Regulations as if it were an approval given by the Competent Authority under the relevant provision.
- (3) Without limiting subregulation (2), the Competent Authority may record the approval in the register of approvals kept under regulation 17.10.

Continuing effect of corresponding approvals

- 24.7** (1) This regulation applies to an approval (however described) if the approval:
- (a) was given under a law of another participating jurisdiction about the transport of dangerous goods by road; and
 - (b) was in force in the other jurisdiction immediately before the commencement of this regulation; and
 - (c) is an approval of something that may be approved under a provision of the law of the other jurisdiction (the “**corresponding provision**”) corresponding to a provision of a regulation mentioned in paragraph 24.6 (1) (c).

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Note Commonwealth legislation

142 *Road Transport Reform (Dangerous Goods)*
1997 No. 241

- (2)** Except for circumstances that do not exist in this jurisdiction, the approval has effect for these Regulations as if it were an approval given by the corresponding Competent Authority for the other jurisdiction under the corresponding provision.

Continuing effect of certain licences

- 24.8 (1)** This regulation applies to a licence (however described) if the licence:
- (a) was granted under a law about the transport of dangerous goods by road; and
 - (b) was in force in this jurisdiction immediately before the commencement of this regulation; and
 - (c) is a licence that may be granted under a provision of that law corresponding to either of the following regulations (the “**relevant provision**”):
 - regulation 18.11 (which is about bulk driver licences)
 - regulation 18.21 (which is about bulk vehicle licences).
- (2)** The licence has effect for these Regulations as if it were a licence granted by the Competent Authority under the relevant provision.
- (3)** Without limiting subregulation (2), the Competent Authority may record the licence in the relevant register of licences kept under regulation 18.36.

Continuing effect of corresponding licences

- 24.9 (1)** This regulation applies to a licence (however described) if the licence:
- (a) was granted under a law of another participating jurisdiction about the transport of dangerous goods by road: and
 - (b) was in force in the other jurisdiction immediately before the commencement of this regulation: and

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Commonwealth legislation

Note

Road Transport Reform (Dangerous Goods) 143
1997 No. 241

- (c) is a licence that may be granted under a provision of the law of the other jurisdiction (the **“corresponding provision”**) corresponding to a provision of a regulation mentioned in paragraph 24.8(1)(c).
- (2) Except for circumstances that do not exist in this jurisdiction, the licence has effect for these Regulations as if it were a licence granted by the corresponding Competent Authority for the other jurisdiction under the corresponding provision.
-

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Note Commonwealth legislation

144 *Road Transport Reform (Dangerous Goods)*
1997 No. 241

SCHEDULE B

Regulation 1.13

STRICT LIABILITY OFFENCES

Column 1	Column 2
Item	Provision
1	regulation 3.2
2	subregulation 3.11 (3)
3	subregulation 3.12 (3)
4	regulation 4.1
5	regulation 4.2
6	regulation 4.3
7	subregulation 4.4 (1)
8	subregulation 4.5 (1)
9	regulation 4.7
10	regulation 4.8
11	regulation 4.9
12	subregulation 4.10 (1)
13	subregulations 4.12 (1) and(3))
14	subregulation 4.14 (1)
15	subregulation 4.15(1)
16	regulation 4.16
17	regulation 4.17

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Commonwealth legislation

Note

Road Transport Reform (Dangerous Goods)
1997 No. 241

145

SCHEDULE 1—continued

Column 1	Column 2
Item	Provision
18	subregulation 4.18 (1)
19	subregulation 4.20 (1)
20	subregulation 4.22 (1)
21	subregulation 4.23 (1)
22	subregulation 5.1 (1)
23	subregulations 5.3 (1) and (3)
24	regulation 5.4
25	regulation 6.1
26	regulation 7.3
27	regulation 8.1
28	regulation 8.3
29	regulation 8.5
30	regulation 8.6
31	subregulation 8.7 (3)
32	regulation 9.6
33	subregulation 10.1 (2)
34	subregulations 10.5 (1) and (3)
35	subregulations 10.6(1) and (2)

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Note Commonwealth legislation

146 *Road Transport Reform (Dangerous Goods)*
1997 No. 241

SCHEDULE 1—continued

Column 1	Column 2
Item	Provision
36	regulation 10.7
37	regulation 10.8
38	subregulation 112 (1)
39	regulation 113
40	regulation 11.4
41	regulation 11.7
42	regulation 11.8
43	regulation 12.1
44	regulation 12.2
45	subregulation 12.3 (1)
46	subregulation 13.1 (2)
47	regulation 13.2
38	subregulation 13.3(3)
49	regulation 13.4
50	regulation 13.5
51	subregulations 13.6(2) and (3)
52	regulation 13.8
33	regulation 13.9

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Commonwealth legislation

Note

Road Transport Reform (Dangerous Goods) 147
1997 No. 241

SCHEDULE 1—continued

Column 1	Column 2
Item	Provision
54	subregulation 14.1 (2)
55	subregulations 14.2 (2) and (3)
56	subregulation 14.3 (2)
57	subregulations 14.4 (2) and (3)
58	subregulations 14.5 (2) and (3)
59	subregulation 14.6 (2)
60	subregulation 14.7 (2)
61	regulation 17.7
62	subregulation 18.26 (1)
63	subregulations 18.28 (2) and (3)
64	regulation 18.30
65	regulation 18.31
66	regulation 18.34
67	subregulation 18.38 (2)
68	subregulation 18.39 (2)

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Note Commonwealth legislation

148

*Road Transport Reform (Dangerous Goods)
1997 No. 241*

SCHEDULE 2 Subregulations 21.1 (1)
and (2)

INFRINGEMENT NOTICE OFFENCES AND PENALTIES

Column 1	Column 2	Column 3	Column 4
Item	Provision	Penalty— individuals	Penalty— corporations
		\$	\$
1	regulation 3.2	600	3,000
2	subregulation 3.12 (3)	300	1,500
3	regulation 4.1	600	3,000
4	regulation 4.2	600	3,000
5	regulation 4.3	300	—
6	subregulation 4.7 (2)	600	3,000
7	regulation 4.8	600	3,000
8	subregulation 4.10 (1)	600	3,000
9	subregulation 4.14 (1)	600	3,000
10	subregulation 4.16 (2)	600	3,000
11	regulation 4.17	600	3,000
12	subregulation 4.18 (1)	600	3,000
13	subregulation 5.1 (1)	300	1,500
14	subregulation 5.3 (3)	600	3,000
15	regulation 5.4	300	—

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Commonwealth legislation

Note

Road Transport Reform (Dangerous Goods) 149
1997 No. 241

SCHEDULE 2—continued

Column 1	Column 2	Column 3	Column 4
Item	Provision	Penalty— individuals	Penalty— corporations
		\$	\$
16	subregulation 7.7 (1)	600	3,000
17	regulation 8.3	600	3,000
18	regulation 8.5	600	3,000
19	regulation 8.7 (3)	200	1,000
20	subregulation 10.7(2)	300	1,500
21	subregulation 10.8(2)	300	1,500
22	regulation 11.3	300	1,500
23	subregulation 11.4 (1)	200	—
24	subregulation 11.4 (2)	100	—
25	regulation 11.7	300	1,500
26	subregulation 11.8 (1)	200	—
27	subregulation 11.8(2)	100	—
28	subregulation 11.8 (3)	200	—
29	regulation 12.1	600	3,000
30	subregulation 12.3 (1)	200	1,000
31	subregulation 13.1(2)	100	—
32	regulation 13.4	100	

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Note Commonwealth legislation

150 *Road Transport Reform (Dangerous Goods)*
1997 No. 241

SCHEDULE 2—continued

Column 1	Column 2	Column 3	Column 4
Item	Provision	Penalty— individuals	Penalty— corporations
		\$	\$
33	regulation 13.5	200	—
34	subregulation 13.6(2) or(3)	600	—
35	regulation 13.8	300	1,500
36	regulation 13.9	300	—
37	subregulation 18.28(2)	100	
38	subregulation 18.28(3)	100	500
39	regulation 18.30	100	—
40	regulation 18.31	100	—
41	subregulation 18.39(2)	100	500

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Commonwealth legislation

Note

*Road Transport Reform (Dangerous Goods)
1997 No. 241* 151

SCHEDULE 3

Regulation 1.4

DICTIONARY

“**Act**” means the *Road Transport Reform (Dangerous Goods) Act 1995* of the Commonwealth;

“**ADG Code**” means the sixth edition of the *Australian Code for the Transport of Dangerous Goods by Road and Rail*;

“**administrative determination**” see regulation 1.19;

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

“**aggregate quantity**” see regulation 2.10;

“**another participating jurisdiction**” means a participating jurisdiction except this jurisdiction;

“**appropriately marked**” see regulation 7.2;

“**appropriately placarded**” see subregulation 7.6 (2);

“**approval**”, for a provision of these Regulations, means an approval by the Competent Authority that is in force under the provision:

“**approved IBC**” means:

- (a) an IBC of a design that is approved under regulation 4.26;
or
- (b) a foreign approved IBC;

“**approved packaging**” means:

- (a) packaging of a design type that is approved under regulation 3.8: or
- (b) foreign approved packaging:

“**approved tank**” means:

- (a) a tank of a design that is approved under regulation 4.25:
or
- (b) a foreign approved tank:

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Note Commonwealth legislation

152 *Road Transport Reform (Dangerous Goods)*
1997 No. 241

SCHEDULE 3—continued

“approved test” means a test that is approved under paragraph 20.2 (1) (a);

“approved training course” means a training course that is approved under paragraph 20.2 (1) (b);

“attachment system”:

- (a) means a system for attaching a bulk container to a vehicle; and
- (b) includes all the components of the system;

“authorised officer” see section 6 of the Act;

“bulk container” see regulation 2.17;

“bulk driver licence” means a licence that is in force under Division 3 of Part 18;

“bulk vehicle licence” means a licence that is in force under Division 4 of Part 18;

“capacity” see regulation 2.8;

“Class”, for dangerous goods, see regulation 2.3;

“Code” means the ADG Code;

“combination road vehicle” means a group of vehicles consisting of:

- (a) a prime mover and 2 or more trailers; or
- (b) a rigid vehicle and 1 or more trailers;

“Commonwealth Minister” means the Minister administering the Act;

“Competent Authority” see section 6 of the Act;

“compliance plate”. for a tank, means a compliance plate complying with Chapter 4 of the ADG Code;

“consigns” and **“consignor”** see regulation 2.19;

“consumer commodity load” see Division 1.1 of the ADG Code;

Road Transport Reform (Dangerous Goods) 153
1997 No. 241

SCHEDULE 3—continued

“converter dolly” see clause 10.6 in the Schedule to the Road Transport Reform (Heavy Vehicles Standards) Regulations;

“corresponding”, for a provision of the Act or these Regulations. means the provision of the law in force in another participating jurisdiction corresponding to the provision;

“corresponding administrative determination” means a corresponding determination made on the application of a person and applying only to the person;

“corresponding approval” means an approval given by a corresponding Competent Authority having effect in this jurisdiction under regulation 15.11;

“corresponding bulk driver licence” means a licence granted by a corresponding Competent Authority having effect in this jurisdiction under regulation 15.12 as a bulk driver licence;

“corresponding bulk vehicle licence” means a licence granted by a corresponding Competent Authority having effect in this jurisdiction under regulation 15.12 as a bulk vehicle licence;

“corresponding competent Authority” means a person appointed under a provision of a law of another participating jurisdiction corresponding to subsection 13 (1) of the Act;

“corresponding determination” means a determination made by a corresponding Competent Authority having effect in this jurisdiction under regulation 15.9;

“corresponding exemption” means an exemption granted by a corresponding Competent Authority having effect in this jurisdiction under regulation 15.10;

“dangerous goods” see regulation 2.2;

“dangerous goods in bulk” see regulation 2.12;

“dangerous situation” see section 6 of the Act;

“determination”. for a provision of these Regulations. means a determination made the Competent Authority that is in force under the provision:

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Note Commonwealth legislation

154 *Road Transport Reform (Dangerous Goods)*
1997 No. 241

SCHEDULE 3—continued

“driving 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;

“emergency service” means:

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

“exemption” means an exemption in force under section 32 of the Act;

“filling ratio” means the ratio of the mass of liquefied gas in a tank or cylinder to the mass of water that the tank or cylinder will hold at a temperature of 15° Celsius;

“fire-risk substance” means a readily ignitable solid substance (examples are hay, sawdust, waste paper, and wood chips);

“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 container” means a container designed or intended to contain food;

“food packaging” means:

- (a) a food container; or
- (b) any other container that actually contains food; or
- (c) material designed or intended to be used in a food container;

“foreign approved IBC” means an IBC that is:

- (a) manufactured outside Australia; and
- (b) ADR, IMO or RID approved;

<i>Road Transport Reform (Dangerous Goods) 1997 No. 241</i>	155
---	-----

SCHEDULE 3—continued

“foreign approved packaging” means a packaging that is:

- (a) manufactured outside Australia; and
- (b) marked with performance and specification markings complying with Chapter 3 of the ADG Code;

“foreign approved tank” means a tank that is:

- (a) manufactured outside Australia; and
- (b) ADR, IMO or RID approved;

“freight container” see regulation 2.15;

“Government Gazette” means the *Australian Capital Territory Gazette*;

“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, bulk container or storage container 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, bulk container or storage container) attached to the hose or hoses;

“IATA Regulations” means the *Dangerous Goods Regulations* published by the International Air Transport Association;

“IBC” see regulation 2.16;

“IBC marking”, for an IBC, means a marking complying with the IBC Supplement;

“IBC Supplement” means *the Specifications for Intermediate Bulk Containers for the Transport of Dangerous Goods* published as a supplement to the ADG Code;

“ICAO Rules” means the *Technical Instructions for the Safe Transport of Dangerous Goods by Air* published by the International Civil Aviation Organisation;

1998 No 202

Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998

Note Commonwealth legislation

156 *Road Transport Reform (Dangerous Goods)*
1997 No. 241

SCHEDULE 3—continued

“IMDG Code” means the *International Maritime Dangerous Goods Code* published by the International Maritime Organisation;

“IMO approved” means approved by or for the International Maritime Organisation;

“incompatible” see regulation 2.6;

“infringement notice” means a notice served under subregulation 21.1 (1);

“involvement in the transport of dangerous goods by road” see section 6 of the Act;

“licence”:

- (a) for Division 3 of Part 18—see regulation 18.6; and
- (b) for Division 4 of Part 18—see regulation 18.18; and
- (c) for Division 5 of Part 18—see regulation 18.29; and
- (d) for Division 6 of Part 18—see regulation 18.32; and
- (e) for Part 19—see regulation 19.1;

“licence label” means a licence label issued under regulation 18.28;

“licensed vehicle” means a vehicle for which a bulk vehicle licence is in force;

“licensee”:

- (a) for Division 3 of Part 18—see regulation 18.6; and
- (b) for Division 4 of Part 18—see regulation 18.18; and
- (c) for Division 5 of Part 18—see regulation 18.29; and
- (d) for Division 6 of Part 18—see regulation 18.32; and
- (e) for Part 19—see regulation 19.1;

“loads” and **“loader”** see regulation 2.21;

“Ministerial Council” means the Ministerial Council for Road Transport established by Part VI of the Heavy Vehicles Agreement set out in Schedule 1 to the *National Road Transport Commission Act 1991* of the Commonwealth;

Road Transport Reform (Dangerous Goods) 157
1997 No. 241

SCHEDULE3—continued

“**NATA**” means the National Association of Testing Authorities, Australia;

“**offence**” see section 6 of the Act;

“**outer packaging**” see Division 1.1 of the ADG Code;

“**owner**” see regulation 2.18;

“**package**” see subregulation 2.7 (1);

“**packaged dangerous goods**” see regulation 2.11;

“**packaging**” see subregulation 2.7 (2);

“**Packing Group**” see regulation 2.5;

“**packs**” and “**packer**” see regulation 2.20;

“**Panel**” see subregulation 15.4(1);

“**Panel member**” see subregulation 15.4 (2);

“**participating jurisdiction**” means:

- (a) this jurisdiction; or
- (b) a State or the Northern Territory, unless the State or Territory is declared under regulation 1.30 not to be a participating jurisdiction;

“**performance test**”. for a packaging design type for use in the transport of dangerous goods by road. means a test complying with Chapter 3 of the ADG Code:

“**personal injury**” includes death;

“**placard load**” see regulation 2.13:

“**premises**” see section 6 of the Act;

“**prescribed fee**”, for a provision mentioned in column 2 of the table in regulation 23.1, means the fee prescribed in the table for the provision:

“**prime contractor**” see regulation 2.22:

158 *Road Transport Reform (Dangerous Goods)*
1997 No. 241

SCHEDULE 3—continued

“prime mover” means a vehicle that is designed to tow a trailer;

“recognised testing facility” see regulation 3.9;

“register” see regulation 15.1;

“registered” means:

- (a) for a medical practitioner—a medical practitioner registered under State or Territory law; and
- (b) for a vehicle—a vehicle registered under State or Territory law;

“reminder notice” means a notice given under subregulation 21.4 (1);

“required emergency information” see regulation 11.5;

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

“rigid vehicle” means a vehicle the load carrying area of which is fixed to the vehicle’s chassis or frame;

“risk” means **risk** of personal injury, property damage or harm to the environment;

“semi-trailer” means a trailer having:

- (a) 1 axle group, or a single axle, towards the rear of the trailer; and
- (b) a means of attachment to a prime mover that, once attached, results in some of the load being imposed on the prime mover;

“Subsidiary Risk” see regulation 2.4;

“tank”:

- (a) means a container, except an IBC, that is used, or designed to be used, to transport dangerous goods in bulk in the form of a liquid or gas; and

Road Transport Reform (Dangerous Goods) 159
1997 No. 241

SCHEDULE 3—continued

(b) includes fittings, closures, and any other equipment, forming part of the container;

“test or training certificate” means a certificate:

- (a) issued by a person who conducted an approved test or training course; and
- (b) stating that a person named in the certificate passed the test or completed the course;

“this jurisdiction” means the Australian Capital Territory and the Jervis Bay Territory:

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

“transport” see section 6 of the Act;

“UN dangerous goods tests and criteria” means the tests and criteria specified in:

- (a) the UN Recommendations; or
- (b) the UN Recommendations, Manual of Tests and Criteria.

“unit load” see regulation 2.14;

“UN Recommendations” means the ninth revised edition of the *Recommendations on the Transport of Dangerous Goods* published by the United Nations;

“UN Recommendations, Manual of Tests and Criteria” means the second revised edition of the *Recommendations on the Transport of Dangerous Goods, Manual of Tests and Criteria* published by the United Nations;

“vehicle” includes a combination road vehicle.

NOTE

1. Notified in the *Commonwealth of Australia Gazette* on 10 September 1997.