

# Dangerous Goods (Road and Rail Transport) Regulation 2022

[2022-464]



New South Wales

## Status Information

### Currency of version

Current version for 16 June 2023 to date (accessed 24 July 2024 at 1:38)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Staged repeal status**

This legislation is currently due to be automatically repealed under the [Subordinate Legislation Act 1989](#) on 1 September 2027

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

File last modified 16 June 2023

# Dangerous Goods (Road and Rail Transport) Regulation 2022



New South Wales

## Contents

<b>Part 1 Preliminary</b> .....	15
<b>Division 1 Introductory and application</b> .....	15
1 Name of Regulation .....	15
2 Commencement .....	15
3 Main objects .....	15
4 Dangerous situations .....	16
5 Exempt transport—the Act, s 13(2)(k) .....	16
6 Further exemptions—the Act, s 13(2)(k) .....	16
7 Special provisions for tools of trade and dangerous goods for private use—the Act, s 13(2)(k) .....	17
8 Goods suspected of being dangerous goods—the Act, s 13(2)(a) .....	19
<b>Division 2 Interpretation</b> .....	19
9 Definitions .....	19
10 References to codes, standards and rules .....	19
11 Inconsistency between this Regulation and codes, standards or rules .....	19
12 References to determinations, exemptions, approvals and licences .....	20
13 Meaning of “bulk container” .....	20
14 Meaning of “IBC” .....	21
15 Meaning of “MEGC” .....	21
16 Meaning of “pack” and “packer” .....	21
17 Meaning of “packed in limited quantities” .....	22
18 References to “tank” .....	22

19 Meaning of “loads” (verb), “loader” and “load” (noun) .....	22
<b>Division 3 Training—the Act, s 13(2)(s)</b> .....	<b>23</b>
20 Instruction and training .....	23
21 Approvals—tests and training courses for drivers .....	24
<b>Division 4 Determinations</b> .....	<b>24</b>
22 Determinations—dangerous goods and packaging—the Act, s 13(2)(c) .....	24
23 Determinations—vehicles, routes, areas and times—the Act, s 13(2)(c)(iv) and (v) .....	24
24 Administrative determinations—the Act, s 13(2)(ac) .....	25
25 Determinations may be subject to conditions—the Act, s 13(2)(c)(iv) .....	25
26 Effect of determinations on contrary obligations under this Regulation—the Act, s 13(2)(ac) .....	26
27 Register of determinations—the Act, s 13(2)(aa) .....	26
28 Records of determinations—the Act, s 13(2)(ac) .....	26
29 Offence to do thing prohibited or regulated by determination—the Act, s 13(2)(ac).....	26
<b>Part 2 Key concepts—the Act, s 13(2)(c)</b> .....	<b>27</b>
30 Dangerous goods.....	27
31 Goods too dangerous to be transported .....	27
32 UN Classes, UN Divisions and Categories of dangerous goods.....	27
33 Subsidiary hazard .....	28
34 Packing Groups.....	28
35 Incompatibility.....	29
<b>Part 3 Transport of dangerous goods to which special provisions apply—the Act, s 13(2)(c)(iv)</b>	
.....	29
36 Application of Part .....	29
37 Consignor’s duties .....	30
38 Packer’s duties .....	30
39 Loader’s duties .....	30
40 Prime contractor’s and rail operator’s duties .....	31
41 Driver’s duties .....	31
<b>Part 4 Packaging—the Act, s 13(2)(f), (g), (k) and (o)(i)</b> .....	<b>31</b>

<b>Division 1 General</b> .....	31
42 Packing of dangerous goods in limited or excepted quantities.....	31
43 References to Part 4 of the ADG Code include Dangerous Goods List requirements .....	32
<b>Division 2 Suitability and design of packaging</b> .....	32
44 Suitability of packaging for transport .....	32
45 Marking packaging .....	32
46 Applications for approval of packaging design .....	33
47 Applications for approval—providing false or misleading information .....	33
48 Approval of packaging designs.....	34
49 Recognised testing facilities .....	34
50 Test certificates .....	35
51 Approval of overpack preparation method .....	35
52 Authorised body may issue approvals—the Act, s 20(b).....	36
<b>Division 3 Prohibition on sale or supply of non-compliant packaging</b> .....	37
53 Offence to sell or supply non-compliant packaging .....	37
<b>Division 4 Offences relating to general packaging</b> .....	37
54 Definition.....	37
55 Consignor’s duties .....	37
56 Packer’s duties .....	37
57 Loader’s duties .....	38
58 Prime contractor’s and rail operator’s duties .....	38
59 Driver’s duties .....	38
<b>Division 5 Offences relating to other packaging</b> .....	39
60 Definition.....	39
61 Manufacturer’s duties—compliance plates on portable tanks, MEGCs and tank vehicles.....	39
62 Owner’s duties—portable tanks, demountable tanks and MEGCs .....	40
63 Consignor’s duties .....	40
64 Packer’s duties .....	40
65 Loader’s duties .....	41
66 Prime contractor’s and rail operator’s duties .....	41
67 Driver’s duties .....	42

<b>Division 6 Offences relating to overpacks</b> .....	42
68 Consignor’s duties .....	42
69 Packer’s duties .....	42
70 Loader’s duties .....	42
71 Prime contractor’s and rail operator’s duties .....	43
72 Driver’s duties .....	43
<b>Part 5 Consignment procedures—the Act, s 13(2)(f)</b> .....	43
Note.....	43
<b>Division 1 Marking and labelling</b> .....	44
73 Meaning of “appropriately marked” .....	44
74 Consignor’s duties .....	44
75 Packer’s duties .....	45
76 Prime contractor’s and rail operator’s duties .....	47
<b>Division 2 Placarding</b> .....	48
77 When load must be placarded .....	48
78 Meaning of “appropriately placarded” .....	49
79 Consignor’s duties .....	50
80 Loader’s duties .....	51
81 Prime contractor’s and rail operator’s duties .....	51
82 Driver’s duties .....	52
<b>Part 6 Safety standards—vehicles and equipment—the Act, s 13(2)(g) and (k)</b> .....	53
<b>Division 1 General</b> .....	53
83 Owner’s duties.....	53
84 Consignor’s duties .....	54
85 Loader’s duties .....	54
86 Prime contractor’s and rail operator’s duties .....	54
87 Driver’s duties .....	54
88 Duties of persons undertaking maintenance, testing or inspection.....	54

<b>Division 2 Roll stability systems</b> .....	55
89 Definitions .....	55
90 Roll stability systems—general requirement .....	56
91 Owner’s duties.....	56
92 Consignor’s duties .....	56
93 Loader’s duties .....	56
94 Prime contractor’s and rail operator’s duties .....	56
95 Driver’s duties .....	57
<b>Part 7 Transport operations relating to certain dangerous goods</b> .....	57
<b>Division 1 Self-reactive substances, organic peroxides and certain other substances—the Act, s 13(2)(g) and (k)</b> .....	57
96 Application of Division .....	57
97 Consignor’s duties .....	57
98 Loader’s duties .....	58
99 Prime contractor’s and rail operator’s duties .....	58
100 Driver’s duties .....	58
<b>Division 2 Goods too dangerous to be transported—the Act, s 13(2)(b)</b> .....	58
Note.....	58
101 Application of Division .....	59
102 Loader’s duties .....	59
103 Prime contractor’s and rail operator’s duties .....	59
104 Driver’s duties .....	59
<b>Division 3 Nominally empty storage vessels—the Act, s 13(2)(i)</b> .....	59
105 Application of Division .....	59
106 Consignor’s duties .....	59
107 Loader’s duties .....	60
108 Prime contractor’s and rail operator’s duties .....	60
109 Driver’s duties .....	60

**Division 4 Transport of placard loads in prohibited areas—the Act, s 13(2)(f) and (g)**

..... 60

110 Application of Division ..... 60

111 Definitions ..... 60

112 Prime contractor’s duties..... 60

113 Driver’s duties ..... 61

114 Exemptions..... 61

**Part 8 Stowage and restraint—the Act, s 13(2)(i) and (k) ..... 62**

115 Consignor’s duties ..... 62

116 Loader’s duties ..... 62

117 Prime contractor’s and rail operator’s duties ..... 62

118 Driver’s duties ..... 63

**Part 9 Segregation—the Act, s 13(2)(k) ..... 63**

119 Application of Part ..... 63

120 Exception for certain goods for driver’s personal use ..... 64

121 Consignor’s duties ..... 64

122 Loader’s duties ..... 64

123 Prime contractor’s duties..... 64

124 Rail operator’s duties ..... 65

125 Driver’s duties ..... 65

126 Approvals—Type II segregation devices..... 66

127 Approvals—methods of segregation..... 66

**Part 10 Bulk transfer of dangerous goods—the Act, s 13(2)(g) and (k) ...66**

**Division 1 General..... 66**

128 Definition ..... 66

**Division 2 Equipment and transfer ..... 67**

129 Transferor’s duties—hose assemblies ..... 67

130 Transferor’s duties—general ..... 67

131 Occupier’s duties ..... 68

132 Prime contractor’s duties.....	69
133 Rail operator’s duties .....	70
<b>Division 3 Filling ratio and ullage.....</b>	<b>70</b>
134 Application of Division .....	70
135 Transferor’s duties .....	71
136 Prime contractor’s and rail operator’s duties .....	71
137 Driver’s duties .....	72
<b>Part 11 Documentation—the Act, s 13(2)(p).....</b>	<b>73</b>
<b>Division 1 Transport documentation.....</b>	<b>73</b>
138 False or misleading information.....	73
139 Consignor’s duties—transport by road .....	73
140 Consignor’s duties—transport by rail .....	73
141 Prime contractor’s duties.....	74
142 Rail operator’s duties .....	74
143 Driver’s duties .....	74
144 Train driver’s duties .....	75
145 Prime contractor’s duties—retention of documents .....	75
<b>Division 2 Emergency information .....</b>	<b>76</b>
146 Definition.....	76
147 Consignor’s duties .....	76
148 Prime contractor’s duties.....	76
149 Rail operator’s duties .....	76
150 Driver’s duties .....	77
151 Train driver’s duties .....	77
152 Approvals—emergency information.....	78
<b>Division 3 Dangerous goods packed in limited quantities.....</b>	<b>78</b>
153 Consignor’s duties .....	78
154 Prime contractor’s duties.....	78
155 False or misleading information.....	78
<b>Part 12 Safety equipment—the Act, s 13(2)(k)(ii) .....</b>	<b>79</b>



156 Owner’s duties.....	79
157 Prime contractor’s duties.....	79
158 Driver’s duties .....	79
<b>Part 13 Procedures during transport—the Act, s 13(2)(k)</b> .....	<b>80</b>
<b>Division 1 Immobilised and stopped vehicles</b> .....	<b>80</b>
159 Driver’s duties .....	80
160 Prime contractor’s duties.....	80
161 Rail operator’s duties .....	81
<b>Division 2 General precautions—driver’s duties</b> .....	<b>82</b>
162 Driving.....	82
163 Parking .....	82
164 Control of ignition sources.....	82
165 Unloading .....	82
166 Detaching trailer.....	83
167 Road tank vehicle equipped with burner .....	83
<b>Division 3 General precautions—prime contractor’s duties</b> .....	<b>83</b>
168 Parking .....	83
169 Unloading .....	83
170 Detaching trailer.....	83
171 Road tank vehicle equipped with burner .....	84
<b>Part 14 Emergencies—the Act, s 13(2)(k)</b> .....	<b>84</b>
<b>Division 1 Emergencies generally</b> .....	<b>84</b>
172 Driver’s duties—road vehicles .....	84
173 Train driver’s and rail operator’s duties .....	84
174 Prime contractor’s and rail operator’s duties—food or food packaging .....	85
175 Prime contractors and rail operators to inform Competent Authority .....	86
<b>Division 2 Emergencies involving placard loads</b> .....	<b>87</b>
176 Telephone advisory service .....	87
177 Emergency plans .....	88

178 Consignor’s duties—information and resources.....	89
179 Prime contractor’s and rail operator’s duties—information and resources .....	90
<b>Part 15 Mutual recognition—the Act, s 13</b> .....	90
<b>Division 1 Registers of determinations, exemptions, approvals and licences—the Act, s 13(2)(aa)</b>	
.....	90
180 Registers.....	90
181 Registers may be kept electronically .....	91
182 Inspection of registers .....	91
<b>Division 2 Recommendations by Competent Authority and corresponding authorities—the Act, s 13(2)(u)</b>	
.....	91
183 Recommendations by Competent Authority .....	91
184 Recommendations by corresponding authorities.....	92
<b>Division 3 Mutual recognition of determinations, exemptions, approvals and licences—the Act, s 13(2)(u) and (w)</b>	
.....	92
185 Corresponding determinations .....	92
186 Corresponding exemptions.....	93
187 Corresponding approvals.....	93
188 Corresponding licences .....	94
189 Reference of determination, exemption or approval to CAP for the purposes of mutual recognition .....	94
<b>Part 16 Exemptions—the Act, s 13(2)(e), (z) and (aa)</b> .....	95
Note.....	95
<b>Division 1 General</b> .....	95
190 Applications for exemptions .....	95
191 Register of exemptions .....	95
192 Records of exemptions .....	96
<b>Division 2 Reference of matters to CAP</b> .....	96

193 References to CAP .....	96
194 Effect of CAP decisions about exemptions .....	97
195 Effect of CAP decisions about cancelling or varying exemptions .....	97
<b>Part 17 Administrative determinations and approvals—the Act, s 13(2)(aa)-(ac)</b> .....	97
Note .....	97
<b>Division 1 General</b> .....	97
196 Applications—the Act, s 13(2)(e) .....	97
197 Form of administrative determinations and approvals .....	98
198 When administrative determinations and approvals not to be made .....	98
199 Reasons for refusal of applications .....	98
200 Periods and conditions .....	98
201 Replacement administrative determinations and approvals .....	98
202 Grounds for cancelling administrative determinations and approvals .....	99
203 Grounds for varying administrative determinations and approvals .....	99
<b>Division 2 Reference of determinations to CAP</b> .....	100
204 References to CAP .....	100
205 Effect of CAP decisions about determinations .....	100
206 Effect of CAP decisions about cancelling or varying determinations .....	101
<b>Division 3 Register of approvals</b> .....	101
207 Register .....	101
208 Records of approvals .....	101
<b>Division 4 Reference of approval matters to CAP</b> .....	102
209 References to CAP .....	102
210 Effect of CAP decisions about approvals .....	102
211 Effect of CAP decisions about cancelling or varying approvals .....	102
<b>Division 5 Cancellation and variation</b> .....	103
212 Cancellation and variation in dangerous situations .....	103
213 Cancellation giving effect to court orders .....	103

214 Variation of administrative determinations and approvals on application .....	103
215 Cancellation and variation in other circumstances .....	104
216 When cancellation and variation take effect .....	104
<b>Part 18 Licences—the Act s 13(2)(I) .....</b>	<b>105</b>
<b>Division 1 Preliminary .....</b>	<b>105</b>
217 Definition .....	105
218 Application of Part .....	105
219 Part additional to other laws .....	105
<b>Division 2 Vehicles and drivers to be licensed under this Part .....</b>	<b>105</b>
220 Vehicles to be licensed .....	105
221 Drivers to be licensed .....	106
<b>Division 3 Dangerous goods driver licences .....</b>	<b>106</b>
222 Applications for licences—the Act, s 13(2)(e) .....	106
223 Required driver licence evidence .....	106
224 Required competency evidence .....	107
225 Required medical fitness evidence .....	107
226 Grant of dangerous goods driver licences .....	108
227 Applications for renewal of licences—the Act, s 13(2)(e) .....	108
228 Renewal of licences .....	109
229 Licence periods .....	109
230 Licence conditions .....	109
231 Additional condition—certification of medical fitness .....	110
232 Grounds for cancelling, suspending or varying licences .....	110
<b>Division 4 Dangerous goods vehicle licences .....</b>	<b>111</b>
233 Definition .....	111
234 Applications for licences—the Act, s 13(2)(e) .....	111
235 Additional information and inspections .....	112
236 Grant of dangerous goods vehicle licences .....	112
237 Applications for renewal of licences—the Act, s 13(2)(e) .....	113
238 Renewal of licences .....	113
238A Application to amend a licence to add or replace a vehicle .....	114

238B Adding or replacing vehicle on licence .....	114
239 Licence periods.....	115
240 Licence conditions .....	115
241 Disposal and transfer of licensed vehicles—the Act, s 13(2)(e).....	115
242 Grounds for cancelling, suspending or varying licences.....	117
<b>Division 5 Requirements relating to dangerous goods driver licences.....</b>	<b>117</b>
243 Licences to be carried .....	117
<b>Division 6 Licences generally.....</b>	<b>117</b>
244 Definitions .....	117
245 Replacement licences.....	118
246 Failure to comply with licence conditions .....	118
247 Surrender of licences.....	118
248 Registers of licences.....	118
249 Records of licences.....	118
250 Change of information given in licence applications .....	119
251 Production of licences to licensing authority .....	119
252 Return of licences.....	119
<b>Division 7 Cancellation, suspension and variation.....</b>	<b>120</b>
253 Definitions .....	120
254 Cancellation, suspension and variation in dangerous situations .....	120
255 Cancellation and suspension giving effect to court orders .....	120
256 Variation of licence on application.....	120
257 Cancellation, suspension and variation in other circumstances .....	120
258 When cancellation, suspension and variation take effect.....	121
259 When licences taken to be suspended .....	121
<b>Part 19 Reconsideration and review of decisions—the Act, s 13(2)(y)....</b>	<b>122</b>
260 Application of Part .....	122
261 Who may apply for reconsideration of decisions .....	122
262 Applications for reconsideration .....	122
263 Competent Authority to reconsider decisions.....	123
264 Appeal to court after reconsideration of certain decisions .....	123

<b>Part 20 Insurance—the Act, s 13(2)(x)</b> .....	123
265 Owner’s duties.....	123
266 Prime contractor’s duties.....	124
267 Requiring evidence of insurance or approval .....	125
268 Approvals—insurance .....	125
<b>Part 21 Miscellaneous</b> .....	125
269 Fees—the Act, s 13(2)(e) .....	125
270 Appeals to Court following certain reviews—the Act, s 13(2)(y).....	125
271 Repeal and savings.....	126
272 Transitional arrangement if ADG Code or related instrument amended or remade.....	126
<b>Schedule 1 Fees</b> .....	126
<b>Schedule 2 Penalty notice offences</b> .....	128
<b>Schedule 3 Dictionary</b> .....	134

# Dangerous Goods (Road and Rail Transport) Regulation 2022



New South Wales

## Part 1 Preliminary

### Division 1 Introductory and application

#### 1 Name of Regulation

This Regulation is the *Dangerous Goods (Road and Rail Transport) Regulation 2022*.

#### 2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

**Note—**

This Regulation repeals and replaces the *Dangerous Goods (Road and Rail Transport) Regulation 2014*, which would otherwise be repealed on 1 September 2022 by the *Subordinate Legislation Act 1989*, section 10(2).

#### 3 Main objects

The main objects of this Regulation are—

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

#### 4 Dangerous situations

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

#### 5 Exempt transport—the Act, s 13(2)(k)

- (1) This Regulation does not apply to the transport by a person of a load that contains dangerous goods if—
  - (a) the load contains—
    - (i) dangerous goods in a receptacle with a capacity of 500L or less, or
    - (ii) 500kg or less of dangerous goods in a receptacle, and
  - (b) the goods are not, and do not include, designated dangerous goods, and
  - (c) the aggregate quantity of the dangerous goods in the load is less than 25% of a placard load, and
  - (d) the goods are not being transported by the person in the course of a business of transporting goods by road, and
  - (e) in relation to transport by rail—the goods are not being transported by the person on a passenger train.

- (2) In this section—

**designated dangerous goods** means dangerous goods of—

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

#### 6 Further exemptions—the Act, s 13(2)(k)

- (1) This Regulation does not apply to the transport by road or rail, or both road and rail, of dangerous goods of UN Class 1 (explosives) or UN Class 7 (radioactive material) except when being transported with other dangerous goods.
- (2) This Regulation does not apply to the transport by a vehicle by road or rail, or both road and rail, of dangerous goods—



- (a) that are not UN Division 6.2 infectious substances and that are in a consignment where the aggregate quantity of dangerous goods is not more than the quantity set out in subsection (3)(a) of the note to section 1.1.1.2 of the ADG Code, or
- (b) in the vehicle's fuel tank, or
- (c) in an appliance or plant that forms part of the vehicle and that is necessary for the operation of the vehicle, or
- (d) that are personal protective equipment or personal safety equipment and that are part of the safety equipment of the vehicle.

(3) This Regulation does not apply to the transport of dangerous goods by a mobile processing unit for the purpose of manufacturing explosives.

(4) In subsection (3)—

***mobile processing unit*** means a vehicle, or a moveable piece of equipment, designed to transport the constituents of a bulk ammonium nitrate-based explosive to the place where the explosive will be manufactured and used, but does not include a trailer.

## **7 Special provisions for tools of trade and dangerous goods for private use—the Act, s 13(2)(k)**

(1) This section applies to a load if the following conditions are met—

- (a) for loads not including dangerous goods of UN Division 2.1, other than aerosols, UN Division 2.3 or Packing Group I—the load includes an aggregate quantity of dangerous goods of less than 500,
- (b) for loads including dangerous goods of UN Division 2.1, other than aerosols, UN Division 2.3 or Packing Group I—
  - (i) the load includes an aggregate quantity of dangerous goods of less than 250, and
  - (ii) any dangerous goods of UN Division 2.3 or Packing Group I together constitute less than 100 of the aggregate quantity,
- (c) the goods in the load are not being transported in the course of a business of transporting goods but are being transported—
  - (i) by a person who intends to use them, or
  - (ii) to be used for a commercial purpose.

(2) A person transporting a load to which this section applies is exempt from all obligations imposed by this Regulation other than the obligations imposed by this

section.

- (3) A person must not transport a load to which this section applies unless each package in the load—
- (a) complies with the packaging requirements appropriate to the quantity of dangerous goods, as specified in Part 4, and
  - (b) is labelled and appropriately marked as specified in section 73, and
  - (c) is loaded, secured, segregated, unloaded and otherwise transported in a way that ensures—
    - (i) its packaging remains fit for purpose, and
    - (ii) the risks to a person or property, or the environment, are eliminated, or if it is not practicable to eliminate the risks, are minimised to the maximum extent practicable.

Maximum penalty—

- (a) for an individual—40 penalty units, or
  - (b) for a body corporate—200 penalty units.
- (4) If a load to which this section applies contains an aggregate quantity of dangerous goods of UN Class 3, 4, 5 or 6 in the load of more than 250, a person must not transport the load—
- (a) in the passenger compartment of a vehicle, or
  - (b) in an enclosed space that is not separated from the passenger compartment of a vehicle.

Maximum penalty—

- (a) for an individual—40 penalty units, or
  - (b) for a body corporate—200 penalty units.
- (5) If a load to which this section applies contains an aggregate quantity of dangerous goods of UN Division 2.1, UN Division 2.3 or Packing Group I of more than 50, a person must not transport the load—
- (a) in the passenger compartment of a vehicle, or
  - (b) in another enclosed space in the vehicle, unless the space is sufficiently ventilated to prevent an accumulation of vapours or fumes likely to cause risk.

Maximum penalty—

- (a) for an individual—40 penalty units, or
- (b) for a body corporate—200 penalty units.

## **8 Goods suspected of being dangerous goods—the Act, s 13(2)(a)**

If it is not clear whether goods are dangerous goods, but a person suspects, or reasonably ought to suspect, that they are, the person must not consign or transport the goods until—

- (a) the goods have been classified in accordance with the ADG Code, or
- (b) a determination has been made under section 22(1)(a) in relation to the goods.

Maximum penalty—

- (a) for an individual—40 penalty units, or
- (b) for a body corporate—200 penalty units.

## **Division 2 Interpretation**

### **9 Definitions**

The Dictionary in Schedule 3 defines words used in this Regulation.

**Note—**

The Act and the [Interpretation Act 1987](#) contain definitions and other provisions that affect the interpretation and application of this Regulation.

### **10 References to codes, standards and rules**

- (1) In this Regulation, a reference to an instrument includes a reference to another instrument as applied or adopted by, or incorporated in, the first instrument.
- (2) In this Regulation, unless the contrary intention appears, a reference to an instrument is a reference to the instrument as amended from time to time.
- (3) If the ADG Code is amended or remade, a reference in this Regulation to a provision of the ADG Code extends to a corresponding provision of the amended or remade ADG Code.
- (4) In this section—

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

### **11 Inconsistency between this Regulation and codes, standards or rules**

- (1) If all or part of a code, standard or rule, made in or outside Australia, relating to

dangerous goods or to transport by road or rail is applied or adopted by, or is incorporated in, this Regulation and the code, standard or rule is inconsistent with this Regulation, this Regulation prevails to the extent of the inconsistency.

- (2) Despite subsection (1), if a provision that is applied, adopted by or incorporated in this Regulation uses a term that is defined in both the relevant code, standard or rule and this Regulation, the provision is to be interpreted as if the term had the meaning set out in the code, standard or rule, unless the contrary intention appears.

## **12 References to determinations, exemptions, approvals and licences**

- (1) In this Regulation, a reference to one of the following things includes a reference to the thing as varied—
- (a) a determination, exemption, approval, dangerous goods driver licence or dangerous goods vehicle licence, or
  - (b) a corresponding determination, exemption, approval, dangerous goods driver licence or dangerous goods vehicle licence.
- (2) In this Regulation, a reference to the variation of one of the following things includes a reference to a variation by addition, omission or substitution—
- (a) a determination, exemption, approval, dangerous goods driver licence or dangerous goods vehicle licence, or
  - (b) a corresponding determination, exemption, approval, dangerous goods driver licence or dangerous goods vehicle licence.

### **Example—**

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

## **13 Meaning of “bulk container”**

- (1) A **bulk container** is a system for containing solid substances, including any liner or coating that—
- (a) is designed for transporting solid substances, which are in direct contact with the system, and
  - (b) is of a permanent character suitable for repeated use, and
  - (c) is designed to facilitate the transport of solid substances by one or more modes of transport, without the need for the substances to be unloaded and reloaded when transferred from one mode to another, and
  - (d) is fitted with devices that permit ready handling, and
  - (e) has a capacity of not less than 1m<sup>3</sup>.

**Examples—**

Freight containers, offshore bulk containers, skips, bulk bins, swap bodies, trough-shaped containers, roller containers, load compartments of vehicles and flexible containers are bulk containers.

(2) However, an IBC, large packaging or a portable tank is not a bulk container.

**14 Meaning of “IBC”**

(1) In this Regulation, **IBC** or **intermediate bulk container** means, subject to subsection (2), a rigid or flexible portable packaging for the transport of dangerous goods that complies with the specifications in Chapter 6.5 of the ADG Code and that—

(a) has a capacity of not more than—

(i) for solids of Packing Group I packed in a composite, fibreboard, flexible, wooden, or rigid plastics container—1,500L, and

(ii) for solids of Packing Group I packed in a metal container—3,000L, and

(iii) for solids or liquids of Packing Groups II and III—3,000L, and

(iv) for any other dangerous goods—3,000L, and

(b) is designed for mechanical handling.

(2) However, a rigid or flexible portable packaging that complies with the requirements of Chapter 6.1, 6.3 or 6.6 of the ADG Code is not an IBC.

**15 Meaning of “MEGC”**

In this Regulation, **MEGC** or **multiple-element gas container** means—

(a) multimodal assemblies of cylinders, tubes or bundles of cylinders that are interconnected by a manifold and assembled within a framework, and

(b) service and structural equipment necessary for the transport of gases in the cylinders or tubes.

**16 Meaning of “pack” and “packer”**

In this Regulation, a person **packs** dangerous or other goods for transport, and is a **packer** of the goods, if the person—

(a) puts the goods in packaging, including packaging that is already on a vehicle, or

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

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

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

**Example—**

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

**17 Meaning of “packed in limited quantities”**

In this Regulation, dangerous goods are ***packed in limited quantities*** if—

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

**18 References to “tank”**

- (1) Unless the context otherwise requires, a reference in this regulation to a tank is a reference to a portable tank, a road tank vehicle, a rail tank wagon, or a receptacle used to contain a solid, liquid or gas.
- (2) However, a reference to a tank includes an item mentioned in subsection (1) that is used to transport a gas, as defined in section 2.2.1.1 of the ADG Code, only if it has a capacity of not less than 450L.

**19 Meaning of “loads” (verb), “loader” and “load” (noun)**

- (1) In this Regulation, a person ***loads*** dangerous or other goods for transport, and is a ***loader*** of the goods, if the person—
  - (a) loads 1 or more packages of the goods in or on a vehicle, or
  - (b) places or secures 1 or more packages of the goods on a vehicle, or
  - (c) supervises an activity mentioned in paragraph (a) or (b), or
  - (d) manages or controls an activity mentioned in paragraph (a), (b) or (c).
- (2) Subsection (1) does not apply to—
  - (a) the loading of goods into packaging that is already on a vehicle, or
  - (b) the placing or securing of packages in or on a further packaging that is already on a vehicle.
- (3) For this Regulation, the following goods are a single ***load***—
  - (a) all the goods in or on a road vehicle, even if the vehicle is transporting more than 1 cargo transport unit, and

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

### **Division 3 Training—the Act, s 13(2)(s)**

#### **20 Instruction and training**

- (1) This section applies to a task involved in the transport of dangerous goods, including the following—
  - (a) packing dangerous goods,
  - (b) consigning dangerous goods,
  - (c) loading dangerous goods,
  - (d) unloading dangerous goods,
  - (e) handling fumigated cargo transport units,
  - (f) marking packages,
  - (g) placarding placard loads,
  - (h) preparing transport documentation,
  - (i) maintaining vehicles and equipment used in the transport of dangerous goods,
  - (j) driving a vehicle transporting dangerous goods,
  - (k) being the consignee of dangerous goods,
  - (l) following the appropriate procedures in accordance with this Regulation in a dangerous situation.
- (2) A person who is responsible for management or control of a task must not employ, engage or permit another person to perform the task if the other person—
  - (a) has not received, or is not receiving, appropriate instruction and training to ensure the other person is able to perform the task safely and in accordance with this Regulation, or
  - (b) is not appropriately supervised in performing the task to ensure the other person is able to perform the task safely and in accordance with this Regulation.

Maximum penalty—

  - (a) for an individual—40 penalty units, or
  - (b) for a body corporate—200 penalty units.
- (3) A person must not manage, control or supervise a task unless the person has received

instruction and training to enable the person to manage, control or supervise another person to perform the task safely and in accordance with this Regulation.

Maximum penalty—40 penalty units.

## **21 Approvals—tests and training courses for drivers**

- (1) The Competent Authority may, on its own initiative or in response to an application made in accordance with section 196, approve—
  - (a) a test of competence for drivers of road vehicles transporting dangerous goods, or
  - (b) a training course for drivers of road vehicles transporting dangerous goods.
- (2) The Competent Authority may approve a test of competence or a training course only if 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 this Regulation.

## **Division 4 Determinations**

### **22 Determinations—dangerous goods and packaging—the Act, s 13(2)(c)**

- (1) The Competent Authority may determine that goods are or are not—
  - (a) dangerous goods, or
  - (b) dangerous goods of a particular UN Class, UN Division or Category, or
  - (c) dangerous goods with a particular subsidiary hazard, or
  - (d) substances of a particular Packing Group, or
  - (e) incompatible with particular dangerous goods.
- (2) The Competent Authority may determine that—
  - (a) particular dangerous goods are or are not too dangerous to be transported, or
  - (b) particular dangerous goods must not be or may be transported in or on the same cargo transport unit or freight container as other goods, whether or not dangerous goods, or
  - (c) particular dangerous goods may or may not be transported in any packaging despite a prohibition or authorisation in the Dangerous Goods List.

### **23 Determinations—vehicles, routes, areas and times—the Act, s 13(2)(c)(iv) and (v)**

The Competent Authority may determine that specified dangerous goods, or a specified load or type of load that contains dangerous goods, may, must or must not be



transported—

- (a) using a specified vehicle, or kind of vehicle, or
- (b) on a specified route, or
- (c) in or through a specified area, or
- (d) at a specified time, or
- (e) in quantities in excess of a specified amount, or
- (f) in specified packaging.

#### **24 Administrative determinations—the Act, s 13(2)(ac)**

- (1) In this Regulation, 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, or to the person and to other people named in the application.
- (2) A determination is also an administrative determination if the determination—
  - (a) is made at the initiative of the Competent Authority, and
  - (b) applies to one or more people named in the determination, and
  - (c) does not impose an obligation on a person, other than conditions that apply if action is taken on the basis of the determination.
- (3) A determination made at the initiative of the Competent Authority may be varied at the initiative of the Competent Authority.

#### **Note—**

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

#### **25 Determinations may be subject to conditions—the Act, s 13(2)(c)(iv)**

- (1) In making a determination, the Competent Authority may impose in relation to the determination a condition necessary for the safe transport of dangerous goods.
- (2) A person to whom a determination applies must not contravene a condition of the determination.

Maximum penalty—

- (a) for an individual—40 penalty units, or

(b) for a body corporate—200 penalty units.

**26 Effect of determinations on contrary obligations under this Regulation—the Act, s 13(2)(ac)**

If this Regulation imposes an obligation on a person, and the person is authorised or permitted to act contrary to the obligation by a determination made under this Division, the obligation is to be read as if the determination stated that the person could fulfil the obligation by acting in accordance with the determination.

**27 Register of determinations—the Act, s 13(2)(aa)**

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

**Note—**

A register of corresponding determinations is kept on the website of the Competent Authorities Panel—[www.infrastructure.gov.au/transport/australia/dangerous/competent\\_authorities.aspx](http://www.infrastructure.gov.au/transport/australia/dangerous/competent_authorities.aspx).

**28 Records of determinations—the Act, s 13(2)(ac)**

The record of a determination in the register must include—

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

**29 Offence to do thing prohibited or regulated by determination—the Act, s 13(2)(ac)**

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

Maximum penalty—

- (a) for an individual—40 penalty units, or
  - (b) for a body corporate—200 penalty units.
- (2) It is a defence to a prosecution for an offence against subsection (1) that the person did not know, and could not reasonably have been expected to know, of the determination, or that the determination applied to the person.

## **Part 2 Key concepts—the Act, s 13(2)(c)**

### **30 Dangerous goods**

- (1) In this Regulation, goods are **dangerous goods** if—
- (a) the goods are determined under section 22(1)(a) to be dangerous goods, or
  - (b) the goods satisfy the dangerous goods classification criteria set out or referred to in Part 2 of the ADG Code.
- (2) However, goods that satisfy the criteria set out, or referred to, in Part 2 of the ADG Code are not dangerous goods if—
- (i) the goods are determined under section 22(1)(a) not to be dangerous goods, or
  - (ii) the goods are described as not subject to the ADG Code in a special provision in Chapter 3.3 of the ADG Code that is applied to the goods by column 6 of the Dangerous Goods List, and any condition included in that description is met.

### **31 Goods too dangerous to be transported**

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

- (a) goods set out or described in Appendix A to the ADG Code, or
- (b) goods determined under section 22(2)(a) to be too dangerous to be transported, or
- (c) goods, other than goods mentioned in paragraph (a) or (b), that are so sensitive or unstable that the goods cannot be safely transported even if the relevant requirements of this Regulation and the ADG Code are complied with.

#### **Note—**

The Act, section 8 provides that a person must not consign for transport goods that this Regulation identifies as being too dangerous to be transported.

### **32 UN Classes, UN Divisions and Categories of dangerous goods**

The UN Class, Division or Category of particular dangerous goods for the purposes of this Regulation is—

- (a) if a determination under section 22(1)(b) that the goods are of a particular UN Class,

Division or Category is in effect in relation to the goods—the Class, Division or Category specified in the determination, or

- (b) otherwise—the Class, Division or Category determined for the goods in accordance with the ADG Code.

**Note 1—**

Under the UN classification system there are 9 classes of dangerous goods. Under that system some Classes are further divided into Divisions and some Divisions are divided into Categories.

**Example—**UN Division 6.2 infectious substances is divided into—

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

**Note 2—**

Under the ADG Code, if particular dangerous goods are listed in the Dangerous Goods List, their UN Class or Division is that listed in column 2 of the list opposite the name and description of the goods, unless Chapter 3.3 of the ADG Code provides for the goods to be assigned to a different Class or Division. If applicable, Chapter 2 of the ADG Code describes how the UN Category of dangerous goods is to be determined. Once again the Category may be changed under Chapter 3.3 of the ADG Code.

### **33 Subsidiary hazard**

The subsidiary hazard, if any, of particular dangerous goods for the purposes of this Regulation is—

- (a) if a determination under section 22(1)(c) that the goods have a particular subsidiary hazard is in effect—the subsidiary hazard specified in the determination, or
- (b) otherwise—the subsidiary hazard determined for the goods in accordance with the ADG Code.

**Note—**

Dangerous goods that are able to be assigned to more than 1 UN Class or Division are assigned a subsidiary hazard. The subsidiary hazard is the other UN Class or Classes, or Division or Divisions, to which the goods also belong. Under the ADG Code, if particular dangerous goods are listed in the Dangerous Goods List, their subsidiary hazard is that listed in column 4 of that list opposite the name and description of the goods, unless Chapter 3.3 of the ADG Code provides for the goods to be assigned a different subsidiary hazard.

### **34 Packing Groups**

The Packing Group, if any, of particular dangerous goods for the purposes of this Regulation is—

- (a) if a determination under section 22(1)(d) that the goods are of a particular Packing Group is in effect—the Packing Group specified in the determination, or
- (b) otherwise—the Packing Group determined for the goods in accordance with the ADG

Code.

**Note—**

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

- (a) Packing Group I—substances presenting high danger, and
- (b) Packing Group II—substances presenting medium danger, and
- (c) Packing Group III—substances presenting low danger.

The Packing Group of a substance may be determined from the Dangerous Goods List, although the List may identify instances in which it is also necessary to refer to Chapter 3.3 of the ADG Code.

### **35 Incompatibility**

- (1) In this Regulation, dangerous or other goods are ***incompatible*** with dangerous goods if—
  - (a) the goods are incompatible under Chapter 9.1 of the ADG Code, or
  - (b) the goods are determined under section 22(1)(e) to be incompatible with the dangerous goods, or
  - (c) when the goods are mixed, or otherwise brought into contact, with the dangerous goods, the goods are likely to interact with the dangerous goods and increase risk because of the interaction.
- (2) In this Regulation, packaging or equipment for use in the transport of dangerous goods is ***incompatible*** with the goods if a component of the packaging or equipment that is intended or likely to come into contact with the goods during transport—
  - (a) is likely to interact with the goods and increase risk because of the interaction, and
  - (b) is not protected from contact under foreseeable circumstances by a protective coating or other effective means.

## **Part 3 Transport of dangerous goods to which special provisions apply—the Act, s 13(2)(c)(iv)**

### **36 Application of Part**

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

- (2) In this Part, a special provision applies to dangerous goods if column 6 of the Dangerous Goods List specifies that a special provision applies to the goods.

**Note—**

Chapter 3.3 of the ADG Code lists the special provisions that apply.

**37 Consignor's duties**

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

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

Maximum penalty—

- (a) for an individual—20 penalty units, or
- (b) for a body corporate—100 penalty units.

**38 Packer's duties**

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

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

Maximum penalty—

- (a) for an individual—20 penalty units, or
- (b) for a body corporate—100 penalty units.

**39 Loader's duties**

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

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

Maximum penalty—

- (a) for an individual—20 penalty units, or
- (b) for a body corporate—100 penalty units.

#### **40 Prime contractor's and rail operator's duties**

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

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

Maximum penalty—

- (a) for an individual—20 penalty units, or
- (b) for a body corporate—100 penalty units.

#### **41 Driver's duties**

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

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

Maximum penalty—10 penalty units.

### **Part 4 Packaging—the Act, s 13(2)(f), (g), (k) and (o)(i)**

#### **Division 1 General**

#### **42 Packing of dangerous goods in limited or excepted quantities**

- (1) This Part does not apply to dangerous goods that are—
  - (a) packed in limited quantities, as defined in section 17, or
  - (b) packed in excepted quantities, as defined in section 73(5).
- (2) To avoid doubt, this Part, including section 44 and the offences, applies to dangerous goods that are—
  - (a) purported to be packed in limited quantities but do not comply with the requirements of section 17, or
  - (b) purported to be packed in excepted quantities but do not comply with the requirements of section 73(5).

#### **Note—**

Sections 17 and 73(5) respectively require compliance with Chapter 3.4 and 3.5 of the ADG Code.

### **43 References to Part 4 of the ADG Code include Dangerous Goods List requirements**

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

## **Division 2 Suitability and design of packaging**

### **44 Suitability of packaging for transport**

- (1) Packaging is unsuitable for the transport of dangerous goods if—
  - (a) the packaging is required to undergo performance tests under Part 6 of the ADG Code and is not approved packaging, or
  - (b) the packaging does not meet relevant standards or requirements specified by Part 4 or 6 of the ADG Code, including requirements in relation to inspection, maintenance and repair, or
  - (c) the use, or re-use, of the packaging for the transport of the goods does not comply with Part 4 or 6 of the ADG Code, or
  - (d) the use of the packaging for the transport of the goods is prohibited by, or does not comply with, a determination, or
  - (e) the packaging is incompatible with the goods, or
  - (f) the packaging is damaged or defective to the extent that it is not safe to use to transport the goods, or
  - (g) for goods purported to be packed in limited quantities—the packaging of the goods fails to comply with Chapter 3.4 of the ADG Code, or
  - (h) for goods purported to be packed in excepted quantities—the packaging of the goods fails to comply with Chapter 3.5 of the ADG Code.
- (2) A freight container is also unsuitable for use as a bulk container for the transport of dangerous goods if a Safety Approval Plate is not affixed to the freight container as required under the *International Convention for Safe Containers 1972*.

### **45 Marking packaging**

- (1) A person must not apply a marking required by Part 6 of the ADG Code on packaging if the packaging is not of a design approved under section 48.

Maximum penalty—

- (a) for an individual—40 penalty units, or



(b) for a body corporate—200 penalty units.

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

Maximum penalty—

(a) for an individual—40 penalty units, or

(b) for a body corporate—200 penalty units.

#### **46 Applications for approval of packaging design**

- (1) This section applies to packaging that is required to undergo performance tests under Part 6 of the ADG Code.
- (2) A person may apply to the Competent Authority for the approval of a design of packaging to which this section applies for use in the transport of dangerous goods.

##### **Examples—**

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

- (3) An application for approval must—

(a) be made in accordance with section 196, and

(b) include the information required under Part 6 of the ADG Code.

#### **47 Applications for approval—providing false or misleading information**

- (1) This section applies to an application for approval made under section 46 in relation to the design of a tank.
- (2) A person making an application must not include in the application information the person knows, or reasonably ought to know, is false or misleading in a material particular.

Maximum penalty—

(a) for an individual—40 penalty units, or

(b) for a body corporate—200 penalty units.

- (3) A person must not provide information the person knows, or reasonably ought to know—

(a) is false or misleading in a material particular, and

(b) will be included, or is likely to be included, in an application.

Maximum penalty—

- (a) for an individual—40 penalty units, or
- (b) for a body corporate—200 penalty units.

#### **48 Approval of packaging designs**

- (1) The Competent Authority may, on application in accordance with section 46, approve a design for a packaging for use in the transport of dangerous goods if it is satisfied a packaging of the design—
  - (a) will comply with, or is permitted by, Part 6 of the ADG Code, and
  - (b) satisfies all the relevant testing and inspection requirements set out in Part 6 of the ADG Code.
- (2) In determining whether packaging of a particular design satisfies a particular testing requirement, the Competent Authority may rely on a test certificate, issued by a recognised testing facility, that complies with section 50.
- (3) In giving its approval, the Competent Authority may impose, in relation to the approval, a condition about the construction, packing, use or maintenance of a packaging manufactured in accordance with the design necessary for the safe use of the packaging to transport dangerous goods.
- (4) A person must not construct, pack or fail to maintain packaging for use in the transport of dangerous goods, or use packaging to transport dangerous goods, if the person knows, or reasonably ought to know—
  - (a) a condition about the construction, packing, maintenance or use of the packaging was imposed in relation to the approval of the design for the packaging, and
  - (b) the construction, packing, failure to maintain or use is in contravention of the condition.

Maximum penalty—

- (a) for an individual—40 penalty units, or
- (b) for a body corporate—200 penalty units.

#### **49 Recognised testing facilities**

In this Regulation, 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 Part 6 of the ADG Code for the packaging design type,

- (b) if NATA has not registered a testing facility to conduct performance tests under Part 6 of the ADG Code for the packaging design type—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 under Part 6 of the ADG Code for the packaging design type.

#### **50 Test certificates**

- (1) A recognised testing facility may give a written certification that a packaging design type has passed particular performance tests for particular dangerous goods.
- (2) If a performance test is conducted by a testing facility registered by NATA, a test certificate, or report on the test, must—
  - (a) contain details required under the relevant Chapter of Part 6 of the ADG Code, and
  - (b) be in the appropriate form used by NATA registered testing facilities.
- (3) If a performance test is conducted in Australia by a recognised testing facility that is not registered by NATA—
  - (a) the test must be observed by or for the Competent Authority, and
  - (b) a test certificate, or report on the test, must contain details required under the relevant Chapter of Part 6 of the ADG Code.

#### **51 Approval of overpack preparation method**

- (1) The Competent Authority may, on application in accordance with section 196, approve a method of preparing an overpack for transport that does not comply with section 5.1.2 of the ADG Code if the Authority considers the risk involved in using the method is not greater than the risk involved in using a method complying with the section.
- (2) In giving its approval, the Competent Authority may impose, in relation to the approval, a condition about the use of the overpack necessary for the safe use of the overpack to transport dangerous goods.
- (3) A person must not use an overpack to transport dangerous goods if the person knows, or reasonably ought to know—
  - (a) a condition about the use of the overpack was imposed in relation to the approval of the method of preparing the overpack, and
  - (b) the use is in contravention of the condition.

Maximum penalty—

- (a) for an individual—40 penalty units, or

(b) for a body corporate—200 penalty units.

**52 Authorised body may issue approvals—the Act, s 20(b)**

- (1) The Competent Authority may authorise the following persons to issue approvals under sections 48 and 51—
  - (a) an engineer holding a university qualification in mechanical engineering,
  - (b) a laboratory accredited by NATA,
  - (c) a NSW government agency or statutory body representing the Crown.
- (2) In giving its authorisation, the Competent Authority may impose, in relation to the authorisation, a condition it considers appropriate in relation to the issuing of approvals by the person.
- (3) In issuing an approval, in addition to complying with a condition imposed under subsection (2), the person must also—
  - (a) comply with any relevant requirements imposed by Part 6 of the ADG Code in relation to the issuing of the approval, and
  - (b) give the Competent Authority, in relation to the approval, all of the information listed in section 208.
- (4) If a person is authorised to issue approvals under this section—
  - (a) a reference in section 46, 48 or 51 to the Competent Authority applies as if it were a reference to the person, and
  - (b) a reference to the Competent Authority in Part 17, Division 1 or 4, to the extent the Division deal with approvals, applies as if it were a reference to the person, and
  - (c) a reference in this Regulation to an approval under section 48 or 51 includes a reference to an approval given by the person under section 48 or 51 as applied by paragraph (a), and
  - (d) section 260(c), (d) and (h) apply as if a reference in section 260 to the Competent Authority were a reference to the person.
- (5) The Competent Authority may withdraw an authorisation granted under this section at any time.
- (6) The withdrawal of an authorisation does not affect an approval issued by the person before the withdrawal took effect.

## **Division 3 Prohibition on sale or supply of non-compliant packaging**

### **53 Offence to sell or supply non-compliant packaging**

A person must not sell, supply, or offer to sell or supply, packaging for use in the transport of particular dangerous goods unless the packaging—

- (a) is of a design that has been approved under section 48 and it is marked in accordance with Part 6, or, if applicable, Chapter 3.4 or 3.5, of the ADG Code and, according to the marking, the use of the packaging is appropriate for the goods, or
- (b) complies with the relevant requirements of Parts 4 and 6, or, if applicable, Chapter 3.4 or 3.5, of the ADG Code, including relevant marking requirements, and the use of the packaging is appropriate for the goods.

Maximum penalty—

- (a) for an individual—40 penalty units, or
- (b) for a body corporate—200 penalty units.

## **Division 4 Offences relating to general packaging**

### **54 Definition**

In this Division—

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

### **55 Consignor's duties**

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

- (a) the packaging is unsuitable for the transport of the goods, or
- (b) the goods have not been packed in the packaging in accordance with a relevant provision in Part 4 of the ADG Code.

Maximum penalty—

- (a) for an individual—40 penalty units, or
- (b) for a body corporate—200 penalty units.

### **56 Packer's duties**

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

Maximum penalty—

(a) for an individual—40 penalty units, or

(b) for a body corporate—200 penalty units.

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

Maximum penalty—

(a) for an individual—40 penalty units, or

(b) for a body corporate—200 penalty units.

### **57 Loader's duties**

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

Maximum penalty—

(a) for an individual—40 penalty units, or

(b) for a body corporate—200 penalty units.

### **58 Prime contractor's and rail operator's duties**

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

Maximum penalty—

(a) for an individual—40 penalty units, or

(b) for a body corporate—200 penalty units.

### **59 Driver's duties**

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

Maximum penalty—20 penalty units.

## Division 5 Offences relating to other packaging

### 60 Definition

In this Division—

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

### 61 Manufacturer's duties—compliance plates on portable tanks, MEGCs and tank vehicles

- (1) A person who manufactures a portable tank for use in the transport of dangerous goods must attach a compliance plate to the tank in accordance with—
- (a) if the tank is not made of fibre reinforced plastic—Chapter 6.7 of the ADG Code, or
  - (b) if the tank is made of fibre reinforced plastic—Chapter 6.7 and section 6.9.2.10 of the ADG Code.

Maximum penalty—

- (a) for an individual—40 penalty units, or
- (b) for a body corporate—200 penalty units.

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

Maximum penalty—

- (a) for an individual—40 penalty units, or
- (b) for a body corporate—200 penalty units.

- (2) Subsection (1) does not apply to a person in relation to a portable tank if—
- (a) Chapter 6.7 and section 6.9.2.10 of the ADG Code permit the marking of the tank instead of the attachment of a compliance plate, and
  - (b) the tank is marked as required by Chapter 6.7 of the ADG Code.

- (3) A person who manufactures a tank vehicle for use in the transport of dangerous goods must attach a compliance plate to the vehicle in accordance with section 6.10.2.2 of the ADG Code.

Maximum penalty—

- (a) for an individual—40 penalty units, or
- (b) for a body corporate—200 penalty units.

## **62 Owner's duties—portable tanks, demountable tanks and MEGCs**

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

Maximum penalty—

- (a) for an individual—40 penalty units, or
- (b) for a body corporate—200 penalty units.

## **63 Consignor's duties**

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

Maximum penalty—

- (a) for an individual—40 penalty units, or
- (b) for a body corporate—200 penalty units.

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

Maximum penalty—

- (a) for an individual—40 penalty units, or
- (b) for a body corporate—200 penalty units.

## **64 Packer's duties**

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

Maximum penalty—

- (a) for an individual—40 penalty units, or



(b) for a body corporate—200 penalty units.

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

Maximum penalty—

(a) for an individual—40 penalty units, or

(b) for a body corporate—200 penalty units.

## **65 Loader's duties**

A person must not load dangerous goods in other packaging on to a vehicle for transport if the person knows, or reasonably ought to know, the packaging is unsuitable for the transport of the goods.

Maximum penalty—

(a) for an individual—40 penalty units, or

(b) for a body corporate—200 penalty units.

## **66 Prime contractor's and rail operator's duties**

- (1) A prime contractor or rail operator must not transport dangerous goods in other packaging provided by the prime contractor or rail operator if—

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

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

Maximum penalty—

(a) for an individual—40 penalty units, or

(b) for a body corporate—200 penalty units.

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

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

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

Maximum penalty—

- (a) for an individual—40 penalty units, or
- (b) for a body corporate—200 penalty units.

#### **67 Driver's duties**

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

- (a) the packaging is unsuitable for the transport of the goods, or
- (b) the goods have not been packed in the packaging in accordance with a relevant provision in Part 4 of the ADG Code.

Maximum penalty—40 penalty units.

### **Division 6 Offences relating to overpacks**

#### **68 Consignor's duties**

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

- (a) section 5.1.2 of the ADG Code and other provisions of this Part, or
- (b) an approval under section 51.

Maximum penalty—

- (a) for an individual—20 penalty units, or
- (b) for a body corporate—100 penalty units.

#### **69 Packer's duties**

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

- (a) section 5.1.2 of the ADG Code and other provisions of this Part, or
- (b) an approval under section 51.

Maximum penalty—

- (a) for an individual—20 penalty units, or
- (b) for a body corporate—100 penalty units.

#### **70 Loader's duties**

A person must not load dangerous goods in an overpack on to a vehicle for transport if the

person knows, or reasonably ought to know, the preparation of the overpack and its contents does not comply with either—

- (a) section 5.1.2 of the ADG Code and other provisions of this Part, or
- (b) an approval under section 51.

Maximum penalty—

- (a) for an individual—20 penalty units, or
- (b) for a body corporate—100 penalty units.

### **71 Prime contractor's and rail operator's duties**

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

- (a) section 5.1.2 of the ADG Code and other provisions of this Part, or
- (b) an approval under section 51.

Maximum penalty—

- (a) for an individual—20 penalty units, or
- (b) for a body corporate—100 penalty units.

### **72 Driver's duties**

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

- (a) section 5.1.2 of the ADG Code and other provisions of this Part, or
- (b) an approval under section 51.

Maximum penalty—15 penalty units.

## **Part 5 Consignment procedures—the Act, s 13(2)(f)**

### **Note—**

Section 5.1.3.3 of the ADG Code provides for unused pre-labelled dangerous goods packagings to be identified in order to avoid inappropriate emergency response.

## Division 1 Marking and labelling

### 73 Meaning of “appropriately marked”

- (1) A receptacle that has a capacity of more than 500kg or 500L, other than an overpack, is **appropriately marked** if it is marked and labelled in accordance with Chapters 5.2 and 5.3.3 of the ADG Code.
- (2) An overpack is **appropriately marked** if it is marked and labelled in accordance with section 5.1.2 of the ADG Code.
- (3) Any other package of dangerous goods is **appropriately marked** if it is marked and labelled in accordance with Chapter 5.2 of the ADG Code.
- (4) The following alternatives to subsections (1)–(3) apply—
  - (a) a package of dangerous goods packed in limited quantities is **appropriately marked** if it is marked and labelled in accordance with Chapter 3.4 of the ADG Code,
  - (b) a package of dangerous goods packed in excepted quantities is **appropriately marked** if it is marked and labelled in accordance with Chapter 3.5 of the ADG Code.
- (5) In subsection (4)(b), dangerous goods are **packed in excepted quantities** if—
  - (a) the goods are assigned to code E1, E2, E3, E4 or E5 in column 7b of the Dangerous Goods List, and
  - (b) the goods are packed in accordance with Chapter 3.5 of the ADG Code, and
  - (c) the quantity of dangerous goods does not exceed the quantity specified in section 3.5.1.2 of the ADG Code.
- (6) To avoid doubt, subsections (1) and (3) do not apply to cargo transport units.

### 74 Consignor’s duties

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

Maximum penalty—

- (a) for large packaging or overpack—
  - (i) for an individual—20 penalty units, or
  - (ii) for a body corporate—100 penalty units, or
- (b) otherwise—

- (i) for an individual—10 penalty units, or
- (ii) for a body corporate—30 penalty units.

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

Maximum penalty—

(a) for large packaging or overpack—

- (i) for an individual—20 penalty units, or
- (ii) for a body corporate—100 penalty units, or

(b) otherwise—

- (i) for an individual—10 penalty units, or
- (ii) for a body corporate—30 penalty units.

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

Maximum penalty—

(a) for large packaging or overpack—

- (i) for an individual—20 penalty units, or
- (ii) for a body corporate—100 penalty units, or

(b) otherwise—

- (i) for an individual—10 penalty units, or
- (ii) for a body corporate—30 penalty units.

(4) Subsection (3) does not apply if the marking or labelling of the package complies with the requirements of the ICAO Technical Instructions or the IMDG Code in relation to the contents of the package.

(5) A reference to a label in this section includes a reference to a placard.

## **75 Packer's duties**

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

Maximum penalty—

- (a) for large packaging or overpack—
  - (i) for an individual—20 penalty units, or
  - (ii) for a body corporate—100 penalty units, or
- (b) otherwise—
  - (i) for an individual—10 penalty units, or
  - (ii) for a body corporate—30 penalty units.

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

Maximum penalty—

- (a) for large packaging or overpack—
  - (i) for an individual—20 penalty units, or
  - (ii) for a body corporate—100 penalty units, or
- (b) otherwise—
  - (i) for an individual—10 penalty units, or
  - (ii) for a body corporate—30 penalty units.

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

Maximum penalty—

- (a) for large packaging or overpack—
  - (i) for an individual—20 penalty units, or
  - (ii) for a body corporate—100 penalty units, or
- (b) otherwise—
  - (i) for an individual—10 penalty units, or
  - (ii) for a body corporate—30 penalty units.

(4) Subsection (3) does not apply if the marking or labelling of the package complies with the requirements of the ICAO Technical Instructions or the IMDG Code in relation to the contents of the package.

(5) A reference to a label in this section includes a reference to a placard.

#### **76 Prime contractor's and rail operator's duties**

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

- (a) the goods are dangerous goods, and
- (b) the package is not appropriately marked.

Maximum penalty—

(a) for large packaging or overpack—

- (i) for an individual—20 penalty units, or
- (ii) for a body corporate—100 penalty units, or

(b) otherwise—

- (i) for an individual—10 penalty units, or
- (ii) for a body corporate—30 penalty units.

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

Maximum penalty—

(a) for large packaging or overpack—

- (i) for an individual—20 penalty units, or
- (ii) for a body corporate—100 penalty units, or

(b) otherwise—

- (i) for an individual—10 penalty units, or
- (ii) for a body corporate—30 penalty units.

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

Maximum penalty—

(a) for large packaging or overpack—

- (i) for an individual—20 penalty units, or
- (ii) for a body corporate—100 penalty units, or
- (b) otherwise—
  - (i) for an individual—10 penalty units, or
  - (ii) for a body corporate—30 penalty units.
- (4) Subsection (3) does not apply if the marking or labelling of the package complies with the requirements of the ICAO Technical Instructions or the IMDG Code in relation to the contents of the package.
- (5) A reference to a label in this section includes a reference to a placard.

## **Division 2 Placarding**

### **77 When load must be placarded**

- (1) A load that contains dangerous goods must be placarded if—
  - (a) it contains—
    - (i) dangerous goods in a receptacle, other than an article, with a capacity of more than 500L, or
    - (ii) more than 500kg of dangerous goods in a receptacle, other than an article, or
  - (b) it contains an aggregate quantity of dangerous goods of 250 or more, other than specified goods, and the dangerous goods include—
    - (i) dangerous goods of UN Division 2.1 that are not aerosols, or
    - (ii) dangerous goods of UN Division 2.3, or
    - (iii) dangerous goods of Packing Group I, or
  - (c) it contains dangerous goods of UN Division 6.2, Category A, or
  - (d) it contains an aggregate quantity of dangerous goods of UN Division 6.2, other than Category A, of 10 or more, or
  - (e) it contains an aggregate quantity of dangerous goods of 1,000 or more, other than specified goods.
- (2) A load that contains dangerous goods must be placarded if the load contains specified goods and—
  - (a) the specified goods include an aggregate quantity of 2,000 or more of any 1 UN number from a single place of consignment, or



- (b) the total gross mass of the specified goods is 8t or more.

**Note—**

This subsection applies separately and in addition to subsection (1). See Table 5.3 of the ADG Code.

- (3) A load that contains dangerous goods, and that is not otherwise required to be placarded under this section, must be placarded if the load meets the following conditions—

- (a) the load contains a mixture of specified goods and other dangerous goods,

- (b) the following combined quantity calculation applies—

- (i) if the load contains dangerous goods referred to in subsection (1)(b)(i)-(iii)—the aggregate quantity of those dangerous goods, plus 10% of the total gross mass of the specified goods, is 250 or more,
- (ii) otherwise—the aggregate quantity of dangerous goods that are not specified goods, plus 25% of the total gross mass of the specified goods, is 1,000 or more.

- (4) In this section, **specified goods** means—

- (a) dangerous goods packed in limited quantities,

- (b) any of the following—

- (i) fireworks that are bon bons, party poppers or sparklers,
- (ii) domestic smoke detectors containing radioactive material,
- (iii) lighters or lighter refills containing flammable gas,
- (iv) fire extinguishers containing compressed or liquefied gas, up to a net mass of 23kg,

- (c) a combination of the dangerous goods referred to in paragraphs (a) and (b).

**Note—**

See Note 5 to Table 5.3 of the ADG Code.

## **78 Meaning of “appropriately placarded”**

- (1) In this Regulation, a person **placards** a load that contains dangerous goods if the person affixes, stencils, prints or places a label or an emergency information panel in relation to the load on a thing that is being, or that is to be, used to transport the load.
- (2) In this Division, a placard load is **appropriately placarded** if it is placarded in accordance with Chapter 5.3 of the ADG Code.

(3) In this section—

**emergency information panel** has the same meaning as in section 5.3.1.3 of the ADG Code.

**label** has the same meaning as in the ADG Code.

## 79 Consignor's duties

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

Maximum penalty—

- (a) for an individual—40 penalty units, or
- (b) for a body corporate—200 penalty units.

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

Maximum penalty—

- (a) for an individual—40 penalty units, or
- (b) for a body corporate—200 penalty units.

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

Maximum penalty—

- (a) for an individual—40 penalty units, or
- (b) for a body corporate—200 penalty units.

(4) Subsection (3) does not apply if the placarding of the cargo transport unit complies with the requirements of the ICAO Technical Instructions or the IMDG Code in relation to the contents of the cargo transport unit.

(5) A person must not consign a load of dangerous goods, other than a placard load, for transport in or on a cargo transport unit if—

- (a) the load is placarded, and
- (b) the placarding is false or misleading in a material particular.

Maximum penalty—

- (a) for an individual—40 penalty units, or
- (b) for a body corporate—200 penalty units.

## **80 Loader's duties**

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

Maximum penalty—

- (a) for an individual—40 penalty units, or
- (b) for a body corporate—200 penalty units.

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

Maximum penalty—

- (a) for an individual—40 penalty units, or
- (b) for a body corporate—200 penalty units.

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

Maximum penalty—

- (a) for an individual—40 penalty units, or
- (b) for a body corporate—200 penalty units.

- (4) Subsection (3) does not apply if the placarding of the load complies with the requirements of the ICAO Technical Instructions or the IMDG Code in relation to the contents of the load.

- (5) A person who loads dangerous goods, other than a placard load, into or on to a cargo transport unit for transport in or on the unit must not placard the load with placarding the person knows, or reasonably ought to know, is false or misleading in a material particular.

Maximum penalty—

- (a) for an individual—40 penalty units, or
- (b) for a body corporate—200 penalty units.

## **81 Prime contractor's and rail operator's duties**

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

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

Maximum penalty—

- (a) for an individual—40 penalty units, or
- (b) for a body corporate—200 penalty units.

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

Maximum penalty—

- (a) for an individual—40 penalty units, or
- (b) for a body corporate—200 penalty units.

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

Maximum penalty—

- (a) for an individual—40 penalty units, or
- (b) for a body corporate—200 penalty units.

- (4) Subsection (3) does not apply if the placarding of the cargo transport unit complies with the requirements of the ICAO Technical Instructions or the IMDG Code in relation to the contents of the cargo transport unit.

- (5) A prime contractor or rail operator must not transport a load of dangerous goods, other than a placard load, in or on a cargo transport unit if—

- (a) the load is placarded, and
- (b) the person knows, or reasonably ought to know, the placarding is false or misleading in a material particular.

Maximum penalty—

- (a) for an individual—40 penalty units, or
- (b) for a body corporate—200 penalty units.

## **82 Driver's duties**

- (1) A person must not drive a road vehicle transporting dangerous goods if the person

knows, or reasonably ought to know—

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

Maximum penalty—20 penalty units.

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

Maximum penalty—20 penalty units.

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

Maximum penalty—20 penalty units.

- (4) A person must not drive a road vehicle that is, or incorporates, a cargo transport unit if—

- (a) the unit is transporting a load of dangerous goods, other than a placard load, and
- (b) the load is placarded, and
- (c) the person knows, or reasonably ought to know, the placarding is false or misleading in a material particular.

Maximum penalty—20 penalty units.

## **Part 6 Safety standards—vehicles and equipment—the Act, s 13(2)(g) and (k)**

### **Division 1 General**

#### **83 Owner's duties**

The owner of a vehicle must not use the vehicle, or permit it to be used, to transport dangerous goods if the vehicle or its equipment does not comply with Chapters 4.4 and 6.10 of the ADG Code.

Maximum penalty—

- (a) for an individual—40 penalty units, or
- (b) for a body corporate—200 penalty units.

#### **84 Consignor's duties**

A person must not consign dangerous goods for transport in or on a vehicle if the person knows, or reasonably ought to know, the vehicle or its equipment does not comply with Chapters 4.4 and 6.10 of the ADG Code.

Maximum penalty—

- (a) for an individual—40 penalty units, or
- (b) for a body corporate—200 penalty units.

#### **85 Loader's duties**

A person must not load dangerous goods on to a vehicle for transport if the person knows, or reasonably ought to know, the vehicle or its equipment does not comply with Chapters 4.4 and 6.10 of the ADG Code.

Maximum penalty—

- (a) for an individual—20 penalty units, or
- (b) for a body corporate—100 penalty units.

#### **86 Prime contractor's and rail operator's duties**

A prime contractor or rail operator must not use a vehicle to transport dangerous goods if the vehicle or its equipment does not comply with Chapters 4.4 and 6.10 of the ADG Code.

Maximum penalty—

- (a) for an individual—40 penalty units, or
- (b) for a body corporate—200 penalty units.

#### **87 Driver's duties**

A person must not drive a road vehicle transporting dangerous goods if the person knows, or reasonably ought to know, the vehicle or its equipment does not comply with Chapters 4.4 and 6.10 of the ADG Code.

Maximum penalty—20 penalty units.

#### **88 Duties of persons undertaking maintenance, testing or inspection**

- (1) A person undertaking maintenance, testing or inspection of a licensed vehicle must ensure the maintenance, testing or inspection is carried out in accordance with any applicable requirements of Chapter 4.4 of the ADG Code.

Maximum penalty—

(a) for an individual—40 penalty units, or

(b) for a body corporate—200 penalty units.

- (2) A person undertaking maintenance, testing or inspection of a licensed vehicle must notify the owner of the vehicle if the person knows, or reasonably ought to know, the vehicle or its equipment failed to comply with Chapter 4.4 of the ADG Code immediately before the commencement of the maintenance, testing or inspection.

Maximum penalty—

(a) for an individual—40 penalty units, or

(b) for a body corporate—200 penalty units.

- (3) A person undertaking maintenance, testing or inspection of a licensed vehicle must not provide the owner of the vehicle with information about the maintenance, testing or inspection that the person knows, or reasonably ought to know, is false or misleading in a material particular.

Maximum penalty—

(a) for an individual—40 penalty units, or

(b) for a body corporate—200 penalty units.

- (4) In this section—

***maintenance, testing or inspection*** means maintenance, testing or inspection to which requirements of Chapter 4.4 of the ADG Code apply.

## Division 2 Roll stability systems

### 89 Definitions

In this Division—

***heavy tank trailer*** means a vehicle that is—

- (a) a heavy vehicle within the meaning of the [Road Transport Act 2013](#), and
- (b) a tank vehicle, and
- (c) a trailer.

***roll stability system*** means an electronic system fitted to a vehicle that—

- (a) is designed to stabilise the vehicle if the vehicle is at risk of rolling over, and
- (b) complies with the requirements of Australian Design Rule 38/05—*Trailer Brake Systems*, made under the [Road Vehicle Standards Act 2018](#) of the Commonwealth, as

in force from time to time.

#### **90 Roll stability systems—general requirement**

A heavy tank trailer is unsuitable for the transport of dangerous goods if the trailer is not fitted with a roll stability system that is fully functional and properly maintained.

#### **91 Owner's duties**

The owner of a heavy tank trailer must not use the trailer, or permit it to be used, to transport dangerous goods if the trailer is not fitted with a roll stability system that is fully functional and properly maintained.

Maximum penalty—

- (a) for an individual—40 penalty units, or
- (b) for a body corporate—200 penalty units.

#### **92 Consignor's duties**

A person must not consign dangerous goods for transport in or on a heavy tank trailer if the person knows, or reasonably ought to know, the trailer is not fitted with a roll stability system that is fully functional and properly maintained.

Maximum penalty—

- (a) for an individual—40 penalty units, or
- (b) for a body corporate—200 penalty units.

#### **93 Loader's duties**

A person must not load dangerous goods on to a heavy tank trailer for transport if the person knows, or reasonably ought to know, the trailer is not fitted with a roll stability system that is fully functional and properly maintained.

Maximum penalty—

- (a) for an individual—20 penalty units, or
- (b) for a body corporate—100 penalty units.

#### **94 Prime contractor's and rail operator's duties**

A prime contractor or rail operator must not use a heavy tank trailer to transport dangerous goods if the trailer is not fitted with a roll stability system that is fully functional and properly maintained.

Maximum penalty—

- (a) for an individual—40 penalty units, or



(b) for a body corporate—200 penalty units.

#### **95 Driver's duties**

A person must not drive a heavy tank trailer transporting dangerous goods if the person knows, or reasonably ought to know, the trailer is not fitted with a roll stability system that is fully functional and properly maintained.

Maximum penalty—20 penalty units.

### **Part 7 Transport operations relating to certain dangerous goods**

#### **Division 1 Self-reactive substances, organic peroxides and certain other substances—the Act, s 13(2)(g) and (k)**

##### **96 Application of Division**

This Division applies to the transport of the following types of dangerous goods—

- (a) gases of UN Class 2,
- (b) self-reactive substances of UN Division 4.1,
- (c) organic peroxides of UN Division 5.2,
- (d) other substances for which—
  - (i) the proper shipping name contains the word “STABILIZED”, and
  - (ii) the self-accelerating decomposition temperature, as determined in accordance with Part 2 of the ADG Code, when presented for transport in a packaging is 50 degrees Celsius or lower,
- (e) toxic substances of UN Division or Subsidiary Hazard 6.1,
- (f) infectious substances of UN Division 6.2,
- (g) dangerous when wet substances of UN Division 4.3.

##### **97 Consignor's duties**

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

Maximum penalty—

- (a) for an individual—20 penalty units, or
- (b) for a body corporate—100 penalty units.

### **98 Loader's duties**

A person must not load dangerous goods to which this Division applies for transport by road or rail in a cargo transport unit other than in accordance with Chapter 7.1 of the ADG Code.

Maximum penalty—

- (a) for an individual—20 penalty units, or
- (b) for a body corporate—100 penalty units.

### **99 Prime contractor's and rail operator's duties**

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

Maximum penalty—

- (a) for an individual—20 penalty units, or
- (b) for a body corporate—100 penalty units.

- (2) A prime contractor or rail operator responsible for the transport of 1 or more packages of infectious substances of UN Division 6.2 who becomes aware of damage to, or leakage from, the package or any of the packages must comply with section 7.1.7.2.2 of the ADG Code.

Maximum penalty—

- (a) for an individual—20 penalty units, or
- (b) for a body corporate—100 penalty units.

### **100 Driver's duties**

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

Maximum penalty—15 penalty units.

## **Division 2 Goods too dangerous to be transported—the Act, s 13(2)(b)**

### **Note—**

The Act, section 8 provides for the duties of persons who consign or arrange for the transport of goods too dangerous to be transported and provides for the relevant offence and penalty for consigning them for transport or arranging their transport.

### **101 Application of Division**

This Division applies to goods too dangerous to be transported.

### **102 Loader's duties**

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

Maximum penalty—

- (a) for an individual—20 penalty units, or
- (b) for a body corporate—100 penalty units.

### **103 Prime contractor's and rail operator's duties**

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

Maximum penalty—

- (a) for an individual—20 penalty units, or
- (b) for a body corporate—100 penalty units.

### **104 Driver's duties**

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

Maximum penalty—15 penalty units.

## **Division 3 Nominally empty storage vessels—the Act, s 13(2)(i)**

### **105 Application of Division**

This Division applies to tanks or hoppers specified in section 7.2.7.1 of the ADG Code (***nominally empty storage vessels***).

### **106 Consignor's duties**

A person must not consign nominally empty storage vessels for transport in a cargo transport unit if the person knows, or reasonably ought to know, the storage vessels are not loaded or stowed, or cannot be transported or unloaded, in accordance with Chapter 7.2 of the ADG Code.

Maximum penalty—

- (a) for an individual—20 penalty units, or
- (b) for a body corporate—100 penalty units.

### 107 Loader's duties

A person must not load nominally empty storage vessels for transport by road or rail in a cargo transport unit other than in accordance with Chapter 7.2 of the ADG Code.

Maximum penalty—

- (a) for an individual—20 penalty units, or
- (b) for a body corporate—100 penalty units.

### 108 Prime contractor's and rail operator's duties

A prime contractor or rail operator must not transport nominally empty storage vessels if the contractor or rail operator knows, or reasonably ought to know, the transport does not comply with Chapter 7.2 of the ADG Code.

Maximum penalty—

- (a) for an individual—20 penalty units, or
- (b) for a body corporate—100 penalty units.

### 109 Driver's duties

A person must not drive a road vehicle transporting nominally empty storage vessels if the person knows, or reasonably ought to know, the storage vessels are not being transported in accordance with Chapter 7.2 of the ADG Code.

Maximum penalty—15 penalty units.

## Division 4 Transport of placard loads in prohibited areas—the Act, s 13(2)(f) and (g)

### 110 Application of Division

This Division applies to the transport of placard loads.

### 111 Definitions

In this Division—

**prohibited area** has the same meaning as in the [Road Rules 2014](#), rule 300-2.

**specified**, in relation to a prohibited area, means specified for the area in the Table to the [Road Rules 2014](#), rule 300-2.

**use**, in relation to a road vehicle, includes drive, stop or park the vehicle.

### 112 Prime contractor's duties

A prime contractor must not cause, permit or allow the use of a road vehicle transporting

a placard load in a prohibited area—

- (a) on a day or during a period specified for the area, or
- (b) if a day or period is not specified for the area—at any time.

Maximum penalty—

- (a) for an individual—40 penalty units, or
- (b) for a body corporate—200 penalty units.

### **113 Driver's duties**

A driver of a road vehicle transporting a placard load must not use the vehicle in a prohibited area—

- (a) on a day or during a period specified for the area, or
- (b) if a day or period is not specified for the area—at any time.

Maximum penalty—40 penalty units.

### **114 Exemptions**

- (1) A prime contractor or driver does not contravene section 112 or 113 if the vehicle transporting the placard load—
  - (a) displays a permit issued by the Commissioner of Police under the [Road Transport \(General\) Regulation 2021](#), section 11(3) authorising it to be used in a prohibited area, and
  - (b) is used in accordance with the conditions of the permit.
- (2) A prime contractor or driver does not contravene section 112 or 113 in an M1 prohibited area unless—
  - (a) the placard load includes UN Class 1 or UN Division 2.1 goods, or
  - (b) the placard load requires more than 1 placard, or the use of a mixed class placard, to comply with this Regulation.
- (3) In this section—

**M1 prohibited area** means a prohibited area specified in the [Road Rules 2014](#), rule 300-2, Table, item 16 or 17.

## **Part 8 Stowage and restraint—the Act, s 13(2)(i) and (k)**

### **115 Consignor's duties**

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

Maximum penalty—

- (a) for an individual—20 penalty units, or
  - (b) for a body corporate—100 penalty units.
- (2) A person must not consign a load that contains dangerous goods for transport in or on a cargo transport unit if the person knows, or reasonably ought to know, the cargo transport unit is not, or will not be, restrained in accordance with Chapter 8.2 of the ADG Code.

Maximum penalty—

- (a) for an individual—20 penalty units, or
- (b) for a body corporate—100 penalty units.

### **116 Loader's duties**

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

Maximum penalty—

- (a) for an individual—20 penalty units, or
  - (b) for a body corporate—100 penalty units.
- (2) A person who loads for transport in or on a vehicle dangerous goods that are in a cargo transport unit must ensure the cargo transport unit is restrained in accordance with Chapter 8.2 of the ADG Code.

Maximum penalty—

- (a) for an individual—20 penalty units, or
- (b) for a body corporate—100 penalty units.

### **117 Prime contractor's and rail operator's duties**

- (1) A prime contractor or rail operator must not transport in or on a vehicle a load that

contains dangerous goods and is a placard load if the prime contractor or rail operator knows, or reasonably ought to know, the goods or their packaging have not been stowed or loaded, or are not restrained, in accordance with Chapter 8.1 of the ADG Code.

Maximum penalty—

- (a) for an individual—20 penalty units, or
- (b) for a body corporate—100 penalty units.

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

Maximum penalty—

- (a) for an individual—20 penalty units, or
- (b) for a body corporate—100 penalty units.

### **118 Driver's duties**

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

Maximum penalty—15 penalty units.

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

Maximum penalty—15 penalty units.

## **Part 9 Segregation—the Act, s 13(2)(k)**

### **119 Application of Part**

- (1) This Part applies to—
  - (a) the transport of a placard load, and
  - (b) the transport of a load that is not a placard load, if the load contains dangerous goods of UN Division 2.3, UN Class 6 or UN Class 8, or dangerous goods that have a Subsidiary Hazard of 6.1 or 8, that are being, or are to be, transported with food or food packaging.

(2) Dangerous goods packed in limited quantities do not need to comply with this Part.

### **120 Exception for certain goods for driver's personal use**

Despite sections 121–125, food and food packaging may be transported on a road vehicle with dangerous goods if the food or packaging is in the road vehicle's cabin and is for the driver's personal use.

### **121 Consignor's duties**

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

- (a) the vehicle is, in the same journey, transporting incompatible goods, and
- (b) the dangerous goods will not be segregated from the incompatible goods in accordance with—
  - (i) Part 9 of the ADG Code, or
  - (ii) an approval under section 127.

Maximum penalty—

- (a) for an individual—40 penalty units, or
- (b) for a body corporate—200 penalty units.

### **122 Loader's duties**

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

- (a) the vehicle is, in the same journey, transporting incompatible goods, and
- (b) the dangerous goods will not be segregated from the incompatible goods in accordance with—
  - (i) Part 9 of the ADG Code, or
  - (ii) an approval under section 127.

Maximum penalty—

- (a) for an individual—40 penalty units, or
- (b) for a body corporate—200 penalty units.

### **123 Prime contractor's duties**

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



- (a) the road vehicle is, in the same journey, transporting incompatible goods, and
- (b) the dangerous goods are not segregated from the incompatible goods in accordance with—
  - (i) Part 9 of the ADG Code, or
  - (ii) an approval under section 127.

Maximum penalty—

- (a) for an individual—40 penalty units, or
- (b) for a body corporate—200 penalty units.

#### **124 Rail operator's duties**

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

- (a) the train is, in the same journey, transporting incompatible goods, and
- (b) the dangerous goods are not segregated from the incompatible goods in accordance with—
  - (i) Part 9 of the ADG Code, or
  - (ii) an approval under section 127.

Maximum penalty—

- (a) for an individual—40 penalty units, or
- (b) for a body corporate—200 penalty units.

#### **125 Driver's duties**

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

- (a) the road vehicle is, in the same journey, transporting incompatible goods, and
- (b) the dangerous goods are not segregated from the incompatible goods in accordance with—
  - (i) Part 9 of the ADG Code, or
  - (ii) an approval under section 127.

Maximum penalty—15 penalty units.

### **126 Approvals—Type II segregation devices**

- (1) An application for approval of a design for a Type II segregation device for use in the transport of dangerous goods must include any information required under Chapter 6.11 of the ADG Code.
- (2) The Competent Authority may, on application in accordance with subsection (1) and section 196, approve a design for a Type II segregation device if the design complies with Chapter 6.11 of the ADG Code.

### **127 Approvals—methods of segregation**

- (1) The Competent Authority may, on application made in accordance with section 196, approve a method of segregation not complying with Part 9 of the ADG Code for transporting dangerous and incompatible goods by road if the Authority considers—
  - (a) it is impracticable to segregate the goods by a segregation device, or method of segregation, complying with Part 9 of the ADG Code, and
  - (b) the risk involved in using the method to transport the goods by road is not greater than the risk involved in using a device or method complying with Part 9 of the ADG Code to transport the goods by road.
- (2) In giving its approval, the Competent Authority may impose, in relation to the approval, a condition necessary for the safe transport of dangerous goods.
- (3) A person to whom an approval has been given must not contravene a condition of the approval.

Maximum penalty—

- (a) for an individual—40 penalty units, or
- (b) for a body corporate—200 penalty units.

## **Part 10 Bulk transfer of dangerous goods—the Act, s 13(2)(g) and (k)**

### **Division 1 General**

#### **128 Definition**

In this Part—

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

## **Division 2 Equipment and transfer**

### **129 Transferor's duties—hose assemblies**

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

Maximum penalty—

- (a) for an individual—20 penalty units, or
- (b) for a body corporate—100 penalty units.

- (2) A person must not use a hose assembly for the bulk transfer of dangerous goods if the person knows, or reasonably ought to know, the hose assembly—

- (a) has not been constructed, assembled or maintained in accordance with Chapter 10.1 of the ADG Code, or
- (b) has not been inspected or tested at the intervals, or in the way, required under Chapter 10.1 of the ADG Code, or
- (c) did not satisfy a test under Chapter 10.1 of the ADG Code.

Maximum penalty—

- (a) for an individual—40 penalty units, or
- (b) for a body corporate—200 penalty units.

### **130 Transferor's duties—general**

- (1) A person engaged in the bulk transfer of dangerous goods must ensure the goods are transferred—

- (a) in accordance with Chapter 10.2 of the ADG Code, and
- (b) in a way that eliminates the risk or, if it is not possible to eliminate the risk, minimises the risk to the maximum extent practicable.

Maximum penalty—

- (a) for an individual—20 penalty units, or
- (b) for a body corporate—100 penalty units.

- (2) A person engaged in the bulk transfer of dangerous goods must not transfer dangerous goods if the person knows, or reasonably ought to know—

- (a) the receiving receptacle or the transfer equipment is incompatible with the

dangerous goods, or

(b) the receptacle contains incompatible goods.

Maximum penalty—

(a) for an individual—20 penalty units, or

(b) for a body corporate—100 penalty units.

(3) If dangerous goods leak, spill or accidentally escape during a bulk transfer, the person transferring the goods—

(a) must immediately stop transferring the goods, and

(b) must take all practicable steps to avert, eliminate or minimise risk, and

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

Maximum penalty—

(a) for an individual—20 penalty units, or

(b) for a body corporate—100 penalty units.

(4) It is a defence to a prosecution for an offence against subsection (1) that the person complied with subsection (1) as far as practicable.

### **131 Occupier's duties**

(1) The occupier of premises where the bulk transfer of dangerous goods occurs must ensure a hose assembly on the premises used, or intended to be used, for the transfer—

(a) has been constructed, assembled and maintained in accordance with Chapter 10.1 of the ADG Code, and

(b) has been inspected and tested at the intervals, and in the way, required under Chapter 10.1 of the ADG Code, and

(c) satisfies each test under Chapter 10.1 of the ADG Code.

Maximum penalty—

(a) for an individual—20 penalty units, or

(b) for a body corporate—100 penalty units.

(2) Subsection (1) does not apply to a hose assembly brought on to the premises on the vehicle involved in the transfer.

- (3) The occupier of premises where the bulk transfer of dangerous goods occurs must ensure the goods are transferred—
- (a) in accordance with Chapter 10.2 of the ADG Code, and
  - (b) in a way that averts, eliminates or minimises risk.
- Maximum penalty—
- (a) for an individual—40 penalty units, or
  - (b) for a body corporate—200 penalty units.
- (4) The occupier must keep, in accordance with section 10.1.3.4 of the ADG Code, accurate records of all maintenance work, and each inspection and test, carried out on the hose assembly.
- Maximum penalty—
- (a) for an individual—10 penalty units, or
  - (b) for a body corporate—50 penalty units.
- (5) It is a defence to a prosecution for an offence against subsection (3) that the person complied with subsection (3) as far as practicable.

### **132 Prime contractor's duties**

- (1) A prime contractor engaged in the bulk transfer of dangerous goods must ensure a hose assembly used, or intended to be used, for the transfer of the dangerous goods—
- (a) has been constructed, assembled and maintained in accordance with Chapter 10.1 of the ADG Code, and
  - (b) has been inspected and tested at the intervals, and in the way, required under Chapter 10.1 of the ADG Code, and
  - (c) satisfies each test under Chapter 10.1 of the ADG Code.
- Maximum penalty—
- (a) for an individual—20 penalty units, or
  - (b) for a body corporate—100 penalty units.
- (2) Subsection (1) does not apply to a hose assembly for which the prime contractor is not responsible.
- (3) A prime contractor engaged in the bulk transfer of dangerous goods must ensure dangerous goods are transferred—

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

Maximum penalty—

- (a) for an individual—40 penalty units, or
- (b) for a body corporate—200 penalty units.

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

Maximum penalty—

- (a) for an individual—10 penalty units, or
- (b) for a body corporate—50 penalty units.

- (5) It is a defence to a prosecution for an offence against subsection (3) that the person complied with subsection (3) as far as practicable.

### **133 Rail operator's duties**

- (1) A rail operator engaged in the bulk transfer of dangerous goods must ensure a hose assembly used, or intended to be used, for the transfer of the dangerous goods—
- (a) has been constructed, assembled and maintained in accordance with Chapter 10.1 of the ADG Code, and
  - (b) has been inspected and tested at the intervals, and in the way, required under Chapter 10.1 of the ADG Code, and
  - (c) satisfies each test under Chapter 10.1 of the ADG Code.

Maximum penalty—

- (a) for an individual—20 penalty units, or
- (b) for a body corporate—100 penalty units.

- (2) Subsection (1) does not apply to a hose assembly for which the rail operator is not responsible.

## **Division 3 Filling ratio and ullage**

### **134 Application of Division**

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

### **135 Transferor's duties**

- (1) A person engaged in the bulk transfer of dangerous goods must ensure that—
  - (a) for dangerous goods of UN Class 2 that are not in the form of refrigerated liquid—the quantity of the goods in the tank to which the goods are transferred does not exceed the maximum permitted filling ratio set out in section 10.3.2 of the ADG Code, and
  - (b) otherwise—the ullage in the tank complies with section 10.3.1 of the ADG Code.

Maximum penalty—

- (a) for an individual—20 penalty units, or
  - (b) for a body corporate—100 penalty units.
- (2) A person who is engaged in the bulk transfer of goods that are not dangerous goods to a tank (**tank A**) must ensure the ullage in tank A in relation to the non-dangerous goods complies with section 10.3.1 of the ADG Code as if the goods were dangerous goods if—
    - (a) tank A is on, or part of, a vehicle, and
    - (b) the person knows, or reasonably ought to know, before tank A is emptied of the non-dangerous goods, the vehicle—
      - (i) is carrying dangerous goods in another tank or in another compartment of tank A, or
      - (ii) is likely to carry dangerous goods in another tank or in another compartment of tank A.

Maximum penalty—

- (a) for an individual—20 penalty units, or
  - (b) for a body corporate—100 penalty units.
- (3) It is a defence to a prosecution for an offence against subsection (1) or (2) that the person complied with the subsection as far as practicable.

### **136 Prime contractor's and rail operator's duties**

- (1) A prime contractor or rail operator must not transport dangerous goods in a tank if—
  - (a) for dangerous goods of UN Class 2 that are not in the form of refrigerated liquid—the quantity of goods in the tank exceeds the maximum permitted filling ratio set out in section 10.3.2 of the ADG Code, or
  - (b) otherwise—the ullage in the tank does not comply with section 10.3.1 of the ADG

Code.

Maximum penalty—

- (a) for an individual—20 penalty units, or
- (b) for a body corporate—100 penalty units.

- (2) A prime contractor or rail operator who uses a vehicle to transport a tank (**tank A**) containing goods that are not dangerous goods, and at the same time uses the vehicle to transport dangerous goods in another tank or in another compartment of tank A, the prime contractor or rail operator must ensure the ullage in tank A in relation to the non-dangerous goods complies with section 10.3.1 of the ADG Code as if the goods were dangerous goods.

Maximum penalty—

- (a) for an individual—20 penalty units, or
- (b) for a body corporate—100 penalty units.

- (3) It is a defence to a prosecution for an offence against subsection (2) that the prime contractor or rail operator complied with subsection (2) as far as practicable.

### 137 Driver's duties

- (1) A person must not drive a road tank vehicle transporting dangerous goods if the person knows, or reasonably ought to know—
- (a) for dangerous goods of UN Class 2 that are not in the form of refrigerated liquid—the quantity of goods in the tank exceeds the maximum permitted filling ratio set out in section 10.3.2 of the ADG Code, or
  - (b) otherwise—the ullage in the tank does not comply with section 10.3.1 of the ADG Code.

Maximum penalty—20 penalty units.

- (2) A person must not drive a road vehicle if—
- (a) the vehicle has a tank (**tank A**) containing goods that are not dangerous goods, and
  - (b) the vehicle at the same time contains dangerous goods in another tank or in another compartment of tank A, and
  - (c) the person knows, or reasonably ought to know, the ullage in tank A in relation to the non-dangerous goods would not comply with section 10.3.1 of the ADG Code if the goods were dangerous goods.



Maximum penalty—20 penalty units.

## **Part 11 Documentation—the Act, s 13(2)(p)**

### **Division 1 Transport documentation**

#### **138 False or misleading information**

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

Maximum penalty—

- (a) for an individual—40 penalty units, or
- (b) for a body corporate—200 penalty units.

#### **Example—**

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

#### **139 Consignor's duties—transport by road**

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

Maximum penalty—

- (a) for an individual—15 penalty units, or
  - (b) for a body corporate—75 penalty units.
- (2) A person must not consign dangerous goods for transport by road if—
    - (a) the person knows, or reasonably ought to know, the goods will be divided into, and transported in, separate loads, and
    - (b) the prime contractor, or the driver of each road vehicle transporting the load, has not been given separate transport documentation for each load.

Maximum penalty—

- (a) for an individual—15 penalty units, or
- (b) for a body corporate—75 penalty units.

#### **140 Consignor's duties—transport by rail**

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

Maximum penalty—

(a) for an individual—15 penalty units, or

(b) for a body corporate—75 penalty units.

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

#### **141 Prime contractor's duties**

A prime contractor must ensure a person does not drive a road vehicle used by the prime contractor to transport dangerous goods if—

(a) the person has not been given transport documentation for the goods, and

(b) the documentation is not readily able to be located in the vehicle in accordance with Chapter 11.1 of the ADG Code.

Maximum penalty—

(a) for an individual—20 penalty units, or

(b) for a body corporate—100 penalty units.

#### **142 Rail operator's duties**

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

Maximum penalty—

(a) for an individual—20 penalty units, or

(b) for a body corporate—100 penalty units.

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

#### **143 Driver's duties**

- (1) The driver of a road vehicle transporting dangerous goods—

(a) must carry transport documentation for the goods, and

(b) must ensure the documentation is located in the vehicle in accordance with Chapter 11.1 of the ADG Code.

Maximum penalty—15 penalty units.

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

Maximum penalty—15 penalty units.

#### **144 Train driver's duties**

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

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

Maximum penalty—15 penalty units.

- (3) A train driver transporting dangerous goods must produce the transport 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.

Maximum penalty—15 penalty units.

#### **145 Prime contractor's duties—retention of documents**

- (1) This section applies if this Regulation or the ADG Code requires a prime contractor to create or use a document in relation to the transport of dangerous goods.
- (2) The prime contractor must keep the document, or a copy of the document, for at least 3 months after the transport of the dangerous goods by the prime contractor finishes.

Maximum penalty—

- (a) for an individual—20 penalty units, or
  - (b) for a body corporate—100 penalty units.
- (3) It is a failure to comply with subsection (2) if the prime contractor—
    - (a) does not retain a legible hard copy of the document, or a legible copy of the document in electronic form, for the 3 months, or
    - (b) cannot produce, at any time during the 3 months at the request of an authorised officer, a legible hard copy of the document or a legible copy of the document in electronic form.

## **Division 2 Emergency information**

### **146 Definition**

In this Division—

***required emergency information*** means—

- (a) emergency information that complies with Chapter 11.2 of the ADG Code, or
- (b) emergency information that is approved under section 152.

### **147 Consignor's duties**

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

Maximum penalty—

- (a) for an individual—15 penalty units, or
- (b) for a body corporate—75 penalty units.

### **148 Prime contractor's duties**

A prime contractor must not use a road vehicle to transport a placard load if—

- (a) the road vehicle is not equipped with an emergency information holder that complies with Chapter 11.2 of the ADG Code, or
- (b) the required emergency information for the dangerous goods in the load is not in the holder.

Maximum penalty—

- (a) for an individual—20 penalty units, or
- (b) for a body corporate—100 penalty units.

### **149 Rail operator's duties**

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

Maximum penalty—

- (a) for an individual—20 penalty units, or
- (b) for a body corporate—100 penalty units.

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

### **150 Driver's duties**

- (1) A person must not drive a road vehicle transporting a placard load if—
- (a) the road vehicle is not equipped with an emergency information holder that complies with Chapter 11.2 of the ADG Code, or
  - (b) the required emergency information for the dangerous goods in the load provided by the consignor of the goods, or by the prime contractor for the transport of the goods, is not in the holder.

Maximum penalty—15 penalty units.

- (2) The driver of a road vehicle transporting a placard load must ensure the road vehicle's emergency information holder contains only—
- (a) the required emergency information for the dangerous goods in the load, and
  - (b) the transport documentation for the goods.

Maximum penalty—10 penalty units.

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

Maximum penalty—15 penalty units.

### **151 Train driver's duties**

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

Maximum penalty—15 penalty units.

- (2) A train driver transporting a placard load must produce the required emergency information for the dangerous goods in the load 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.

Maximum penalty—15 penalty units.

- (3) Subsections (1) and (2) do not apply if—

- (a) the train driver transporting dangerous goods is in a depot or yard or is engaged in shunting operations, and
- (b) the required emergency information for the goods is readily available elsewhere in the immediate vicinity of the depot, yard or operations.

### **152 Approvals—emergency information**

The Competent Authority may, on application in accordance with section 196 or on the Authority's own initiative, approve emergency information that does not comply with Chapter 11.2 of the ADG Code if the Authority considers the use of the information would be as accurate, and at least as convenient and efficient, as information that complies with the Chapter.

## **Division 3 Dangerous goods packed in limited quantities**

### **153 Consignor's duties**

A person must not consign dangerous goods packed in limited quantities for transport unless the person has provided the prime contractor with the information required by section 3.4.12.1 of the ADG Code in the form required by the section.

Maximum penalty—

- (a) for an individual—15 penalty units, or
- (b) for a body corporate—75 penalty units.

### **154 Prime contractor's duties**

A prime contractor who receives information under section 3.4.12.1 of the ADG Code must ensure the information is readily ascertainable during transport of the dangerous goods.

Maximum penalty—

- (a) for an individual—15 penalty units, or
- (b) for a body corporate—75 penalty units.

### **155 False or misleading information**

In providing information under section 3.4.12.1 of the ADG Code, a person must not include information the person knows, or reasonably ought to know, is false or misleading in a material particular.

Maximum penalty—

- (a) for an individual—40 penalty units, or
- (b) for a body corporate—200 penalty units.

## **Part 12 Safety equipment—the Act, s 13(2)(k)(ii)**

### **156 Owner's duties**

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

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

Maximum penalty—

- (a) for an individual—40 penalty units, or
- (b) for a body corporate—200 penalty units.

### **157 Prime contractor's duties**

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

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

Maximum penalty—

- (a) for an individual—40 penalty units, or
- (b) for a body corporate—200 penalty units.

(2) A prime contractor must not use a road vehicle to transport a placard load if the prime contractor knows, or reasonably ought to know, the equipment for the road vehicle mentioned in subsection (1)—

- (a) has not been inspected or tested in accordance with Part 12 of the ADG Code, or
- (b) is not in good repair or is not in proper working order.

Maximum penalty—

- (a) for an individual—40 penalty units, or
- (b) for a body corporate—200 penalty units.

### **158 Driver's duties**

(1) A person must not drive a road vehicle transporting a placard load if the road vehicle

is not equipped with—

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

Maximum penalty—15 penalty units.

- (2) A person must not drive a road vehicle transporting a placard load if the person knows, or reasonably ought to know, the equipment for the road vehicle mentioned in subsection (1)—

- (a) is not stowed in accordance with Part 12 of the ADG Code, or
- (b) has not been inspected or tested in accordance with Part 12 of the ADG Code, or
- (c) is not in good repair or is not in proper working order.

Maximum penalty—15 penalty units.

## **Part 13 Procedures during transport—the Act, s 13(2)(k)**

### **Division 1 Immobilised and stopped vehicles**

#### **159 Driver's duties**

- (1) This section applies if a road vehicle transporting a placard load—
- (a) is broken down or otherwise immobilised, or has stopped, on a road, and
  - (b) is a traffic hazard.
- (2) The driver of the road vehicle must alert other road users of the hazard in accordance with Part 13 of the ADG Code.

Maximum penalty—10 penalty units.

- (3) A driver does not commit an offence against subsection (2) in relation to a requirement under Part 13 of the ADG Code concerning the use of warning triangles on a road if the driver uses warning triangles in accordance with the [Road Rules 2014](#), rule 227, other than rule 227(1).

#### **160 Prime contractor's duties**

- (1) If a prime contractor knows, or reasonably ought to know, a road vehicle transporting a placard load has broken down or is otherwise immobilised on a road, the prime contractor must, as soon as practicable, ensure the road vehicle is—
- (a) repaired so it can be driven safely off the road, or



(b) towed to a place where it can be repaired.

Maximum penalty—

(a) for an individual—20 penalty units, or

(b) for a body corporate—100 penalty units.

(2) The prime contractor must also take the following steps, unless the risk involved in taking the steps is greater than the risk involved in not taking the steps—

(a) remove the dangerous goods from the road vehicle before the road vehicle is repaired or towed,

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

Maximum penalty—

(a) for an individual—20 penalty units, or

(b) for a body corporate—100 penalty units.

(3) If the road vehicle is towed while still carrying dangerous goods that would require the driver of the vehicle to hold a dangerous goods driver licence, the prime contractor must ensure the driver of the tow truck towing the vehicle—

(a) holds a dangerous goods driver licence that would authorise the driver of the tow truck to drive a vehicle with the dangerous goods, or

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

Maximum penalty—

(a) for an individual—20 penalty units, or

(b) for a body corporate—100 penalty units.

### **161 Rail operator's duties**

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

Maximum penalty—

(a) for an individual—20 penalty units, or

(b) for a body corporate—100 penalty units.

## **Division 2 General precautions—driver's duties**

### **162 Driving**

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

Maximum penalty—10 penalty units.

### **163 Parking**

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

Maximum penalty—15 penalty units.

### **164 Control of ignition sources**

(1) This section applies to a road vehicle transporting UN Division 2.1 dangerous goods, UN Class 3, 4 or 5 dangerous goods or dangerous goods with a subsidiary hazard of 2.1, 3, 4 or 5.1, if the load contains—

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

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

- (a) have matches or a cigarette lighter in the driver's possession in the road vehicle, or
- (b) smoke in the road vehicle.

Maximum penalty—40 penalty units.

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

- (a) have matches or a cigarette lighter in the person's possession, or
- (b) smoke.

Maximum penalty—40 penalty units.

### **165 Unloading**

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

Maximum penalty—40 penalty units.

#### **166 Detaching trailer**

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

Maximum penalty—40 penalty units.

#### **167 Road tank vehicle equipped with burner**

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

Maximum penalty—40 penalty units.

### **Division 3 General precautions—prime contractor's duties**

#### **168 Parking**

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

Maximum penalty—

- (a) for an individual—15 penalty units, or
- (b) for a body corporate—75 penalty units.

#### **169 Unloading**

A prime contractor must not direct or induce the driver of a road vehicle transporting a placard load to permit the dangerous goods to be unloaded from the vehicle except in accordance with Part 13 of the ADG Code.

Maximum penalty—

- (a) for an individual—40 penalty units, or
- (b) for a body corporate—200 penalty units.

#### **170 Detaching trailer**

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

Maximum penalty—

- (a) for an individual—40 penalty units, or
- (b) for a body corporate—200 penalty units.

**171 Road tank vehicle equipped with burner**

A prime contractor must not direct or induce the driver of a road vehicle that is transporting a placard load and that is equipped with a burner to heat the load, to operate the burner or to permit the burner to be operated except in accordance with Part 13 of the ADG Code.

Maximum penalty—

- (a) for an individual—40 penalty units, or
- (b) for a body corporate—200 penalty units.

**Part 14 Emergencies—the Act, s 13(2)(k)**

**Division 1 Emergencies generally**

**172 Driver's duties—road vehicles**

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

Maximum penalty—15 penalty units.

**173 Train driver's and rail operator's duties**

- (1) This section applies if a train transporting dangerous goods is involved in an incident resulting in a dangerous situation.
- (2) The driver of the train must—
  - (a) notify the rail operator and the rail infrastructure manager of the incident as soon as practicable, and
  - (b) provide reasonable assistance required by an authorised officer or an officer of an emergency service to deal with the situation.

Maximum penalty—15 penalty units.

- (3) On being notified by the train driver of the incident, both the rail operator and the rail infrastructure manager must—
- (a) notify the police or fire service of the incident as soon as practicable, and
  - (b) provide reasonable assistance required by an authorised officer or an officer of an emergency service to deal with the situation.

Maximum penalty—15 penalty units.

**174 Prime contractor's and rail operator's duties—food or food packaging**

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

Maximum penalty—

- (a) for an individual—40 penalty units, or
  - (b) for a body corporate—200 penalty units.
- (3) If the food or food packaging is within the control of a rail operator, the rail operator must—
- (a) notify the Competent Authority of the incident as soon as is practicable after the incident, and
  - (b) deal with the food or food packaging as directed by the Competent Authority.

Maximum penalty—

- (a) for an individual—40 penalty units, or
  - (b) for a body corporate—200 penalty units.
- (4) A permission under subsection (2) or a direction under subsection (3)—
- (a) must be written, and
  - (b) must state the name of the person to whom it is given, and

- (c) must identify the relevant incident, and
- (d) must identify the food or food packaging to which it relates, and
- (e) must take into consideration any requirements of the appropriate food and health authorities, and
- (f) may contain other information the Competent Authority considers necessary.

**175 Prime contractors and rail operators to inform Competent Authority**

- (1) This section applies if a vehicle transporting dangerous goods is involved in an incident resulting in a dangerous situation.
- (2) As soon as practicable, and not later than 1 hour, after becoming aware of the incident, the prime contractor or rail operator responsible for the transport of the goods must notify the Competent Authority of the incident and provide the Competent Authority with the following details about the incident—
  - (a) where the incident happened,
  - (b) the time and date of the incident,
  - (c) the nature of the incident,
  - (d) the dangerous goods being transported when the incident happened,
  - (e) other details the Competent Authority may require.

Maximum penalty—

- (a) for an individual—20 penalty units, or
  - (b) for a body corporate—100 penalty units.
- (3) Not later than 21 days after the day on which the incident happens, the prime contractor or rail operator must give to the Competent Authority a written report about the incident stating the following—
    - (a) where the incident happened,
    - (b) the time and date of the incident,
    - (c) the nature of the incident,
    - (d) what the driver believes to be the likely cause of the incident,
    - (e) what the prime contractor or rail operator believes to be the likely cause of the incident,
    - (f) the dangerous goods being transported when the incident happened,

- (g) the measures taken to control a leak, spill or accidental escape of dangerous goods and a fire or explosion arising out of the incident,
- (h) the measures taken after the incident in relation to the dangerous goods involved in the incident.

Maximum penalty—

- (a) for an individual—20 penalty units, or
- (b) for a body corporate—100 penalty units.

## **Division 2 Emergencies involving placard loads**

### **176 Telephone advisory service**

- (1) A prime contractor or rail operator must not transport either of the following if a telephone advisory service is not available during the journey—
  - (a) a load containing dangerous goods in a receptacle with a capacity of more than 500L,
  - (b) a load containing more than 500kg of dangerous goods in a receptacle.

Maximum penalty—

- (a) for an individual—40 penalty units, or
- (b) for a body corporate—200 penalty units.

- (2) A person must not consign either of the following if a telephone advisory service is not available during the journey—
  - (a) a load containing dangerous goods in a receptacle with a capacity of more than 500L,
  - (b) a load containing more than 500kg of dangerous goods in a receptacle.

Maximum penalty—

- (a) for an individual—40 penalty units, or
- (b) for a body corporate—200 penalty units.

- (3) A telephone advisory service may be provided by the prime contractor, rail operator or consignor, or someone else for the prime contractor, rail operator or consignor.
- (4) In this section—

**telephone advisory service**, for the transport of dangerous goods, means a service providing access by a continuously monitored telephone not located on the carrying

vehicle or train to a person competent to give advice about—

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

### **177 Emergency plans**

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

Maximum penalty—

- (a) for an individual—40 penalty units, or
- (b) for a body corporate—200 penalty units.

- (2) On becoming aware of a dangerous situation involving a placard load, the prime contractor or rail operator transporting the load must do everything the emergency plan for the transport of the load requires the prime contractor or rail operator to do that is relevant to the situation.

Maximum penalty—

- (a) for an individual—40 penalty units, or
- (b) for a body corporate—200 penalty units.

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

Maximum penalty—

- (a) for an individual—40 penalty units, or
- (b) for a body corporate—200 penalty units.

- (4) On becoming aware of a dangerous situation involving a placard load, the consignor of the load must do everything the emergency plan for the transport of the load requires the consignor to do that is relevant to the situation.



Maximum penalty—

- (a) for an individual—40 penalty units, or
- (b) for a body corporate—200 penalty units.

(5) In this section—

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

### **178 Consignor's duties—information and resources**

- (1) This section applies if a vehicle transporting a placard load is involved in an incident resulting in a dangerous situation.
- (2) As soon as practicable after being asked by an authorised officer or an officer of an emergency service, the consignor of the goods must—
  - (a) give the officer information 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.

Maximum penalty—

- (a) for an individual—20 penalty units, or
- (b) for a body corporate—100 penalty units.

- (3) If both the consignor of the dangerous goods and the prime contractor or rail operator are asked to give the same information or provide the same resources for the incident, it is sufficient if one of the following gives the information or provides the resources—
  - (a) the consignor,
  - (b) the prime contractor or rail operator.

### **179 Prime contractor's and rail operator's duties—information and resources**

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

Maximum penalty—

- (a) for an individual—20 penalty units, or
  - (b) for a body corporate—100 penalty units.
- (3) If both the consignor of the dangerous goods and the prime contractor or rail operator are asked to give the same information or provide the same resources for the incident, it is sufficient if one of the following gives the information or provides the resources—
    - (a) the consignor,
    - (b) the prime contractor or rail operator.

## **Part 15 Mutual recognition—the Act, s 13**

### **Division 1 Registers of determinations, exemptions, approvals and licences—the Act, s 13(2)(aa)**

#### **180 Registers**

Each of the following registers is a **register** for the purposes of this Regulation—

- (a) the register of determinations kept under section 27,
- (b) the register of exemptions kept under section 191,
- (c) the register of approvals kept under section 207,
- (d) the register of dangerous goods driver licences kept under section 248(1),
- (e) the register of dangerous goods vehicle licences kept under section 248(2).

### **181 Registers may be kept electronically**

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

### **182 Inspection of registers**

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

## **Division 2 Recommendations by Competent Authority and corresponding authorities—the Act, s 13(2)(u)**

### **183 Recommendations by Competent Authority**

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

(c) an exemption.

#### **184 Recommendations by corresponding authorities**

- (1) This section applies if a corresponding authority makes a written recommendation to the Competent Authority that the Competent Authority do any of the following—
  - (a) revoke or vary a determination that is not an administrative determination,
  - (b) cancel or vary an administrative determination,
  - (c) cancel or vary an approval or exemption,
  - (d) cancel, suspend or vary a dangerous goods driver licence or dangerous goods vehicle licence.
- (2) If the recommendation is about one of the following that has effect in one or more other participating jurisdictions, the Competent Authority need not take action on the recommendation until CAP has considered the recommendation—
  - (a) a determination, other than an administrative determination,
  - (b) an approval,
  - (c) an exemption.
- (3) Otherwise, the Competent Authority must have regard to the recommendation.

### **Division 3 Mutual recognition of determinations, exemptions, approvals and licences—the Act, s 13(2)(u) and (w)**

#### **185 Corresponding determinations**

- (1) This section applies to a determination made by a corresponding authority if—
  - (a) the determination is made under a provision of the law of the other jurisdiction corresponding to a provision (the **relevant provision**) of one of the following sections—
    - (i) section 22 (Determinations—dangerous goods and packaging—the Act, s 13(2)(c)),
    - (ii) section 23 (Determinations—vehicles, routes, areas and times—the Act, s 13(2)(c)(iv) and (v)), and
  - (b) the determination has effect in the other jurisdiction, and
  - (c) either of the following applies—
    - (i) CAP has decided the determination should have effect in all participating

jurisdictions or participating jurisdictions including New South Wales and CAP has not reversed the decision,

(ii) the determination is an administrative determination.

(2) The determination has effect in New South Wales as if it were a determination made by the Competent Authority under the relevant provision.

**Note—**

A register of corresponding determinations is kept on the website of the Competent Authorities Panel—[www.infrastructure.gov.au/transport/australia/dangerous/competent\\_authorities.aspx](http://www.infrastructure.gov.au/transport/australia/dangerous/competent_authorities.aspx).

### **186 Corresponding exemptions**

(1) This section applies to an exemption granted by a corresponding authority if—

(a) the exemption is granted for a provision of the law of the other jurisdiction corresponding to a provision (the **relevant provision**) of this Regulation, and

(b) the exemption has effect in the other jurisdiction, and

(c) CAP has decided the exemption should have effect in all participating jurisdictions or participating jurisdictions including New South Wales and CAP has not reversed the decision.

(2) The exemption has effect in New South Wales as if it were an exemption granted by the Competent Authority for the relevant provision for 10 years after the day on which CAP made its decision unless—

(a) the decision is sooner reversed by CAP, or

(b) the exemption is sooner cancelled or varied by the corresponding authority, or

(c) the exemption sooner expires or otherwise ceases to have effect.

**Note—**

A register of corresponding exemptions is kept on the website of the Competent Authorities Panel—[www.infrastructure.gov.au/transport/australia/dangerous/competent\\_authorities.aspx](http://www.infrastructure.gov.au/transport/australia/dangerous/competent_authorities.aspx).

### **187 Corresponding approvals**

(1) This section applies to an approval given in another jurisdiction by a corresponding authority 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 sections—

(i) section 21 (Approvals—tests and training courses for drivers),

- (ii) section 48 (Approval of packaging designs),
  - (iii) section 51 (Approval of overpack preparation method),
  - (iv) section 126 (Approvals—Type II segregation devices),
  - (v) section 127 (Approvals—methods of segregation),
  - (vi) section 152 (Approvals—emergency information),
  - (vii) section 268 (Approvals—insurance), and
- (b) the approval has effect in the other jurisdiction, and
- (c) CAP has decided the approval should have effect in all participating jurisdictions or participating jurisdictions including New South Wales and CAP has not reversed the decision.
- (2) The approval has effect in New South Wales as if it were an approval given by the Competent Authority under the relevant provision.

**Note—**

A register of corresponding approvals is kept on the website of the Competent Authorities Panel—[www.infrastructure.gov.au/transport/australia/dangerous/competent\\_authorities.aspx](http://www.infrastructure.gov.au/transport/australia/dangerous/competent_authorities.aspx).

**188 Corresponding licences**

- (1) This section applies to a licence granted for road transport in another jurisdiction if—
- (a) the licence is a licence granted under a provision of the law of the other jurisdiction corresponding to section 226 or 236 (the **relevant provision**), and
  - (b) the licence has effect in the other jurisdiction.
- (2) Subject to subsection (3), the licence has effect in New South Wales as if it were a licence granted by the Competent Authority under the relevant provision.
- (3) Conditions or other provisions attached to the licence under the law of the other jurisdiction do not have effect in New South Wales unless the law of New South Wales provides for a corresponding condition or provision to attach to a licence granted under section 226 or 236.

**189 Reference of determination, exemption or approval to CAP for the purposes of mutual recognition**

The Competent Authority may refer to CAP a determination, exemption or approval made by a corresponding authority if the Competent Authority considers the determination, exemption or approval should be given effect in all participating jurisdictions, or participating jurisdictions including New South Wales, for the purposes of sections

185–187.

## **Part 16 Exemptions—the Act, s 13(2)(e), (z) and (aa)**

### **Note—**

For other provisions about exemptions, see the Act, Part 6.

## **Division 1 General**

### **190 Applications for exemptions**

- (1) An application for an exemption must—
  - (a) be made in writing to the Competent Authority, and
  - (b) be signed and dated by or for the applicant, and
  - (c) state the applicant’s name and address, and
  - (d) state the name of the person to whom, or the name or a description of the class of persons to which, the application relates, and
  - (e) specify the provisions of this Regulation, 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 provisions is not reasonably practicable, and
  - (h) state why, in the applicant’s opinion, the exemption is not likely to involve a greater risk than the risk involved in complying with the provisions, and
  - (i) if the application relates to a vehicle, equipment, packaging or other thing—describe the thing, and
  - (j) state the period for which the exemption is sought, and
  - (k) state the geographical area within which the exemption is to have effect, and
  - (l) be accompanied by the fee prescribed in Schedule 1.
- (2) The Competent Authority may, by written notice, require the applicant to give the Authority additional information necessary for a proper consideration of the application.

### **191 Register of exemptions**

- (1) The Competent Authority must keep a register of exemptions.

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

**Note—**

A register of corresponding exemptions is kept on the website of the Competent Authorities Panel—[www.infrastructure.gov.au/transport/australia/dangerous/competent\\_authorities.aspx](http://www.infrastructure.gov.au/transport/australia/dangerous/competent_authorities.aspx).

## **192 Records of exemptions**

The record of an exemption in the register must include—

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

## **Division 2 Reference of matters to CAP**

### **193 References to CAP**

- (1) The Competent Authority must refer an application for an exemption, or an exemption it has granted, to CAP if the Authority considers the exemption should have effect in all participating jurisdictions or participating jurisdictions including New South Wales.
- (2) The Competent Authority must refer to CAP an exemption having effect in New South Wales and 1 or more other participating jurisdictions, if—
  - (a) the Authority considers the exemption should be cancelled or varied, or
  - (b) a corresponding authority makes a written recommendation to the Competent



Authority that the exemption should be cancelled or varied.

#### **194 Effect of CAP decisions about exemptions**

- (1) This section applies if—
  - (a) an application for an exemption, or an exemption, is referred to CAP under section 193(1), and
  - (b) CAP decides—
    - (i) the exemption should be granted, what the terms of the exemption should be and the exemption should have effect in all participating jurisdictions or participating jurisdictions including New South Wales, or
    - (ii) the exemption should not have effect in New South Wales.
- (2) The Competent Authority must have regard to CAP's decision.

#### **195 Effect of CAP decisions about cancelling or varying exemptions**

- (1) This section applies if—
  - (a) an exemption is referred to CAP under section 193(2), and
  - (b) CAP decides the exemption—
    - (i) should or should not be cancelled, or
    - (ii) should be varied, whether or not CAP's decision is the same as the variation proposed by the Competent Authority, and should have effect as varied in all participating jurisdictions or participating jurisdictions including New South Wales, or
    - (iii) should not be varied.
- (2) The Competent Authority must have regard to CAP's decision.

### **Part 17 Administrative determinations and approvals—the Act, s 13(2)(aa)-(ac)**

#### **Note—**

For provisions about determinations generally see this Regulation, Part 1, Division 4.

### **Division 1 General**

#### **196 Applications—the Act, s 13(2)(e)**

- (1) An application for an administrative determination or approval, or for the variation of an administrative determination or approval, must—

- (a) be made to the Competent Authority in writing, and
  - (b) be accompanied by the fee prescribed in Schedule 1.
- (2) An application for the variation of an administrative determination or approval must have the determination or approval with it.
- (3) The Competent Authority may, by written notice, require an applicant to give the Authority additional information necessary for a proper consideration of the application.

### **197 Form of administrative determinations and approvals**

An administrative determination, or an approval given on application, must be written.

### **198 When administrative determinations and approvals not to be made**

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

### **199 Reasons for refusal of applications**

- (1) This section applies if the Competent Authority refuses an application to—
- (a) make or vary an administrative determination, or
  - (b) grant or vary an approval under this Regulation.
- (2) The Competent Authority must give the applicant written notice of the refusal and of the reasons for the refusal.

### **200 Periods and conditions**

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

### **201 Replacement administrative determinations and approvals**

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 the determination or approval has been defaced, destroyed, lost or stolen.

## 202 Grounds for cancelling administrative determinations and approvals

- (1) The Competent Authority may cancel an administrative determination or approval if the application for the determination or approval—
  - (a) did not comply with this Regulation, or
  - (b) was false or misleading in a material particular.
- (2) The Competent Authority may cancel an administrative determination or approval 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) The Competent Authority may cancel an administrative determination or approval 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 this Regulation, or
  - (b) a provision of the law in force in another participating jurisdiction corresponding to a provision mentioned in paragraph (a).

- (4) In subsection (2)—

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

## 203 Grounds for varying administrative determinations and approvals

- (1) The Competent Authority may vary an administrative determination or approval if the application for the determination or approval—
  - (a) did not comply with this Regulation, or
  - (b) was false or misleading in a material particular.
- (2) The Competent Authority may vary an administrative determination or approval 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) The Competent Authority may vary an administrative determination or approval 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 this Regulation, or
  - (b) a provision of the law in force in another participating jurisdiction corresponding to a provision mentioned in paragraph (a).
- (4) If an administrative determination applies to more than one person, the Competent Authority may vary the determination by removing the name of a person who is unsuitable as described in subsection (3), even if the person was the original applicant for the determination.
- (5) In subsection (2)—

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

## **Division 2 Reference of determinations to CAP**

### **204 References to CAP**

- (1) The Competent Authority must refer an application for a determination, or a determination it has made, to CAP if the Authority considers the determination should have effect in all participating jurisdictions or participating jurisdictions including New South Wales.
- (2) The Competent Authority must refer to CAP a determination having effect in New South Wales and one or more other participating jurisdictions if—
  - (a) the Authority considers the determination should be cancelled or varied, or
  - (b) a corresponding authority makes a written recommendation to the Competent Authority that the determination should be cancelled or varied.

### **205 Effect of CAP decisions about determinations**

- (1) This section applies if—
  - (a) an application for a determination, or a determination, is referred to CAP under

section 204(1), and

(b) CAP decides—

- (i) the determination should be given, what the terms of the determination should be and that the determination should have effect in all participating jurisdictions or participating jurisdictions including New South Wales, or
- (ii) the determination should not have effect in New South Wales.

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

### **206 Effect of CAP decisions about cancelling or varying determinations**

(1) This section applies if—

(a) a determination is referred to CAP under section 204(2), and

(b) CAP decides the determination—

- (i) should be varied, whether or not CAP'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 New South Wales, or
- (ii) should not be varied.

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

## **Division 3 Register of approvals**

### **207 Register**

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

#### **Note—**

A register of corresponding approvals is kept on the website of the Competent Authorities Panel—  
[www.infrastructure.gov.au/transport/australia/dangerous/competent\\_authorities.aspx](http://www.infrastructure.gov.au/transport/australia/dangerous/competent_authorities.aspx).

### **208 Records of approvals**

The record of an approval in the register must include—

- (a) the terms of the approval, or

(b) the following information—

- (i) the name of the person to whom the approval was given,
- (ii) the date the approval was given,
- (iii) the provisions of this Regulation, and of the ADG Code, to which the approval relates,
- (iv) the period for which the approval has effect,
- (v) the dangerous goods, equipment, packaging, vehicle or other thing to which the approval relates.

## **Division 4 Reference of approval matters to CAP**

### **209 References to CAP**

- (1) The Competent Authority must refer an application for an approval, or an approval it has given, to CAP if the Authority considers that the approval should have effect in all participating jurisdictions or participating jurisdictions including New South Wales.
- (2) The Competent Authority must refer to CAP an approval having effect in New South Wales and 1 or more other participating jurisdictions if—
  - (a) the Authority considers the approval should be cancelled or varied, or
  - (b) a corresponding authority makes a written recommendation to the Competent Authority that the approval should be cancelled or varied.

### **210 Effect of CAP decisions about approvals**

- (1) This section applies if—
  - (a) an application for an approval, or an approval, is referred to CAP under section 209(1), and
  - (b) CAP decides—
    - (i) the approval should be given, what the terms of the approval should be and that the approval should have effect in all participating jurisdictions or participating jurisdictions including New South Wales, or
    - (ii) the approval should not have effect in New South Wales.
- (2) The Competent Authority must have regard to CAP's decision.

### **211 Effect of CAP decisions about cancelling or varying approvals**

- (1) This section applies if—

- (a) an approval is referred to CAP under section 209(2), and
  - (b) CAP decides the approval—
    - (i) should or should not be cancelled, or
    - (ii) should be varied, whether or not CAP'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 New South Wales, or
    - (iii) should not be varied.
- (2) The Competent Authority must have regard to CAP's decision.

## **Division 5 Cancellation and variation**

### **212 Cancellation and variation in dangerous situations**

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

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

### **213 Cancellation giving effect to court orders**

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

### **214 Variation of administrative determinations and approvals on application**

- (1) This section applies if—
  - (a) an application is made to vary an administrative determination or an approval, and
  - (b) the application is made in accordance with section 196 by the person to whom the determination applies or to whom the approval is given.
- (2) The Competent Authority may vary the determination or approval in accordance with the application.

## **215 Cancellation and variation in other circumstances**

- (1) This section applies if—
  - (a) the Competent Authority considers a ground exists to cancel or vary an administrative determination or an approval (the **proposed action**), and
  - (b) sections 212–214 do not apply to the proposed action.
- (2) The Competent Authority must give a written notice to the person to whom the determination applies, or the approval was given, that—
  - (a) states what the proposed action is, and
  - (b) if the proposed action is to vary the determination or approval—sets out the proposed variation, and
  - (c) sets out the ground for the proposed action, and
  - (d) outlines the facts and other circumstances forming the basis for the ground, and
  - (e) invites the person to state in writing, within a specified period of at least 28 days after the day on which the notice is given to the person, why the proposed action should not be taken.
- (3) If, after considering a written statement made within the specified period, the Competent Authority reasonably believes a ground exists to take the proposed action, the Authority may—
  - (a) cancel or vary the determination or approval, or
  - (b) if the proposed action is to vary the determination or approval in a specified way—vary the determination or approval in that way.

## **216 When cancellation and variation take effect**

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

- (a) the day on which the person to whom the determination applies, or the approval was given, is 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 specified in the notice.



## **Part 18 Licences—the Act s 13(2)(I)**

### **Division 1 Preliminary**

#### **217 Definition**

In this Part—

**licensing authority** means—

- (a) the Competent Authority, or
- (b) a person or body authorised by the Competent Authority to issue licences under this Part.

#### **218 Application of Part**

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

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

#### **219 Part additional to other laws**

This Part is in addition to other laws in force in New South Wales 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 Vehicles and drivers to be licensed under this Part**

#### **220 Vehicles to be licensed**

- (1) A road vehicle must not be used to transport either of the following unless the vehicle is licensed under this Part to transport the goods—
  - (a) dangerous goods in a receptacle with a capacity of more than 500L,
  - (b) more than 500kg of dangerous goods in a receptacle.
- (2) If the Competent Authority has, under section 23, determined a vehicle that is not

licensed under this Part may be used to transport the dangerous goods described in subsection (1), the vehicle may be used to transport the goods without complying with the subsection.

### **221 Drivers to be licensed**

A person must not drive a road vehicle transporting either of the following unless the person holds a dangerous goods driver licence that authorises the person to drive the vehicle with the goods—

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

## **Division 3 Dangerous goods driver licences**

### **222 Applications for licences—the Act, s 13(2)(e)**

- (1) A person resident in New South Wales who is not the holder of a dangerous goods driver licence or a corresponding dangerous goods driver licence may apply to the licensing authority for a dangerous goods driver licence if the person holds a driver licence.
- (2) The application must be accompanied by—
  - (a) the driver licence evidence required by section 223, and
  - (b) the competency evidence required by section 224, and
  - (c) the medical fitness evidence required by section 225, and
  - (d) a passport-sized photograph of the applicant's face taken not more than 6 months before the day on which the application is made, and
  - (e) the fee prescribed in Schedule 1.

### **223 Required driver licence evidence**

- (1) The following documents are required as driver licence evidence for an application for the grant or renewal of a dangerous goods driver licence—
  - (a) a current certified extract of entries about the applicant in the driver licences register kept by the driver licensing authority in each jurisdiction where the applicant has held a licence to drive,
  - (b) the document mentioned in subsection (2) or the authorisation mentioned in subsection (3).
- (2) For the purposes of subsection (1)(b), the document is a copy, certified by the appropriate authority of the jurisdiction where the applicant was convicted, of the

records of any conviction of the applicant for a driving offence.

- (3) For the purposes of subsection (1)(b), the authorisation is the authorisation by the applicant for the licensing authority to have access to—
- (a) entries about the applicant in the driver licences register of any State or Territory, and
  - (b) records of any conviction of the applicant for a driving offence in any State or Territory.

- (4) In this section—

**current certified extract** means an extract certified by the driver licensing authority not more than 6 months before the day on which the application is made.

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

#### 224 Required competency evidence

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

- (3) In this section—

**approved test** means a test that is approved under section 21(1)(a).

**approved training course** means a training course that is approved under section 21(1)(b).

#### 225 Required medical fitness evidence

- (1) The certificate mentioned in subsection (2) is required as medical fitness evidence for an application for the grant or renewal of a dangerous goods driver licence.
- (2) The certificate must be—
- (a) about the medical fitness of the applicant to drive a road vehicle, and

- (b) issued by a registered medical practitioner who, not more than 6 months before the day on which the application is made, examined and passed the applicant in accordance with the standards in *Assessing Fitness to Drive for Commercial and Private Vehicle Drivers—Medical Standards for Licensing and Clinical Management Guidelines* published by Austroads and the National Transport Commission, as in force at the time of the examination.

## **226 Grant of dangerous goods driver licences**

- (1) The licensing authority must grant a dangerous goods driver licence if—
  - (a) an application is made to the authority for the licence, and
  - (b) the application is accompanied by the documents required by section 222 and otherwise complies with section 222.
- (2) However, the licensing authority must not grant the licence if—
  - (a) in the 5 years before the day on which the application is made—
    - (i) the applicant has been found guilty by a court in Australia of an offence against the Act or this Regulation that makes the applicant unsuitable to be the driver of a vehicle transporting dangerous goods, or
    - (ii) the applicant's driver licence has been cancelled or suspended on a ground that makes the applicant unsuitable to be the driver of a vehicle transporting dangerous goods, or
  - (b) the applicant is subject to a court order prohibiting the applicant from involvement in the transport of dangerous goods by road.
- (3) If the licensing authority refuses to grant a dangerous goods driver licence, it must give the applicant written notice of the refusal and of the reasons for the refusal.

## **227 Applications for renewal of licences—the Act, s 13(2)(e)**

- (1) A person who holds a dangerous goods driver licence may apply to the licensing authority for the renewal of the licence.
- (2) The application must be accompanied by—
  - (a) the driver licence evidence required by section 223, and
  - (b) the competency evidence required by section 224, and
  - (c) the medical fitness evidence required by section 225, and
  - (d) a passport-sized photograph of the applicant's face taken not more than 6 months before the day on which the application is made, and

- (e) the fee prescribed in Schedule 1.

### **228 Renewal of licences**

- (1) The licensing authority must renew a dangerous goods driver licence if—
  - (a) an application is made to it for renewal of the licence, and
  - (b) the application is accompanied by the documents required by section 227 and otherwise complies with section 227.
- (2) However, the licensing authority must not renew the licence if—
  - (a) while the licence had effect—
    - (i) the applicant was found guilty by a court in Australia of an offence against the Act or this Regulation that makes the applicant unsuitable to be the driver of a vehicle transporting dangerous goods, or
    - (ii) the applicant's driver licence has been cancelled or suspended on a ground that makes the applicant unsuitable to be the driver of a vehicle transporting dangerous goods, or
  - (b) the applicant is subject to a court order prohibiting the applicant from involvement in the transport of dangerous goods by road.
- (3) If the licensing authority refuses to renew a dangerous goods driver licence, it must give the applicant written notice of the refusal and of the reasons for the refusal.

### **229 Licence periods**

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

### **230 Licence conditions**

- (1) The licensing authority may grant or renew a dangerous goods driver licence subject to conditions mentioned in subsections (3) and (4).
- (2) A condition to which the licence is subject must be stated in the licence.
- (3) The licence may be subject to conditions about—
  - (a) the dangerous goods that may or may not be transported in or on a road vehicle

driven by the licensee, and

- (b) the packaging that may or may not be used to transport dangerous goods in or on a road vehicle driven by the licensee, and
  - (c) the road vehicles that may be driven by the licensee in transporting dangerous goods, and
  - (d) the areas where the licensee may or may not drive a road vehicle transporting dangerous goods or particular dangerous goods, and
  - (e) the supervision of the licensee when driving a road vehicle transporting dangerous goods.
- (4) The licence may be subject to other condition necessary for the safe transport of dangerous goods by road.

**231 Additional condition—certification of medical fitness**

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

**232 Grounds for cancelling, suspending or varying licences**

- (1) A dangerous goods driver licence may be cancelled, suspended or varied if the application for the licence or an application for its renewal—
- (a) did not comply with this Regulation, or
  - (b) was false or misleading in a material particular.
- (2) A dangerous goods driver licence may be cancelled or varied if the licensee is

unsuitable to continue to be the driver of a road vehicle transporting dangerous goods because—

(a) the licensee has contravened—

(i) a provision of the Act or this Regulation, or

(ii) a provision of the law in force in another participating jurisdiction corresponding to a provision mentioned in subparagraph (i), or

(b) the licensee has been found guilty by a court in Australia of an offence, or

(c) the licensee's driver licence is cancelled, or

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

## **Division 4 Dangerous goods vehicle licences**

### **233 Definition**

In this Division—

**vehicle** does not include—

(a) a prime mover, or

(b) a converter dolly, as defined in the [Road Transport \(Vehicle Registration\) Regulation 2017](#).

**Note—**

The Regulation defines a converter dolly as a trailer with 1 axle group or single axle and a fifth wheel coupling, designed to convert a semi-trailer into a dog trailer.

### **234 Applications for licences—the Act, s 13(2)(e)**

(1) A person may apply to the licensing authority for a dangerous goods vehicle licence for a road vehicle—

(a) used or intended to be used in transporting dangerous goods, and

(b) for which the person does not hold a dangerous goods vehicle licence.

(2) The application must include the following information—

(a) the registration number, make and type of the road vehicle,

(b) the type of dangerous goods intended to be transported in or on the road vehicle,

(c) if the applicant holds a dangerous goods vehicle licence for another vehicle—the number of the other dangerous goods vehicle licence.

- (3) The application must be accompanied by the fee prescribed in Schedule 1.
- (4) An application may be made for licences for 2 or more road vehicles in the same form.

### **235 Additional information and inspections**

- (1) The licensing authority may, by written notice, require an applicant for a dangerous goods vehicle licence, or for the renewal of a dangerous goods vehicle licence, for a vehicle—
  - (a) to give the authority, or 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 specified place and time.
- (2) A person who inspects a vehicle for the licensing authority must give a report of the inspection to the authority as soon as practicable after the inspection.
- (3) The licensing authority must give a copy of a report of an inspection to the applicant if the applicant asks for it.

### **236 Grant of dangerous goods vehicle licences**

- (1) Subject to subsection (3), the licensing authority must grant a dangerous goods vehicle licence for a road vehicle if—
  - (a) an application is made to the authority for the licence, and
  - (b) the application complies with section 234, and
  - (c) the applicant has complied with a requirement made under section 235 in relation to the application, and
  - (d) the road vehicle is suitable to transport each type of dangerous goods intended to be transported in or on the road vehicle.
- (2) Without limiting subsection (1)(d), if a road vehicle is intended for use in the transport of dangerous goods in the form of a liquid or gas using a tank that will form part of the vehicle or be attached to it, the vehicle is suitable only if—
  - (a) the tank is an approved tank, and
  - (b) the vehicle complies with the requirements of Chapters 4.4 and 6.10 of the ADG Code applying to road vehicles for use in transporting dangerous goods in the form of a liquid or gas.
- (3) However, the licensing authority must not grant the licence if the applicant is subject to a court order prohibiting the applicant from involvement in the transport of



dangerous goods by road.

- (4) The licensing authority may issue a single dangerous goods vehicle licence for more than 1 road vehicle.
- (5) If the licensing authority refuses to grant a dangerous goods vehicle licence, the authority must give the applicant written notice of the refusal and of the reasons for the refusal.

### **237 Applications for renewal of licences—the Act, s 13(2)(e)**

- (1) A person who holds a dangerous goods vehicle licence for a road vehicle may apply to the licensing authority for the renewal of the licence.
- (2) The application must include information required under section 234(2) for an application for the grant of a dangerous goods vehicle licence for the road vehicle.
- (3) The application must be accompanied by the fee prescribed in Schedule 1.

### **238 Renewal of licences**

- (1) Subject to subsection (3), the licensing authority must renew a dangerous goods vehicle licence for a road vehicle if—
  - (a) an application is made to the authority for the renewal of the licence, and
  - (b) the application complies with section 237, and
  - (c) the applicant has complied with a requirement made under section 235 in relation to the application, and
  - (d) the road vehicle is suitable to transport each type of dangerous goods intended to be transported in or on the road vehicle.
- (2) Without limiting subsection (1)(d), if a road vehicle is intended for use in the transport of dangerous goods in the form of a liquid or gas using a tank that will form part of the vehicle or be attached to it, the vehicle is suitable only if—
  - (a) the tank is an approved tank, and
  - (b) the vehicle complies with the requirements of Chapters 4.4 and 6.10 of the ADG Code applying to road vehicles for use in transporting dangerous goods in the form of a liquid or gas.
- (3) However, the licensing authority must not renew the licence if the applicant is subject to a court order prohibiting the applicant from involvement in the transport of dangerous goods by road.
- (4) The licensing authority may issue a single dangerous goods vehicle licence for more

than 1 road vehicle.

- (5) If the licensing authority refuses to renew a dangerous goods vehicle licence, the authority must give the applicant written notice of the refusal and of the reasons for the refusal.

**238A Application to amend a licence to add or replace a vehicle**

- (1) A person may apply to the licensing authority to amend a dangerous goods vehicle licence for a road vehicle to—
  - (a) add an additional vehicle to the licence, or
  - (b) replace a road vehicle previously listed on the licence with a different vehicle.
- (2) The application must be accompanied by the fee prescribed in Schedule 1.
- (3) The application must include information required under section 234(2) for an application for the grant of a dangerous goods vehicle licence for the road vehicle.
- (4) Section 235 extends to an application under this section.
- (5) To avoid doubt, Division 7 does not apply to an application under this section.

**238B Adding or replacing vehicle on licence**

- (1) Subject to subsection (3), the licensing authority may amend a dangerous goods vehicle licence by adding or replacing a vehicle on the licence if—
  - (a) an application is made to the authority for the amendment, and
  - (b) the application complies with section 238A, and
  - (c) the applicant has complied with a requirement made under section 235, applying by operation of section 238A(4), in relation to the application, and
  - (d) the additional or replacement road vehicle is suitable to transport each type of dangerous goods intended to be transported in or on the road vehicle.
- (2) Without limiting subsection (1)(d), if an additional or replacement road vehicle is intended for use in the transport of dangerous goods in the form of a liquid or gas using a tank that will form part of the vehicle or be attached to it, the vehicle is suitable only if—
  - (a) the tank is an approved tank, and
  - (b) the vehicle complies with the requirements of Chapters 4.4 and 6.10 of the ADG Code applying to road vehicles for use in transporting dangerous goods in the form of a liquid or gas.

- (3) However, the licensing authority must not amend the licence if the applicant is subject to a court order prohibiting the applicant from involvement in the transport of dangerous goods by road.
- (4) If the licensing authority refuses to amend the licence, the authority must give the applicant written notice of the refusal and of the reasons for the refusal.

### **239 Licence periods**

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

### **240 Licence conditions**

- (1) The licensing authority may grant or renew a dangerous goods vehicle licence subject to conditions mentioned in subsections (3) and (4).
- (2) A condition to which the licence is subject must be stated in the licence.
- (3) The licence may be subject to conditions about—
  - (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) required inspections of the vehicle.
- (4) The licence may be subject to any other condition necessary for the safe transport of dangerous goods by road.

### **241 Disposal and transfer of licensed vehicles—the Act, s 13(2)(e)**

- (1) Within 21 days after transferring possession, other than by business transfer, or otherwise disposing of a licensed vehicle (the **disposed vehicle**), the person who holds the licence for the vehicle must give the licensing authority notice of the disposal.

Maximum penalty—

- (a) for an individual—10 penalty units, or
- (b) for a body corporate—50 penalty units.

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

Maximum penalty—

- (a) for an individual—10 penalty units, or
- (b) for a body corporate—50 penalty units.

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

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

Maximum penalty—

- (a) for an individual—10 penalty units, or
- (b) for a body corporate—50 penalty units.

- (4) On receipt of a licence for a disposed vehicle, the licensing authority must—

- (a) if the licence also relates to another vehicle—
  - (i) amend the licence by omitting reference to the disposed vehicle, and
  - (ii) return the licence to the person who gave the licence to the authority, or
- (b) if paragraph (a) does not apply—cancel the licence.

- (5) Within 21 days after the business transfer of a vehicle for which a dangerous goods vehicle licence has been granted, the person to whom the vehicle has been transferred must make an application to the licensing authority, accompanied by the licence and the fee prescribed in Schedule 1, for the transfer of the licence to the person.

Maximum penalty—

- (a) for an individual—10 penalty units, or
- (b) for a body corporate—50 penalty units.

- (6) On receipt of the application, licence and fee, the licensing authority must amend the licence to record the change in who holds the licence and return the licence.

- (7) Subsection (6) does not apply if the person to whom the licence was to have been transferred is ineligible to hold the licence.

(8) In this section—

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

#### **242 Grounds for cancelling, suspending or varying licences**

- (1) The licensing authority may cancel, suspend or vary a dangerous goods vehicle licence if the application for the licence or an application for its renewal—
  - (a) did not comply with this Regulation, or
  - (b) was false or misleading in a material particular.
- (2) The licensing authority may cancel, suspend or vary a dangerous goods vehicle licence for a road vehicle if the road vehicle does not comply with the Act or this Regulation.

### **Division 5 Requirements relating to dangerous goods driver licences**

#### **243 Licences to be carried**

- (1) The holder of a dangerous goods driver licence must carry the licence when driving a road vehicle transporting—
  - (a) dangerous goods in a receptacle with a capacity of more than 500L, or
  - (b) more than 500kg of dangerous goods in a receptacle.

Maximum penalty—10 penalty units.
- (2) A driver of a road vehicle transporting dangerous goods who is required to carry a dangerous goods driver licence under subsection (1) must, on request, produce the licence for inspection by an authorised officer or an officer of an emergency service.

Maximum penalty—10 penalty units.

### **Division 6 Licences generally**

#### **244 Definitions**

In this Division—

**licence** means—

- (a) a dangerous goods driver licence, or
- (b) a dangerous goods vehicle licence.

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

#### **245 Replacement licences**

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

#### **246 Failure to comply with licence conditions**

A licensee must not contravene a condition of the licensee's licence.

Maximum penalty—40 penalty units.

#### **247 Surrender of licences**

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

#### **248 Registers of licences**

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

#### **249 Records of licences**

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

- (a) the name of the licensee,
- (b) the date on which the licence was granted or renewed,
- (c) the period for which the licence was granted or renewed or the expiry date of the licence,
- (d) for a dangerous goods driver licence—the licensee's date of birth,

- (e) for a dangerous goods vehicle licence—the registration number, make and type of each road vehicle to which the licence relates,
- (f) the classes of dangerous goods for which the licence is valid,
- (g) any condition to which the licence is subject.

#### **250 Change of information given in licence applications**

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

Maximum penalty—

- (a) for an individual—10 penalty units, or
- (b) for a body corporate—50 penalty units.

#### **251 Production of licences to licensing authority**

- (1) The licensing 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 licensing authority within 14 days after the day on which the notice is given to the person.

Maximum penalty—

- (a) for an individual—10 penalty units, or
- (b) for a body corporate—50 penalty units.

#### **252 Return of licences**

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

the licensee.

- (5) However, if the licence period has ended, the licensing authority is not required to return the licence to the licensee.

## **Division 7 Cancellation, suspension and variation**

### **253 Definitions**

In this Division—

**licence** means—

- (a) a dangerous goods driver licence, or
- (b) a dangerous goods vehicle licence.

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

### **254 Cancellation, suspension and variation in dangerous situations**

The licensing authority must cancel, suspend or vary a licence granted by it if it reasonably believes—

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

### **255 Cancellation and suspension giving effect to court orders**

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

### **256 Variation of licence on application**

- (1) This section applies if—
  - (a) an application is made to vary a licence, and
  - (b) the application is made by the licensee and has the licence with it.
- (2) The licensing authority may vary the licence in accordance with the application.

### **257 Cancellation, suspension and variation in other circumstances**

- (1) This section applies if—
  - (a) the licensing authority considers a ground exists to cancel, suspend or vary a licence (the **proposed action**), and
  - (b) sections 254–256 do not apply to the proposed action.



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

### **258 When cancellation, suspension and variation take effect**

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

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

### **259 When licences taken to be suspended**

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

## **Part 19 Reconsideration and review of decisions—the Act, s 13(2)(y)**

### **260 Application of Part**

This Part applies to the following decisions made by the Competent Authority—

- (a) a decision under section 21 to approve or not approve a test or training course for drivers of road vehicles transporting dangerous goods,
- (b) an administrative determination under section 22 or 23,
- (c) a decision under section 48 to approve or not approve a design for a packaging,
- (d) a decision under section 51 to approve or not approve a method of preparing an overpack,
- (e) a decision under section 126 to approve or not approve a design for a segregation device,
- (f) a decision under section 127 to approve or not approve a method of segregation,
- (g) a decision under section 152 to approve or not approve emergency information,
- (h) a decision under section 212, 214 or 215 to cancel, vary or refuse to vary a determination or approval,
- (i) a decision under section 226 or 236 to grant or refuse to grant a licence,
- (j) a decision under section 228 or 238 to renew or refuse to renew a licence,
- (k) a decision under section 245 to issue or refuse to issue a replacement licence,
- (l) a decision under section 254, 256 or 257 to cancel, suspend, vary or refuse to vary a licence,
- (m) a decision under section 268 to approve or not approve the use of a vehicle that is not covered by a policy of insurance or other form of indemnity.

### **261 Who may apply for reconsideration of decisions**

A person whose interests are affected by a decision may make a written application to the Competent Authority for reconsideration of the decision.

### **262 Applications for reconsideration**

- (1) An application must be made within—
  - (a) 28 days after the day on which 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.

- (2) The application must set out the grounds on which reconsideration of the decision is sought.

### **263 Competent Authority to reconsider decisions**

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

### **264 Appeal to court after reconsideration of certain decisions**

- (1) A person who is not satisfied with the result of a reconsideration of a decision by the Competent Authority under section 263 may appeal against the decision—
  - (a) for a reconsideration by the EPA—to the Land and Environment Court, or
  - (b) for a reconsideration by SafeWork NSW—to the Local Court constituted by an Industrial Magistrate sitting alone.
- (2) An appeal under this section must be made within 21 days after the day on which the person was informed of the result of the reconsideration of the decision.
- (3) An appeal under this section does not operate to stay the decision the subject of the appeal except as otherwise ordered by the court.
- (4) The court to which an appeal under this section is made may confirm, vary or revoke the decision.

## **Part 20 Insurance—the Act, s 13(2)(x)**

### **265 Owner's duties**

- (1) The owner of a road vehicle must not use the vehicle, or permit it to be used, to transport a placard load unless—
  - (a) the use of the vehicle is covered by a policy of insurance, or other form of indemnity, for a sum that is not less than \$5 million, in relation to—
    - (i) personal injury, death, property damage and other damage, except consequential economic loss, arising out of a fire, explosion, leakage or spillage of dangerous goods in, on or from the vehicle or any packaging transported in or on the vehicle, and
    - (ii) costs incurred by or on behalf of a Commonwealth, State or Territory government authority in a clean-up resulting from a fire, explosion, leakage or

spillage mentioned in subparagraph (i), or

- (b) the owner has an approval under section 268 in relation to the use of the vehicle and is complying with all relevant conditions to which the approval is subject.

Maximum penalty—

- (a) for an individual—50 penalty units, or
  - (b) for a body corporate—250 penalty units.
- (2) Each load bearing vehicle, whether or not a motor vehicle and whether or not it is being used in combination with another vehicle, is a vehicle for the purposes of subsection (1).
- (3) For the purposes of subsection (1), if a load bearing vehicle is being used in combination with another vehicle, only one policy of insurance is required.

### **266 Prime contractor's duties**

- (1) A prime contractor must not use a road vehicle to transport a placard load unless—
- (a) the use of the vehicle is covered by a policy of insurance or other form of indemnity, for a sum that is not less than \$5 million, in relation to—
    - (i) personal injury, death, property damage and other damage, except consequential economic loss, arising out of a fire, explosion, leakage or spillage of dangerous goods in, on or from the vehicle or any packaging transported in or on the vehicle, and
    - (ii) costs incurred by or on behalf of a Commonwealth, State or Territory government authority in a clean-up resulting from a fire, explosion, leakage or spillage mentioned in subparagraph (i), or
  - (b) the prime contractor has an approval under section 268 in relation to the use of the vehicle and is complying with all relevant conditions to which the approval is subject.

Maximum penalty—

- (a) for an individual—50 penalty units, or
  - (b) for a body corporate—250 penalty units.
- (2) Each load bearing vehicle, whether or not a motor vehicle and whether or not it is being used in combination with another vehicle, is a vehicle for the purposes of subsection (1).
- (3) For the purposes of subsection (1), if a load bearing vehicle is being used in

combination with another vehicle, only one policy of insurance is required.

### **267 Requiring evidence of insurance or approval**

- (1) The Competent Authority may, by written notice, require the owner of a road vehicle used to transport a placard load, or a prime contractor responsible for the condition of the vehicle, to produce—
  - (a) written evidence that the vehicle is covered by a policy of insurance or other form of indemnity in accordance with section 265(1)(a) or 266(1)(a), or
  - (b) an approval under section 268 in relation to the vehicle.
- (2) The owner or prime contractor must produce the evidence or approval to the Competent Authority within 14 days after the day on which the notice is given to the person.

Maximum penalty—

- (a) for an individual—15 penalty units, or
- (b) for a body corporate—75 penalty units.

### **268 Approvals—insurance**

- (1) The owner of a road vehicle used to transport placard loads, or a prime contractor responsible for the condition of the vehicle, may make an application in accordance with section 196 to use the vehicle even if the vehicle is not covered by a policy of insurance or other form of indemnity mentioned in section 265(1)(a) or 266(1)(a).
- (2) If the Competent Authority is satisfied the owner or prime contractor is adequately capable of self-insurance for the purposes of section 265(1)(a) or 266(1)(a), the Competent Authority may give written approval for the use of the vehicle.
- (3) An approval under subsection (2) may be given by the Competent Authority—
  - (a) for a single use or for a period not longer than 5 years, and
  - (b) subject to any other condition.

## **Part 21 Miscellaneous**

### **269 Fees—the Act, s 13(2)(e)**

The fees to be paid for applications made under the Act are listed in Schedule 1.

### **270 Appeals to Court following certain reviews—the Act, s 13(2)(y)**

- (1) An appeal to a court under the Act, section 35 must be made within 21 days after the day on which the person was given notice of the result of the review.

- (2) An appeal to a court under the Act, section 45 must be made within 21 days after the day on which the person was given notice of the result of the internal review.

### 271 Repeal and savings

- (1) The *Dangerous Goods (Road and Rail Transport) Regulation 2014* is repealed.
- (2) An act, matter or thing that, immediately before the repeal of the *Dangerous Goods (Road and Rail Transport) Regulation 2014*, had effect under that Regulation continues to have effect under this Regulation.

### 272 Transitional arrangement if ADG Code or related instrument amended or remade

- (1) This section applies if—
  - (a) the ADG Code is amended or remade or a code, standard or rule applied or adopted by, or incorporated in, the ADG Code is amended or remade, and
  - (b) the amendment or remake has the effect of imposing a new requirement on a person, or modifying an existing requirement applying to a person, under this regulation.
- (2) The new requirement or modified existing requirement does not apply in relation to the person until the relevant period for the amendment or remake ends.
- (3) For subsection (2), this regulation applies in relation to the person during the relevant period as if the amendment or remake had not taken effect.
- (4) This section is subject to any other section of this regulation that provides for when or how the new requirement or modified existing requirement applies in relation to the person.
- (5) In this section—

**relevant period**, for an amendment or remake mentioned in subsection (1)(a), means the period starting on the day the amendment or remake takes effect and ending on the day 12 months after that day.

**requirement** means a duty, obligation, requirement or restriction, however described.

## Schedule 1 Fees

section 269

### Part 1 Fees payable

Item	Type of fee	Fee in fee units
1	Application for exemption—section 190(1)(l)	1.71

2	Application for administrative determination or approval or for variation of administrative determination or approval—section 196	
	(a) Application for approval of test or training course for drivers—section 21(1)	3.41
	(b) Application for approval of packaging design—section 46(3)	3.41
	(c) Application for approval of Type II segregation device design—section 126(2)	1.71
	(d) Application for approval of segregation method—section 127(1)	1.71
	(e) Application for approval of emergency information—section 152	1.14
	(f) Application to vary administrative determination or approval—section 214(1)(b)	1.14
	(g) Application for approval of self-insurance—section 268(1)	1.14
3	Application for dangerous goods driver licence—section 222(2)(e)	0.57
4	Application for renewal of dangerous goods driver licence—section 227(2)(e)	0.57
5	Application for dangerous goods vehicle licence—section 234(3)	0.87 for each road vehicle
6	Application for renewal of dangerous goods vehicle licence—section 237(3)	0.87 for each road vehicle
6A	Application to amend a licence—section 238A(2)—	
	(a) to add an additional vehicle	0.87 for each road vehicle
	(b) to replace a road vehicle previously listed on a dangerous goods vehicle licence with a different vehicle	0.23 for each road vehicle
7	Application for transfer of dangerous goods vehicle licence—section 241(5)	0.11 for each road vehicle

## Part 2 Adjustment of fees for inflation

### 1 Calculation of fees

- (1) For the purposes of this Schedule, a **fee unit** is—
- (a) in the financial year 2022-23—\$100, and
  - (b) in each subsequent financial year—the amount calculated as follows—

$$\$100 \times \frac{A}{B}$$

where—

**A** is the CPI number for the September quarter in the financial year immediately preceding the financial year for which the amount is calculated.

**B** is the CPI number for the March quarter of 2022.

- (2) The amount of a fee unit must be rounded to the nearest cent and an amount of 0.5 must be rounded down.
- (3) If the amount of a fee unit calculated for a financial year is less than the amount that applied for the previous financial year, the amount for the previous financial year applies instead.
- (4) The amount of a fee calculated by reference to a fee unit must be rounded to the nearest dollar and an amount of 50 cents must be rounded down.
- (5) As soon as practicable after the CPI number for the September quarter is first published by the Australian Bureau of Statistics, the Competent Authority is required to—
  - (a) notify the Parliamentary Counsel of the amount of the fee unit for the next financial year so that notice of the amount can be published on the NSW legislation website, and
  - (b) give public notice on an appropriate government website of the actual amounts of the fees applying in each financial year resulting from the application of the amount of a fee unit calculated under this Schedule.
- (6) This section operates to change an amount of a fee that is calculated by reference to a fee unit and that change is not dependent on the notification or other notice required by this section.

(7) In this section—

**CPI number** means the Consumer Price Index (All Groups Index) for Sydney published by the Australian Bureau of Statistics in the latest published series of that index.

**financial year** means a period of 12 months commencing on 1 July.

## Schedule 2 Penalty notice offences

### 1 Application of Schedule

- (1) For the Act, section 48(2)—



- (a) each offence created by a provision specified in this Schedule is an offence for which a penalty notice may be issued, and
- (b) the amount payable for the penalty notice is the amount specified opposite the provision.
- (2) If the provision is qualified by words that restrict its operation to limited kinds of offences or to offences committed in limited circumstances, the penalty notice may be issued only for—
- (a) the limited kind of offence, or
- (b) an offence committed in the limited circumstances.

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision</b>	<b>Penalty—individuals</b>	<b>Penalty—body corporates</b>
<b>Offences against the Act</b>		
Section 6(1)	\$2,000	\$10,000
Section 6(2)	\$800	\$4,000
Section 6(3)	\$2,000	—
Section 7(1)	\$2,000	\$10,000
Section 7(2)	\$800	—
Section 8	\$2,000	\$10,000
Section 9(1) and (2)	\$2,000	\$10,000
Section 19(2)	\$400	—
Section 24	\$2,000	—
Section 27	\$2,000	\$10,000
Section 29	\$2,000	\$10,000
Section 31	\$2,000	\$10,000
Section 39(3)	\$2,000	\$10,000
Section 40(2)	\$400	\$2,000
Section 42(6)	\$2,000	\$10,000
Section 53(9)	\$2,000	\$10,000
Section 66(2) and (3)	\$110	—
<b>Offences against this Regulation</b>		
Section 7(3)–(5)	\$800	\$4,000

Section 8	\$800	\$4,000
Section 20(2)	\$800	\$4,000
Section 20(3)	\$800	—
Section 25(2)	\$800	\$4,000
Section 29(1)	\$800	\$4,000
Section 37	\$400	\$2,000
Section 38	\$400	\$2,000
Section 39	\$400	\$2,000
Section 40	\$400	\$2,000
Section 41	\$200	—
Section 45(1) and (2)	\$800	\$4,000
Section 47(2) and (3)	\$800	\$4,000
Section 48(4)	\$800	\$4,000
Section 51(3)	\$800	\$4,000
Section 53	\$800	\$4,000
Section 55	\$800	\$4,000
Section 56(1) and (2)	\$800	\$4,000
Section 57	\$800	\$4,000
Section 58	\$800	\$4,000
Section 59	\$800	—
Section 61(1), (1A) and (3)	\$800	\$4,000
Section 62	\$800	\$4,000
Section 63(1) and (2)	\$800	\$4,000
Section 64(1) and (2)	\$800	\$4,000
Section 65	\$800	\$4,000
Section 66(1) and (2)	\$800	\$4,000
Section 67	\$800	—
Section 68	\$400	\$2,000
Section 69	\$400	\$2,000
Section 70	\$400	\$2,000
Section 71	\$400	\$2,000

Section 72	\$260	—
Section 74(1)–(3)—		
(a) for large packaging or overpack	\$400	\$2,000
(b) otherwise	\$130	\$650
Section 75(1)–(3)—		
(a) for large packaging or overpack	\$400	\$2,000
(b) otherwise	\$130	\$650
Section 76(1)–(3)—		
(a) for large packaging or overpack	\$400	\$2,000
(b) otherwise	\$130	\$650
Section 79(1)–(3) and (5)	\$800	\$4,000
Section 80(1)–(3) and (5)	\$800	\$4,000
Section 81(1)–(3) and (5)	\$800	\$4,000
Section 82(1)–(4)	\$400	—
Section 83	\$800	\$4,000
Section 84	\$800	\$4,000
Section 85	\$400	\$2,000
Section 86	\$800	\$4,000
Section 87	\$400	—
Section 88(1)–(3)	\$800	\$4,000
Section 91	\$800	\$4,000
Section 92	\$800	\$4,000
Section 93	\$400	\$2,000
Section 94	\$800	\$4,000
Section 95	\$400	—
Section 97	\$400	\$2,000
Section 98	\$400	\$2,000
Section 99(1) and (2)	\$400	\$2,000
Section 100	\$260	—

Section 102	\$400	\$2,000
Section 103	\$400	\$2,000
Section 104	\$260	—
Section 106	\$400	\$2,000
Section 107	\$400	\$2,000
Section 108	\$400	\$2,000
Section 109	\$260	—
Section 112	\$800	\$4,000
Section 113	\$800	—
Section 115(1) and (2)	\$400	\$2,000
Section 116(1) and (2)	\$400	\$2,000
Section 117(1) and (2)	\$400	\$2,000
Section 118(1) and (2)	\$260	—
Section 121	\$800	\$4,000
Section 122	\$800	\$4,000
Section 123	\$800	\$4,000
Section 124	\$800	\$4,000
Section 125	\$260	—
Section 127(3)	\$800	\$4,000
Section 129(1)	\$400	\$2,000
Section 129(2)	\$800	\$4,000
Section 130(1)–(3)	\$400	\$2,000
Section 131(1)	\$400	\$2,000
Section 131(3)	\$800	\$4,000
Section 131(4)	\$130	\$650
Section 132(1)	\$400	\$2,000
Section 132(3)	\$800	\$4,000
Section 132(4)	\$130	\$650
Section 133(1)	\$400	\$2,000
Section 135(1) and (2)	\$400	\$2,000
Section 136(1) and (2)	\$400	\$2,000

Section 137(1) and (2)	\$400	—
Section 138	\$800	\$4,000
Section 139(1) and (2)	\$260	\$1,300
Section 140(1)	\$260	\$1,300
Section 141	\$400	\$2,000
Section 142(1)	\$400	\$2,000
Section 143(1) and (2)	\$260	—
Section 144(2) and (3)	\$260	—
Section 145(2)	\$400	\$2,000
Section 147	\$260	\$1,300
Section 148	\$400	\$2,000
Section 149(1)	\$400	\$2,000
Section 150(1) and (3)	\$260	—
Section 150(2)	\$130	—
Section 151(1) and (2)	\$260	—
Section 153	\$260	\$1,300
Section 154	\$260	\$1,300
Section 155	\$800	\$4,000
Section 156	\$800	\$4,000
Section 157(1) and (2)	\$800	\$4,000
Section 158(1) and (2)	\$260	—
Section 159(2)	\$130	—
Section 160(1)–(3)	\$400	\$2,000
Section 161	\$400	\$2,000
Section 162	\$130	—
Section 163	\$260	—
Section 164(2) and (3)	\$800	—
Section 165	\$800	—
Section 166	\$800	—
Section 167	\$800	—
Section 168	\$260	\$1,300

Section 169	\$800	\$4,000
Section 170	\$800	\$4,000
Section 171	\$800	\$4,000
Section 172(2)	\$260	—
Section 173(2) and (3)	\$260	—
Section 174(2) and (3)	\$800	\$4,000
Section 175(2) and (3)	\$400	\$2,000
Section 176(1) and (2)	\$800	\$4,000
Section 177(1)–(4)	\$800	\$4,000
Section 178(2)	\$400	\$2,000
Section 179(2)	\$400	\$2,000
Section 241(1)–(3) and (5)	\$130	\$650
Section 243(1) and (2)	\$130	—
Section 246	\$800	—
Section 250(2)	\$130	\$650
Section 251(2)	\$130	\$650
Section 265(1)	\$1,200	\$6,000
Section 266(1)	\$1,200	\$6,000
Section 267(2)	\$260	\$1,300

## Schedule 3 Dictionary

section 9

**ADG Code** means the *Australian Code for the Transport of Dangerous Goods by Road and Rail*, approved by the Ministerial Council, as in force or remade from time to time.

**administrative determination**—see section 24.

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

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

- (a) the number of kilograms of the following in the load—
  - (i) solid dangerous goods,
  - (ii) articles, including aerosols, and

- (b) the number of litres or kilograms, being whichever is used in the transport documentation for the load to describe the goods, of liquid dangerous goods in the load, and
- (c) the total capacity in litres of receptacles in the load containing dangerous goods of UN Class 2, other than aerosols.

**appropriately marked**—see section 73.

**appropriately placarded**, for Part 5, Division 2—see section 78(2).

**approval** means an approval, by the Competent Authority or an authorised body under this Regulation, that is in effect.

**approved packaging** means—

- (a) packaging of a design that is approved under section 48, or
- (b) foreign approved packaging.

**approved tank** means—

- (a) a tank of a design that is approved under section 48, or
- (b) a foreign approved tank.

**article** means a manufactured item, other than a fluid or particle, but including a battery, aerosol, gas-filled lighter, seat belt pre-tensioner or refrigerating machine, that—

- (a) is formed into a particular shape or design during manufacture, and
- (b) has hazard properties and a function that are wholly or partly dependent on that shape or design.

**authorised body** means a person or body authorised to issue approvals under section 52.

**bulk container**—see section 13.

**bulk transfer**, for Part 10—see section 128.

**CAP** or **Competent Authorities Panel** means the body established by the *Competent Authorities Panel Rules* made by the National Transport Commission on 13 June 2008, as amended from time to time.

**capacity** means the total internal volume of a packaging at a temperature of 15 degrees Celsius, expressed in L or m<sup>3</sup>.

**cargo transport unit** means—

- (a) a road transport tank or freight vehicle, or
- (b) a railway transport tank or freight wagon, or
- (c) a portable tank, or
- (d) a bulk container, or

(e) a freight container, or

(f) an MEGC.

**Category**, for dangerous goods—see section 32.

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

**corresponding administrative determination** means a determination to which section 185 applies that is of an administrative character.

**corresponding approval** means an approval to which section 187 applies.

**corresponding dangerous goods driver licence** means a licence to which section 188 applies that has effect in New South Wales under that section as a dangerous goods driver licence.

**corresponding dangerous goods vehicle licence** means a licence to which section 188 applies that has effect in New South Wales under that section as a dangerous goods vehicle licence.

**corresponding determination** means a determination to which section 185 applies.

**corresponding exemption** means an exemption to which section 186 applies.

**dangerous goods**—see section 30.

**dangerous goods driver licence** means a licence that is in force under Part 18, Division 3.

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

**dangerous goods vehicle licence** means a licence that is in force under Part 18, Division 4.

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

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

**determination** means a determination, made by the Competent Authority under Part 1, Division 4, that is in effect.

**driver licence** means a licence, other than a provisional or learner licence, issued under a State or Territory law authorising the licensee to drive a road 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 the Act, section 42.

**fee unit**—see Schedule 1, section 1.



**food** includes—

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

**food packaging** means—

- (a) a receptacle that contains, or is designed or intended to contain, food, or
- (b) material designed or intended to be used in a receptacle that is designed or intended to contain food, or
- (c) plastic wrapping intended for the packaging of food.

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

**Note—**

Types of foreign approved packaging include, but are not limited to, bulk containers, IBCs, large packagings, MEGCs, portable tanks, pressure drums and tubes that are ADR, ICAO, IMO, RID or UN approved.

**freight container** means a container that—

- (a) is of a permanent character suitable for repeated use, and
- (b) is designed to facilitate the transport of goods by one or more modes of transport, without the need for the goods to be unloaded and reloaded when the container is transferred from one mode to another, and
- (c) is fitted with devices that permit the ready stowage and handling of the container, particularly in relation to the transfer of the container from one mode of transport to another, and
- (d) is designed in a way that facilitates the ease of loading and unloading of goods from the container, and
- (e) for a container used to transport goods other than radioactive material—has an internal volume of not less than 1m<sup>3</sup>.

**general packaging**, for Part 4, Division 4—see section 54.

**heavy tank trailer**, for Part 6, Division 3—see section 89.

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

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

**IBC** or **intermediate bulk container**—see section 14.

**ICAO approved** means approved in accordance with the ICAO Technical Instructions.

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

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

**IMO approved** means approved in accordance with the IMDG Code.

**incompatible**—see section 35.

**Infrastructure and Transport Ministers' Meetings** means the Ministerial body known as the Infrastructure and Transport Ministers' Meetings.

**inner packaging** has the meaning given section 1.2.1 of the ADG Code.

**intermediate packaging** has the meaning given in section 1.2.1 of the ADG Code.

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

**large packaging** means packaging that—

- (a) consists of outer packaging that contains articles or inner packagings, and
- (b) is designed for mechanical handling, and
- (c) has—
  - (i) a net mass of more than 400kg or a capacity of more than 450L, and
  - (ii) a volume of not more than 3m<sup>3</sup>.

**licence**, for Part 18, Divisions 6 and 7—see sections 244 and 253.

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

**licensee**, for Part 18, Divisions 6 and 7—see sections 244 and 253.

**licensing authority**, for Part 18—see section 217.

**load** (noun)—see section 19.

**loads** (verb) and **loader**—see section 19.

**MEGC** or **multiple-element gas container**—see section 15.

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

**motor vehicle** does not include a unit of rolling stock, but does include a vehicle designed to operate both on and off rails when the vehicle is operating on a road.

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

**nominally empty storage vessels**, for Part 7, Division 3—see section 105.

**NATA** means the National Association of Testing Authorities.

**other packaging**, for Part 4, Division 5—see section 60.

**outer packaging** has the meaning given in section 1.2.1 of the ADG Code.

**overpack** means an enclosure, other than large packaging, used to contain one or more packages in a way that forms one unit for convenience of stowage and handling during transport.

**Examples—**

- packages placed or stacked on a pallet and secured by strapping, shrink wrapping, stretch wrapping or another suitable way
- packages placed in protective outer packaging such as in a box or crate

**owner**, of a vehicle, has the same meaning as in the [Road Transport Act 2013](#).

**pack** and **packer**—see section 16.

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

**packaging** includes—

- (a) inner packaging, intermediate packaging, outer packaging, an overpack, large packaging, an IBC, an MEGC, a tank (including the tank of a tank vehicle), a bulk container or freight container, a drum, a barrel, a jerry can, a box and a bag, and
- (b) any other components or materials used for containing the contents of the packaging or performing another safety function in relation to the transport of the packaging and its contents.

**packed in limited quantities**—see section 17.

**Packing Group**—see section 34.

**participating jurisdiction** means—

- (a) New South Wales, and
- (b) any other State or Territory that has a corresponding law.

**Note—**

**Corresponding law** is defined in the Act, section 4.

**placard load** means a load that contains dangerous goods that must be placarded under section 77.

**placards**—see section 78(1).

**portable tank** means a tank used for the transport of a solid, liquid or gas that—

- (a) includes a shell fitted with service equipment and structural equipment necessary for the transport of the solid, liquid or gas, and
- (b) is capable of being loaded and unloaded without removing its structural equipment, and
- (c) has stabilising components external to its shell, and is capable of being lifted when full, and
- (d) is designed primarily to be loaded on to a vehicle or vessel and is equipped with skids, mountings or accessories to facilitate mechanical handling, and
- (e) for a tank used for transporting a substance of UN Class 1 and UN Class 3 to 9—is a multimodal tank, and
- (f) for a tank used for transporting non-refrigerated, liquefied gases of UN Class 2—is a multimodal tank having capacity of more than 450L, and
- (g) for a tank used for transporting refrigerated, liquefied gases of UN Class 2—is a thermally insulated tank having a capacity of more than 450L, and
- (h) is not an item that is not considered to be a portable tank for the purposes of the ADG Code.

**Note—**

See the definition of **portable tank** in section 1.2.1 of the ADG Code for the list of items that are not considered to be a portable tank for the purposes of the ADG Code.

**pressure drum** means a welded transportable pressure receptacle of a water capacity exceeding 150L but not more than 1,000L.

**Example—**

A cylindrical receptacle equipped with rolling hoops or spheres on skids.

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

**prohibited area**, for Part 7, Division 4—see section 111.

**provisional licence** means a provisional or probationary licence, other than a learner licence, issued under a State or Territory law authorising a person who is a novice driver to drive a road vehicle.

**rail infrastructure manager** has the same meaning as in the [Rail Safety National Law \(NSW\)](#).

**rail tank wagon** means a rail wagon of which a tank forms an integral part.

**rail wagon** means a unit of rolling stock that—

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

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

- (a) for receiving and holding the substance or article, including anything that enables the container to

be closed, and

(b) in contact with the substance or article.

**recognised testing facilities**—see section 49.

**register**—see section 180.

**registered** means registered under a Commonwealth, State or Territory law.

**required emergency information**, for Part 11, Division 2—see section 146.

**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 United Nations Economic Commission for Europe.

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

**road tank vehicle** means a road vehicle of which a tank forms part or to which a tank, other than a portable tank, is attached.

**road vehicle** means—

(a) a motor vehicle, or

(b) a trailer.

**roll stability system**, for Part 6, Division 3—see section 89.

**service equipment**, in relation to a tank or MEGC, has the meaning given in section 6.7.2.1, 6.7.3.1, 6.7.4.1 or 6.7.5.1, as necessary, of the ADG Code.

**specified**, for Part 7, Division 4—see section 111.

**structural equipment**, in relation to a tank or MEGC, has the meaning given in section 6.7.2.1, 6.7.3.1, 6.7.4.1 or 6.7.5.1, as necessary, of the ADG Code.

**subsidiary hazard**—see section 33.

**tank**—see section 18.

**tank vehicle** means a road vehicle or unit of rolling stock—

(a) of which a tank forms part, or

(b) to which a tank, other than a portable tank, is attached.

**the Act** means the *Dangerous Goods (Road and Rail Transport) Act 2008*.

**trailer** means a vehicle that is designed to be towed, or is towed, by a motor vehicle, but does not include a vehicle propelled by a motor that forms part of the vehicle.

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

**tube** means a pressure receptacle of seamless or composite construction having a water capacity exceeding 150L but not more than 3,000L.

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

**UN Class**, for dangerous goods, means the class to which dangerous goods belong in accordance with section 32.

**UN Division**, for dangerous goods, means the division to which dangerous goods of a particular UN Class belong in accordance with section 32.

**UN number** has the meaning given in section 2.0.2 of the ADG Code.

**use**, for Part 7, Division 4—see section 111.

**vehicle**, for Part 18, Division 4—see section 233.