



National Transport Commission (Model Legislation — Transport of Dangerous Goods by Road or Rail) Regulations 2007¹

Select Legislative Instrument 2007 No. 319

I, PHILIP MICHAEL JEFFERY, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *National Transport Commission Act 2003*.

Dated 26 September 2007

P. M. JEFFERY
Governor-General

By His Excellency's Command

MARK VAILE
Minister for Transport and Regional Services

Contents

1	Name of Regulations	2
2	Commencement	2
3	Purpose	2
4	Model legislation — transport of dangerous goods by road or rail	3
5	Citation of Schedule 1	3
6	Citation of Schedule 2	3

1 Name of Regulations

These Regulations are the *National Transport Commission (Model Legislation — Transport of Dangerous Goods by Road or Rail) Regulations 2007*.

2 Commencement

These Regulations commence on the day after they are registered.

3 Purpose

The purpose of these Regulations is to be the single reference point for model legislation relating to the transport of dangerous goods by road or rail.

Note These Regulations are made in accordance with the 2003 Inter-Governmental Agreement for Regulatory and Operational Reform in Road, Rail and Intermodal Transport entered into between the Commonwealth, the States, the Australian Capital Territory and the Northern Territory, as amended from time to time. (see subparagraph 3 (b) (i) of the *National Transport Commission Act 2003*).

4 Model legislation — transport of dangerous goods by road or rail

- (1) Schedules 1 and 2 set out model legislation on the transport of dangerous goods by road or rail.

Note The model legislation set out in Schedules 1 and 2 does not have the force of law (see paragraph 7 (2) (a) of the *National Transport Commission Act 2003*).

- (2) It is intended that:

- (a) the States, the Australian Capital Territory and the Northern Territory will adopt the model legislation to form part of uniform or nationally consistent legislation relating to road transport, rail transport and intermodal transport; and
- (b) when so adopted, the legislation will constitute the primary law of the States, the Australian Capital Territory and the Northern Territory in relation to the transport of dangerous goods by road or rail.

Note It is intended that when the model legislation is adopted by a State or Territory, the adopting State or Territory:

- (a) in the case of a provision relating to strict liability for offences, or to defences against prosecution for offences, that are in curly brackets — will adopt, revise or do away with the provision; and
- (b) in the case of words and phrases in curly brackets — will replace those words and phrases with appropriate expressions.

5 Citation of Schedule 1

Schedule 1 may be cited as the *Model Act on the Transport of Dangerous Goods by Road or Rail 2007*.

6 Citation of Schedule 2

Schedule 2 may be cited as the *Model Subordinate Law on the Transport of Dangerous Goods by Road or Rail 2007*.

Note 1 The numbers enclosed in parenthesis after many of the provisions are:

- (a) in the case of Schedule 1 — references to provisions in the existing *Road Transport Reform (Dangerous Goods) Act 1995* or in the proposed Road Transport Reform (Compliance and Enforcement) Bill; and

-
- (b) in the case of Schedule 2 — references to provisions in the existing *Road Transport Reform (Dangerous Goods) Regulations 1997* or Rail (Dangerous Goods) Rules.

Note 2 The numbering of the sections in Schedule 1 and of the clauses in Schedule 2 are provisional. The resulting gaps in the Table of Contents and in the numbering of the provisions will be fixed after public consultation.

Schedule 1 *Model Act on the Transport of Dangerous Goods by Road or Rail 2007*

(regulations 4 and 5)

The following provisions are intended to provide the basis for nationally consistent transport laws on the topics with which they deal. They do not, of themselves, have any legal effect.

Contents

Part 1	Preliminary	
	1 Short title	23
	2 Commencement	23
	3 Purpose	23
	4 Definitions	23
	5 Binding the Crown	28
	{6 Application of Commonwealth Acts Interpretation Act	29
	7 Scope of this Act	29
Part 2	{Subordinate law}	
	8 Powers to make {subordinate law} and adoption of codes and standards	30
	9 Penalties under the {subordinate law}	33
	10 Applications for review	33
Part 3	Competent Authorities and authorised officers	
Division 1	Appointments and arrangements	
	11 Appointment of Competent Authorities	33
	12 Appointment of authorised officers	34
	13 Identification cards	34

		Page
	14 Return of identification cards	34
	15 Impersonating authorised officers	35
	16 Competent Authority may delegate powers	35
	17 Competent Authority may provide information to corresponding authority	35
	18 Reciprocal powers of authorised officers	36
Division 2	General enforcement powers — road vehicles	
Subdivision 1	Application	
	19 Application of Division	36
Subdivision 2	Directions in respect of road vehicles	
	20 Direction to stop road vehicle	37
	21 Direction to move road vehicle	38
	22 Direction to produce documents	39
	23 Direction to move a road vehicle: where danger or obstruction	40
	24 Direction to leave vehicle	41
Subdivision 3	Other powers in respect of road vehicles	
	25 Moving unattended road vehicle: to enable exercise of other powers	42
	26 Powers of authorised officers — inspection	43
	27 Powers of authorised officers — searches	44
	28 Moving unattended or broken down road vehicle: where danger or obstruction	45
	29 Powers of authorised officers — immobilised road vehicle	46
	30 Powers of authorised officers in emergencies	47
	31 Authorisation not required for driving under this Division	47
Division 3	Directions in respect of rolling stock and trains	
Subdivision 1	Application	
	32 Application	48
Subdivision 2	Power to give directions in respect of rolling stock and trains	
	33 Powers of authorised officers — rail operators	48
	34 Powers of authorised officers — train drivers	49
	35 Powers of authorised officers — others	49
	36 Powers of authorised officers — documents	50
Subdivision 3	Other powers in respect of trains	
	37 Powers of authorised officers — inspection	50

		Page
	38 Powers of authorised officers — search	51
	39 Powers of authorised officers — immobilised train	53
	40 Powers of authorised officers in emergencies	53
Division 4	Powers to inspect and search premises	
Subdivision 1	Preliminary	
	41 Application	54
	42 Residential purposes	54
Subdivision 2	Power to search premises	
	43 Power to inspect premises	54
	44 Power to search premises	56
Division 5	Other directions	
	45 Direction to give name and other personal details	58
	46 Direction to produce records, devices or other things	59
	47 Direction to provide information	60
	48 Direction to provide reasonable assistance for powers of inspection and search	61
Division 6	Provisions regarding inspections and searches	
	49 Warrants	62
	50 Use of assistants and equipment	62
	51 Use of equipment to examine or process things	63
	52 Use or seizure of electronic equipment	64
Division 7	Other provisions regarding seizure	
	53 Receipt for and access to seized material	65
	54 Embargo notices	65
Division 8	Miscellaneous	
	55 Limit on use of force	66
	56 Consent	67
	57 Manner of giving directions under this Part	67
	58 Directions to state when to be complied with	67
	59 Directions may be given under more than one provision	67
	60 Restoring vehicle or premises to original condition after action taken	68
	61 Self-incrimination	68
	62 Providing evidence to other authorities	69
	63 Obstructing or hindering authorised officers	70
2007, 319	<i>National Transport Commission (Model Legislation — Transport of Dangerous Goods by Road or Rail) Regulations 2007</i>	7

		Page
Part 4	Exemptions	
64	Exemptions	70
65	Variation and cancellation of exemptions and conditions	72
66	Review of exemption etc	72
67	Application orders and emergency orders	73
Part 5	Offences and penalties	
68	Offence provisions	73
69	Failure to hold licence etc	74
70	Goods too dangerous to be transported	75
71	Duties concerning the transport of dangerous goods	76
Part 6	General administrative sanctions	
Division 1	Improvement notices	
72	Improvement notices	77
73	Contravention of improvement notice	78
74	Amendment of improvement notices	78
75	Cancellation of improvement notices	79
76	Clearance certificates	79
Division 2	Formal warnings	
77	Formal warnings	80
78	Withdrawal of formal warnings	80
Division 3	Infringement notices	
79	Infringement notices and infringement penalties	81
Part 7	General court-based sanctions	
Division 1	Proceedings for offences	
80	Proceedings for offences	82
81	Proceedings for an offence may be brought by authorised officers	82
82	Period within which proceedings for offences may be commenced	82
Division 2	Available sanctions	
83	Penalties imposed by courts	83

		Page
Division 3	Fines	
84	Penalty levels: offences referred to in Schedule 1	83
Division 4	Commercial benefits penalty orders	
85	Commercial benefits penalty orders	84
Division 5	Licensing and registration sanctions	
86	Power to affect licences	85
87	Power to affect road vehicle registration	85
Division 6	Supervisory intervention orders	
88	Supervisory intervention orders	86
89	Contravention of supervisory intervention order	88
Division 7	Exclusion orders	
90	Exclusion orders	89
91	Contravention of exclusion order	90
Division 8	Forfeiture orders	
92	Forfeiture	90
Part 8	Compensation orders	
Division 1	Definitions	
93	Definitions	91
Division 2	General compensation orders	
94	Compensation orders for damage to road and rail infrastructure	91
95	Assessment of compensation	92
96	Service of certificates	93
97	Limits on amount of compensation	94
Division 3	Costs compensation orders	
98	Recovery of costs from convicted person	94
Division 4	Costs and recovery	
99	Costs	95
100	Enforcement of compensation order and costs	95
101	Relationship with orders or awards of other courts and tribunals	95

		Page
Part 9	General liability and evidentiary provisions	
Division 1	Basis of liability for offences	
102	Multiple offenders	96
103	Double jeopardy	96
104	Liability of directors, partners, employers and others for offences by bodies corporate, partnerships, associations and employees	97
105	Complicity and common purpose (aiding and abetting)	98
106	Causing or permitting	99
107	Coercing, inducing or offering incentive	99
Division 2	General defences	
108	Sudden or extraordinary emergency	100
109	Lawful authority	100
110	Other defences	100
Division 3	Special defences	
111	Special defence for owners or operators	101
112	Special defence of compliance with direction	102
Division 4	General evidentiary provisions	
113	Vicarious responsibility	102
114	Evidence	103
115	Evidence regarding weighing	105
116	Proof of appointments and signatures unnecessary	105
117	Transport documentation	106
118	Use of codes of practice etc in proceedings	106
Part 10	Prohibition notices	
119	Definitions	107
120	Prohibition notice may be served	107
121	Prohibition notice	107
122	Contravention of prohibition notice	109
123	Oral direction may be given before prohibition notice is served	109
124	Withdrawal and amendment of prohibition notice	109
125	Amendment of prohibition notice	110

		Page
	126 Proceedings for an offence not affected by prohibition notice	110
Part 11	Miscellaneous	
Division 1	Indemnities	
	127 Protection from liability	110
	128 Indemnity not affected by certain matters	111
	129 Other indemnities not affected	111
Division 2	General	
	130 Dismissal or other victimisation of employee or contractor assisting with or reporting breaches	111
	131 Confidentiality	114
	132 False or misleading statements or records provided to Authority or officials	115
	133 Contracting out prohibited	116
	134 Recovery of costs of public authorities	116
	135 Assistance in emergencies or accidents	118
	136 Minister to notify adoption of code etc	118
	137 Delegation	119
	138 Repeal	119
Schedule 1.1	Penalties	
Schedule 2	Model Subordinate Law on the Transport of Dangerous Goods by Road or Rail 2007	
The following provisions are intended to provide the basis for nationally consistent transport laws on the topics with which they deal. They do not, of themselves, have any legal effect.		
Part 1	General, interpretation, training and offence provisions	
Division 1.1	Introductory and application	
	1.1.1 Name of {subordinate law}	125
	1.1.2 Commencement	125
	1.1.3 Main objects	125
	1.1.4 Application to transport by road and rail	126
	1.1.5 Dangerous situations	126
	1.1.6 Exempt transport	126
	1.1.7 Further exemptions	127
2007, 319	<i>National Transport Commission (Model Legislation — Transport of Dangerous Goods by Road or Rail) Regulations 2007</i>	11

	Page
1.1.8 Special provisions for tools of trade	127
Division 1.2 Interpretation	
Subdivision 1.2.1 General	
1.2.1 Definitions	129
1.2.2 References to codes, standards and rules	138
1.2.3 Inconsistency between {this subordinate law} and codes etc	139
1.2.4 References to determinations, exemptions, approvals and licences	139
1.2.5 References to variation of administrative determinations etc	139
1.2.6 Meaning of <i>bulk container</i>	140
1.2.7 Meaning of <i>IBC</i>	140
1.2.8 Meaning of <i>MEGC</i>	141
1.2.9 Dangerous goods packed in <i>limited quantities</i>	141
1.2.10 <i>Roads and road-related areas</i>	141
1.2.11 References to <i>rolling stock</i>	141
1.2.12 Meaning of <i>tank</i>	142
1.2.13 Meaning of <i>transport unit</i>	142
Subdivision 1.2.2 Persons with special duties	
1.2.14 Vehicle owners	143
1.2.15 Consignors	143
1.2.16 Packers	144
1.2.17 Loaders	144
1.2.18 Prime contractors	144
1.2.19 Rail operators	145
Division 1.3 Training	
1.3.1 Instruction and training	145
1.3.2 Approvals — tests and training courses for drivers	146
Division 1.4 {Reserved}	
Division 1.5 Provisions about offences generally	
1.5.1 Offence provisions	147
1.5.2 Goods suspected of being dangerous goods	147
Division 1.6 Determinations	
1.6.1 Determinations — dangerous goods and packaging	148

	Page
1.6.2 Determinations — foreign approved IBCs, tanks and MEGCs	149
1.6.3 Determinations — vehicles, routes, areas and times	149
1.6.4 Administrative determinations	149
1.6.5 Register of determinations	149
1.6.6 Records of determinations	150
Part 2 Key concepts	
2.1.1 Dangerous goods	150
2.1.2 Goods too dangerous to be transported	151
2.1.3 UN Classes, UN Divisions and Categories of dangerous goods	151
2.1.4 Subsidiary risk	152
2.1.5 Packing Groups	153
2.1.6 Incompatibility	154
Part 3 {Reserved}	
Part 4 Packaging	
Division 4.1 General	
4.1.1 Transport of dangerous goods in limited quantities	155
4.1.2 Packages and packaging	155
4.1.3 Containment units	155
Division 4.2 Suitability and design of packaging	
4.2.1 Suitability of packaging	156
4.2.2 Marking packaging	156
4.2.3 Applications for approval	157
4.2.4 Approvals — packaging designs	157
4.2.5 Recognised testing facilities	158
4.2.6 Test certificates	158
4.2.7 Approvals — overpacks	159
4.2.8 Approvals — authorised body may issue approvals	159
Division 4.3 Offences relating to packaging	
4.3.1 Manufacturer's duties	159
4.3.2 Consignor's duties	160
4.3.3 Packer's duties	160
4.3.4 Loader's duties	160
2007, 319	13
<i>National Transport Commission (Model Legislation — Transport of Dangerous Goods by Road or Rail) Regulations 2007</i>	

	Page
4.3.5 Prime contractor's and rail operator's duties	160
4.3.6 Driver's duties	161
Division 4.4 Offences relating to containment units and bulk containers	
Subdivision 4.4.1 Manufacturers and owners	
4.4.1 Compliance plates for portable tanks, MEGCs and tank vehicles	161
4.4.2 Owner's duties for certain portable tanks and MEGCs	161
Subdivision 4.4.2 Consignors	
4.4.3 Consignor's duties — general	162
4.4.4 Consignor's duties — IBCs	163
4.4.5 Consignor's duties — portable tanks	163
4.4.6 Consignor's duties — bulk containers	164
4.4.7 Consignor's duties — tank vehicles	164
4.4.8 Consignor's duties — MEGCs	165
Subdivision 4.4.3 Loaders	
4.4.9 Loader's duties — general	165
4.4.10 Loader's duties — freight container	166
Subdivision 4.4.4 Prime contractors and rail operators	
4.4.11 Prime contractor's and rail operator's duties — general	166
4.4.12 Prime contractor's and rail operator's duties — bulk containers	167
4.4.13 Prime contractor's and rail operator's duties — tank vehicles	167
Subdivision 4.4.5 Drivers duties	
4.4.14 Driver's duties — IBCs, portable tanks and MEGCs	168
4.4.15 Driver's duties — bulk containers	169
4.4.16 Driver's duties — road tank vehicles	169
Division 4.5 Offences relating to certain foreign approved containment units	
Subdivision 4.5.1 Foreign approved IBCs	
4.5.1 Consignor's duties	170
Subdivision 4.5.2 Foreign approved portable tanks and MEGCs	
4.5.2 Consignor's duties	171
Division 4.6 Offences relating to overpacks	
4.6.1 Consignor's duties	171

	Page
4.6.2 Packers duties	172
4.6.3 Loader's duties	172
4.6.4 Prime contractor's and rail operator's duties	173
4.6.5 Driver's duties	173
4.6.6 Rail operators' duties	173
Part 5	Consignment procedures
Division 5.1	{Reserved}
Division 5.2	Marking and labelling
5.2.1 Transport of limited quantities and retail distribution loads	174
5.2.2 Meaning of <i>appropriately marked</i>	174
5.2.3 Consignor's duties	174
5.2.4 Packer's duties	175
5.2.5 Prime contractor's and rail operator's duties	176
Division 5.3	Placarding
5.3.1 When load must be placarded	176
5.3.2 Meaning of <i>appropriately placarded</i>	177
5.3.3 Consignor's duties	177
5.3.4 Loader's duties	178
5.3.5 Prime contractor's and rail operator's duties	178
5.3.6 Driver's duties	179
Part 6	Safety standards — vehicles and equipment
6.1.1 Owner's duties	180
6.1.2 Consignor's duties	180
6.1.3 Loader's duties	180
6.1.4 Prime contractor's and rail operator's duties	181
6.1.5 Driver's duties	181
Part 7	Transport operations relating to certain dangerous goods
Division 7.1	Self-reactive substances, organic peroxides and certain other substances
7.1.1 Application	181
7.1.2 Consignor's duties	182
7.1.3 Loader's duties	182
2007, 319	<i>National Transport Commission (Model Legislation — Transport of Dangerous Goods by Road or Rail) Regulations 2007</i>
	15

	Page
7.1.4 Prime contractor's and rail operator's duties	183
7.1.5 Driver's duties	183
Division 7.2 Goods too dangerous to be transported	
7.2.1 Application	183
7.2.2 Loader's duties	183
7.2.3 Prime contractor's and rail operator's duties	184
7.2.4 Driver's duties	184
Part 8 Stowage and attachment	
8.1.1 Consignor's duties	184
8.1.2 Loader's duties	184
8.1.3 Prime contractor's and rail operator's duties	185
8.1.4 Driver's duties	185
Part 9 Segregation	
9.1.1 Application of Part	185
9.1.2 Exception for certain goods for driver's personal use	185
9.1.3 Consignor's duties	186
9.1.4 Loader's duties	186
9.1.5 Prime contractor's duties	186
9.1.6 Rail operator's duties	187
9.1.7 Driver's duties	187
9.1.8 Approvals — segregation devices and methods of segregation	188
Part 10 Bulk transfer of dangerous goods	
Division 10.1 General	
10.1.1 Meaning of <i>bulk transfer</i>	189
Division 10.2 Equipment and transfer	
10.2.1 Application of Division	189
10.2.2 Transferor's duties — hose assemblies	189
10.2.3 Transferor's duties — general	190
10.2.4 Occupier's duties	191
10.2.5 Prime contractor's duties	192
10.2.6 Rail operator's duties	193
Division 10.3 Filling ratio and ullage	
10.3.1 Application of Division	193

	Page
10.3.2 Transferor's duties	193
10.3.3 Prime contractor's and rail operator's duties	194
10.3.4 Driver's duties	194
Part 11 Documentation	
Division 11.1 Transport documentation	
11.1.1 False or misleading information	195
11.1.2 Consignor's duties — transport by road	195
11.1.3 Consignor's duties — transport by rail	196
11.1.4 Prime contractor's duties	196
11.1.5 Rail operator's duties	197
11.1.6 Driver's duties	197
11.1.7 Train driver's duties	197
Division 11.2 Emergency information	
11.2.1 Meaning of <i>required emergency information</i>	198
11.2.2 Consignor's duties	198
11.2.3 Prime contractor's duties	199
11.2.4 Rail operator's duties	199
11.2.5 Driver's duties	199
11.2.6 Train driver's duties	200
11.2.7 Approvals — emergency information	201
Part 12 Safety equipment	
12.1.1 Owner's duties	201
12.1.2 Prime contractor's duties	202
12.1.3 Driver's duties	202
Part 13 Procedures during transport	
Division 13.1 Immobilised and stopped vehicles	
13.1.1 Driver's duties	203
13.1.2 Prime contractor's duties	203
13.1.3 Rail operator's duties	204
Division 13.2 Road vehicles — drivers' duties	
13.2.1 Driving	204
13.2.2 Parking	205
13.2.3 Control of ignition sources	205
13.2.4 Unloading	206
2007, 319	17
<i>National Transport Commission (Model Legislation — Transport of Dangerous Goods by Road or Rail) Regulations 2007</i>	

	Page
13.2.5 Detaching trailer	206
13.2.6 Road tank vehicle equipped with burner	206
Division 13.3 Routes, areas, vehicles and times	
13.3.1 Prime contractor's and rail operator's duties	206
13.3.2 Driver's duties	207
Part 14 Emergencies	
Division 14.1 Emergencies generally	
14.1.1 Driver's duties	207
14.1.2 Rail operator's duties	207
14.1.3 Prime contractor's and rail operator's duties — food or food packaging	208
14.1.4 Prime contractors, rail operators and drivers to inform Competent Authority	209
Division 14.2 Emergencies involving placard loads	
14.2.1 Telephone advisory service	211
14.2.2 Emergency plans	212
14.2.3 Consignor's duties — information and resources	212
14.2.4 Prime contractor's and rail operator's duties — information and resources	213
Part 15 Mutual recognition	
Division 15.1 Registers of determinations, exemptions, approvals and licences	
15.1.1 Registers	214
15.1.2 Registers may be kept by computer	214
15.1.3 Inspection of registers	214
Division 15.2 Competent Authorities Panel	
15.2.1 Membership and function of CAP	215
15.2.2 CAP meetings	215
15.2.3 CAP decisions	215
Division 15.3 Recommendations by Competent Authority and corresponding authorities	
15.3.1 Recommendations by Competent Authority	216
15.3.2 Recommendations by corresponding authorities	217

		Page
Division 15.4	Mutual recognition of determinations, exemptions, approvals and licences	
15.4.1	Corresponding determinations	217
15.4.2	Corresponding exemptions	218
15.4.3	Corresponding approvals	219
15.4.4	Corresponding licences	219
Part 16	Exemptions	
Division 16.1	General	
16.1.1	Applications for exemptions	220
16.1.2	Register of exemptions	221
16.1.3	Records of exemptions	221
Division 16.2	Reference of matters to CAP	
16.2.1	References to CAP	222
16.2.2	Effect of CAP decisions about applications	222
16.2.3	Effect of CAP decisions about cancelling or varying exemptions	223
Part 17	Administrative determinations and approvals	
Division 17.1	General	
17.1.1	Applications	223
17.1.2	Form of administrative determinations and approvals	224
17.1.3	When administrative determinations and approvals not to be made etc	224
17.1.4	Reasons for refusal of applications	224
17.1.5	Periods and conditions	224
17.1.6	Replacement administrative determinations and approvals	225
17.1.7	Failure to comply with conditions	225
17.1.8	Grounds for cancelling administrative determinations and approvals	225
17.1.9	Grounds for varying administrative determinations and approvals	226
Division 17.2	Register of approvals	
17.2.1	Register	227
17.2.2	Records of approvals	228
2007, 319	<i>National Transport Commission (Model Legislation — Transport of Dangerous Goods by Road or Rail) Regulations 2007</i>	19

	Page
Division 17.3	Reference of approval matters to CAP
17.3.1	References to CAP 228
17.3.2	Effect of CAP decisions about applications 229
17.3.3	Effect of CAP decisions about cancelling or varying approvals 229
Division 17.4	Cancellation and variation
17.4.1	Cancellation and variation in dangerous situations 230
17.4.2	Cancellation giving effect to court orders 230
17.4.3	Variation of administrative determinations and approvals on application 230
17.4.4	Cancellation and variation in other circumstances 230
17.4.5	When cancellation and variation take effect 231
Part 18	Licences
Division 18.1	Preliminary
18.1.1	Meaning of <i>licensing authority</i> 232
18.1.2	Application of Part 232
18.1.3	Part additional to other laws 232
Division 18.2	Principal duties under this Part
18.2.1	Prime contractor's duties 233
18.2.2	Driver's duties 233
18.2.3	Consignor's duties 233
Division 18.3	Dangerous goods driver licences
18.3.1	Applications for licences 234
18.3.2	Required driver licence evidence 234
18.3.3	Required competency evidence 235
18.3.4	Required medical fitness evidence 235
18.3.5	Grant of dangerous goods driver licences 236
18.3.6	Applications for renewal of licences 237
18.3.7	Renewal of licences 237
18.3.8	Licence periods 238
18.3.9	Licence conditions 238
18.3.10	Additional condition 239
18.3.11	Grounds for cancelling, suspending or varying licences 239
Division 18.4	Dangerous goods vehicle licences
18.4.1	Meaning of <i>vehicle</i> 240

	Page
18.4.2 Applications for licences	240
18.4.3 Additional information and inspections	241
18.4.4 Grant of dangerous goods vehicle licences	241
18.4.5 Applications for renewal of licences	242
18.4.6 Renewal of licences	243
18.4.7 Licence periods	244
18.4.8 Licence conditions	244
18.4.9 Disposal and transfer of licensed vehicles	244
18.4.10 Grounds for cancelling, suspending or varying licences	246
18.4.11 Licence labels	246
Division 18.5 Requirements relating to dangerous goods driver licences	
18.5.1 Licences to be carried	247
18.5.2 Licences to be produced for inspection	247
Division 18.6 Licences generally	
18.6.1 Meaning of <i>licence</i> and <i>licensee</i>	248
18.6.2 Replacement licences and licence labels	248
18.6.3 Failure to comply with licence conditions	248
18.6.4 Surrender of licences	248
18.6.5 Registers of licences	249
18.6.6 Records of licences	249
18.6.7 Change of information given in licence applications	250
18.6.8 Production of licences to licensing authority	250
18.6.9 Return of licences	250
Division 18.7 Cancellation, suspension and variation	
18.7.1 Definitions	251
18.7.2 Cancellation, suspension and variation in dangerous situations	251
18.7.3 Cancellation and suspension giving effect to court orders	251
18.7.4 Variation of licence on application	251
18.7.5 Cancellation, suspension and variation in other circumstances	252
18.7.6 When cancellation, suspension and variation take effect	253
18.7.7 When licences taken to be suspended	253

		Page
Part 19	Reconsideration and review of decisions	
19.1.1	Application of Part	253
19.1.2	Who may apply for reconsideration of decisions	254
19.1.3	Applications for reconsideration	255
19.1.4	Competent Authority to reconsider decisions	255
19.1.5	Review of certain decisions	255
Part 20	Insurance	
20.1.1	Owner's duties	255
20.1.2	Prime contractor's duties	256
20.1.3	Requiring evidence of insurance etc	257
20.1.4	Approvals — insurance	257
Part 21	Infringement notices	
21.1.1	Meaning of <i>infringement penalty</i>	258
21.1.2	Infringement notice offences	258
21.1.3	Time for payment of infringement penalty	258
21.1.4	Contents of infringement notices	259
21.1.5	Additional information in infringement notices	259
21.1.6	Reminder notices	260
21.1.7	Additional information in reminder notices	261
21.1.8	Withdrawal of infringement notices	262
21.1.9	Effect of Part	262
Part 22	Transitional	
22.1.1	Lawful conduct under previous law	263
22.1.2	Continuing effect of certain determinations	264
22.1.3	Continuing effect of corresponding determinations	264
22.1.4	Continuing effect of certain exemptions	265
22.1.5	Continuing effect of corresponding exemptions	265
22.1.6	Continuing effect of certain approvals	266
22.1.7	Continuing effect of corresponding approvals	267
22.1.8	Continuing effect of certain licences	267
22.1.9	Continuing effect of corresponding licences	268
Schedule 2.1	Penalties	

Regulation 4

Part 1 Preliminary

1 Short title

This Act may be cited as the *{Model Act on the Transport of Dangerous Goods by Road or Rail 2007}*. (1)

Note It is intended that when the model law is adopted by a State or Territory, the adopting State or Territory:

- (a) in the case of a provision that is in curly brackets and relates to strict liability for offences, or to defences against prosecution for offences — will adopt, revise or do away with the provision; and
- (b) in the case of other words and phrases that are in curly brackets — will replace those words and phrases with appropriate expressions. (new)

2 Approval

This Model Act was approved by the Australian Transport Council on 28 February 2007.

3 Purpose

- (1) The purpose of this Act is to regulate the transport of dangerous goods by road and rail in order to promote public safety and protect property and the environment. (3)
- (2) It is the intention of Parliament that the purpose of this Act will be achieved in the context of nationally consistent road and rail transport laws, having regard to regional and modal differences. (CEB 3)

4 Definitions

- (1) In this Act, unless the contrary intention appears:

ADG Code means the Australian Code for the Transport of Dangerous Goods by Road and Rail, approved by the Australian Transport Council.

Regulation 4

authorised officer means an authorised officer appointed under section 12. (6)

Competent Authority means the relevant Competent Authority appointed under section 11. (6)

compliance purposes has the meaning given by subsection (2).

corresponding authority means a Competent Authority appointed under a corresponding law.

corresponding law means:

- (a) a law of another jurisdiction corresponding, or substantially corresponding, to this Act; or
- (b) a law of another jurisdiction that is declared under the regulations to be a corresponding law, whether or not the law corresponds, or substantially corresponds, to this Act.

dangerous goods means:

- (a) a substance or article prescribed as dangerous goods; or
- (b) a substance or article determined by the Competent Authority, in accordance with the {subordinate law}, to be dangerous goods. (6)

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. (6)

driver of a vehicle includes:

- (a) a two-up driver of the vehicle who is present in or near the vehicle or combination; and
- (b) a person who is driving the vehicle as a driver under instruction or under an appropriate learner licence or learner permit;

and where the vehicle is a unit of rolling stock forming part of a train but is not its locomotive, means the driver of the train.

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

Regulation 4

employee means an individual who works under a contract of employment, apprenticeship or training.

employer means a person who employs persons under:

- (a) contracts of employment, apprenticeship or training; or
- (b) contracts for services.

government authority means:

- (a) a department or an administrative unit of the public service; or
- (b) an agency or instrumentality of the Crown; or
- (c) a local government body; or
- (d) the Competent Authority. (6)

improvement notice means an improvement notice issued under section 72.

involvement in the transport of dangerous goods includes:

- (a) importing, or arranging for the importation of, dangerous goods into Australia; and
- (b) packing dangerous goods for transport; and
- (c) marking packages and overpacks containing dangerous goods for transport, and placarding containers and vehicles in which dangerous goods are transported; and
- (d) consigning dangerous goods for transport, including the preparation of transport documentation; and
- (e) loading dangerous goods onto a vehicle, or into a container that is to be put on a vehicle, for transport or unloading dangerous goods that have been transported; and
- (f) undertaking, or being responsible for, otherwise than as an employee or sub-contractor, the transport of dangerous goods; and
- (g) driving a vehicle carrying dangerous goods; and
- (h) being the consignee of dangerous goods that are transported; and

Regulation 4

- (i) being involved as a director, secretary or manager of a body corporate, or other person who takes part in the management of a body corporate, that takes part in an activity covered by this definition.

intelligent transport system means a system involving the use of electronic or other technology (whether located in or on a vehicle, or on or near a road or rail, or elsewhere) that has the capacity and capability to monitor, collect, store, display, analyse, transmit or report information relating to:

- (a) a vehicle or its equipment or load, the driver of a vehicle, the operator of a fleet of vehicles or another person involved in road or rail transport; and
- (b) without limiting the above, whether a vehicle is being operated in conformity with this Act and authorisations issued under it.

jurisdiction means the Commonwealth or a State or Territory.

offence means an offence against this Act. (6)

overpack, in relation to the transport of dangerous goods, means packaging (other than large packaging within the meaning of the {subordinate law}) used to hold and consolidate packages into a single unit for easier handling and stowage. (MSL)

Examples

Pallet, together with strapping or shrink wrapping, designed to hold packages.

Box or crate into which packages are placed.

placard means a label or emergency information panel that is displayed in accordance with Chapter 5.3 of the ADG Code on:

- (a) a transport unit; or
- (b) a container having one or more receptacles with a capacity of more than 500 kilograms or litres.

premises includes a structure, whether permanent or temporary, and land, but does not include a vehicle. (6)

prime contractor, in respect of the transport of dangerous goods by road, means the person who, in conducting a business for or involving the transport of dangerous goods by road, has

Regulation 4

undertaken to be responsible for, or is responsible for, the transport of the goods by road.(MSL 1.2.22)

public authority means:

- (a) the Crown in any capacity; or
- (b) a body established by or under law, or the holder of an office established by or under law, for a public purpose, including a local government authority; or
- (c) a police force or police service.

public place includes a place:

- (a) of public resort open to or used by the public as of right; or
- (b) for the time being:
 - (i) used for a public purpose; or
 - (ii) open to access by the public; whether on payment or otherwise; or
- (c) open to access by the public by the express or tacit consent or sufferance of the owner of that place, whether the place is or is not always open to the public.

rail operator, in respect of the transport of dangerous goods by rail, means the person who has undertaken to be responsible, or is responsible, for:

- (a) the transport of the goods by rail; or
- (b) the condition of a unit of rolling stock transporting the goods. (MSL 1.2.23)

road law has the same meaning as in the {Road Transport Reform (Compliance and Enforcement) Act 200-}..

Note Each State or Territory should replace the words in curly brackets with the name of the Act adopted in the State or Territory to implement the Road Transport Reform (Compliance and Enforcement) Bill — Model provisions, approved by the Australian Transport Council and dated 3 November 2003.

this Act includes the {subordinate law}. (6)

Regulation 5

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

transport, in relation to dangerous goods, includes:

- (a) the packing, loading and unloading of the goods, and the transfer of the goods to or from a vehicle, for the purpose of their transport; and
- (b) the marking of packages and overpacks containing dangerous goods, and the placarding of containers and vehicles in or on which dangerous goods are transported; and
- (c) other matters incidental to their transport. (6 + MSL)

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

two-up driver means a person accompanying a driver of a vehicle on a journey or part of a journey, who has been, is or will be sharing the task of driving the vehicle during the journey.

unit of rolling stock means a vehicle designed to run on rails.

vehicle means:

- (a) a road vehicle, including an articulated vehicle; or
- (b) a unit of rolling stock. (MSL)

warrant means a warrant issued under section 49.

- (2) For the purposes of this Act, a power to give a direction or to inspect a vehicle or premises or to search premises is exercised for ***compliance purposes*** if the power is exercised:
 - (a) to find out whether this Act is being complied with; or
 - (b) to investigate an offence or suspected offence.

5 Binding the Crown

- (1) This Act binds the Crown in right of this jurisdiction and, in so far as the legislative power of the Parliament of this jurisdiction permits, the Crown in all its other capacities. (CEB 4)

Regulation 7

- (2) Nothing in this Act renders the Crown liable to be prosecuted for an offence. (new)

{6 Application of Commonwealth Acts Interpretation Act

- (1) The provisions of the *Acts Interpretation Act 1901* of the Commonwealth apply to the interpretation of this Act, except that:
- (a) Gazette is to refer to the Government Gazette of this jurisdiction; and
 - (b) Minister is to refer to the responsible Minister of this jurisdiction. (CEB 7)
- (2) This section does not prevent the {interpretation legislation of this jurisdiction} from applying to the interpretation of this Act to the extent that it can do so consistently with the application of the provisions of the *Acts Interpretation Act 1901* of the Commonwealth. (CEB 7)
- (3) This section has effect subject to section 4.} (CEB 7)

7 Scope of this Act

- (1) This Act does not apply to:
- (a) dangerous goods that are, or form part of, personal safety equipment of persons in a vehicle transporting dangerous goods; and
 - (b) dangerous goods that are in a container that is designed to form part of, and forms part of, the fuel or battery system of a vehicle's engine, auxiliary engine, fuel burning appliance or other part of a vehicle's propulsion equipment. (10 + new)
- (2) The provisions of this Act have effect despite any other law. (10)

Regulation 8

Part 2 {Subordinate law}

**8 Powers to make {subordinate law} and adoption of
codes and standards**

- (1) The {Governor/Executive} may make {subordinate law} prescribing matters:
 - (a) required or permitted to be prescribed by this Act; or
 - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act. (11)
- (2) In particular, the {subordinate law} may make provision relating to the following:
 - (a) a system of classification of dangerous goods;
 - (b) classes of goods that are too dangerous to be transported;
 - (c) the determination by the Competent Authority of which class goods belong to;
 - (d) the analysis and testing of dangerous goods;
 - (e) fees that are to be paid for things done under this Act;
 - (f) the marking and labelling of packages and overpacks containing dangerous goods for transport and the placarding of containers and vehicles in or on which dangerous goods are transported;
 - (g) containers, vehicles, packaging, equipment and other items used in the transport of dangerous goods;
 - (h) the manufacture of containers, vehicles, packaging, equipment and other items for use in the transport of dangerous goods;
 - (i) voluntary accreditation schemes, including privileges to be accorded or sanctions to be imposed under the schemes and the cancellation or suspension of the schemes;
 - (j) the loading of dangerous goods for, and the unloading of dangerous goods after, their transport;
 - (k) the determination by the Competent Authority of routes along which, the areas in which and the times during which dangerous goods may or may not be transported;

Regulation 8

- (l) procedures for the transport of dangerous goods, including:
 - (i) the quantities and circumstances in which dangerous goods, or particular types of dangerous goods, may be transported; and
 - (ii) safety procedures and equipment;
- (m) the licensing of:
 - (i) vehicles and drivers for the purpose of the transport of dangerous goods; and
 - (ii) persons responsible for the transport of dangerous goods or for vehicles used in that transport;
- (n) the mandatory accreditation of persons involved in the transport of dangerous goods or particular aspects of that transport;
- (o) the approval by the Competent Authority of the form in which applications are to be made to the Authority, and the form in which documents are to be issued by the Authority, for the purposes of the {subordinate law};
- (p) the approval by the Competent Authority of:
 - (i) containers, vehicles, packaging, equipment and other items used in relation to the transport of dangerous goods; and
 - (ii) facilities for, and methods of, testing or using containers, vehicles, packaging, equipment and other items used, and processes carried out, in relation to the transport of dangerous goods;
- (q) documents required to be prepared or kept by persons involved in the transport of dangerous goods and the approval by the Competent Authority of alternative documentation;
- (r) obligations arising, and procedures to be followed, in the event of a dangerous situation in relation to the transport of dangerous goods;
- (s) the training and qualifications required of authorised officers and other persons performing functions under this Act;

Regulation 8

- (t) the training and qualifications required of persons involved in, and the approval of training courses and qualifications relating to involvement in, the transport of dangerous goods;
 - (u) the recognition of laws of other jurisdictions relating to the transport of dangerous goods and of things done under those laws, and the giving effect to those things;
 - (v) infringement notices, and documents and costs relating to infringement notices;
 - (w) the establishment, powers and functions of a Competent Authorities Panel;
 - (x) the recognition of accredited providers of training, package testing, design verification and other similar activities;
 - (y) the passing of information on persons relevant to licensing or compliance and enforcement matters to another Competent Authority and other authorities involved in the enforcement of road and rail laws. (11 + new)
- (3) The {subordinate law} may apply, adopt or incorporate any or all of the provisions of a code, standard, or rule relating to dangerous goods or to their transport. Those provisions may be applied, adopted or incorporated as they currently exist, as amended by the {subordinate law}, or as amended from time to time.(11)
- (4) The {subordinate law} may:
- (a) prescribe a substance or article as being dangerous goods;
or
 - (b) prescribe various types of dangerous goods, including goods that are too dangerous to be transported, and methods for deciding which dangerous goods fall into each type;
- by reference to such a code, standard or rule. (11)
- (5) The {subordinate law} may provide for transitional arrangements.

Regulation 11

- (6) A reference in this section to a code, standard or rule includes a reference to one that is made outside Australia. (11)

9 Penalties under the {subordinate law}

The {subordinate law} may create offences, and may provide for a maximum penalty, not exceeding \$6 000 for an individual or \$30 000 for a body corporate, for each offence. (12)

10 Applications for review

The {subordinate law} may provide a system for review of decisions made under this Act and identified in the {subordinate law}. (CEB 186)

Part 3 Competent Authorities and authorised officers

Division 1 Appointments and arrangements

11 Appointment of Competent Authorities

- (1) The Minister may, {by notice in the Government Gazette,} appoint a Competent Authority, or separate Competent Authorities in relation to road transport and to rail transport, for the purposes of this Act. (13)
- (2) The Competent Authority:
- (a) may exercise all the powers and perform all the functions of an authorised officer; and
 - (b) when exercising those powers or performing those functions, has all the immunities of an authorised officer. (13)

Regulation 12

12 Appointment of authorised officers

- (1) The Competent Authority may, {by notice in the Government Gazette,} appoint an individual, or a class of individuals, to be authorised officers. (14)
- (2) In appointing an authorised officer, the Competent Authority may specify that the appointment is subject to conditions or restrictions relating to:
 - (a) the powers that are exercisable by the officer; or
 - (b) when, where and in what circumstances the officer may exercise powers. (14)
- (3) The Competent Authority must issue each authorised officer who is not a police officer with an identification card containing any prescribed details. (14)

13 Identification cards

- (1) An authorised officer who is not a police officer must:
 - (a) carry his or her card while carrying out duties under this Act; and
 - (b) if it is practicable, produce it before exercising a power of an authorised officer under this Act. (15)
- (2) A police officer who is exercising, or is about to exercise, a power of an authorised officer under this Act must, if practicable, comply with a request to identify himself or herself by:
 - (a) producing the officer's police identification, or authorised officer identification card (if issued); or
 - (b) stating orally or in writing the officer's name, rank and place of duty, or the officer's identification number.(15)

14 Return of identification cards

- (1) A person who has been issued with an identification card and who stops being an authorised officer must return his or her identification card to the appropriate Competent Authority as soon as practicable. (16)

Offence provision.

- {(2) It is a defence to a prosecution for an offence against subsection (1) that the person had a reasonable excuse.} (16)

15 Impersonating authorised officers

- (1) A person must not impersonate an authorised officer.

Offence provision. (new)

- {(2) The offence is an offence of strict liability.}

16 Competent Authority may delegate powers

- (1) The Competent Authority may delegate any of its powers under this Act by signed instrument.
- (2) Subsection (1) does not apply to the Competent Authority's power:
- (a) to appoint authorised officers; or
 - (b) to delegate its powers under this section.

17 Competent Authority may provide information to corresponding authority

- (1) The Competent Authority may provide information to a corresponding authority about:
- (a) any action taken by the Competent Authority under this Act; or
 - (b) any information obtained under this Act, including any information contained in any records, devices or other things inspected or seized under this Act.
- (2) This section has effect subject to applicable privacy legislation.

Regulation 18

18 Reciprocal powers of authorised officers

- (1) This section has effect in relation to another jurisdiction while the corresponding law of the other jurisdiction contains provisions corresponding to this section.
- (2) The Minister may enter into agreements with a Minister of the other jurisdiction for the purposes of this section.
- (3) To the extent envisaged by such an agreement:
 - (a) authorised officers of this jurisdiction may, in this jurisdiction or the other jurisdiction, exercise powers conferred on authorised officers of the other jurisdiction by or under the corresponding law of the other jurisdiction; and
 - (b) authorised officers of the other jurisdiction may, in this jurisdiction or the other jurisdiction, exercise powers conferred on authorised officers by this Act.
- (4) Anything done by an authorised officer of this jurisdiction under paragraph (3) (a) (including an omission of an act) is taken to have been done under this Act as well as under the corresponding law.
- (5) The regulations may make provision for or with respect to the exercise of powers under this section.

Division 2 General enforcement powers — road vehicles

Subdivision 1 Application

19 Application of Division

This Division applies to a road vehicle if:

- (a) one of the following applies to the vehicle:
 - (i) it has a placard on it;
 - (ii) it is carrying a container that has a placard on it;

Regulation 20

- (iii) an authorised officer believes on reasonable grounds that it is carrying dangerous goods; and
- (b) the vehicle is situated:
 - (i) on a road; or
 - (ii) in or on a public place; or
 - (iii) in or on premises occupied or owned by the Competent Authority or by any other public authority; or
 - (iv) in or on any premises where an authorised officer is lawfully present after entry under this Division.

Subdivision 2 Directions in respect of road vehicles

20 Direction to stop road vehicle

- (1) An authorised officer may, for compliance purposes, direct:
 - (a) the driver of a vehicle to which this Division applies to stop the vehicle; or
 - (b) the driver of the vehicle or any other person not to do any one or more of the following:
 - (i) move the vehicle;
 - (ii) interfere with it or any equipment in or on it;
 - (iii) interfere with its load.
- (2) A direction to stop a vehicle may require that it be stopped without delay, or that it be stopped at the nearest place for it to be safely stopped as indicated by the officer.
- (3) A direction given under subsection (1) does not prevent an authorised officer from giving the driver or another person a later inconsistent direction under another provision of this Act.
- (4) A direction ceases to be operative to the extent that an authorised officer:
 - (a) gives the driver or another person a later inconsistent direction; or

Regulation 21

(b) indicates to the driver or another person that the direction is no longer operative.

(5) A person who is given a direction under subsection (1) must comply with the direction.

Offence provision. (new)

{(6) An offence against subsection (5) is an offence of strict liability.}

21 Direction to move road vehicle

(1) An authorised officer may, for compliance purposes, direct the driver of a vehicle to which this Division applies to move it or cause it to be moved to the nearest suitable location that is within the prescribed distance and specified by the officer.

(2) In subsection (1):

prescribed distance means a distance (in any direction) within a radius of 30 kilometres of:

- (a) the location of the vehicle when the direction is given; or
- (b) any point along the forward route of the journey, if the direction is given in the course of a journey of the vehicle.

suitable location means a location that the authorised officer believes on reasonable grounds to be a suitable location having regard to any matters the officer considers relevant in the circumstances.

(3) A person who is given a direction under subsection (1) must comply with the direction.

Offence provision.

(4) In proceedings for an offence against subsection (3), it is a defence if the person charged establishes that:

- (a) it was not possible to move the vehicle concerned because it was broken down; and
- (b) the breakdown occurred for a physical reason beyond the driver's control; and

Regulation 22

- (c) the breakdown could not be readily rectified in a way that would enable the direction to be complied with within a reasonable time.

{(5) An offence against subsection (3) is an offence of strict liability.}

22 Direction to produce documents

- (1) An authorised officer may, for compliance purposes, direct the driver of a vehicle to which this Division applies to produce to the authorised officer:
 - (a) the driver's driver licence; and
 - (b) any licence the driver is required to have by the {subordinate law}; and
 - (c) any transport documentation that is required to be carried on the vehicle by the {subordinate law}.
- (2) A person who is given a direction under subsection (1) must comply with the direction.

Offence provision.

- (3) The authorised officer may seize a licence produced to the officer in response to the direction if the officer reasonably believes that:
 - (a) the licence has been cancelled or suspended; or
 - (b) the licence has otherwise ceased to have effect; or
 - (c) the licence has been varied and the variation is not recorded on the licence; or
 - (d) the person who produced the licence is not the licensee.
- (4) An authorised officer to whom a document that appears to be a licence is produced in response to the direction may seize the document if the officer reasonably believes that the document is not a licence.
- {(5) An offence against subsection (2) is an offence of strict liability.}

Regulation 23

23 Direction to move a road vehicle: where danger or obstruction

- (1) This section applies where an authorised officer believes on reasonable grounds that a vehicle to which this Division applies is:
 - (a) seriously endangering public safety, the environment or road infrastructure; or
 - (b) causing or likely to cause an obstruction to traffic.
- (2) The officer may direct the driver of the vehicle to do either or both of the following:
 - (a) to move it, or cause it to be moved, to the extent necessary to avoid the danger or obstruction;
 - (b) to do anything else reasonably required by the officer, or to cause anything else reasonably required by the officer to be done, to avoid the harm or obstruction.
- (3) A person who is given a direction under subsection (2) must comply with the direction.

Offence provision.
- (4) In proceedings for an offence in relation to the contravention of a direction under paragraph (2) (a), it is a defence if the person charged establishes that:
 - (a) it was not possible to move the vehicle concerned because it was broken down; and
 - (b) the breakdown occurred for a physical reason beyond the driver's control; and
 - (c) the breakdown could not be readily rectified in a way that would enable the direction to be complied with within a reasonable time.
- {(5) An offence against subsection (3) is an offence of strict liability.}

Regulation 24

24 Direction to leave vehicle

- (1) This section applies where the driver of a vehicle to which this Division applies fails to comply with a direction given by an authorised officer under another provision of this Division.
- (2) It also applies where an authorised officer believes on reasonable grounds that the driver of a vehicle to which this Division applies:
 - (a) is not fit to drive the vehicle in order to comply with such a direction because the person:
 - (i) is apparently not physically or mentally fit to do so; or
 - (ii) is so affected by alcohol or a drug as to be unfit to do so; or
 - (b) is not qualified to drive the vehicle in order to comply with such a direction; or
 - (c) is not authorised to drive the vehicle in order to comply with such a direction because the person does not have the approval to do so of the person who is responsible for controlling or directing the operations of the vehicle.
- (3) The officer may direct the driver to do any one or more of the following:
 - (a) to vacate the driver's seat;
 - (b) to leave the vehicle;
 - (c) not to occupy the driver's seat until permitted to do so by an authorised officer;
 - (d) not to enter the vehicle until permitted to do so by an authorised officer.
- (4) The officer may direct any other person to do either or both of the following:
 - (a) to leave the vehicle;
 - (b) not to enter the vehicle until permitted to do so by an authorised officer.
- (5) A person who is given a direction under subsection (3) or (4) must comply with the direction.

Regulation 25

Offence provision. (36)

{(6) An offence against subsection (5) is an offence of strict liability. }

Subdivision 3 Other powers in respect of road vehicles

25 Moving unattended road vehicle: to enable exercise of other powers

- (1) This section applies where an authorised officer:
 - (a) believes on reasonable grounds that a vehicle to which this Division applies is unattended on a road; and
 - (b) is seeking to exercise powers in respect of the vehicle for compliance purposes; and
 - (c) believes on reasonable grounds that the vehicle should be moved to enable or to facilitate the exercise of those powers.
- (2) The officer may:
 - (a) move the vehicle (by driving or towing it or otherwise); or
 - (b) authorise another person to move it (by driving or towing it or otherwise);to the extent reasonably necessary to enable or to facilitate the exercise of the powers concerned.
- (3) The officer may enter the vehicle, or authorise another person to enter it, for the purpose of moving the vehicle.
- (4) The officer or person authorised by the officer may use reasonable force to do any or all of the following:
 - (a) to open unlocked doors and other unlocked panels and objects;
 - (b) to gain access to the vehicle, or its engine or other mechanical components, to enable the vehicle to be moved;
 - (c) to enable the vehicle to be towed.

Regulation 26

- (5) An authorised officer must not authorise a person to move a vehicle in accordance with this section unless the officer believes on reasonable grounds that the person is qualified and fit to do so.

26 Powers of authorised officers — inspection

- (1) An authorised officer may, for compliance purposes, inspect a vehicle to which this Division applies.
- (2) The power to inspect a vehicle includes the power:
- (a) to enter the vehicle; and
 - (b) to weigh, test, measure or take photographs of the vehicle or any part of it or its equipment or load; and
 - (c) to check the existence or details of, or take photographs of, placards or other information required by the {subordinate law} to be displayed in or on the vehicle or any load on it; and
 - (d) to inspect and take copies of or extracts from any records that are located in or on the vehicle and that are required to be carried in or on the vehicle by the {subordinate law}; and
 - (e) to access or download information that is required to be kept by the {subordinate law} and that is:
 - (i) stored electronically in equipment located in or on the vehicle; or
 - (ii) accessible electronically from equipment located in or on the vehicle.
- (3) Nothing in this section authorises the use of force, but an authorised officer may under this section do any or all of the following:
- (a) open unlocked doors and other unlocked panels and objects;
 - (b) inspect anything that has been opened or otherwise accessed;
 - (c) move but not take away anything that is locked up or sealed.

Regulation 27

- (4) The officer may exercise powers under this section at any time, and without the consent of the driver or other person apparently in charge of the vehicle or any other person.

27 Powers of authorised officers — searches

- (1) An authorised officer may, for compliance purposes, search a vehicle to which this Division applies if the officer believes on reasonable grounds that:
- (a) the vehicle has been used, is being used, or is likely to be used, in the commission of an offence; or
 - (b) the vehicle has been or may have been involved in a dangerous situation.
- (2) The officer may form the necessary belief during or after an inspection or independently of an inspection.
- (3) The officer may enter the vehicle for the purpose of or in connection with conducting the search.
- (4) The officer may exercise powers under this section at any time, and without the consent of the driver or other person apparently in charge of the vehicle or any other person.
- (5) Without limiting the above, the power to search a vehicle under this section includes any or all of the following:
- (a) the power to search for evidence of an offence;
 - (b) the power to search for and inspect any records, devices or other things that relate to the vehicle or any part of its equipment or load and that are located in or on the vehicle;
 - (c) the power to take copies of or extracts from any or all of the following:
 - (i) any records that are located in or on the vehicle and that are required to be carried in or on the vehicle by the {subordinate law};
 - (ii) any transport documentation located in or on the vehicle;

Regulation 28

- (iii) any other records, or any readout or other data obtained from any device or thing, located in or on the vehicle that the officer believes on reasonable grounds provide, or may on further inspection provide, evidence of an offence.
- (6) The power to search a vehicle under this section does not include a power to search a person.
- (7) The officer may seize and remove a record, device or other thing from the vehicle that the officer believes on reasonable grounds provides, or may on further inspection provide, evidence of an offence.
- (8) The officer may use reasonable force in the exercise of powers under this section.

**28 Moving unattended or broken down road vehicle:
where danger or obstruction**

- (1) This section applies where an authorised officer believes on reasonable grounds that a vehicle to which this Division applies:
 - (a) is unattended or broken down; and
 - (b) is causing a dangerous situation.
- (2) The officer may:
 - (a) move the vehicle (by driving or towing it or otherwise); or
 - (b) authorise another person to move it (by driving or towing it or otherwise);to the extent reasonably necessary to avoid the dangerous situation.
- (3) The officer may enter the vehicle, or authorise another person to enter it, for the purpose of moving the vehicle.
- (4) The officer may drive the vehicle even though the officer is not qualified to do so, if the officer believes on reasonable grounds that there is no other person in, on or in the vicinity of the vehicle who is more capable of driving it than the officer.

Regulation 29

- (5) A person authorised by the officer may drive the vehicle even though the authorised person is not qualified to do so, if the officer believes on reasonable grounds that there is no other person in, on or in the vicinity of the vehicle who is more capable of driving it than the authorised person.
- (6) The officer or person driving a vehicle under the authority of this section is exempt from any other provision of this Act or of a provision of a road law to the extent that it would require him or her to be licensed or otherwise authorised to drive it.
- (7) The officer or person authorised by the officer may use reasonable force to the extent reasonably necessary to avoid the danger or obstruction.

29 Powers of authorised officers — immobilised road vehicle

- (1) This section applies where an authorised officer believes on reasonable grounds that a vehicle to which this Division applies is broken down or otherwise immobilised on a road.
- (2) The authorised officer may give directions to the driver or a person apparently in charge of the vehicle about how:
 - (a) repair work is to be carried out on the vehicle; or
 - (b) the vehicle is to be towed off the road; or
 - (c) the dangerous goods are to be removed from the vehicle; or
 - (d) the dangerous goods are to be dealt with after their removal from the vehicle.
- (3) A person who is given a direction under subsection (2) must comply with the direction.

Offence provision.

- {(4) An offence against subsection (3) is an offence of strict liability.} (13.3-road, amd/2)

Regulation 31

30 Powers of authorised officers in emergencies

- (1) This section applies if a vehicle to which this Division applies is involved in an incident resulting in a dangerous situation. (new)
- (2) An authorised officer may give directions to the driver or a person apparently in charge of the vehicle about:
 - (a) the transport of the goods from the place of the incident; or
 - (b) how otherwise to deal with the goods. (new)
- (3) The direction must:
 - (a) be in writing and be signed by the authorised officer; and
 - (b) state the name of the person to whom it is given; and
 - (c) identify the incident; and
 - (d) identify the dangerous goods to which it relates. (new)
- (4) However, if it is not practicable to give the direction in writing, the direction may be given orally and confirmed in writing within 48 hours. (new)
- (5) A person who is given a direction under subsection (2) must comply with the direction. (new)
Offence provision. (new)
- {(6) An offence against subsection (5) is an offence of strict liability.} (new)

31 Authorisation not required for driving under this Division

It is immaterial that an authorised officer or a person driving a vehicle under the authority of this Division is not authorised to do so by the person with responsibility for controlling or directing the operations of the vehicle.

Regulation 32

**Division 3 Directions in respect of rolling
stock and trains**

Subdivision 1 Application

32 Application

This Division applies to a unit of rolling stock:

- (a) that has a placard on it; or
- (b) that is carrying a container that has a placard on it; or
- (c) that an authorised officer knows or believes on reasonable grounds is carrying dangerous goods or is carrying a container containing dangerous goods.

**Subdivision 2 Power to give directions in respect of
rolling stock and trains**

33 Powers of authorised officers — rail operators

- (1) An authorised officer may, for compliance purposes, direct the rail operator in respect of a train that includes a unit of rolling stock to which this Division applies to cause the train to stop at a place where it may be safely inspected by the officer.
- (2) A person who is given a direction under subsection (1) must comply with the direction.

Offence provision.

- {(3) An offence against subsection (2) is an offence of strict liability.}

Regulation 35

34 Powers of authorised officers — train drivers

- (1) An authorised officer may, for compliance purposes, direct the driver of a train that includes a unit of rolling stock to which this Division applies or any other person not to do any one or more of the following:
 - (a) move the train;
 - (b) interfere with the train or any equipment in or on it;
 - (c) interfere with any load on any unit of rolling stock that forms part of the train.
- (2) A person who is given a direction under subsection (1) must comply with the direction.

Offence provision.

- {(3) An offence against subsection (2) is an offence of strict liability.}

35 Powers of authorised officers — others

- (1) Where a unit of rolling stock to which this Division applies does not form part of a train, an authorised officer may, for compliance purposes, direct a person not to do any one or more of the following:
 - (a) move the unit;
 - (b) interfere with the train or any equipment or container in or on it;
 - (c) attach any other rolling stock to the unit.
- (2) A person who is given a direction under subsection (1) must comply with the direction.

Offence provision.

- {(3) An offence against subsection (2) is an offence of strict liability.}

Regulation 36

36 Powers of authorised officers — documents

- (1) An authorised officer may direct the driver of a train that includes a unit of rolling stock to which this Division applies to produce to the authorised officer any transport documentation that is required to be carried on the train by the {subordinate law}.
- (2) A person who is given a direction under subsection (1) must comply with the direction.

Offence provision.

- {(3) An offence against subsection (2) is an offence of strict liability.}

Subdivision 3 Other powers in respect of trains

37 Powers of authorised officers — inspection

- (1) An authorised officer may, for compliance purposes, inspect a unit of rolling stock to which this Division applies or a train that includes or that the authorised officer believes on reasonable grounds includes a unit of rolling stock to which this section applies.
- (2) The power to inspect a unit of rolling stock or a train includes the power:
 - (a) to enter the unit or train; and
 - (b) to weigh, test, measure or take photographs of the unit or train or any part of it or its equipment or load; and
 - (c) to check the existence or details of, or take photographs of, placards or other information required by the {subordinate law} to be displayed in or on the unit or any load on it; and
 - (d) to inspect and take copies of or extracts from any records that are located in or on the train and that are required to be carried in or on the train by the {subordinate law}; and

Regulation 38

- (e) to access or download information that is required to be kept by the {subordinate law} and that is:
 - (i) stored electronically in equipment located in or on the train; or
 - (ii) accessible electronically from equipment located in or on the train.
- (3) Nothing in this section authorises the use of force, but an authorised officer may under this section do any or all of the following:
 - (a) open unlocked doors and other unlocked panels and objects;
 - (b) inspect anything that has been opened or otherwise accessed;
 - (c) move, but not take away, anything that is locked up or sealed.
- (4) The officer may exercise powers under this section at any time, and without the consent of the driver or other person apparently in charge of the rolling stock or train or any other person.

38 Powers of authorised officers — search

- (1) An authorised officer may, for compliance purposes, search a unit of rolling stock to which this Division applies or a train that includes or that the authorised officer believes on reasonable grounds includes a unit of rolling stock to which this section applies, if the officer believes on reasonable grounds that:
 - (a) the unit of rolling stock or train has been used, is being used, or is likely to be used, in the commission of an offence; or
 - (b) the unit of rolling stock or train has been or may have been involved in a dangerous situation.
- (2) The officer may form the necessary belief during or after an inspection or independently of an inspection.

Regulation 38

- (3) The officer may enter the unit of rolling stock or train for the purpose of or in connection with conducting the search.
- (4) The officer may exercise powers under this section at any time, and without the consent of the driver or other person apparently in charge of the unit of rolling stock or train or any other person.
- (5) Without limiting the above, the power to search a unit of rolling stock or train under this section includes any or all of the following:
 - (a) the power to search for evidence of an offence;
 - (b) the power to search for and inspect any records, devices or other things that relate to the unit of rolling stock or train or any part of its equipment or load and that are located in or on the unit of rolling stock or train;
 - (c) the power to take copies of or extracts from any or all of the following:
 - (i) any records that are located in or on the unit of rolling stock or train and that are required to be carried in or on the unit of rolling stock or train by the {subordinate law};
 - (ii) any transport documentation located in or on the unit of rolling stock or train;
 - (iii) any other records, or any readout or other data obtained from any device or thing, located in or on the unit of rolling stock or train that the officer believes on reasonable grounds provide, or may on further inspection provide, evidence of an offence.
- (6) The power to search a unit of rolling stock or train under this section does not include a power to search a person.
- (7) The officer may seize and remove a record, device or other thing from the unit of rolling stock or train that the officer believes on reasonable grounds provides, or may on further inspection provide, evidence of an offence.
- (8) The officer may use reasonable force in the exercise of powers under this section.

39 Powers of authorised officers — immobilised train

- (1) This section applies to a train:
 - (a) that has failed or is otherwise immobilised; and
 - (b) that includes rolling stock to which this Division applies.
- (2) An authorised officer may give directions to a person who is involved in the transport of the dangerous goods on the train about how:
 - (a) the dangerous goods are to be removed from the train; or
 - (b) the dangerous goods are to be dealt with after their removal from the train.
- (3) A person who is given a direction under subsection (2) must comply with the direction.

Offence provision.

- {(4) An offence against subsection (3) is an offence of strict liability.} (13.3-rail, amd)

40 Powers of authorised officers in emergencies

- (1) This section applies if a train that includes rolling stock to which this Division applies is involved in an incident resulting in a dangerous situation. (new)
- (2) An authorised officer may give, to the driver of the train or the rail operator, directions about:
 - (a) the transport of the goods from the place of the incident; or
 - (b) how otherwise to deal with the goods. (new)
- (3) The direction must:
 - (a) be in writing and be signed by the authorised officer; and
 - (b) state the name of the person to whom it is given; and
 - (c) identify the incident; and
 - (d) identify the dangerous goods to which it relates. (new)

Schedule 1	Model Act on the Transport of Dangerous Goods by Road or Rail 2007
Part 3	Competent Authorities and authorised officers
Division 4	Powers to inspect and search premises

Regulation 41

- (4) However, if it is not practicable to give the direction in writing, the direction may be given orally and confirmed in writing within 48 hours. (new)
- (5) A person who is given a direction under subsection (2) must comply with the direction. (new)
- Offence provision. (new)
- {(6) An offence against subsection (5) is an offence of strict liability.} (new)

Division 4 Powers to inspect and search premises

Subdivision 1 Preliminary

41 Application

This Division applies to premises occupied or controlled by a person involved in the transport of dangerous goods.

42 Residential purposes

For the purposes of this Division, premises are not being used for residential purposes merely because temporary or casual sleeping or other accommodation is provided in the premises for vehicle drivers.

Subdivision 2 Power to search premises

43 Power to inspect premises

- (1) An authorised officer may, for compliance purposes, inspect premises to which this Division applies.
- (2) The officer may enter the premises for the purpose of conducting the inspection.

Regulation 43

- (3) Without limiting the above, the officer may inspect, or enter and inspect, any vehicle at the premises.
- (4) Before an authorised officer enters premises (not being a public place) under this section, the officer must give the occupier of the premises reasonable notice of the intention to enter unless:
 - (a) the giving of the notice would be reasonably likely to defeat the purpose for which it is intended to enter the premises; or
 - (b) entry to the premises is made with the consent of the occupier of the premises; or
 - (c) entry is required in circumstances where the authorised officer reasonably believes there is an immediate risk to safety because of the carrying out of an operation at the premises in respect of dangerous goods; or
 - (d) entry is authorised by a warrant.
- (5) This section does not authorise, without consent, the entry or inspection of:
 - (a) premises that are apparently unattended, unless the officer believes on reasonable grounds that the premises are not unattended; or
 - (b) premises that are, or any part of premises that is, used predominantly for residential purposes.
- (6) Without limiting the above, the power to inspect premises under this section includes any or all of the following:
 - (a) the power to inspect and take copies of or extracts from any records located at the premises and required to be kept by or under the {subordinate law};
 - (b) the power to check the existence of and inspect any devices (including weighing, measuring, recording or monitoring devices) required to be installed, used or maintained by or under the {subordinate law}, and to inspect and take copies of or extracts from any readout or other data obtained from any such device;
 - (c) the power to use photocopying equipment on the premises free of charge for the purpose of copying any records or other material.

Regulation 44

- (7) This section does not authorise the use of force, but the officer may under this section do any or all of the following:
 - (a) open unlocked doors and other unlocked panels and objects;
 - (b) inspect anything that has been opened or otherwise accessed under the power to use reasonable force in the exercise of a power to enter or move a vehicle under this Part;
 - (c) move, but not take away, anything that is locked up or sealed.
- (8) An authorised officer who enters premises under this section must not unnecessarily impede any activities being conducted at the premises.

44 Power to search premises

- (1) An authorised officer may, for compliance purposes, search premises to which this Division applies, if the officer believes on reasonable grounds that there may be at the premises records, devices or other things that may provide evidence of an offence.
- (2) The officer may form the necessary belief during or after an inspection of the premises or independently of such an inspection.
- (3) The officer may enter the premises for the purpose of conducting the search.
- (4) Without limiting the above, the officer may search, or enter and search, any vehicle at the premises.
- (5) The search may be conducted:
 - (a) at any time under the authority of a warrant; or
 - (b) at any time with the consent of the occupier or other person apparently in charge of the premises; or
 - (c) if a business is carried on at the premises — at any time during the ordinary business hours applicable at the premises (whether or not the premises are actually being

Regulation 44

used for that purpose), and without a warrant and without the consent of the occupier or other person apparently in charge of the premises or any other person.

- (6) Before an authorised officer enters premises (not being a public place) under this section, the officer must give the occupier or other person apparently in charge of the premises reasonable notice of the intention to enter unless:
 - (a) the giving of the notice would be reasonably likely to defeat the purpose for which it is intended to enter the premises; or
 - (b) entry to the premises is made with the consent of the occupier of the premises; or
 - (c) entry is required in circumstances where the authorised officer reasonably believes there is an immediate risk to safety because of the carrying out of an operation at the premises in respect of dangerous goods; or
 - (d) entry is authorised by a warrant.
- (7) This section does not authorise, without a warrant or consent, the entry or searching of:
 - (a) premises that are unattended, unless the officer believes on reasonable grounds that the premises are not unattended; or
 - (b) premises that are, or any part of premises that is, used predominantly for residential purposes.
- (8) Without limiting the above, the power to search premises under this section includes any or all of the following:
 - (a) the power to search for evidence of an offence;
 - (b) the power to search for and inspect any records, devices or other things that relate to:
 - (i) a vehicle or any part of its equipment or load located at the premises; or
 - (ii) any dangerous goods located at the premises;

Regulation 45

- (c) the power to take copies of or extracts from any or all of the following:
 - (i) any records that are located at the premises and are required to be kept by or under the {subordinate law};
 - (ii) any transport documentation located at the premises;
 - (iii) any other records, or any readout or other data obtained from any device or thing, located at the premises that the officer believes on reasonable grounds provide, or may on further inspection provide, evidence of an offence;
 - (d) the power to use photocopying equipment on the premises free of charge for the purpose of copying any records or other material.
- (9) The power to search premises under this section does not include a power to search a person.
- (10) The officer may seize and remove any records, devices or other things from the premises that the officer believes on reasonable grounds provide, or may on further inspection provide, evidence of an offence.
- (11) The officer may use reasonable force in the exercise of powers under this section.

Division 5 Other directions

45 Direction to give name and other personal details

- (1) If an authorised officer suspects on reasonable grounds that an individual person:
 - (a) has committed or is committing or is about to commit an offence; or
 - (b) may be able to assist in the investigation of an offence;the officer may direct the person to give the officer then and there any or all of the person's personal details.

Regulation 46

(2) If an authorised officer suspects on reasonable grounds that a personal detail given by a person in response to a direction is false or misleading, the officer may direct the person to produce evidence then and there of the correctness of the detail.

(3) A person who is given a direction under subsection (1) or (2) must comply with the direction.

Offence provision.

(4) A person who is given a direction under subsection (1) must not give, in purported response to the direction, any details that are false or misleading in a material particular.

Offence provision.

(5) A person who is given a direction under subsection (2) must not produce, in purported response to the direction, any evidence that is false or misleading in a material particular.

Offence provision.

(6) In this section:

personal details, in relation to a person, means:

- (a) the person's full name; and
- (b) the person's date of birth; and
- (c) the address of where the person is living; and
- (d) the address of where the person usually lives; and
- (e) the person's business address.

{(7) An offence against subsection (5) is an offence of strict liability.}

46 Direction to produce records, devices or other things

(1) An authorised officer may, for compliance purposes, direct a person to produce:

- (a) any records required to be kept by the person under this Act; or

Regulation 47

- (b) any records required to be kept under this Act in the person's possession or under the person's control; or
 - (c) any records, or any devices or other things that contain or may contain records, in the person's possession or under the person's control relating to or indicating an offence.
- (2) The direction must:
 - (a) specify:
 - (i) the records, devices or other things; or
 - (ii) the classes of records, devices or other things; that are to be produced; and
 - (b) state where and to whom the records, devices or other things are to be produced.
- (3) The officer may do any or all of the following:
 - (a) inspect records, devices or other things that are produced;
 - (b) make copies of, or take extracts from, records, devices or other things that are produced;
 - (c) seize and remove records, devices or other things that are produced that the officer believes on reasonable grounds may on further inspection provide evidence of an offence.
- (4) A person who is given a direction under subsection (1) must comply with the direction.

Offence provision.
- {(5) The offence is an offence of strict liability.}

47 Direction to provide information

- (1) An authorised officer may, for compliance purposes, direct a person involved in the transport of dangerous goods to provide information to the officer about a vehicle or any load or equipment carried or intended to be carried by a vehicle.

Regulation 48

- (2) Without limiting the above, a direction under subsection (1) may require a person who is associated with a particular vehicle to provide information about the current or intended trip of the vehicle, including:
 - (a) the location of the start or intended start of the trip; and
 - (b) the route or intended route of the trip; and
 - (c) the location of the destination or intended destination of the trip.
- (3) A person who is given a direction under subsection (1) must comply with the direction.

Offence provision.

- {(4) The offence is an offence of strict liability.}

48 Direction to provide reasonable assistance for powers of inspection and search

- (1) An authorised officer may direct a person who is involved in the transport of dangerous goods to provide reasonable assistance to the officer to enable the officer effectively to exercise a power in relation to goods with which the person is involved..
- (2) Without limiting the above, the assistance may include helping the officer to do any or all of the following:
 - (a) to find and gain access to any records or information relating to a vehicle, including but not limited to:
 - (i) records and information required to be kept in or on a vehicle; or
 - (ii) records and information in a useable form for the purpose of ascertaining its compliance with requirements imposed by this Act;
 - (b) to find and gain access to devices on which information is electronically stored and the information stored on them;
 - (c) to weigh or measure:
 - (i) the whole or any part of a vehicle; or
 - (ii) the whole or any part of its equipment or load;

Schedule 1	Model Act on the Transport of Dangerous Goods by Road or Rail 2007
Part 3	Competent Authorities and authorised officers
Division 6	Provisions regarding inspections and searches

Regulation 49

- (d) to operate equipment or facilities for a purpose relevant to the power being or proposed to be exercised;
 - (e) to provide access free of charge to photocopying equipment for the purpose of copying any records or other material.
- (3) A person who is given a direction under subsection (1) must comply with the direction.
- Offence provision.

Division 6 Provisions regarding inspections and searches

49 Warrants

- (1) This section applies where an authorised officer believes on reasonable grounds that:
 - (a) there may be at particular premises, then or within the next 72 hours, records, devices or other things that may provide evidence of an offence; or
 - (b) a vehicle has been or may have been involved in an offence or a dangerous situation and:
 - (i) the vehicle is or has been located at particular premises; or
 - (ii) particular premises are or may be otherwise connected (directly or indirectly) with the vehicle or any part of its equipment or load.
- (2) The officer may apply to a [magistrate/authorised justice] for a warrant authorising the officer to exercise a power to enter and search the premises under this Part.

50 Use of assistants and equipment

- (1) An authorised officer may exercise powers under this Part with the aid of such assistants and equipment as the officer considers reasonably necessary in the circumstances.

Regulation 51

- (2) Powers that may be exercised by an authorised officer under this Part may be exercised by an assistant authorised and supervised by the officer, but only if the officer considers that it is reasonably necessary in the circumstances that the powers be exercised by an assistant.

51 Use of equipment to examine or process things

- (1) An authorised officer exercising a power under this Part may bring to, or on to, a vehicle or premises any equipment reasonably necessary for the examination or processing of things found in, on or at the vehicle or premises in order to determine whether they are things that may be seized.
- (2) If:
- (a) it is not practicable to examine or process the things at the vehicle or premises; or
 - (b) the occupier of the vehicle or premises consents in writing;
- the things may be moved to another place so that the examination or processing can be carried out in order to determine whether they are things that may be seized.
- (3) The officer, or a person assisting the officer, may operate equipment already in, on or at the vehicle or premises to carry out the examination or processing of a thing found in, on or at the vehicle or premises in order to determine whether it is a thing that may be seized, if the officer or person assisting believes on reasonable grounds that:
- (a) the equipment is suitable for the examination or the processing; and
 - (b) the examination or processing can be carried out without damage to the equipment or the thing.

Regulation 52

52 Use or seizure of electronic equipment

- (1) If:
- (a) a thing found in, on or at a vehicle or premises is, or includes, a disk, tape or other device for the storage of information; and
 - (b) equipment in, on or at the vehicle or premises may be used with the disk, tape or other storage device; and
 - (c) the authorised officer concerned believes on reasonable grounds that the information stored on the disk, tape or other storage device is relevant to determine whether an offence has been committed;
- the officer or a person assisting the officer may operate the equipment to access the information.
- (2) If the officer or a person assisting the officer finds that a disk, tape or other storage device in, on or at the vehicle or premises contains information of a kind referred to in paragraph (1) (c), he or she may:
- (a) put the information in documentary form and seize the documents so produced; or
 - (b) copy the information to another disk, tape or other storage device and remove that storage device from the vehicle or premises; or
 - (c) if it is not practicable to put the information in documentary form or to copy the information, seize the disk, tape or other storage device and the equipment that enables the information to be accessed.
- (3) An officer or a person assisting an officer must not operate or seize equipment for the purpose mentioned in this section unless the officer or person assisting believes on reasonable grounds that the operation or seizure of the equipment can be carried out without damage to the equipment.

Division 7 Other provisions regarding seizure

53 Receipt for and access to seized material

If a record, device or other thing is seized and removed under this Part, the authorised officer concerned must:

- (a) give a receipt for it to the person from whom it is seized and removed; and
- (b) if practicable, allow the person who would normally be entitled to possession of it reasonable access to it.

54 Embargo notices

- (1) This section applies where:
 - (a) an authorised officer is authorised to seize any record, device or other thing under this Part; and
 - (b) the record, device or other thing cannot, or cannot readily, be physically seized and removed.
- (2) The officer may issue an embargo notice under this section.
- (3) An ***embargo notice*** is a notice forbidding the movement, sale, leasing, transfer, deletion of information from or other dealing with the record, device or other thing, or any part of it, without the written consent of the officer or the Competent Authority.
- (4) The embargo notice:
 - (a) must be in any form, or contain any particulars, required by the {subordinate law}; and
 - (b) must list the activities that it forbids; and
 - (c) must set out a copy of subsection (8).
- (5) The officer may issue the notice:
 - (a) by causing a copy of the notice to be served on the person with responsibility for the vehicle or premises concerned; or
 - (b) if that person cannot be located or ascertained after all reasonable steps have been taken to do so, by affixing a

Regulation 55

copy of the notice to the record, device or other thing in a prominent position.

- (6) A person who knows that an embargo notice relates to a record, device or other thing must not:
- (a) do anything that is forbidden by the notice; or
 - (b) instruct another person to do so.

Offence provision.

- (7) It is a defence to a prosecution for an offence against subsection (6) to establish that the person charged:
- (a) moved the record, device or other thing, or part of it, to protect or preserve it; or
 - (b) notified the officer who issued the notice of the move, and of the new location of the record, device or other thing or part of it, within 48 hours after the move.

- (8) A person upon whom an embargo notice has been served must take reasonable steps to prevent any other person from doing anything forbidden by the notice.

Offence provision.

- (9) Despite anything in any other Act, a sale, lease or transfer or other dealing with a record, device or other thing, or part of it, in contravention of this section is void.

{(10) Offences under this section are offences of strict liability.}

Division 8 Miscellaneous

55 Limit on use of force

A provision of this Part that authorises an authorised officer to use reasonable force does not authorise the use of force against an individual unless the authorised officer is also a police officer.

Regulation 59

56 Consent

- (1) Before obtaining the consent of a person for the purposes of a provision of this Part, an authorised officer must inform the person that he or she may refuse to give consent.
- (2) An entry by or the exercise of any power under this Part by an authorised officer by virtue of the consent of a person is not lawful unless the person voluntarily consented to the entry.
- (3) Consent may be withdrawn after it has been given, and the power concerned must no longer be exercised by virtue of the consent.

57 Manner of giving directions under this Part

- (1) A direction under this Part may be given orally, in writing or in any other manner.
- (2) A direction not given in person may be sent or transmitted by post, telephone, facsimile, electronic mail, radio or in any other manner.
- (3) A direction may be given to a driver orally or by means of a sign or signal (electronic or otherwise), or in any other manner.

58 Directions to state when to be complied with

- (1) If given orally, a direction under this Part must state whether it is to be complied with then and there or within a specified period.
- (2) If given in writing, a direction under this Part must state the period within which it is to be complied with.

59 Directions may be given under more than one provision

- (1) An authorised officer may, on the same occasion, give directions under one or more provisions of this Part.

Regulation 60

- (2) Without limiting the above, an authorised officer may, in the course of exercising powers under a provision of this Part, give:
- (a) further directions under the provision; or
 - (b) directions under one or more other provisions of this Part; or both.

60 Restoring vehicle or premises to original condition after action taken

- (1) This section applies where:
- (a) an authorised officer or a person authorised by the officer has taken action in the exercise or purported exercise of a power under this Part in relation to a vehicle or its equipment or load or in relation to any premises; and
 - (b) damage was caused by the unreasonable exercise of the power or by the use of force that was not authorised under this Part.
- (2) The officer must take reasonable steps to return the vehicle, equipment, load or premises to the condition it was in immediately before the action was taken.

{61 Self-incrimination

- (1) A person is not excused from complying with a direction given under this Part on the ground that compliance with the direction may result in information being provided that might incriminate the person.
- (2) A person required, in accordance with this Part:
- (a) to produce a record, or a device or other thing that contains or may contain a record; or
 - (b) to provide information; or
 - (c) to provide assistance;
- is not excused from doing so on the ground that doing so may result in information being provided that might incriminate the person.

Regulation 62

- (3) In proceedings for an offence of failing to comply with a direction under section 47 (Direction to provide information) or section 48 (Direction to provide reasonable assistance for powers of inspection and search), it is a defence if the person charged establishes that:
- (a) the person, in complying with the direction, would have been required to answer a question; and
 - (b) the person objected to complying with the direction on the ground that the answer might incriminate the person; and
 - (c) there were reasonable grounds for the objection.
- (4) In proceedings for an offence of failing to comply with a direction to produce records, devices or other things, to provide information or to provide reasonable assistance, it is a defence if the person charged establishes that:
- (a) the person, in complying with the direction, would have been required:
 - (i) to locate, identify or reveal the whereabouts of a record; or
 - (ii) to explain the contents of a record; and
 - (b) the person objected to complying with the direction on the ground that the record (or the information in it) might incriminate the person; and
 - (c) there were reasonable grounds for the objection. }

Note Self-incrimination will be dealt with as appropriate for each jurisdiction. These provisions are provided by way of example.

62 Providing evidence to other authorities

Except as provided by any applicable privacy legislation, the Competent Authority may, for law enforcement purposes, give a record, device or other thing seized in accordance with this Part, or any information obtained in accordance with this Part to a public authority, including a public authority of another jurisdiction.

Regulation 63

63 Obstructing or hindering authorised officers

- (1) A person must not obstruct or hinder an authorised officer or a person assisting an authorised officer in the exercise of a power under this Part.

Offence provision.

- (2) However, an offence is not committed under this section unless it is established that the power:
- (a) was being exercised lawfully; and
 - (b) without limiting paragraph (a), was:
 - (i) exercisable without consent; or
 - (ii) being exercised with consent or under the authority of a warrant.
- (3) The prosecution bears a legal burden in relation to the matters in subsection (2).

Part 4 Exemptions

64 Exemptions

- (1) A person, or a representative of a class of persons, may apply to the Competent Authority for an exemption from compliance with a provision of the {subordinate law} in relation to the transport of particular dangerous goods. (32)
- (2) The Competent Authority may, on its own initiative or on application under subsection (1), exempt a person or class of persons from compliance with a provision of the {subordinate law} in relation to the transport of particular dangerous goods if the Competent Authority is satisfied that:
- (a) it is not reasonably practicable for the person or class of persons to comply with the provision; and
 - (b) granting the exemption:
 - (i) would not be likely to create a risk of death or injury to a person, or harm to the environment or to

Regulation 64

property, greater than that which would be the case if the person or class of persons were required to comply; and

- (ii) would not cause unnecessary administrative or enforcement difficulties, particularly with respect to maintaining national uniformity of road and rail transport laws. (32)
 - (3) An exemption may be subject to conditions, including a condition that it applies to either or both of the following:
 - (a) the transport of dangerous goods by road;
 - (b) the transport of dangerous goods by rail. (new +32)
 - (4) If the Competent Authority grants an exemption to a person, the Competent Authority must send a notice to the person stating:
 - (a) the provisions of the {subordinate law} that are the subject of the exemption; and
 - (b) the dangerous goods to which the exemption applies; and
 - (c) the period of time for which the exemption remains in force; and
 - (d) the conditions to which the exemption is subject; and
 - (e) the geographical area for which the exemption is valid. (32)
 - (5) If the Competent Authority:
 - (a) grants an exemption to a class of persons; or
 - (b) grants an exemption that is to remain in force for longer than 6 months;the Competent Authority must place a notice in the Government Gazette specifying all the details in subsection (4) and the person or class of persons to which the exemption applies. (32)
 - (6) A person operating under an exemption must comply with any condition subject to which the exemption was granted. (32)
- Offence provision. (32)

Regulation 65

- (7) If an exemption is granted to a person, and the exemption applies to a vehicle or to premises, the person must keep a copy of the notice of exemption in the vehicle or premises. (32)
- (8) If the Competent Authority:
 - (a) grants an exemption to a class of persons; or
 - (b) grants an exemption that is to remain in force for longer than 6 months;the Competent Authority must notify the Competent Authority of each other State and Territory of the details of the exemption. (32)

65 Variation and cancellation of exemptions and conditions

- (1) The Competent Authority may cancel an exemption if:
 - (a) the Authority is satisfied that a condition to which the exemption is subject has not been complied with; or
 - (b) the Authority is no longer satisfied of the matters referred to in subsection 64 (2). (33)
- (2) The Competent Authority may vary or cancel conditions to which an exemption is subject or impose new conditions. (33)
- (3) An exemption granted to a person is to be varied or cancelled by notice in writing given to the person, and the variation or cancellation takes effect from the day on which the notice is given, or from a later day specified in the notice. (33)
- (4) An exemption granted to a class of persons is to be varied or cancelled by notice published in the Government Gazette, and the variation or cancellation takes effect on the day of publication, or from a later day specified in the notice. (33)

66 Review of exemption etc

If the Competent Authority:

- (a) refuses to grant an exemption to a person or a class of persons; or

Regulation 68

- (b) cancels an exemption granted to a person or a class of persons; or
 - (c) grants an exemption to a person or a class of persons subject to conditions; or
 - (d) varies or cancels conditions to which an exemption granted to a person or a class of persons is subject or imposes new conditions;
- the person or a representative of the class of persons may apply for a review of the decision. (new + 33A)

67 Application orders and emergency orders

- (1) The Minister may order, by notice in the Government Gazette, that the operation of the {subordinate law}, or of specified parts of the {subordinate law}:
 - (a) is suspended for a specified period; or
 - (b) is varied in a manner specified by the Minister. (34)
- (2) An order may have effect in relation to the whole jurisdiction or to a specified area. (34)

Part 5 Offences and penalties

68 Offence provisions

- (1) In this section, a reference to this Act does not include the {subordinate law}. (new)
- (2) If a provision of this Act is followed by the phrase ‘Offence provision’, an individual who fails to comply with the provision is guilty of an offence punishable by a penalty (whether a fine, imprisonment or both) not exceeding the penalty set out for the offence in column 3 of Schedule 1.1. (new)

Regulation 69

- (3) If a body corporate is found guilty of the offence, the maximum fine for the body corporate is 5 times the maximum fine that could be imposed on an individual for the offence.
(new)

69 Failure to hold licence etc

- (1) A prime contractor must not use a vehicle to transport dangerous goods (other than as the driver of the vehicle) if:
- (a) the {subordinate law} requires the vehicle to be licensed to transport the goods; and
 - (b) the vehicle is not licensed under the {subordinate law}.
- (35)

Offence provision. (35)

- (2) A person must not employ, engage or permit another person to drive a vehicle transporting dangerous goods if the other person is required by the {subordinate law} to be licensed to drive the vehicle and is not so licensed. (35)

Offence provision. (35)

- (3) A person must not drive a vehicle transporting dangerous goods if:
- (a) the {subordinate law} requires the vehicle to be licensed to transport the goods; and
 - (b) the vehicle is not licensed under the {subordinate law}.
- (35)

Offence provision. (35)

- (4) A person who is required by the {subordinate law} to be accredited to be involved in the transport of dangerous goods, or a particular aspect of that transport, must not be so involved without being so accredited. (35)

Offence provision. (35)

Regulation 70

- (5) A person must not drive a vehicle transporting dangerous goods if:
- (a) the {subordinate law} requires the person to be licensed to drive the vehicle; and
 - (b) the person is not licensed under the {subordinate law}.
- (35)

Offence provision. (35)

- {(6) For this section:
- (a) an offence against subsection (1), (3), (4) or (5) is an offence of strict liability; and
 - (b) strict liability applies to the physical element in subsection (2) that the other person is required by the {subordinate law} to be licensed to drive the vehicle.}
- (new)

70 Goods too dangerous to be transported

- (1) A person must not consign goods for transport if the {subordinate law} identifies the goods as being goods too dangerous to be transported. (36 + new)

Offence provision. (36)

- (2) An offence against subsection (1) is an offence of strict liability.
- (3) Subsection (1) includes a person who arranges for the conveyance of goods too dangerous to be transported on a vehicle owned or controlled by the person. (new)
- (4) For the purposes of this section, a person **consigns** goods too dangerous to be transported if:
- (a) subsection (5) applies to the person; or
 - (b) subsection (5) does not apply to the person or anyone else, but subsection (6) applies to the person; or
 - (c) subsections (5) and (6) do not apply to the person or anyone else, but subsection (7) applies to the person.

Regulation 71

- (5) This subsection applies to a person who, with the person's authority, is named or otherwise identified in transport documentation as the consignor of the goods too dangerous to be transported.
- (6) This subsection applies to a person who:
 - (a) engages a prime contractor or rail operator, either directly or through an agent or other intermediary, to transport the goods too dangerous to be transported; or
 - (b) if {clause} (a) does not apply, has possession of, or control over, the goods immediately before the goods are transported; or
 - (c) if neither {clause} (a) or (b) applies, loads a vehicle with the goods, for transport, at a place:
 - (i) where the goods are awaiting collection; and
 - (ii) that is unattended (except by the driver) during loading.
- (7) This subsection applies to a person if:
 - (a) the goods too dangerous to be transported are imported into Australia; and
 - (b) the person is the importer of the goods.

71 Duties concerning the transport of dangerous goods

- (1) A person involved in the transport of dangerous goods by road or rail who fails to ensure that the goods are transported in a safe manner is guilty of an offence. (37)

Offence provision. (new)

- (2) If a person involved in the transport of dangerous goods by road or rail fails to comply with a provision of this Act in circumstances where the person knew, or reasonably ought to have known, that the failure would be likely to endanger the safety of another person or of property or the environment, the person is guilty of an offence. (37)

Offence provision. (37)

- {(3) It is a defence to a prosecution for an offence against subsection (1) that the person complied with the subsection as far as practicable.} (37 (1))

Part 6 General administrative sanctions

Division 1 Improvement notices

72 Improvement notices

- (1) This section applies where an authorised officer is of the opinion that a person has contravened, is contravening or is likely to contravene a provision of this Act.
- (2) The authorised officer may serve on the person an improvement notice requiring the person to remedy the contravention or likely contravention, or the matters or activities occasioning the contravention or likely contravention, before the date specified in the notice.
- (3) The notice must specify a date (with or without a time) by which the person is required to remedy the contravention or likely contravention, or the matters or activities causing the contravention or likely contravention, that the officer considers is reasonable having regard to the severity of any relevant risks and the nature of the contravention or likely contravention.
- (4) The improvement notice must:
 - (a) state that the authorised officer is of the opinion referred to in subsection (1); and
 - (b) state the reasons for that opinion; and
 - (c) specify the provisions of this Act in respect of which that opinion is held; and
 - (d) include information about obtaining a review of the notice; and
 - (e) state that it is issued under this section.

Regulation 73

- (5) The improvement notice may but need not specify the method by which the alleged contravention or likely contravention, or the matters or activities occasioning the alleged contravention or likely contravention, are to be remedied.

73 Contravention of improvement notice

- (1) A person who is subject to an improvement notice must not engage in conduct that results in a contravention of a requirement of the improvement notice.

Offence provision.

- (2) Subsection (1) does not apply if the person has a reasonable excuse.
- (3) The person charged bears an evidential burden in relation to the matter in subsection (2).
- (4) In proceedings for an offence of engaging in conduct that results in a contravention of a requirement of an improvement notice, it is a defence if the person charged establishes that:
- (a) the alleged contravention or likely contravention; or
 - (b) the matters or activities occasioning the alleged contravention or likely contravention;
- were remedied within the period specified in the notice, though by a method different from that specified in the improvement notice.
- {(5) An offence under subsection (1) is an offence of strict liability.}

74 Amendment of improvement notices

- (1) An improvement notice served by an authorised officer may be amended by that authorised officer or any other authorised officer.
- (2) An amendment of an improvement notice is effected by service on the person affected of a notice stating the terms of the amendment.

Regulation 76

- (3) An amendment of an improvement notice is ineffective if it purports to deal with a contravention of a different provision of this Act from that dealt with in the improvement notice as first served.
- (4) A notice of an amendment of an improvement notice must:
 - (a) state the reasons for the amendment; and
 - (b) include information about obtaining a review of the notice; and
 - (c) state that it is issued under this section.

75 Cancellation of improvement notices

- (1) An improvement notice served by an authorised officer may be cancelled by the Competent Authority.
- (2) To be effective a notice of cancellation of an improvement notice must be served on the person affected.

76 Clearance certificates

- (1) An authorised officer may issue a clearance certificate to the effect that all or a specified requirement of an improvement notice have been complied with.
- (2) A requirement of an improvement notice ceases to be operative on receipt, by the person on whom the notice was served, of a clearance certificate to the effect that:
 - (a) all requirements of the notice have been complied with; or
 - (b) that specific requirement has been complied with.

Regulation 77

Division 2 Formal warnings

77 Formal warnings

- (1) An authorised officer may, instead of taking proceedings against a person for a contravention of this Act, formally warn the person if the officer believes:
 - (a) the person had taken reasonable steps to prevent the contravention and was unaware of the contravention; and
 - (b) the contravention is appropriate to be dealt with by way of a formal warning under this section.
- (2) A formal warning must be in writing.
- (3) In this section:
proceedings includes action by way of an infringement notice.

78 Withdrawal of formal warnings

- (1) A formal warning may be withdrawn by the Competent Authority by serving on the alleged offender a written notice of withdrawal within 21 days after the formal warning was given.
- (2) After the formal warning has been withdrawn, proceedings may be taken against the person for the contravention.
- (3) In this section:
proceedings includes action by way of an infringement notice.

Division 3 Infringement notices

79 Infringement notices and infringement penalties

- (1) An authorised officer who believes on reasonable grounds that a person has committed an infringement notice offence may serve the person with an infringement notice as an alternative to prosecution in court for the offence. (CEB 125)
- (2) The infringement penalty for an infringement notice offence is:
 - (a) for an offence against this Act (other than an offence against the {subordinate law}) — the amount specified in column 2 of Schedule 1.1 for the offence; or
 - (b) for an offence against the {subordinate law} — the amount specified in the {subordinate law} as the infringement penalty for the offence. (CEB 125 + new)
- (3) The infringement penalty for an offence must not exceed 20% of the maximum penalty that could be imposed on an individual by a court in respect of the offence. (CEB 125)
- (4) In this section:

infringement notice offence means an offence declared to be an offence for which an infringement notice may be served. (new)

infringement penalty means the monetary penalty that a person who is served with an infringement notice may, as an alternative to having the matter dealt with by a court, pay to dispose of the matter. (new)

Part 7 General court-based sanctions

Division 1 Proceedings for offences

80 Proceedings for offences

Proceedings for an offence may be dealt with summarily.

81 Proceedings for an offence may be brought by authorised officers

A prosecution for an offence may be brought by an authorised officer. (39)

82 Period within which proceedings for offences may be commenced

- (1) Unless this Act otherwise provides proceedings for an offence may be commenced within:
 - (a) the period of 2 years after the commission of the alleged offence; or
 - (b) a further period of 1 year commencing on the day on which the Competent Authority or an authorised officer first obtained evidence of the commission of the alleged offence considered reasonably sufficient by the Authority or officer to warrant commencing proceedings.
- (2) For the purposes of subsection (1), a certificate purporting to have been issued by the Authority or an authorised officer as to the date when the Authority or the officer first obtained evidence considered reasonably sufficient by the Authority or officer to warrant commencing proceedings is admissible in any proceedings and is prima facie evidence of the matters stated.

Division 2

Available sanctions

83 Penalties imposed by courts

- (1) A court that finds a person guilty of an offence may impose any one or more of the penalties provided for by this Part.
- (2) Without affecting a court's discretion, the court is required to take into consideration, when imposing more than one of the penalties provided for by this Part, the combined effect of the penalties imposed.
- (3) Nothing in this Part affects any discretions or powers that a court or other person or body has apart from this Part.
- (4) If one or more courts make orders under this Part that result in both a supervisory intervention order and an exclusion order being in force at the same time in relation to the same person, the supervisory intervention order has no effect while the exclusion order has effect.

Division 3

Fines

84 Penalty levels: offences referred to in Schedule 1

- (1) A court may impose on an individual who is found guilty of an offence a penalty not exceeding the maximum penalty indicated in respect of the offence in Column 3 of Schedule 1.1.
- (2) A court may impose on a body corporate that is found guilty of an offence a penalty not exceeding 5 times the maximum penalty that could be imposed on an individual in respect of the offence.

Regulation 85

**Division 4 Commercial benefits penalty
orders**

85 Commercial benefits penalty orders

- (1) The court that finds a person guilty of an offence may, on the application of the Competent Authority, make an order under this section.
- (2) The court may make a commercial benefits penalty order requiring the person to pay, as a fine, an amount not exceeding 3 times the amount estimated by the court to be the gross commercial benefit that:
 - (a) was received or receivable, by the person or by an associate of the person, from the commission of the offence; and
 - (b) in the case of a journey that was interrupted or not commenced because of action taken by an authorised officer in connection with the commission of the offence — would have been received or receivable, by the person or by an associate of the person, from the commission of the offence had the journey been completed.
- (3) In estimating the gross commercial benefit that was or would have been received or receivable from the commission of the offence, the court may take into account:
 - (a) benefits of any kind, whether monetary or otherwise; and
 - (b) any other matters that it considers relevant, including (for example):
 - (i) the value of any goods involved in the offence; and
 - (ii) the distance over which any such goods were or were to be carried.
- (4) However, in estimating the gross commercial benefit that was or would have been received or receivable from the commission of the offence, the court is required to disregard any costs, expenses or liabilities incurred by the person or by an associate of the person.

Regulation 87

- (5) Nothing in this section prevents the court from ordering payment of an amount that is:
- (a) less than 3 times the estimated gross commercial benefit;
or
 - (b) less than the estimated gross commercial benefit.

Division 5 Licensing and registration sanctions

86 Power to affect licences

- (1) The court that finds the driver of a vehicle guilty of an offence may make an order for either or both of the following:
 - (a) that a licence the driver is required to have by the {subordinate law} is:
 - (i) cancelled; or
 - (ii) modified or suspended for a specified period;
 - (b) that the driver is disqualified from obtaining or holding a licence a person is required to have by {the subordinate law} for a specified period.
- (2) An order under this section operates by force of this Act and takes effect immediately or from a later specified date.

87 Power to affect road vehicle registration

- (1) This section applies where the registered operator of a road vehicle is convicted of an offence under this Act in relation to the vehicle.
- (2) The court that finds the person guilty of the offence may make an order that the registration of the vehicle is:
 - (a) cancelled; or
 - (b) suspended for a specified period.
- (3) The court may also make an order that the registered operator or an associate of the registered owner, is disqualified from registering the vehicle for a specified period.

Regulation 88

- (4) If the court considers that another person who is not present in court may be substantially affected by an order under this section, the court may issue a summons to that other person to show cause why the order should not be made.
- (5) An order under this section operates by force of this Act and takes effect immediately or from a later specified date.
- (6) In this section **registered operator**, in relation to a road vehicle, means the person recorded by an Australian Authority on a register maintained in accordance with an Australian road law as the person responsible for the vehicle.

Division 6 Supervisory intervention orders

88 Supervisory intervention orders

- (1) The court that finds a person guilty of an offence may, on the application of the Competent Authority, if the court considers the person to be a systematic or persistent offender against this Act, make an order under this section.
- (2) The court may make a supervisory intervention order requiring the person (at the person's own expense and for a specified period not exceeding one year) to do any or all of the following:
 - (a) to do specified things that the court considers will improve the person's compliance with this Act or specified provisions of this Act, including (for example) the following:
 - (i) appointing or removing staff to or from particular activities or positions;
 - (ii) training and supervising staff;
 - (iii) obtaining expert advice as to maintaining appropriate compliance;
 - (iv) installing monitoring, compliance, managerial or operational equipment (including, for example, intelligent transport system equipment);

Regulation 88

- (v) implementing monitoring, compliance, managerial or operational practices, systems or procedures;
- (b) to conduct specified monitoring, compliance, managerial or operational practices, systems or procedures subject to the direction of the Competent Authority or a person nominated by the Authority;
- (c) to furnish compliance reports to the Competent Authority or the court or both as specified in the order;
- (d) to appoint a person to have responsibilities:
 - (i) to assist the person in improving compliance with this Act or specified provisions of this Act; and
 - (ii) to monitor the person's performance in complying with this or specified provisions of this Act and in complying with the requirements of the order; and
 - (iii) to furnish compliance reports to the Competent Authority or the court or both as specified in the order.
- (3) The court may specify matters that are to be dealt with in compliance reports and the form, manner and frequency in which compliance reports are to be prepared and furnished.
- (4) The court may require that compliance reports or aspects of compliance reports be made public, and may specify the form, manner and frequency in which they are to be made public.
- (5) The court may only make a supervisory intervention order if it is satisfied that the order is capable of improving the person's ability or willingness to comply with this Act, having regard to:
 - (a) the offences of which the person has been previously found guilty; and
 - (b) the offences for which the person has been proceeded against by way of unwithdrawn infringement notices; and
 - (c) any other offences or other matters that the court considers to be relevant to the conduct of the person in connection with the transport of dangerous goods.

Regulation 89

- (6) The order may direct that any other penalty or sanction imposed for the offence by the court is suspended until the court determines that there has been a substantial failure to comply with the order.
- (7) A court that has power to make supervisory intervention orders may revoke or amend a supervisory intervention order on the application of:
 - (a) the Competent Authority; or
 - (b) the person in respect of whom the order was made, but in that case only if the court is satisfied that there has been a change of circumstances warranting revocation or amendment.
- (8) In this section:

compliance report, in relation to a person in respect of whom a supervisory intervention order is made, means a report relating to:

 - (a) the performance of the person in complying with:
 - (i) this Act or provisions of this Act specified in the order; and
 - (ii) the requirements of the order; and
 - (b) without limiting the above:
 - (i) things done by the person to ensure that any failure by the person to comply with this or the specified provisions of this Act does not continue; and
 - (ii) the results of those things having been done.

89 Contravention of supervisory intervention order

A person who is subject to a requirement of a supervisory intervention order must not engage in conduct that results in a contravention of the requirement.

Offence provision.

Division 7 Exclusion orders

90 Exclusion orders

- (1) The court that finds a person guilty of an offence may, on the application of the Competent Authority, if the court considers the person to be a systematic or persistent offender against this Act, make an order under this section.
- (2) For the purpose of restricting opportunities for the person to commit or be involved in the commission of further offences, the court may make an exclusion order prohibiting the person, for a specified period, from involvement in the transport of dangerous goods or in any aspect of that transport.
- (3) The court cannot make an exclusion order that prohibits the person from driving or registering a vehicle.
- (4) The court may only make an order under this section if it is satisfied that the person should not continue the things the subject of the proposed order and that a supervisory intervention order is not appropriate, having regard to:
 - (a) the offences of which the person has been previously found guilty; and
 - (b) the offences for which the person has been proceeded against by way of unwithdrawn infringement notices; and
 - (c) any other offences or other matters that the court considers to be relevant to the conduct of the person in connection with involvement in the transport of dangerous goods.
- (5) A court that has power to make exclusion orders may revoke or amend an exclusion order on the application of:
 - (a) the Competent Authority; or
 - (b) the person in respect of whom the order was made, but in that case only if the court is satisfied that there has been a change of circumstances warranting revocation or amendment.

Regulation 91

91 Contravention of exclusion order

A person who is subject to a prohibition contained in an exclusion order must not engage in conduct that results in a contravention of the prohibition.

Offence provision.

Division 8 Forfeiture orders

92 Forfeiture

- (1) The court that finds a person guilty of an offence in relation to dangerous goods may, on the application of the Competent Authority, if the court is satisfied that the person owns the goods or that their owner cannot be identified, order, in addition to imposing any other penalty, that the dangerous goods and their containers to be forfeited to the Crown.
- (2) Dangerous goods and containers forfeited to the Crown may be collected, packaged, transported destroyed, sold or otherwise disposed of as directed by the Competent Authority.
- (3) The person found guilty of the offence must pay to the Crown the reasonable costs of collecting, packaging, transporting, storing destroying, selling or otherwise disposing of the dangerous goods and containers.

Part 8 Compensation orders

Division 1 Definitions

93 Definitions

In this Part:

compensation order means an order made under this Part.

rail or road authority means a person or body (whether or not a public authority) that is responsible for the care, control or management of a railway or road, as the case may be.

rail or road infrastructure includes:

- (a) a road, including its surface or pavement and a railway including its rails and junctions; and
- (b) anything under or supporting a road or a railway, its surface, pavement or rails and maintained by a rail or road authority; and
- (c) any bridge, tunnel, causeway, road-ferry, ford or other work or structure forming part of a rail or road system or supporting a railway or road; and
- (d) any bridge or other work or structure located above, in or on a railway or road and maintained by a rail or road authority; and
- (e) any traffic control devices, railway or tramway equipment, electricity equipment, emergency telephone systems or any other facilities (whether of the same or a different kind) in, on, over, under or connected with anything referred to in paragraphs (a) to (d).

Division 2 General compensation orders

94 Compensation orders for damage to road and rail infrastructure

- (1) The court that finds a person guilty of an offence may make an order under this Part.

Regulation 95

- (2) The court may make a compensation order requiring the offender to pay a rail or road authority such amount by way of compensation as the court thinks fit for damage to any rail or road infrastructure that the rail or road authority has incurred or is likely to incur in consequence of the offence.
- (3) A compensation order may be made on the application of the rail or road authority or the Competent Authority.
- (4) A compensation order may only be made in favour of the rail or road authority.
- (5) The court may make a compensation order where it is satisfied on the balance of probabilities that the commission of the offence caused or contributed to the damage.
- (6) The court may make a compensation order when it finds the offender guilty of the offence or at any time afterwards, but not later than the period within which a prosecution for the offence could have been commenced.

95 Assessment of compensation

- (1) In making a compensation order, the court may assess the amount of compensation in such manner as it considers appropriate, including (for example) the estimated cost of remedying the damage.
- (2) In assessing the amount of compensation, the court may take into account such matters as it considers relevant, including:
 - (a) any evidence adduced in connection with the prosecution of the offence; and
 - (b) any evidence not adduced in connection with the prosecution of the offence but adduced in connection with the making of the proposed order; and
 - (c) any certificate of the rail or road authority stating that it maintains the railway or road infrastructure concerned; and

Regulation 96

- (d) any other certificate of the rail or road authority, such as a certificate:
 - (i) estimating the monetary value of all or any part of the rail or road infrastructure or of the damage to it; or
 - (ii) estimating the cost of remedying the damage; or
 - (iii) estimating the extent of the offender's contribution to the damage.

96 Service of certificates

- (1) If a rail or road authority proposes to use a certificate in proceedings, it must serve a copy of the certificate on the defendant at least 28 working days before the day on which the matter is set down for hearing.
- (2) Such a certificate cannot be used in the proceedings unless a copy of it has been served in accordance with this section.
- (3) A defendant who wishes to challenge a statement in such a certificate must serve a notice in writing on the rail or road authority at least 14 working days before the day on which the matter is set down for hearing.
- (4) The notice must specify the matters in the certificate that are intended to be challenged.
- (5) If the defendant is intending to challenge the accuracy of any measurement, analysis or reading in the certificate, the defendant must specify the reason why the defendant alleges that it is inaccurate and must specify the measurement, analysis or reading that the defendant considers to be correct.
- (6) The defendant cannot challenge a matter in the certificate if the requirements of this section have not been complied with in relation to the certificate, unless the court gives leave to do so in the interests of justice.

Regulation 97

97 Limits on amount of compensation

- (1) If, in making a compensation order, the court is satisfied that the commission of the offence concerned contributed to the damage but that other factors not connected with the commission of the offence also contributed to the damage, the court must limit the amount of the compensation payable by the offender to the amount it assesses as being the offender's contribution to the damage.
- (2) The maximum amount of compensation cannot exceed the monetary jurisdictional limit of the court in civil proceedings.
- (3) The court may not include in the order any amount for:
 - (a) personal injury or death; or
 - (b) loss of income (whether sustained by a rail or road authority or any other person or organisation); or
 - (c) damage to any property (including a vehicle) that is not part of the rail or road infrastructure.

Division 3 Costs compensation orders

98 Recovery of costs from convicted person

- (1) A court that convicts a person of an offence may, in addition to imposing any other penalty, order the convicted person to pay the Competent Authority costs:
 - (a) that were reasonably incurred in taking the action; and
 - (b) that were directly related to the investigation of the offence.

- (2) Those costs include costs for testing, transporting, storing and disposing of the dangerous goods and other evidence.

Division 4 Costs and recovery

99 Costs

The court has the same power to award costs in relation to the proceedings for a compensation order as it has in relation to civil proceedings, and the relevant provisions of laws applying to costs in relation to civil proceedings apply with any necessary adaptations to costs in relation to the proceedings for the compensation order.

100 Enforcement of compensation order and costs

A compensation order, and any award of costs, are enforceable as if they were a judgment of the court in civil proceedings.

101 Relationship with orders or awards of other courts and tribunals

- (1) A compensation order may not be made if another court or tribunal has awarded compensatory damages or compensation in civil proceedings in respect of the damage based on the same or similar facts, and if a court purports to make an order under this Part in those circumstances:
- (a) the order is void to the extent that it covers the same matters as those covered by the other award; and
 - (b) any payments made under the order to the extent to which it is void must be repaid by the rail or road authority.
- (2) The making of a compensation order does not prevent another court or tribunal from afterwards awarding damages or compensation in civil proceedings in respect of the damage based on the same or similar facts, but the court or tribunal must take the order into account when awarding damages or compensation.

Part 9 General liability and evidentiary provisions

Division 1 Basis of liability for offences

102 Multiple offenders

- (1) This section applies where a provision of this Act provides (expressly or impliedly) that each of 2 or more persons is liable for an offence.
- (2) Proceedings may be taken against all or any of the persons.
- (3) Proceedings may be taken against any of the persons:
 - (a) regardless of whether or not proceedings have been commenced against any of the other persons; and
 - (b) if proceedings have been commenced against any of the other persons — regardless of whether or not the proceedings have been concluded; and
 - (c) if proceedings have been concluded against any of the other persons — regardless of the outcome of the proceedings.
- (4) This section has effect subject to any provision of this Act to the contrary.

103 Double jeopardy

- (1) A person may be punished only once in relation to the same failure to comply with a particular provision of this Act, even if the person is liable in more than one capacity.
- (2) Despite subsection (1), a person may be punished for more than one breach of a provision of this Act where the breaches relate to different parts of the same vehicle or of the same dangerous goods.

Regulation 104

**104 Liability of directors, partners, employers and others
for offences by bodies corporate, partnerships,
associations and employees**

- (1) If a body corporate commits an offence, each director of the body corporate, and each person concerned in the management of the body corporate, is taken to have committed the offence and is punishable accordingly.
- (2) If a person who is a partner in a partnership commits an offence in the course of the activities of the partnership, each other person who is a partner in the partnership, and each other person concerned in the management of the partnership, is taken to have committed the offence and is punishable accordingly.
- (3) If a person who is concerned in the management of an unincorporated association commits an offence in the course of the activities of the unincorporated association, each other person concerned in the management of the unincorporated association is taken to have committed the offence and is punishable accordingly.
- (4) If an employee commits an offence, the employer is taken to have committed the offence and is punishable accordingly.
- (5) This section does not affect the liability of the person who actually committed the offence.
- (6) A person may be proceeded against and found guilty of an offence arising under this section whether or not the body corporate or other person who actually committed the offence has been proceeded against or been found guilty of the offence.
- (7) It is a defence to a charge for an offence arising under subsection (1) if the defendant establishes that:
 - (a) the defendant was not in a position to influence the conduct of the body corporate in relation to the actual offence; or

Regulation 105

- (b) the defendant, being in such a position, took reasonable precautions and exercised due diligence to prevent the commission of the actual offence.
- (8) It is a defence to a charge for an offence arising under subsection (2) or (3) if the defendant establishes that:
 - (a) the defendant was not in a position to influence the conduct of the person who actually committed the offence; or
 - (b) the defendant, being in such a position, took reasonable precautions and exercised due diligence to prevent the commission of the actual offence.
- (9) It is a defence to a charge for an offence arising under subsection (4) if the defendant establishes that:
 - (a) the defendant had no knowledge of the actual offence; and
 - (b) the defendant took reasonable precautions and exercised due diligence to prevent the commission of the actual offence.

105 Complicity and common purpose (aiding and abetting)

- (1) A person who aids, abets, counsels or procures the commission of an offence by another person is taken to have committed that offence and is punishable accordingly.
- (2) For the person to be guilty:
 - (a) the person's conduct must have in fact aided, abetted, counselled or procured the commission of the offence by the other person; and
 - (b) the offence must have been committed by the other person.
- (3) For the person to be guilty, the person must:
 - (a) have intended that:
 - (i) his or her conduct would aid, abet, counsel or procure the commission of any offence of the type the other person committed; or

Regulation 107

- (ii) his or her conduct would aid, abet, counsel or procure the commission of an offence; and
- (b) have been reckless about the commission of the offence that the other person in fact committed.
- (4) A person cannot be found guilty of aiding, abetting, counselling or procuring the commission of an offence if, before the offence was committed, the person:
 - (a) terminated his or her involvement; and
 - (b) took reasonable steps to prevent the commission of the offence.
- (5) This section does not affect the liability of the principal offender.
- (6) A person may be found guilty of aiding, abetting, counselling or procuring the commission of an offence even if the principal offender has not been prosecuted or has not been found guilty.

106 Causing or permitting

- (1) A person who causes or permits another person to commit an offence is taken to have committed that offence and is punishable accordingly.
- (2) This section does not affect the liability of the person who actually committed the offence.
- (3) This section does not apply in relation to directions given by authorised officers under this Act.

107 Coercing, inducing or offering incentive

- (1) A person who urges another person to commit an offence is guilty of an offence.
- (2) Without limiting the above, a person urges another person to commit an offence if the person threatens, intimidates, coerces, induces or offers an incentive to the other person to commit the offence.

Regulation 108

- (3) This section does not affect the liability of the person who actually committed the road law offence.

Division 2 General defences

108 Sudden or extraordinary emergency

- (1) It is a defence to a charge for an offence if the person charged carried out the conduct constituting the offence in response to circumstances of sudden or extraordinary emergency.
- (2) This section applies if and only if the person carrying out the conduct reasonably believed that:
- (a) circumstances of sudden or extraordinary emergency exist; and
 - (b) committing the offence is the only reasonable way to deal with the emergency; and
 - (c) the conduct is a reasonable response to the emergency.

109 Lawful authority

It is a defence to a charge for an offence if the person charged establishes that the conduct constituting the offence is authorised or excused by or under a law.

110 Other defences

Nothing in this Act affects defences available under other laws of this jurisdiction.

Division 3 Special defences

111 Special defence for owners or operators

- (1) It is a defence to a charge for an offence alleged to have been committed by a person in the capacity of an owner or operator of a vehicle transporting dangerous goods if the person establishes that the vehicle was being used at the relevant time by:
 - (a) another person not entitled (whether by express or implied authority or otherwise) to use it, other than an employee or agent of the alleged offender; or
 - (b) an employee of the alleged offender who was acting at the relevant time outside the scope of the employment; or
 - (c) an agent (in any capacity) of the alleged offender who was acting at the relevant time outside the scope of the agency.
- (2) If the offence relates to a breach of this Act in connection with alleged deficiencies concerning the vehicle or dangerous goods, the defence is not available unless the alleged offender establishes that:
 - (a) the vehicle or dangerous goods had not, before they ceased to be under the alleged offender's control, been driven or transported on a road in Australia in breach of this Act or a corresponding law arising in connection with all or any of those alleged deficiencies; and
 - (b) one or more material changes, resulting in the alleged breach, had been made after the vehicle or dangerous goods had ceased to be under the alleged offender's control.
- (3) In this section:

deficiency concerning a vehicle or dangerous goods means a deficiency in anything that is required by the {subordinate law} to be carried on or in a vehicle or on or in dangerous goods.

owner, in respect of a vehicle, means a person who:

 - (a) is the sole owner, a joint owner or a part owner of the vehicle; or

Schedule 1	Model Act on the Transport of Dangerous Goods by Road or Rail 2007
Part 9	General liability and evidentiary provisions
Division 4	General evidentiary provisions

Regulation 112

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

112 Special defence of compliance with direction

It is a defence to a charge for an offence if the person charged establishes that the conduct constituting the offence was done in compliance with a direction given by an authorised officer or a police officer.

Division 4 General evidentiary provisions

113 Vicarious responsibility

- (1) If, in proceedings for an offence, it is necessary to establish the state of mind of a body corporate in relation to particular conduct, it is sufficient to show:
 - (a) that the conduct was engaged in by a director, employee or agent of the body corporate within the scope of his or her actual or apparent authority; and
 - (b) that the director, employee or agent had the relevant state of mind.
- (2) For the purposes of a prosecution for an offence, conduct engaged in on behalf of a body corporate by a director, employee or agent of the body corporate within the scope of his or her actual or apparent authority is taken to have been engaged in also by the body corporate, unless the body corporate establishes that it took reasonable precautions and exercised due diligence to avoid the conduct.

Regulation 114

- (3) If, in proceedings for an offence, it is necessary to establish the state of mind of a person other than a body corporate (the **employer**) in relation to particular conduct, it is sufficient to show:
- (a) that the conduct was engaged in by an employee or agent of the employer within the scope of his or her actual or apparent authority; and
 - (b) that the employee or agent had the relevant state of mind.
- (4) For the purposes of a prosecution for an offence, conduct engaged in on behalf of a person other than a body corporate (the **employer**) by an employee or agent of the employer within the scope of his or her actual or apparent authority is taken to have been engaged in also by the employer, unless the employer establishes that the employer took reasonable precautions and exercised due diligence to avoid the conduct.
- (5) In this section:
- director** of a body corporate includes a constituent member of a body corporate incorporated for a public purpose by a law of any jurisdiction.
- state of mind** of a person includes:
- (a) the knowledge, intention, opinion, belief or purpose of the person; and
 - (b) the person's reasons for the intention, opinion, belief or purpose.

114 Evidence

- (1) In a prosecution for an offence, if an authorised officer gives evidence that he or she believes any of the matters referred to in subsection (2), the Court must, if:
- (a) it considers the belief to be reasonable; and
 - (b) there is no evidence to the contrary;
- accept the matter as proved. (40 (1))

Regulation 114

- (2) The matters are:
- (a) that dangerous goods described in transport documents carried in a vehicle are being carried in the vehicle; or
 - (b) that particular goods are dangerous goods or dangerous goods of a particular type; or
 - (c) if markings or placards on or attached to a substance or container indicate that the substance is or the container contains particular dangerous goods — that the substance is or the container contains those dangerous goods; or
 - (d) if markings on, or attached to, a package or overpack indicates that the package or overpack contains particular dangerous goods — that the package or overpack contains those dangerous goods; or
 - (e) if markings or placards on or attached to a vehicle or equipment indicate that the vehicle or equipment is being used to transport dangerous goods — that the vehicle or equipment is being used to transport those dangerous goods; or
 - (f) if markings or placards on or attached to a substance or container indicate, in relation to the substance, the container or the contents of the container, a particular capacity, tare weight, origin, character, specification, ownership or date of manufacture — that the substance, the container or the contents of the container has that capacity, tare weight, origin, character, specification, ownership or date of manufacture; or
 - (g) if markings on, or attached to, a package or overpack indicates, in relation to the contents of the package or overpack, a particular capacity, tare weight, origin, character, specification, ownership or date of manufacture — that the contents of the package or overpack has that capacity, tare weight, origin, character, specification, ownership or date of manufacture; or
 - (h) if markings or placards on or attached to a vehicle or container indicate, in relation to the load of the vehicle or the contents of the container, a particular quantity of dangerous goods — that the vehicle or container contained that quantity of dangerous goods; or

Regulation 116

- (i) that a person was not, at a particular time, accredited or the holder of a licence relating to dangerous goods. (40 (2) + new)
- (3) A court may admit the following documents as evidence if they appear to be signed by the Competent Authority or by a person exercising powers delegated by the Competent Authority for the relevant purpose:
 - (a) documents relating to whether a person is exempt from certain requirements under section 64; or
 - (b) documents relating to vehicles, equipment or other items required by the {subordinate law} to be approved by the Competent Authority; or
 - (c) documents relating to accreditation or licensing by the Competent Authority. (40 (4))
- (4) The court must accept the documents as proof of the facts stated in them if there is no evidence to the contrary. (40 (5))

115 Evidence regarding weighing

Evidence of a record made by:

- (a) the operator of a weighbridge or weighing facility; or
- (b) an employee of the operator of the weighbridge or weighing facility;

of the mass of a vehicle transporting dangerous goods or a container containing dangerous goods weighed at the weighbridge or facility is admissible in any proceedings and is prima facie evidence of the mass of the vehicle or container at the time it was weighed.

116 Proof of appointments and signatures unnecessary

- (1) For the purposes of this Act, it is not necessary to prove the appointment of an authorised officer.
- (2) For the purposes of this Act, a signature purporting to be the signature of an authorised officer is evidence of the signature it purports to be.

Regulation 117

117 Transport documentation

- (1) Transport documentation is admissible in any proceedings under or for the purposes of this Act and is prima facie evidence of:
 - (a) the identity and status of the parties to the transaction to which it relates; and
 - (b) the destination or intended destination of the load to which it relates.
- (2) The reference in subsection (1) to the *status* of parties includes a reference to their status in respect of their involvement in the transport of dangerous goods.

118 Use of codes of practice etc in proceedings

- (1) This section applies to a code of practice, guideline or other document that is approved by the Australian Transport Council for the purpose of providing practical guidance to persons engaged in the transport of dangerous goods. (41)
- (2) If:
 - (a) in proceedings against a person for an offence, it is alleged that a person contravened a provision of this Act; and
 - (b) a code of practice, guideline or other document to which this section applies specifies a means of complying with the provision or with a requirement of the provision; and
 - (c) either:
 - (i) the code of practice, guideline or other document has been published in the Government Gazette; or
 - (ii) copies of the code of practice, guideline or other document are available for purchase or inspection within this jurisdiction;then:
 - (d) the code of practice, guideline or other document is admissible in the proceedings; and

Regulation 121

- (e) if the court is satisfied that, at the relevant time, the person acted in accordance with the code of practice, guideline or other document, the person is taken to have complied with the provision or requirement. (41)

Part 10 Prohibition notices

119 Definitions

For the purpose of this Part:

dangerous activity means an activity:

- (a) that relates to the transport of dangerous goods by road or rail; and
- (b) that is occurring or may occur in relation to or in the immediate vicinity of the dangerous goods; and
- (c) that involves or could involve an immediate risk to safety.

prohibition notice means a notice served in accordance with section 120.

120 Prohibition notice may be served

- (1) This section applies if an authorised officer believes on reasonable grounds that a dangerous activity is occurring or may occur.
- (2) The authorised officer may serve on a person who has or appears to have control over the activity a notice that prohibits the person :
 - (a) from carrying on the activity; or
 - (b) from carrying on the activity in a specified way,until the authorised officer has certified in writing that the activity is not or is longer a dangerous activity.

121 Prohibition notice

- (1) A prohibition notice has effect:

Regulation 121

- (a) upon being served; or
 - (b) if the notice specifies a later date, on that date.
- (2) A prohibition notice served on a person must:
 - (a) state that the notice is served in accordance with this Act; and
 - (b) require the person to cease the dangerous activity or to cease carrying it out in a specified manner; and
 - (c) state the basis for the authorised officer's belief that the activity is a dangerous activity; and
 - (d) if the authorised officer believes that the dangerous activity involves a contravention of a law, specify the law and the relevant provision of it; and
 - (d) state how a review of the decision to serve the notice may be obtained; and
 - (e) state the penalty for failing to comply with the notice.
- (3) A prohibition notice may include a direction on the measures to be taken to minimise or eliminate the risk caused by the dangerous activity.
- (4) A direction may:
 - (a) require measures be taken in accordance with a compliance code; or
 - (b) offer a choice of ways to minimise or eliminate the risk caused by the dangerous activity.
- (5) A prohibition notice that prohibits the carrying out of an activity in a specified way may do so by specifying:
 - (a) a place where the activity may not be carried out; or
 - (b) any thing that may not be used in connection with the activity; or
 - (c) any procedure that may not be followed in connection with the activity.

Regulation 124

122 Contravention of prohibition notice

A person upon whom a prohibition notice is served must comply with the requirements set out in the notice unless the person has a reasonable excuse for not doing so.

Offence provision.

123 Oral direction may be given before prohibition notice is served

- (1) This section applies where an authorised officer believes on reasonable grounds:
 - (a) that a dangerous activity is occurring or may occur; and
 - (b) that it is not reasonable or immediately possible to serve a prohibition notice.
- (2) The officer may direct a person who has or appears to have control over the activity to do or not to do a specified act.
- (3) The officer must state the reason for giving the direction.
- (4) A person to whom a direction is given must comply with it, unless the person has a reasonable excuse for not doing so.

Offence provision.

- (5) It is a reasonable excuse for not complying with a direction if the authorised officer did not tell the person that it is an offence not to do so.
- (6) A direction ceases to have effect if a prohibition notice in respect the activity is not served within 5 days of the direction being given.

124 Withdrawal and amendment of prohibition notice

A prohibition notice may be withdrawn by an authorised officer serving notice of withdrawal on the person served with the prohibition notice.

Regulation 125

125 Amendment of prohibition notice

- (1) A prohibition notice may be amended by an authorised officer serving notice of amendment on the person served with the prohibition notice.
- (2) The notice of amendment must:
 - (a) state the terms of the amendment; and
 - (b) state the reasons for the amendment; and
 - (c) include information about obtaining a review of the decision to amend the notice; and
 - (d) state that it is served under this section.
- (3) An amendment of a prohibition notice is ineffective if it purports to deal with a contravention of a different provision of a law from that dealt with in the prohibition notice.

126 Proceedings for an offence not affected by prohibition notice

The service, amendment or withdrawal of a prohibition notice does not affect any proceedings for an offence against a rail safety law.

Part 11 Miscellaneous

Division 1 Indemnities

127 Protection from liability

- (1) An authorised officer or a person who is authorised under this Act by an authorised officer to do or to omit to do something does not incur civil liability for an act or omission done honestly and in good faith in the course of his or her duties.
- (2) A liability that would, apart from this section, attach to an authorised officer or to a person mentioned in subsection (1) attaches instead to the Competent Authority.

Regulation 130

128 Indemnity not affected by certain matters

- (1) An indemnity under this Division is not affected merely because a vehicle was in fact not carrying dangerous goods.
- (2) An indemnity under this Division is not affected merely because goods were not in fact dangerous goods.

129 Other indemnities not affected

This Division does not affect any other indemnity provided under another law, if the other indemnity is not inconsistent with an indemnity provided under this Division.

Division 2 General

130 Dismissal or other victimisation of employee or contractor assisting with or reporting breaches

- (1) An employer must not dismiss an employee or contractor, injure an employee or contractor in his or her employment or alter an employee's or contractor's position to his or her detriment because the employee or contractor:
 - (a) has assisted or has given any information to a public agency in respect of a breach or alleged breach of a requirement of this Act; or
 - (b) has made a complaint about a breach or alleged breach of a requirement of this Act to the employer, a fellow employee or fellow contractor, a trade union or a public agency.

Regulation 130

- (2) An employer or prospective employer must not refuse or deliberately omit to offer employment to a prospective employee or prospective contractor or treat a prospective employee or prospective contractor less favourably than another prospective employee or prospective contractor would be treated in relation to the terms on which employment is offered because the first-mentioned prospective employee or contractor:
- (a) has assisted or has given any information to a public agency in respect of a breach or alleged breach of a requirement of this Act; or
 - (b) has made a complaint about a breach or alleged breach of a requirement of this Act to a former employer, a former fellow employee or former fellow contractor, a trade union or a public agency.
- (3) A person who is an employer of the person concerned, must not engage in conduct that results in a contravention of subsection (1).

Offence provision.

- (4) A person who an employer or prospective employer of the person concerned must not engage in conduct that results in a contravention of subsection (2).

Offence provision.

- (5) In proceedings for an offence under this section, if all the facts constituting the offence other than the reason for the defendant's action are proved, the onus of proving that the defendant's action was not actuated by the reason alleged in the charge lies on the defendant.
- (6) If a person is found guilty of an offence under this section, the court may, in addition to imposing a penalty on the offender, make either or both of the following orders:
- (a) an order that the offender pay within a specified period to the employee or contractor or to the prospective employee or prospective contractor such damages as it thinks fit by way of compensation;

Regulation 130

(b) an order that:

- (i) the employee or contractor be reinstated or re-employed in the employee's or contractor's former position or (if that position is not available) in a similar position; or
- (ii) the prospective employee or prospective contractor be employed in the position for which the prospective employee or prospective contractor had applied or (if that position is not available) in a similar position.

- (7) The maximum amount of damages cannot exceed the monetary jurisdictional limit of the court in civil proceedings.
- (8) An order for payment of damages is enforceable as if it were a judgment of the court sitting in civil proceedings.
- (9) A person must comply with an order for employment, reinstatement or re-employment.

Offence provision.

- (10) A person who is subject to an order under paragraph (6) (b) must not engage in conduct that results in a contravention of the order.

Offence provision.

- (11) In this section:

contractor means an individual who works under a contract for services.

public agency means an authorised or a police officer of this or any other jurisdiction or a Competent Authority of this or any other jurisdiction.

- {(12) The offence under subsection (10) is an offence of strict liability.}

Regulation 131

131 Confidentiality

- (1) This section applies to a person engaged or previously engaged in the administration of this Act and (without limiting the foregoing) to:
 - (a) a person who is or was a delegate of the Competent Authority; or
 - (b) a person who is or was employed by, or engaged to provide services to or on behalf of, the Competent Authority; or
 - (c) a person who is or was employed by, or engaged to provide services to, a person or body engaged to provide services to the Competent Authority.
- (2) A person to whom this section applies must not divulge or communicate information obtained (whether by that person or otherwise) in the administration of this Act except:
 - (a) as required or authorised by or under this or any other Act; or
 - (b) with the consent of the person from whom the information was obtained or to whom the information relates; or
 - (c) in connection with the administration of this Act; or
 - (d) to the Competent Authority or an authorised officer or a police officer; or
 - (e) to a prescribed public authority of any jurisdiction; or
 - (f) to a public authority of any jurisdiction for law enforcement purposes; or
 - (g) to a court or in connection with any legal proceedings; or
 - (h) in accordance with guidelines approved by the Minister.
- (3) Information that has been disclosed under subsection (2) for a particular purpose must not be used for any other purpose by:
 - (a) the person to whom the information was disclosed; or
 - (b) any other person who gains access to the information (whether properly or improperly and whether directly or indirectly) as a result of that disclosure.

Regulation 132

- (4) A person must not engage in conduct that results in a contravention of subsection (2) or (3).

Offence provision.

- (5) Nothing in this section prevents information from being used:

- (a) to assist a person in deciding whether or not to withdraw a formal warning for any offence; or
- (b) to enable the Competent Authority to accumulate aggregate data and to enable it to authorise use of the aggregate data for the purposes of research or education.

- {(6) An offence under subsection (4) is an offence of strict liability.}

132 False or misleading statements or records provided to Authority or officials

- (1) A person must not make a statement to the Competent Authority or to an authorised officer who is exercising a power under this Act that the person knows is false or misleading in a material particular.

Offence provision.

- (2) A person must not make a statement that is false or misleading in a material particular to the Competent Authority or to an authorised officer who is exercising a power under a road law reckless as to whether the statement is false or misleading in a material particular.

Offence provision.

- (3) A person must not give a record to the Competent Authority or to an authorised officer who is exercising a power under this Act that the person knows is false or misleading in a material particular.

Offence provision.

Regulation 133

- (4) A person must not give to the Competent Authority or to an authorised officer who is exercising a power under this Act a record that is false or misleading in a material particular reckless as to whether the record is false or misleading in a material particular.

Offence provision.

- (5) Subsection (3) does not apply if, at the time the person gave the record to the Competent Authority or officer, the person informed the Authority or officer that the record was false or misleading in a material particular and specified in what respect it was false or misleading.

- (6) In this section:

authorised officer includes a person who is assisting an authorised officer and a police officer.

133 Contracting out prohibited

A term of a contract or an agreement that purports to exclude, limit or modify the operation of this Act or of a provision of it is void to the extent that it would otherwise have that effect.

134 Recovery of costs of public authorities

- (1) This section applies to an incident that relates to the transport of dangerous goods by road or rail, being an incident:
- (a) wholly or partly constituted by or arising from:
- (i) the escape of dangerous goods; or
- (ii) an explosion or fire involving dangerous goods; or
- (b) that involves the danger of the escape of dangerous goods or an explosion or fire involving dangerous goods. (44)
- (2) If a public authority incurs costs as a result of the occurrence of an incident to which this section applies, so much of the costs as were reasonably incurred are recoverable as a debt due to the authority by action in a court of competent jurisdiction. (44)

Regulation 134

- (3) The costs are recoverable jointly or severally from the following persons:
- (a) the person who was the owner of the dangerous goods at the time of the incident;
 - (b) the person who was in control or possession of the dangerous goods at the time of the incident;
 - (c) the person who caused the incident;
 - (d) the person responsible, otherwise than as an employee, agent or sub-contractor of another person, for the transport of the dangerous goods by road or rail. (44)
- (4) Costs are not recoverable from a person who establishes that:
- (a) the incident was due to the act or default of another person; and
 - (b) the person could not, exercising reasonable care, have prevented the incident; and
 - (c) the incident was not attributable to an employee, agent or sub-contractor of the person. (44)
- (5) The recovery of costs incurred by one public authority as a result of the occurrence of an incident to which this section applies, including an award or judgment in relation to those costs or expenses, does not preclude the recovery of costs incurred by another public authority as a result of the occurrence of the incident. (44)
- (6) This section does not affect a right to recover an amount in respect of costs or expenses that exists apart from this section, but a public authority is not entitled to recover, in respect of the same costs or expenses, an amount under this section and an amount in proceedings founded on other rights. (44)
- (7) In proceedings under this section, a document apparently signed by the principal officer of the public authority specifying details of the costs reasonably incurred as a result of the occurrence of an incident to which this section applies is, in the absence of evidence to the contrary, proof of the matter so specified. (44)

Regulation 135

135 Assistance in emergencies or accidents

- (1) A person does not incur civil liability for an act done honestly and in good faith, and without any fee, charge or other reward, for the purpose of assisting or attempting to assist in a situation in which an emergency or accident involving dangerous goods occurs or is likely to occur. (49)
- (2) Subsection (1) does not apply to a person whose act or omission was wholly or partly the cause of the occurrence or likely occurrence. (49)
- (3) Subsection (1) applies to a public authority even though the authority requires payment for a service provided in connection with the occurrence or likely occurrence. (49)
- (4) This section does not apply to an authorised officer. (49)

136 Minister to notify adoption of code etc

- (1) If the provisions of a code, standard or rule are applied, adopted or incorporated by the {subordinate law}, the Minister must, as soon as practicable after the {subordinate law} is made, publish in the Government Gazette a notice giving details of places where the code, standard or rule may be obtained or inspected. (50)
- (2) If:
 - (a) the provisions of a code, standard or rule are applied, adopted or incorporated, by the {subordinate law}, as in force from time to time; and
 - (b) the code, standard or rule is amended or replaced;the Minister must, as soon as practicable after the amendment or replacement, publish in the Government Gazette a notice stating that the code, standard or rule has been amended or replaced and giving details of places where the amended or replaced code, standard or rule may be obtained or inspected. (50)
- (3) A reference in this section to a code, standard or rule includes a reference to one that is made outside Australia. (50)

137 Delegation

The Minister may, by instrument in writing, delegate all or any of the Minister's powers under this Act (other the power to appoint a Competent Authority) to a Competent Authority. (47)

138 Repeal

The following Acts are repealed {*as the case may be*}

Regulation 138

Schedule 1.1 Penalties

(sections 68 and 79)

Note The penalties set out in this Schedule are recommended penalties only. It is intended that, when the model law is adopted by a State or Territory, the adopting State or Territory will adopt or replace the recommended penalties.

Offence provision	Infringement penalty \$	Maximum court-imposed penalty on individual \$
<i>Part 3 Appointment and powers of Competent Authorities and authorised officers</i>		
14 (1) Return of identification cards	400	2 000
15 (1) Impersonating an authorised officer	2 000	10 000
20 (5) Direction to stop motor vehicle	1 200	6 000
21 (3) Direction to move road vehicle	1 200	6 000
22 (2) Direction to produce documents	800	4 000
23 (3) Direction to move a road vehicle: where danger or obstruction	1 200	6 000
24 (5) Direction to leave vehicle	1 200	6 000
29 (3) Powers of authorised officers — immobilised road vehicle	1 200	6 000
30 (5) Powers of authorised officers in emergencies	1 200	6 000

Regulation 138

Offence provision	Infringement penalty \$	Maximum court-imposed penalty on individual \$
33 (2) Powers of authorised officers — rail operators	1 200	6 000
34 (2) Powers of authorised officers — train drivers	1 200	6 000
35 (2) Powers of authorised officers — others	1 200	6 000
36 (2) Powers of authorised officers — documents	800	4 000
39 (3) Powers of authorised officers — immobilised train	1 200	6 000
40 (5) Powers of authorised officers in emergencies	1 200	6 000
45 (3) Direction to personal details and evidence	800	4 000
45 (4) Giving false personal details	800	4 000
45 (5) Giving false evidence	800	4 000
46 (4) Direction to produce records, devices or other things	800	4 000
47 (3) Direction to provide information	800	4 000
48 (3) Direction to provide reasonable assistance for powers of inspection and search	1 200	6 000
54 (6) Embargo notices	1 600	8 000
54 (8) Embargo notices	1 600	8 000
63 (1) Obstructing or hindering authorised officers	1 600	8 000

Regulation 138

Offence provision	Infringement penalty \$	Maximum court-imposed penalty on individual \$
<i>Part 4 Exemptions</i>		
64 (6) Exemptions	2 000	10 000 or 6 months imprisonment
<i>Part 5 Offences and penalties</i>		
69 (1) Failure to hold licence etc.	800	50 000 or 2 years imprisonment
69 (2) Failure to hold licence etc.	800	50 000 or 2 years imprisonment
69 (3) Failure to hold licence etc.	2 000	10 000
69 (4) Failure to hold licence etc.	800	50 000 or 2 years imprisonment
69 (5) Failure to hold licence etc.	2 000	10 000
70 (1) Goods too dangerous to be transported		
if the failure results in death or serious injury to a person -	2 000	100 000 or 4 years imprisonment
in any other case -	2 000	50 000 or 2 years imprisonment
71 (1) Duties concerning the transport of dangerous goods -		
if the failure results in death or serious injury to a person -	2 000	100 000 or 4 years imprisonment
in any other case -	2 000	50 000 or 2 years imprisonment

Regulation 138

Offence provision	Infringement penalty \$	Maximum court-imposed penalty on individual \$
71 (2) Duties concerning the transport of dangerous goods -		
if the failure results in death or serious injury to a person -	2 000	100 000 or 4 years imprisonment
in any other case -	2 000	50 000 or 2 years imprisonment
<i>Part 6 General administrative sanctions</i>		
73 (1) Contravention of improvement notice	2 000	10 000
<i>Part 7 General court-based sanctions</i>		
89 Contravention of supervisory intervention order	2 000	10 000
91 Contravention of exclusion order		10 000
<i>Part 10 Prohibition notices</i>		
122 Contravention of prohibition notice	2 000	\$10 000 for an individual \$50 000 for a body corporate
123 (4) Contravention of oral notice	2 000	\$10 000 for an individual \$50 000 for a body corporate
<i>Part 11 Miscellaneous</i>		
130 (3) Dismissal or other victimisation of employee or contractor assisting with or reporting breaches	2 000	10 000

Regulation 138

Offence provision	Infringement penalty \$	Maximum court-imposed penalty on individual \$
130 (4) Dismissal or other victimisation of employee or contractor assisting with or reporting breaches	2 000	10 000
130 (9) Dismissal or other victimisation of employee or contractor assisting with or reporting breaches	2 000	10 000
130 (10) Dismissal or other victimisation of employee or contractor assisting with or reporting breaches	2 000	10 000
131 (4) Confidentiality	2 000	10 000
132 (1) False or misleading statements or records provided to authority or officials	2 000	10 000
132 (2) False or misleading statements or records provided to authority or officials	2 000	10 000
132 (3) False or misleading statements or records provided to authority or officials	2 000	10 000
132 (4) False or misleading statements or records provided to authority or officials	2 000	10 000

Note 1 The maximum infringement penalty for an offence must not exceed 20% of the maximum fine that could be imposed by a court for the offence (see subsection 68 (3)).

Note 2 Court-imposed maximum penalties for bodies corporate are 5 times those for individuals (see subsection 79 (3)).

Schedule 2 *Model Subordinate Law on the Transport of Dangerous Goods by Road or Rail 2007*

(regulations 4 and 6)

Part 1 General, interpretation, training and offence provisions

Division 1.1 Introductory and application

1.1.1 Name of {subordinate law}

{This subordinate law is} the *{Model Subordinate Law on the Transport of Dangerous goods by Road or Rail 2007}*.

1.1.2 Commencement

This Model Subordinate Law was approved by the Australian Transport Council on 28 February 2007.

1.1.3 Main objects

The main objects of {this subordinate law} are:

- (a) to set out the obligations of persons involved in the transport of dangerous goods by road or 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 or rail; and

Regulation 1.1.4

- (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 or rail; and
- (d) to promote consistency between the standards, requirements and procedures applying to the transport of dangerous goods by road, rail and other modes of transport. (1.3)

1.1.4 Application to transport by road and rail

Unless the contrary intention appears, the provisions of {this subordinate law} apply to the transport of dangerous goods by road or rail or both rail and road. (new)

1.1.5 Dangerous situations

{This subordinate law} 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. (1.9)

1.1.6 Exempt transport

- (1) In {this clause}:
designated dangerous goods means dangerous goods of:
 - (a) UN Class 1 (explosives), except:
 - (i) dangerous goods of UN Division 1.4S; and
 - (ii) track signals carried in a unit of rolling stock 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).
- (2) {This subordinate law} does not apply to the transport by a person of a load of dangerous goods if:
 - (a) the load does not contain dangerous goods in a receptacle with a capacity of more than 500 litres or kilograms; and
 - (b) the goods are not, and do not include, designated dangerous goods; and

Regulation 1.1.8

- (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. (1.10)

1.1.7 Further exemptions

- (1) {This subordinate law} does not apply to the transport by road or rail or both rail and road of dangerous goods of UN Class 1 (explosives) or UN Class 7 (radioactive) except when being transported with other dangerous goods.
- (2) {This subordinate law} does not apply to the transport by road or rail or both rail and road of dangerous goods:
 - (a) in a consignment where the total quantity of dangerous goods is less than the quantity for which an inner package is required by the ADG Code to be marked with a proper shipping name or the technical name of the substance (ADG Code 5.2.1.8); or
 - (b) in the vehicle's fuel tank that is fitted to the vehicle; or
 - (c) in an appliance or plant that forms part of the vehicle and is necessary for its operation; or
 - (d) that are portable fire fighting equipment or other portable safety equipment and are part of the vehicles' safety equipment.

1.1.8 Special provisions for tools of trade

- (1) This [clause] applies to a load:
 - (a) if the the load includes:
 - (i) an aggregate quantity of dangerous goods of less than 500 that does not include any dangerous goods of UN Division 2.1 (that are not aerosols) or UN Division 2.3 or Packing Group I; or
 - (ii) an aggregate quantity of dangerous goods of less than 250 that does include dangerous goods of

Regulation 1.1.8

UN Division 2.1 (that are not aerosols) or UN Division 2.3 or Packing Group I, provided that the aggregate quantity of UN Division 2.3 and Packing Group I is less than 100; and

- (b) the goods 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) so that they be used for a commercial purpose.

Note 1 The total of both UN Division 2.3 and Packing Group I must be less than 100 for the exemption given by this provision to apply, not 100 of each of UN Division 2.3 and Packing Group I).

Note 2 Dangerous goods of UN Division 2.3 and Packing Group I with an aggregate quantity of less than 100 may be included in the 500 for the exemption to apply – not 100 of Packing Group I and 500 of other dangerous goods

- (2) Despite the other provisions of {this subordinate law}, only the provisions of this {clause} apply to dangerous goods to which {this clause} applies.
- (3) A person must not transport dangerous goods to which this {clause} applies unless:
 - (a) each package is loaded, secured, segregated, transported and unloaded in such a way as to ensure that;
 - (i) its packaging remains fit for its purpose; and
 - (ii) the risks to any person, property or the environment are minimised; and
 - (b) each package complies with the packaging requirements appropriate to the quantity of dangerous goods, as specified in Part 4; and
 - (c) each package is labelled and marked as specified in Division 5.1.

Offence provision.

- (4) A person transporting dangerous goods in accordance with {this clause} of UN Class 3, UN Class 4, UN Class 5 and UN Class 6 with an aggregate quantity of more than 250 must not transport them:

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

Offence provision.

- (5) A person transporting dangerous goods in accordance with {this clause} of UN Division 2.1, UN Division 2.3 and Packing Group I with an aggregate quantity of more than 50 must not transport them:

- (a) in the passenger compartment of a vehicle; or
- (b) in any other enclosed space in the vehicle.

Offence provision.

Division 1.2 Interpretation

Subdivision 1.2.1 General

1.2.1 Definitions

Note Definitions preceded by an * are taken from the Act.

In {this subordinate law}, unless the contrary intention appears:

Act means the {Model Law on the Transport of Dangerous Goods by Road or Rail}.

***ADG Code** means the Australian Code for the Transport of Dangerous Goods by Road and Rail, approved by the Australian Transport Council.

administrative determination — see {clause} 1.6.4.

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

Regulation 1.2.1

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

- (a) the number of kilograms of:
 - (i) solid dangerous goods; and
 - (ii) articles;in the load; and
- (b) the number of litres or kilograms, being whichever is used in the transport documentation for the load to describe the goods, of liquid dangerous goods in the load; and
- (c) the total capacity in litres of receptacles in the load containing dangerous goods of UN Class 2 (except aerosols). (2.10 amd based on ADG7)

appropriately marked — see {clause} 5.2.2.

approval, for a provision of {this subordinate law}, means an approval by the Competent Authority that is in force under the provision.

approved packaging means:

- (a) packaging of a design that is approved under {clause} 4.2.4; or
- (b) foreign approved packaging.

approved tank means:

- (a) a tank of a design that is approved under {clause} 4.2.4; or
- (b) a foreign approved tank.

approved test means a test that is approved under paragraph 1.3.2 (1) (a).

approved training course means a training course that is approved under paragraph 1.3.2 (1) (b).

Australian Road Rules means the {*National Transport Commission (Road Transport Legislation — Australian Road Rules) Regulations 2006*}.

Australian Transport Council means the council of Commonwealth, New Zealand, State, Australian Capital Territory and Northern Territory Ministers, established on 11 June 1993 and known as the Australian Transport Council, but constituted so that it consists of only 1 Minister

Regulation 1.2.1

representing each of the Commonwealth, the States, the Australian Capital Territory and the Northern Territory.

***authorised officer** means an authorised officer appointed under section 12 of the Act.

bulk container — see {clause} 1.2.6.

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

Category, for dangerous goods — see {subclause} 2.1.3 (3).

combination road vehicle means a group of road vehicles consisting of:

- (a) a prime mover and 2 or more trailers; or
- (b) a rigid vehicle and 1 or more trailers.

Competent Authorities Panel or **CAP** — see {clause} 15.2.1.

***Competent Authority** means the relevant Competent Authority appointed under section 11 of the Act.

compliance plate means a plate that must be attached to a portable tank, MEGC or tank vehicle under Part 6 of the ADG Code.

consigns and **consignor** — see {clause} 1.2.15.

containment unit — see [clause 4.1.3].

corresponding approval means an approval to which {clause} 15.4.3 applies.

corresponding authority means a Competent Authority of a participating jurisdiction.

corresponding determination means a determination to which {clause} 15.4.1 applies.

corresponding exemption means an exemption to which {clause} 15.4.2 applies.

dangerous goods — see {clause} 2.1.1.

dangerous goods driver licence means a licence that is in force under Division 18.3.

Dangerous Goods List means the list set out in section 3.2.3 of the ADG Code, being a list of goods that are dangerous goods

Regulation 1.2.1

because they satisfy the criteria set out, or referred to, in Part 2 of the ADG Code.

dangerous goods vehicle licence means a licence that is in force under Division 18.4.

****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 that does not form part of and is not permanently attached to the vehicle and is designed to be removable.

determination, for a provision of {this subordinate law}, means a determination that is made by the Competent Authority and that is in effect under the provision.

driver licence means a licence (including a probationary and a conditional licence but not including a provisional or learner licence) issued under a State or Territory law authorising the licensee to drive a 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 section 64 of the Act.

food includes:

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

food packaging means:

- (a) a receptacle that contains, or is designed or intended to contain, food; or

Regulation 1.2.1

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

foreign approved, in relation to packaging, means packaging that has 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 re-useable container of the kind mentioned in Australian/New Zealand Standard AS/NZS 3711 that is designed for repeated use for the transport of goods by 1 or more modes of transport.

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

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

IBC or intermediate bulk container — see {clause} 1.2.7.

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

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

incompatible — see {clause} 2.1.6.

inner packaging, in relation to dangerous goods, means packaging for which outer packaging is required when used in the transport of dangerous goods.

Regulation 1.2.1

****involvement in the transport of dangerous goods*** includes:

- (a) importing, or arranging for the importation of, dangerous goods into Australia; and
- (b) packing dangerous goods for transport; and
- (c) marking packages and overpacks containing dangerous goods for transport, and placarding containers and vehicles in which dangerous goods are transported; and
- (d) consigning dangerous goods for transport, including the preparation of transport documentation; and
- (e) loading dangerous goods onto a vehicle, or into a container that is to be put on a vehicle, for transport or unloading dangerous goods that have been transported; and
- (f) undertaking, or being responsible for, otherwise than as an employee or sub-contractor, the transport of dangerous goods; and
- (g) driving a vehicle carrying dangerous goods; and
- (h) being the consignee of dangerous goods that are transported; and
- (i) being involved as a director, secretary or manager of a body corporate, or other person who takes part in the management of a body corporate, that takes part in an activity covered by this definition.

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

****jurisdiction*** means the Commonwealth or a State or Territory.

large packaging means outer packaging that:

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

licence label means a dangerous goods vehicle licence label issued under {clause} 18.4.11.

Regulation 1.2.1

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

loads and ***loader*** — see {clause} 1.2.17.

MEGC or ***multiple-element gas container*** — see {clause} 1.2.8.

multimodal means applicable to, or suitable for use on, more than 1 mode of transport.

NATA means the National Association of Testing Authorities.

****offence*** means an offence against the Act or {this subordinate law}.

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

- (a) articles; or
- (b) receptacles in composite packaging; or
- (c) inner packaging in combination packaging.

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

Examples

Pallet, together with strapping or shrink wrapping, designed to hold packages

Box or crate into which packages are placed.

owner, of a vehicle, — see {clause} 1.2.14.

package — see {subclause} 4.1.2 (1).

packaging — see {subclause} 4.1.2 (2).

packed in limited quantities — see {clause} 1.2.9.

Packing Group — see {clause} 2.1.5.

packs and ***packer*** — see {clause} 1.2.16.

participating jurisdiction means another State or Territory that has a corresponding law within the meaning of the Act.

****placard*** means a label or emergency information panel that is displayed in accordance with Chapter 5.3 of the ADG Code on:

Regulation 1.2.1

- (a) a transport unit; or
- (b) a container having one or more receptacles with a capacity of more than 500 kilograms or litres.

placard load means a load of dangerous goods that must be placarded under {clause} 5.3.1. (2.13 amd)

portable tank means a multimodal tank that:

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

***premises** includes a structure, whether permanent or temporary, and land, but does not include a vehicle.

pressure drums are welded transportable pressure receptacles of a water capacity exceeding 150 litres and of not more than 1 000 litres, (eg cylindrical receptacles equipped with rolling hoops, spheres on skids).

***prime contractor** — see {clause} 1.2.18.

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

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

***rail operator** — see {clause} 1.2.19.

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.

Regulation 1.2.1

register — see {clause} 15.1.1.

registered means registered under State or Territory law.

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

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

road and **road-related area** — see {clause} 1.2.10.

subsidiary risk — see {clause} 2.1.4.

tank see {clause} 1.2.12.

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.

trailer means a road vehicle that is designed to be towed, or is towed, by another road vehicle but does not include a road vehicle propelled by a motor that forms part of the vehicle.

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

Note 1 See {clause} 1.2.11 for references to rolling stock.

Note 2 Rail wagon, rail tank wagon, locomotive, guard's van, crew or passenger carriage and track maintenance vehicle are examples of units of rolling stock.

***transport**, in relation to dangerous goods, includes:

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

transport unit — see {clause} 1.2.13.

Regulation 1.2.2

tubes are seamless transportable pressure receptacles of a water capacity exceeding 150 litres but not more than 3 000 litres.

UN approved means approved by a competent authority outside Australia in accordance with the United Nations Model Regulations for 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 {clause} 2.1.3.

UN Division, for dangerous goods, means the division to which dangerous goods of a particular UN Class belong in accordance with {clause} 2.1.3.

***unit of rolling stock** means a vehicle designed to run on rails.

***vehicle** means:

- (a) a road vehicle, including an articulated vehicle; or
- (b) a unit of rolling stock.

Examples for paragraph (b)

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

1.2.2 References to codes, standards and rules

- (1) In this {clause}:

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

- (2) In {this subordinate law}, a reference to an instrument includes a reference to another instrument as applied or adopted by, or incorporated in, the first instrument.
- (3) In {this subordinate law}, unless the contrary intention appears, a reference to an instrument is a reference to the instrument as amended from time to time. (1.5)

1.2.3 Inconsistency between {this subordinate law} and codes etc

If a code, standard or rule (whether 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 subordinate law} and the code, standard or rule is inconsistent with {this subordinate law}, {this subordinate law} prevails to the extent of the inconsistency. (1.6)

1.2.4 References to determinations, exemptions, approvals and licences

In {this subordinate law}, a reference to:

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

includes a reference to the determination, exemption, approval or licence as varied. (1.7)

1.2.5 References to variation of administrative determinations etc

In {this subordinate law}, a reference to the variation of:

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

includes a reference to a variation by addition, omission or substitution. (1.8)

Example

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

Regulation 1.2.6

1.2.6 Meaning of *bulk container*

- (1) ***Bulk container*** means a container (with or without a liner or coating) that:
 - (a) has a capacity of 1.0 m³ or more; and
 - (b) is intended for the transport of solid dangerous goods that are in direct contact with the container.
- (2) To avoid doubt, the following are not bulk containers even if they have a capacity of 1.0 m³ or more and are intended for the transport of solid dangerous goods:
 - (a) a large packaging that complies with the requirements of Chapter 6.6 of the ADG Code;
 - (b) an IBC;
 - (c) a tank;
 - (d) a tank vehicle;
 - (e) any other packaging that complies with the requirements of Chapter 6.1 or 6.3 of the ADG Code.

1.2.7 Meaning of *IBC*

- (1) Subject to {subclause} (2), ***IBC*** or ***intermediate bulk container*** means a rigid or flexible portable packaging for the transport of dangerous goods that complies with the specifications in Chapter 6.5 of the ADG Code and that:
 - (a) has a capacity of not more than:
 - (i) for solids of Packing Group I packed in a composite, fibreboard, flexible, wooden, or rigid plastics container — 1 500 litres; and
 - (ii) for solids of Packing Group I packed in a metal container — 3 000 litres; and
 - (iii) for solids or liquids of Packing Groups II and III — 3 000 litres; and
 - (iv) for any other dangerous goods — 3 000 litres; and
 - (b) is designed for mechanical handling.

Regulation 1.2.11

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

1.2.8 Meaning of *MEGC*

MEGC or *multiple-element gas container* means:

- (a) multimodal assemblies of cylinders, tubes and 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 and tubes.

1.2.9 Dangerous goods packed in *limited quantities*

Dangerous goods are packed in *limited quantities* if:

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

1.2.10 Roads and road-related areas

- (1) Each reference in {this subordinate law} to a *road* includes a reference to a *road-related area*.
- (2) *Road* and *road-related area* have the same meanings as they have in the Australian Road Rules.

1.2.11 References to *rolling stock*

For purposes of {this subordinate law}, *rolling stock* that is designed to operate or be used on the road or on a railway track is rolling stock only while it is being operated or used on a railway track.

Regulation 1.2.12

1.2.12 Meaning of *tank*

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

Note The kinds of packaging dealt with under Chapter 6.1 of the ADG Code include drums, barrels, jerry cans, boxes, bags and composite packaging. Chapter 6.3 of the ADG Code deals with packaging for infectious substances.

1.2.13 Meaning of *transport unit*

Transport unit means:

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

Subdivision 1.2.2 Persons with special duties

1.2.14 Vehicle owners

A person is an **owner** of a vehicle if the person:

- (a) is the sole owner, a joint owner or a part owner of the vehicle; or
- (b) has possession or use of the vehicle under a credit, hire-purchase, lease or other agreement, except an agreement requiring the vehicle to be registered in the name of someone else. (2.18)

1.2.15 Consignors

- (1) A person **consigns** dangerous or other goods for transport, and is the **consignor** of the goods, if:
 - (a) {subclause} (2) applies to the person; or
 - (b) {subclause} (2) does not apply to the person or anyone else, but {subclause} (3) applies to the person; or
 - (c) {subclauses} (2) and (3) do not apply to the person or anyone else, but {subclause} (4) applies to the person.
- (2) This {subclause} applies to a person who, with the person's authority, is named or otherwise identified in transport documentation that complies with Chapter 11.1 of the ADG Code as the consignor of the goods.
- (3) This {subclause} applies to a person who:
 - (a) engages a prime contractor or rail operator, either directly or through an agent or other intermediary, to transport the goods; or
 - (b) if paragraph (a) does not apply, has possession of, or control over, the goods immediately before the goods are transported; or
 - (c) if neither paragraph (a) or (b) applies, loads a vehicle with the goods, for transport, at a place:
 - (i) where dangerous goods are awaiting collection; and

Regulation 1.2.16

- (ii) that is unattended (except by the driver) during loading.
- (4) This {subclause} applies to a person if:
 - (a) the goods are imported into Australia; and
 - (b) the person is the importer of the goods. (2.19)

1.2.16 Packers

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

- (a) puts the goods in a packaging; or
- (b) assembles packages into an overpack or large packaging; 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). (2.20)

1.2.17 Loaders

A person ***loads*** dangerous or other goods for transport, and is a ***loader*** of the goods, if the person:

- (a) loads the goods in or on a transport unit; or
- (b) places or secures a portable transport unit containing the goods for transport 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). (2.21)

1.2.18 Prime contractors

A person is the ***prime contractor*** for the transport of dangerous or other goods by road if the person, in conducting a business for or involving the transport of dangerous goods by road, undertakes to be responsible, or is responsible, for the transport of the goods by road. (2.22, road)

1.2.19 Rail operators

A person is a ***rail operator*** for the transport of dangerous or other goods by rail if the person undertakes to be responsible, or is responsible, for:

- (a) the transport of the goods by rail; or
- (b) the condition of a unit of rolling stock transporting the goods. (2.22, rail)

Division 1.3 Training

1.3.1 Instruction and training

- (1) This {clause} applies to any task involved in the transport of dangerous goods, including the following:
 - (a) packing dangerous goods;
 - (b) consigning dangerous goods;
 - (c) loading dangerous goods;
 - (d) unloading dangerous goods;
 - (e) marking packages and overpacks;
 - (f) placarding transport units;
 - (g) preparing transport documentation;
 - (h) maintaining vehicles and equipment used in the transport of dangerous goods;
 - (i) driving a vehicle transporting dangerous goods;
 - (j) being the consignee of dangerous goods;
 - (k) following the appropriate procedures in accordance with {this subordinate law} in a dangerous situation.
- (2) A person who is responsible for management or control of a task must not employ, engage or permit someone else to perform the task if the other person:
 - (a) has not received, or is not receiving, appropriate instruction and training to ensure that he or she is able to perform the task safely and in accordance with {this subordinate law}; or

Schedule 2	Model Subordinate Law on the Transport of Dangerous Goods by Road or Rail 2007
Part 1	General, interpretation, training and offence provisions
Division 1.3	Training

Regulation 1.3.2

- (b) is not appropriately supervised in performing the task to ensure that he or she is able to perform the task safely and in accordance with {this subordinate law}. (20.1, amd/2)

Offence provision.

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

Offence provision.

1.3.2 Approvals — tests and training courses for drivers

- (1) The Competent Authority may, on application in accordance with {clause} 17.1.1, 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 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 subordinate law}. (20.2)

Division 1.4 {Reserved}

**Division 1.5 Provisions about offences
 generally**

1.5.1 Offence provisions

- (1) If a provision of {this subordinate law} is followed by the phrase ‘Offence provision’, an individual who fails to comply with the provision is guilty of an offence punishable by a penalty not exceeding the amount set out for the offence in column 3 of Schedule 2.1. (new)
- (2) If a body corporate is found guilty of the offence, the maximum fine for the body corporate is 5 times the maximum fine that could be imposed on an individual for the offence. (1.28, amd)

1.5.2 Goods suspected of being dangerous goods

- (1) Where it is not clear from the Dangerous Goods List whether goods are dangerous goods but a person suspects, or reasonably ought to suspect, that they are, the person must not consign or transport them until:
 - (a) the goods have been classified in accordance with the ADG Code; or
 - (b) a determination has been made under paragraph 1.6.1 (1) (a).Offence provision.
- (2) If the goods are found to be dangerous goods the person must not consign or transport them except in accordance with {this subordinate law} and the ADG Code.

Offence provision.

Regulation 1.6.1

Division 1.6 Determinations

1.6.1 Determinations — dangerous goods and packaging

- (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 risk; 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 transport unit or freight container as other goods, whether or not dangerous goods; or (1.18)
 - (c) particular dangerous goods may or may not be transported in an IBC, portable tank, MEGC, tank vehicle or bulk container despite any prohibition or authorisation in the Dangerous Goods List.
- (3) A determination may be subject to any condition necessary for the safe transport of dangerous goods. (1.20)
- (4) A person to whom a determination applies must not contravene a condition of the determination.

Offence provision.

- {(5) An offence against {subclause} (4) is an offence of strict liability.} (17.7, amd/2)

Regulation 1.6.5

1.6.2 Determinations — foreign approved IBCs, tanks and MEGCs

The Competent Authority may determine the dangerous goods that must not be transported in a foreign approved IBC, portable tank or MEGC. (4.27, amd)

1.6.3 Determinations — vehicles, routes, areas and times

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

- (a) using a specified vehicle, or kind of vehicle; or
- (b) on a specified route; or
- (c) in or through a specified area; or
- (d) at a specified time; or
- (e) in quantities in excess of a specified amount; or
- (f) in specified packaging. (13.7, amd)

1.6.4 Administrative determinations

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

- (a) is made on the application of a person; and
- (b) applies only to the person. (1.19)

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

1.6.5 Register of determinations

- (1) The Competent Authority must:
 - (a) keep a register of determinations; or
 - (b) with other Competent Authorities, keep a central register of determinations.
- (2) The register may have separate divisions for different kinds of determinations.

Regulation 1.6.6

- (3) The Competent Authority must record in the register:
 - (a) each determination made under {this subordinate law} that is not an administrative determination; and
 - (b) each corresponding determination.
- (4) The Competent Authority must note in the register:
 - (a) the revocation of a determination made under {this subordinate law}; and
 - (b) a decision of CAP reversing a decision that a corresponding determination should have effect in all participating jurisdictions or participating jurisdictions including this jurisdiction. (1.21)

1.6.6 Records of determinations

The record of a determination in the register must include:

- (a) the provisions of the determination; or
- (b) the following information:
 - (i) the title of the Government Gazette where the determination was notified or published and the date of notification or publication;
 - (ii) the provisions of {this subordinate law}, and of the ADG Code, to which the determination relates;
 - (iii) the dangerous goods, equipment, packaging, vehicle or other thing to which the determination relates. (1.22)

Part 2 Key concepts

2.1.1 Dangerous goods

- (1) Goods are *dangerous goods* if:
 - (a) the goods are determined under paragraph 1.6.1 (1) (a) to be dangerous goods; or

Regulation 2.1.3

- (b) the goods satisfy the criteria set out, or referred to, in Part 2 of the ADG Code for determining whether goods are dangerous goods.
- (2) However, goods that satisfy the criteria set out, or referred to, in Part 2 of the ADG Code are not dangerous goods if the goods are:
 - (a) determined under paragraph 1.6.1 (1) (a) not to be dangerous goods; or
 - (b) described as not subject to the ADG Code in a special provision in Chapter 3.3 of the ADG Code that is applied to the goods by column 6 of the Dangerous Goods List.

2.1.2 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 paragraph 1.6.1 (2) (a) to be too dangerous to be transported; or
- (c) goods (other than goods mentioned in paragraph (a) or (b)) that are so sensitive or unstable that they cannot be safely transported even if the relevant requirements of {this subordinate law} and the ADG Code are complied with.
(2.1, amd)

Note Section 70 of the Act provides that a person must not consign for transport goods that {this subordinate law} identifies as being too dangerous to be transported.

2.1.3 UN Classes, UN Divisions and Categories of dangerous goods

- (1) Dangerous goods are assigned, in accordance with {subclause} (4), to 1 of the *UN Classes* 1 to 9.
- (2) Dangerous goods may also be assigned, in accordance with {subclause} (4), to 1 of the *UN Divisions* into which some of the UN Classes of dangerous goods are divided.

Regulation 2.1.4

- (3) Some UN Classes or Divisions may be further divided into ***Categories***.

Examples

UN Division 6.2 infectious substances are 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).
- (4) Dangerous goods are assigned to the following UN Class or Division:
- (a) if a determination under paragraph 1.6.1 (1) (b) that the goods are of a particular UN Class or Division is in effect in relation to the goods — the UN Class or Division specified in the determination; or
 - (b) if no such determination is in effect — the UN Class or Division determined in accordance with Part 2 of the ADG Code. (2.3, amd)
- (5) For dangerous goods that are listed in the Dangerous Goods List, the UN Class or Division determined in accordance with Part 2 of the ADG Code is, subject to {subclause} (6), found in column 2 of that list.
- (6) If a special provision in Chapter 3.3 of the ADG Code that assigns the goods to a UN Class or Division applies under column 6 of the Dangerous Goods List, the goods are assigned to that UN Class or Division.

Note In determining to which UN Class or Division dangerous goods are assigned, a determination under paragraph 1.6.1 (1) (b) that is in effect takes precedence over any other method of determining to which UN Class or Division goods are assigned.

2.1.4 Subsidiary risk

- (1) A reference to dangerous goods with a ***subsidiary risk*** is a reference to dangerous goods that:
- (a) are assigned a subsidiary risk by a determination under paragraph 1.6.1 (1) (c); or

Regulation 2.1.5

- (b) satisfy the criteria set out, or referred to, in Part 2 of the ADG Code for assignment to more than 1 UN Class or Division.
- (2) Dangerous goods are assigned a particular subsidiary risk in accordance with:
 - (a) the determination under paragraph 1.6.1 (1) (c); or
 - (b) if there is no such determination — Column 4 of the Dangerous Goods List, subject to any special provision in Chapter 3.3 of the ADG Code that is applied to the goods by column 6 of the Dangerous Goods List.
- (3) If dangerous goods described in paragraph (1) (b) cannot be assigned a particular subsidiary risk in accordance with {subclause} (2), the particular subsidiary risk or risks for those dangerous goods must be determined in accordance with section 2.0.3 of the ADG Code.

2.1.5 Packing Groups

- (1) Dangerous goods that are substances may be assigned, in accordance with this {clause}, to 1 of the following **Packing Groups** that indicate the degree of danger and level of containment required for the substances:
 - (a) Packing Group I (substances presenting high danger);
 - (b) Packing Group II (substances presenting medium danger);
 - (c) Packing Group III (substances presenting low danger).
- (2) If a determination under paragraph 1.6.1 (1) (d) that the substance is of a particular Packing Group is in effect — the substance is assigned to that Packing Group.
- (3) If no such determination is in effect, dangerous goods that are substances of UN Classes 3, 4, 8 and 9 and UN Divisions 5.1 and 6.1 are assigned to Packing Groups as follows:
 - (a) if there is only 1 entry for the substance in column 5 of the Dangerous Goods List — the substance is assigned to the Packing Group indicated by that entry;

Regulation 2.1.6

- (b) if the entry for the substance in the Dangerous Goods List incorporates a reference in column 6 to a Special Provision in Chapter 3.3 of the ADG Code that assigns the substance to a Packing Group — the substance is assigned to that Packing Group;
- (c) if there is no entry for the substance in column 5 of the Dangerous Goods List and paragraph (b) does not apply — the substance is not assigned to a Packing Group;
- (d) if there is more than 1 entry for the substance in column 5 of the Dangerous Goods List — the substance is assigned to whichever Packing Group indicated by 1 of those entries applies in accordance with the criteria set out, or referred to, in Part 2 of the ADG Code for assignment of Packing Groups to substances.

2.1.6 Incompatibility

- (1) Dangerous or other goods are *incompatible* with dangerous goods if:
 - (a) the goods are determined under paragraph 1.6.1 (1) (e) to be incompatible with the dangerous goods; or
 - (b) 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) A containment system, (including a packaging, tank, bulk container, IBC or MEGC) or equipment for use in the transport of dangerous goods is *incompatible* with the goods if any component of the system or equipment that is intended or likely to come into contact with the substance during handling or 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 {Reserved}

Part 4 Packaging

Division 4.1 General

4.1.1 Transport of dangerous goods in limited quantities

Despite anything else in this Part, the packing of dangerous goods in limited quantities may be made in accordance with Chapter 3.4 of the ADG Code.

4.1.2 Packages and packaging

- (1) A ***package*** of dangerous goods or other goods is the complete product of the packing of the goods for transport, and consists of the goods and their packaging.
- (2) The ***packaging*** of the goods is the container in which the goods are received or held for transport, and includes anything that enables the container:
 - (a) to receive or hold the goods; or
 - (b) to be closed. (2.7, amd)

Note 1 It may be that the container constitutes the whole of the packaging as in the case of a drum in which is directly placed dangerous goods.

Note 2 Unlike in United Nations publications relating to the transport of dangerous goods, the term ***packaging*** is used in {this subordinate law} in its ordinary meaning. As such, ***packaging*** includes inner, outer and composite packaging; overpacks and large packaging; IBCs; MEGCs; tanks; bulk and freight containers; drums; barrels; jerry cans; boxes and bags.

4.1.3 Containment units

In this Part:

containment unit means a tank vehicle or any of the following packaging:

- (a) an IBC;

Regulation 4.2.1

- (b) a portable tank;
- (c) an MEGC;
- (d) a freight container.

**Division 4.2 Suitability and design of
packaging**

4.2.1 Suitability of packaging

- (1) Packaging is unsuitable for the transport of dangerous goods if the packaging:
 - (a) is not approved packaging; or
 - (b) is not manufactured in accordance with the requirements of Part 6 of the ADG Code. (3.1, amd)
- (2) Packaging that is approved packaging and manufactured in accordance with the requirements of Part 6 of the ADG Code is unsuitable for the transport of dangerous goods if it is not packed, filled or used in accordance with Part 4 of the ADG Code.

Note See Note 2 for {clause} 4.1.2 in respect of the meaning of the term *packaging*.

4.2.2 Marking packaging

- (1) A person must not apply any marking required by Part 6 of the ADG Code on packaging if the packaging is not approved packaging.
Offence provision. (3.2, amd)
- (2) A person must not apply a marking mentioned in Part 6 of the ADG Code on packaging that is not appropriate for the packaging.
Offence provision. (3.2, amd)
- {(3) An offence against {subclause} (1) or (2) is an offence of strict liability.}

Regulation 4.2.4

4.2.3 Applications for approval

- (1) The design of packaging required to undergo tests under Part 6 of the ADG Code may be approved by the Competent Authority.

Examples

Portable tanks, MEGCs, 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.

- (2) An application for approval of a design for a packaging for use in the transport of dangerous goods must:
 - (a) include the information required under Part 6 of the ADG Code; and
 - (b) if a fee is prescribed for the application — be accompanied by the prescribed fee. (4.24, amd)

4.2.4 Approvals — packaging designs

- (1) The Competent Authority may, on application in accordance with {clauses} 4.2.3 and 17.1.1, approve a design for a packaging for use in the transport of dangerous goods if:
 - (a) the design complies with Part 6 of the ADG Code; and
 - (b) the applicant has carried out the tests and inspections required under Part 6 of the ADG Code for the design.
- (2) The approval of the design may be subject to any condition about the construction, packing, filling, use or maintenance of a packaging manufactured in accordance with the design necessary for the safe use of the packaging. (3.8, 4.25 and 4.26, amd)

Regulation 4.2.5

4.2.5 Recognised testing facilities

The following testing facilities are *recognised testing facilities* for a packaging design type:

- (a) a testing facility registered by NATA to conduct performance tests under Chapter 3 of the ADG Code for the packaging design type;
- (b) if NATA has not registered a testing facility to conduct performance tests of that kind — a testing facility in Australia capable of conducting the tests;
- (c) a facility in a foreign country approved by a public authority of the country to conduct performance tests of that kind.

4.2.6 Test certificates

- (1) A recognised testing facility may certify in writing 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, any test certificate must:
 - (a) contain any details required under the relevant Chapter of Part 6 of the ADG Code; and
 - (b) be in the appropriate form used by NATA registered testing facilities.
- (3) If a performance test is conducted in Australia by a recognised testing facility that is not registered by NATA:
 - (a) the test must be observed by or for the Competent Authority; and
 - (b) any test certificate must contain any details required under the relevant Chapter of Part 6 of the ADG Code.

Regulation 4.3.1

4.2.7 Approvals — overpacks

- (1) The Competent Authority may, on application in accordance with {clause} 17.1.1, 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 that the risk involved in using the method is not greater than the risk involved in using a method complying with the section.
- (2) The approval of a method of preparing an overpack for transport may be subject to any condition necessary for the safe transport of the dangerous goods using the method. (6.5, amd)

4.2.8 Approvals — authorised body may issue approvals

- (1) The Competent Authority may, in accordance with the ADG Code and on application made in accordance with {clause} 17.1.1, approve an authorised body to issue approvals under this Division.
- (2) The approval of an authorised body may be issued subject to conditions. (New)

Division 4.3 Offences relating to packaging

4.3.1 Manufacturer's duties

- (1) A person must not manufacture in Australia packaging that is designed for use in the transport of dangerous goods other than in accordance with a design that is approved under {clause} 4.2.4.

Offence provision. (new, based on 4.7, also includes 4.16 as amd)

- {(2) An offence against {subclause} (1) is an offence of strict liability.}

Regulation 4.3.2

4.3.2 Consignor's duties

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

Offence provision. (3.3, amd)

4.3.3 Packer's duties

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

Offence provision. (3.4, amd)

4.3.4 Loader's duties

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

Offence provision. (3.5, amd)

4.3.5 Prime contractor's and rail operator's duties

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

Offence provision. (3.6, amd)

4.3.6 Driver's duties

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

Offence provision. (3.7-road only, amd)

Division 4.4 Offences relating to containment units and bulk containers

Subdivision 4.4.1 Manufacturers and owners

4.4.1 Compliance plates for portable tanks, MEGCs and tank vehicles

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

Offence provision. (new)

- (2) A person who manufactures a tank vehicle must attach a compliance plate to the tank vehicle in accordance with section 6.9.2.2 of the ADG Code.

Offence provision. (new)

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

4.4.2 Owner's duties for certain portable tanks and MEGCs

- (1) The owner of a portable tank or MEGC that is attached to a vehicle must not use the portable tank or MEGC, or permit the portable tank or MEGC to be used, to transport dangerous goods if the portable tank or MEGC:

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

Regulation 4.4.3

- (b) has not been maintained, tested and inspected in accordance with Chapter 6.7 of the ADG Code.

Offence provision.

- {(2) An offence against {subclause} (1) is an offence of strict liability.} (4.9, amd)

Subdivision 4.4.2 Consignors

4.4.3 Consignor's duties — general

- (1) A person must not consign dangerous goods for transport in a containment unit provided by the person if the containment unit is unsuitable for the transport of the goods.

Offence provision.

- (2) A person must not consign dangerous goods for transport in a bulk container provided by the person if:
- (a) the material of which the bulk container is constructed is incompatible with the dangerous goods; or
 - (b) the bulk container is damaged or defective to the extent that it is not safe to use to transport the goods; or
 - (c) the bulk container is otherwise unsuitable for the transport of the goods.

Offence provision.

- (3) A person must not consign dangerous goods for transport in a containment unit provided by someone else if the person knows, or reasonably ought to know, that the containment unit is unsuitable for the transport of the goods.

Offence provision.

- (4) A person must not consign dangerous goods for transport in a bulk container provided by someone else if the person knows, or reasonably ought to know, that:
- (a) the material of which the bulk container is constructed is incompatible with the dangerous goods; or

Regulation 4.4.5

- (b) the bulk container is damaged or defective to the extent that it is not safe to use to transport the goods; or
- (c) the bulk container is otherwise unsuitable for the transport of the goods.

Offence provision.

- {(5) An offence against {subclause} (1) or (2) is an offence of strict liability.}

4.4.4 Consignor's duties — IBCs

- (1) A person must not consign dangerous goods that are listed in the Dangerous Goods List for transport in an IBC unless the transport of the goods in an IBC is authorised under column 8 of the Dangerous Goods List.

Offence provision. (new)

- (2) A person must not consign dangerous goods that are authorised under column 8 of the Dangerous Goods List to be transported in an IBC unless the goods are packed in the IBC in accordance with the packing instructions referred to in that column.

Offence provision. (new)

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

4.4.5 Consignor's duties — portable tanks

- (1) A person must not consign dangerous goods that are listed in the Dangerous Goods List for transport in a portable tank unless the transport of the goods in a portable tank is authorised under column 10 of the Dangerous Goods List.

Offence provision. (new)

Regulation 4.4.6

- (2) A person must not consign dangerous goods that are authorised under column 10 of the Dangerous Goods List to be transported in a portable tank unless the goods are transported in the portable tank in accordance with the portable tank instructions referred to in that column.

Offence provision. (new)

- (3) A person must not consign dangerous goods that are listed in the Dangerous Goods List for transport in a portable tank unless the tank has been maintained, tested and inspected in accordance with Chapter 6.7 of the ADG Code.

Offence provision. (new)

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

4.4.6 Consignor's duties — bulk containers

- (1) A person must not consign dangerous goods for transport in a bulk container unless the transport of the goods in the bulk container is authorised under Chapter 4.3 of the ADG Code.

Offence provision.

- (2) A person must not consign dangerous goods for transport in a bulk container unless the goods are transported in the bulk container in accordance with Chapter 4.3 of the ADG Code.

Offence provision.

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

4.4.7 Consignor's duties — tank vehicles

- (1) A person must not consign dangerous goods for transport in a tank vehicle unless the transport of the goods in the tank vehicle is permitted by Section 4.4.2.2 of the ADG Code.

Offence provision.

Regulation 4.4.9

- (2) A person must not consign dangerous goods for transport in a tank vehicle unless the goods are transported in the tank vehicle in accordance Section 4.4.2 of the ADG Code.

Offence provision.

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

4.4.8 Consignor's duties — MEGCs

- (1) A person must not consign dangerous goods that are listed in the Dangerous Goods List for transport in an MEGC unless the transport of the goods in an MEGC is authorised by a packing instruction for an entry under column 8 of the Dangerous Goods List.

Offence provision. (new)

- (2) A person must not consign dangerous goods that are authorised under column 8 of the Dangerous Goods List to be transported in an MEGC unless the goods are transported in the MEGC in accordance with the packing instructions referred to in that column.

Offence provision. (new)

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

Subdivision 4.4.3 Loaders

4.4.9 Loader's duties — general

A person must not load dangerous goods for transport in a containment unit (other than a freight container) if the person knows, or reasonably ought to know, that the containment unit is unsuitable for the transport of the goods.

Offence provision. (4.19, 4.11, amd)

Regulation 4.4.10

4.4.10 Loader's duties — freight container

- (1) A person must not load dangerous goods into a freight container for transport if the freight container is unsuitable for the transport of the goods.

Offence provision.

- (2) A person must not load a freight container that contains dangerous goods onto a vehicle if the person knows, or reasonably ought to know, that the freight container is unsuitable for the transport of the goods.

Offence provision.

- {(3) An offence against {subclause} (1) is an offence of strict liability.}

Subdivision 4.4.4 Prime contractors and rail operators

**4.4.11 Prime contractor's and rail operator's duties —
general**

- (1) A prime contractor or rail operator must not transport dangerous goods in a containment unit (other than a tank vehicle) provided by the prime contractor or rail operator if the containment unit is unsuitable for the transport of the goods.

Offence provision.

- (2) A prime contractor or rail operator must not transport dangerous goods in a containment unit (other than a tank vehicle) provided by someone else if the prime contractor or rail operator knows, or reasonably ought to know, that the containment unit is unsuitable for the transport of the goods.

Offence provision.

- {(3) An offence against {subclause} (1) is an offence of strict liability.} (4.12, 4.20, amd)

Regulation 4.4.13

4.4.12 Prime contractor's and rail operator's duties — bulk containers

- (1) A prime contractor or rail operator must not transport dangerous goods in a bulk container provided by the prime contractor or rail operator unless:
 - (a) the transport of the goods in the bulk container is authorised in Chapter 4.3 of the ADG Code; and
 - (b) the goods are transported in accordance with Chapter 4.3 of the ADG Code.

Offence provision.

- (2) A prime contractor or rail operator must not transport dangerous goods in a bulk container provided by someone else if the person knows, or reasonably ought to know, that:
 - (a) the transport of the goods in the bulk container is not authorised in Chapter 4.3 of the ADG Code; or
 - (b) the goods are not being transported in the bulk container in accordance with Chapter 4.3 of the ADG Code.

{(3) An offence against {subclause} (1) is an offence of strict liability.} (4.5, 4.12 amd)

4.4.13 Prime contractor's and rail operator's duties — tank vehicles

- (1) A prime contractor or rail operator must not transport dangerous goods in a tank vehicle provided by the prime contractor or rail operator unless:
 - (a) the material of which the tank vehicle is constructed is compatible with the dangerous goods; and
 - (b) the tank vehicle is not damaged or defective to the extent that it is not safe to use to transport the goods; and
 - (c) the transport of the goods in the tank vehicle is permitted by Section 4.4.2.2 of the ADG Code; and

Regulation 4.4.14

- (d) the goods are transported in the tank vehicle in accordance with Section 4.4.2 of the ADG Code.

Offence provision.

- (2) A prime contractor or rail operator must not transport dangerous goods in a tank vehicle provided by someone else if the person knows, or reasonably ought to know, that:
 - (a) the material of which the tank vehicle is constructed is incompatible with the dangerous goods; or
 - (b) the tank vehicle is damaged or defective to the extent that it is not safe to use to transport the goods; or
 - (c) the tank vehicle has not been maintained, tested and inspected in accordance with Chapter 6.9 of the ADG Code; or
 - (d) the transport of the goods in the tank vehicle is not permitted by Section 4.4.2.2 of the ADG Code; or
 - (e) the goods are not being transported in the tank vehicle in accordance with Section 4.4.2 of the ADG Code.

Offence provision.

- {(3) An offence against {subclause} (1) is an offence of strict liability.} (4.5, 4.12 amd)

Subdivision 4.4.5 Drivers duties

4.4.14 Driver's duties — IBCs, portable tanks and MEGCs

A person must not drive a road vehicle transporting dangerous goods in an IBC, portable tank or MEGC if the person knows, or reasonably ought to know, that the IBC, portable tank or MEGC is unsuitable for the transport of the goods.

Offence provision. (4.13, 4.21-road only, amd)

Regulation 4.4.16

4.4.15 Driver's duties — bulk containers

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

- (a) the transport of the goods in the bulk container is not authorised in Chapter 4.3 of the ADG Code; or
- (b) the goods are not being transported in the bulk container in accordance with Chapter 4.3 of the ADG Code.

Offence provision. (4.6 (1))

4.4.16 Driver's duties — road tank vehicles

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

- (a) the material of which the road tank vehicle is constructed is compatible with the dangerous goods; or
- (b) the road tank vehicle is not damaged or defective to the extent that it is not safe to use to transport the goods; or
- (c) the transport of the goods in the road tank vehicle is not permitted by Section 4.4.2.2 of the ADG Code; or
- (d) the goods are not being transported in the road tank vehicle in accordance with Section 4.4.2 of the ADG Code.

Offence provision. (4.11, amd)

Regulation 4.5.1

**Division 4.5 Offences relating to certain foreign
approved containment units**

Subdivision 4.5.1 Foreign approved IBCs

4.5.1 Consignor's duties

- (1) A person must not consign dangerous goods for transport in a foreign approved IBC provided by the person if the transport of the goods in the IBC is prohibited by a determination under {clause} 1.6.2.

Offence provision.

- (2) A person must not consign dangerous goods for transport in a foreign approved IBC provided by someone else if the transport of the goods in the IBC is prohibited by a determination under {clause} 1.6.2.

Offence provision.

{(3) For this {clause):

- (a) an offence against {subclause} (1) is an offence of strict liability; and
(b) strict liability applies to the physical element in {subclause} (2) that the transport of the goods in the IBC is prohibited by a determination under {clause} 1.6.2. (4.22, amd)

Subdivision 4.5.2 Foreign approved portable tanks and MEGCs

4.5.2 Consignor's duties

- (1) A person must not consign dangerous goods for transport in a foreign approved portable tank, a foreign approved bulk container or a foreign approved MEGC provided by the person if the transport of the goods in the portable tank, container or MEGC is prohibited by a determination under {subclause} 1.6.2.

Offence provision.

- (2) A person must not consign dangerous goods for transport in a foreign approved portable tank, a foreign approved bulk container or a foreign approved MEGC provided by someone else if the transport of the goods in the portable tank, container or MEGC is prohibited by a determination under {subclause} 1.6.2.

Offence provision.

{(3) For this {clause}}:

- (a) an offence against {subclause} (1) is an offence of strict liability; and
- (b) strict liability applies to the physical element in {subclause} (2) that the transport of the goods in the portable tank or MEGC is prohibited by a determination under {subclause} 1.6.2. (4.14, amd)

Division 4.6 Offences relating to overpacks

4.6.1 Consignor's duties

- (1) A person must not consign dangerous goods for transport in an overpack if:
- (a) the packages cannot be transported safely in the overpack;
- or

Regulation 4.6.2

- (b) the overpack does not comply with section 5.1.2 of the ADG Code; or
- (c) the overpack does not comply with an approval under {clause} 4.2.7.

Offence provision.

- {(2) An offence against {subclause} (1) is an offence of strict liability.} (6.1, amd)

4.6.2 Packer's duties

A person must not pack dangerous goods for transport in an overpack if the person knows, or reasonably ought to know, that:

- (a) the packages cannot be transported safely in the overpack; or
- (b) the overpack does not comply with section 5.1.2 of the ADG Code; or
- (c) the overpack does not comply with an approval under {clause} 4.2.7.

Offence provision.

4.6.3 Loader's duties

A person must not load dangerous goods for transport in an overpack if the person knows, or reasonably ought to know, that:

- (a) the packages cannot be transported safely in the overpack; or
- (b) the overpack does not comply with section 5.1.2 of the ADG Code; or
- (c) the overpack does not comply with an approval under {clause} 4.2.7.

Offence provision.

Regulation 4.6.6

4.6.4 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, that:

- (a) the packages cannot be transported safely in the overpack;
or
- (b) the overpack does not comply with section 5.1.2 of the ADG Code; or
- (c) the overpack does not comply with an approval under {clause} 4.2.7.

Offence provision.

4.6.5 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, that the packages cannot be transported safely in the overpack.

Offence provision.

4.6.6 Rail operator's duties

A rail operator must not transport dangerous goods in an overpack if the rail operator knows, or reasonably ought to know, that:

- (a) the packages cannot be transported safely in the overpack;
or
- (b) the overpack does not comply with section 5.1.2 of the ADG Code.

Offence provision.

Regulation 5.2.1

Part 5 Consignment procedures

Division 5.1 {Reserved}

Division 5.2 Marking and labelling

5.2.1 Transport of limited quantities and retail distribution loads

Despite anything in this Division, the marking and labelling of dangerous goods that:

- (a) are packed in limited quantities in accordance with Chapter 3.4 of the ADG Code; or
- (b) transported as a retail distribution load in accordance with Chapter or 7.3 of the ADG Code;

may be made in accordance with that Chapter.

5.2.2 Meaning of *appropriately marked*

- (1) A package or overpack of dangerous goods is *appropriately marked* if the package or overpack is marked and labelled in accordance with Chapter 5.2 of the ADG Code. (7.2, amd)
- (2) An IBC, MEGC, pressure drum, tube or demountable tank with a capacity of more than 500 kilograms or litres is *appropriately marked* if it is placarded in accordance with Section 5.3.3 of the ADG Code.

5.2.3 Consignor's duties

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

Offence provision.

Regulation 5.2.4

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

Offence provision.

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

Offence provision. (7.3, amd)

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

5.2.4 Packer's duties

- (1) A person must not pack dangerous goods for transport if the person knows, or reasonably ought to know, that the package or overpack will not be appropriately marked when the goods are transported.

Offence provision.

- (2) A person who packs dangerous goods for transport must not mark or label a package or overpack 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.

Offence provision.

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

Offence provision. (7.4, amd)

Regulation 5.2.5

5.2.5 Prime contractor's and rail operator's duties

- (1) A prime contractor or rail operator must not transport goods if the prime contractor or rail operator knows, or reasonably ought to know, that:
- (a) the goods are dangerous goods; and
 - (b) the package or overpack is not appropriately marked.

Offence provision.

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

Offence provision.

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

Offence provision. (7.5, amd)

Division 5.3 Placarding

5.3.1 When load must be placarded

- (1) A load of dangerous goods must be placarded if:
- (a) the load contains dangerous goods in a receptacle with:
 - (i) a capacity of more than 500 litres; or
 - (ii) a net mass of more than 500 kilograms; or
 - (b) the aggregate quantity of the load of dangerous goods is 250 or more and the load contains:
 - (i) dangerous goods of UN Division 2.1 that are not aerosols; or
 - (ii) dangerous goods of UN Division 2.3; or

Regulation 5.3.3

- (iii) dangerous goods of Packing Group I; or
 - (c) the load contains dangerous goods of Category A of UN Division 6.2; or
 - (d) the load contains dangerous goods of UN Division 6.2 (other than Category A) that have an aggregate quantity of 10 or more; or
 - (e) the load contains dangerous goods that have an aggregate quantity of 1 000 or more.
- (2) However, a retail distribution load that complies with Chapter 7.3 of the ADG Code is not a load that must be placarded.

5.3.2 Meaning of *appropriately placarded*

- (1) A person *placards* a load of dangerous goods if the person affixes, stencils, prints or places a label on a transport unit in or on which the goods are being, or are to be, transported.
- (2) In this Division, a placard load is *appropriately placarded* if the transport unit in or on which the dangerous goods are being, or are to be, transported is placarded in accordance with Chapter 5.3 of the ADG Code. (7.6, amd)

5.3.3 Consignor's duties

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

Offence provision.

- (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.

Offence provision.

Regulation 5.3.4

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

Offence provision. (7.7, amd/2)

5.3.4 Loader's duties

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

Offence provision.

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

Offence provision. (7.8)

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

Offence provision.

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

Offence provision.

Regulation 5.3.6

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

Offence provision.

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

Offence provision. (7.9)

5.3.6 Driver's duties

- (1) A person must not drive a road vehicle transporting dangerous goods if the person knows, or reasonably ought to know, that:
- (a) the goods are a placard load; and
 - (b) the load is not appropriately placarded.

Offence provision.

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

Offence provision.

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

Offence provision. (7.10-road only)

Regulation 6.1.1

**Part 6 Safety standards — vehicles
and equipment**

6.1.1 Owner's duties

- (1) 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 6.9 of the ADG Code. (8.1, amd/2)

Offence provision.

- {(2) An offence against {subclause} (1) is an offence of strict liability.}

6.1.2 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, that the vehicle or its equipment does not comply with Chapters 4.4 and 6.9 of the ADG Code. (8.2, amd/2)

Offence provision.

6.1.3 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, that the vehicle or its equipment does not comply with Chapters 4.4 and 6.9 of the ADG Code. (8.4-rail only, amd/2)

Offence provision.

6.1.4 Prime contractor's and rail operator's duties

- (1) 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 6.9 of the ADG Code. (8.3, amd/2)

Offence provision.

- {(2) An offence against {subclause} (1) is an offence of strict liability.}

6.1.5 Driver's duties

A person must not drive a road vehicle transporting dangerous goods if the person knows, or reasonably ought to know, that the road vehicle or its equipment does not comply with Chapters 4.4 and 6.9 of the ADG Code. (8.4-road, amd/2)

Offence provision.

Part 7 Transport operations relating to certain dangerous goods

Division 7.1 Self-reactive substances, organic peroxides and certain other substances

7.1.1 Application

This Division applies to the transport by road or rail of the following types of dangerous goods:

- (a) gases of Class 2;
- (b) self-reactive substances of UN Division 4.1;
- (c) organic peroxides of UN Division 5.2;

Schedule 2	Model Subordinate Law on the Transport of Dangerous Goods by Road or Rail 2007
Part 7	Transport operations relating to certain dangerous goods
Division 7.1	Self-reactive substances, organic peroxides and certain other substances

Regulation 7.1.2

- (d) other substances stabilized by temperature control for which:
 - (i) the proper shipping name contains the word 'STABILIZED'; and
 - (ii) the self-accelerating decomposition temperature when presented for transport in a package, IBC or tank is 50°C or lower;
- (e) toxic substances of UN Division or Subsidiary Risk 6.1;
- (f) infectious substances of UN Division 6.2;
- (g) dangerous when wet substances of UN Division 4.3.

7.1.2 Consignor's duties

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

Offence provision.

7.1.3 Loader's duties

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

Offence provision.

- (2) An offence against sub{clause} (1) is an offence of strict liability. (new)

Regulation 7.2.2

7.1.4 Prime contractor's and rail operator's duties

A prime contractor or rail operator must not transport dangerous goods to which this Division applies if the contractor or rail operator knows the dangerous goods will not be transported in accordance with Chapter 7.1 of the ADG Code.

Offence provision.

7.1.5 Driver's duties

A person must not drive a road vehicle transporting dangerous goods to which this Division applies if the person knows the dangerous goods will not be transported in accordance with Chapter 7.1 of the ADG Code.

Offence provision.

Division 7.2 Goods too dangerous to be transported

Note Section 70 of the Act provides for the duties of consignors of goods too dangerous to be transported, prescribes the people who are to be regarded as the consignors of such goods and provides for the relevant offence and penalty for consigning them for transport.

7.2.1 Application

This Division applies to goods too dangerous to be transported.

7.2.2 Loader's duties

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

Offence provision.

Regulation 7.2.3

7.2.3 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, that the goods are goods that are too dangerous to be transported.

Offence provision.

7.2.4 Driver's duties

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

Offence provision.

Part 8 Stowage and attachment

8.1.1 Consignor's duties

A person must not consign for transport in or on a vehicle a load of dangerous goods that is a placard load if the person knows, or reasonably ought to know, that the goods are not attached and stowed in accordance with Part 8 of the ADG Code. (9.9, amd/2)

Offence provision.

8.1.2 Loader's duties

- (1) A person must not load for transport in or on a vehicle a load of dangerous goods that is a placard load if the goods are not attached and stowed in accordance with Part 8 of the ADG Code. (9.10, amd/2)

Offence provision.

- {(2) An offence against {subclause} (1) is an offence of strict liability.}

Regulation 9.1.2

8.1.3 Prime contractor's and rail operator's duties

A prime contractor or rail operator must not transport in or on a vehicle a load of dangerous goods that is a placard load if the prime contractor or rail operator knows, or reasonably ought to know, that the goods are not attached and stowed on the vehicle in accordance with Part 8 of the ADG Code. (9.11, amd/2)

Offence provision.

8.1.4 Driver's duties

A person must not drive a road vehicle transporting a load of dangerous goods that is a placard load if the person knows, or reasonably ought to know, that the goods are not attached and stowed on the road vehicle or freight container in accordance with Part 8 of the ADG Code. (9.12-road only, amd/2)

Offence provision.

Part 9 Segregation

9.1.1 Application of Part

This Part applies to:

- (a) the transport of a placard load; and
- (b) the transport of a load of dangerous goods that is not a placard load if the load contains dangerous goods of UN Division 2.3, UN Class 6 or UN Class 8 that are being, or are to be, transported with food or food packaging. (9.1, amd)

9.1.2 Exception for certain goods for driver's personal use

Despite {clauses} 9.1.3 to 9.1.7, food and food packaging may be transported on a road vehicle with incompatible goods if the food or packaging is in the road vehicle's cabin and is for the driver's personal use. (9.3-road only)

Regulation 9.1.3

9.1.3 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, that:

- (a) the vehicle is, in the same journey, transporting incompatible goods; and
- (b) the dangerous goods will not be segregated from the incompatible goods in accordance with:
 - (i) Part 9 of the ADG Code; or
 - (ii) any determination under paragraph 1.6.1 (2) (b); or
 - (iii) any approval under {subclause} 9.1.8 (3).

Offence provision.

9.1.4 Loader's duties

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

- (a) the vehicle or freight container 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) any determination under paragraph 1.6.1 (2) (b) or
 - (iii) any approval under {subclause} 9.1.8 (3).

Offence provision.

9.1.5 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, that:

- (a) the road vehicle is, in the same journey, transporting incompatible goods; and

Regulation 9.1.7

- (b) the dangerous goods are not segregated from the incompatible goods in accordance with:
 - (i) Part 9 of the ADG Code; or
 - (ii) any determination under paragraph 1.6.1 (2) (b); or
 - (iii) any approval under {subclause} 9.1.8 (3).

Offence provision.

9.1.6 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, that:

- (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) any determination under paragraph 1.6.1 (2) (b); or
 - (iii) any approval under {subclause} 9.1.8 (3).

Offence provision.

9.1.7 Driver's duties

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

- (a) the road vehicle is, in the same journey, transporting incompatible goods; and
- (b) the dangerous goods are not segregated from the incompatible goods in accordance with:
 - (i) Part 9 of the ADG Code; or
 - (ii) any determination under paragraph 1.6.1 (2) (b) or
 - (iii) any approval under {subclause} 9.1.8 (3).

Offence provision.

Regulation 9.1.8

9.1.8 Approvals — segregation devices and methods of segregation

- (1) An application for approval of a design for a Type II segregation device for use in the transport of dangerous goods must:
 - (a) include any information required under Chapter 6.11 of the ADG Code; and
 - (b) if a fee is prescribed for the application — be accompanied by the prescribed fee.
- (2) The Competent Authority may, on application in accordance with {subclause} (1) and {clause} 17.1.1, approve a design for a Type II segregation device if the design complies with Chapter 6.11 of the ADG Code.
- (3) The Competent Authority may, on application made in accordance with {clause} 17.1.1, 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 that:
 - (a) it is impracticable to segregate the goods by a segregation device, or method of segregation, complying with the Chapter; and
 - (b) the risk involved in using the method to transport the goods by road is not greater than the risk involved in using a device or method complying with the Chapter to transport the goods by road.
- (4) The approval of the design or method may be subject to any condition necessary for the safe transport of dangerous goods. (9.8, amd)

Part 10 Bulk transfer of dangerous goods

Division 10.1 General

10.1.1 Meaning of *bulk transfer*

In this Part:

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

Division 10.2 Equipment and transfer

10.2.1 Application of Division

This Division applies to bulk transfer into or out of a tank vehicle or:

- (a) a portable tank; or
- (b) a MEGC; or
- (c) a tube; or
- (d) a pressure drum; or
- (e) a bulk container; or
- (f) a demountable tank; or
- (g) an IBC,

that is on a vehicle.

10.2.2 Transferor's duties — hose assemblies

- (1) A person who uses a hose assembly for the transfer of dangerous goods must comply with Chapter 10.1 of the ADG Code.

Offence provision.

Regulation 10.2.3

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

Offence provision.

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

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

Offence provision.

- {(4) An offence against {subclause} (1) is an offence of strict liability.}

10.2.3 Transferor's duties — general

- (1) A person engaged in the bulk transfer of dangerous goods must ensure that the goods are transferred:
- (a) in accordance with Chapter 10.2 of the ADG Code; and
 - (b) in a way that averts, eliminates or minimises risk.

Offence provision.

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

- (a) the receiving receptacle or the transfer equipment is incompatible with the dangerous goods; or
- (b) the receptacle contains incompatible goods.

Offence provision.

Regulation 10.2.4

- (3) If dangerous goods leak, spill or accidentally escape during 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.

Offence provision.

- {(4) It is a defence to a prosecution for an offence against {subclause} (1) that the person complied with that {subclause} as far as practicable.} (10.5, amd/1 and 2)

10.2.4 Occupier's duties

- (1) The occupier of premises where bulk transfer of dangerous goods occurs must ensure that any hose assembly on the premises that is used, or intended to be used, for the transfer (other than a hose assembly brought onto the premises on the vehicle involved in the transfer):
- (a) is constructed, assembled and maintained in accordance with Chapter 10.1 of the ADG Code; and
 - (b) is inspected and tested at the intervals, and in the way, required under the Chapter; and
 - (c) satisfies each test under the Chapter.

Offence provision.

- (2) The occupier of premises where bulk transfer of dangerous goods occurs must ensure that the goods are transferred:
- (a) in accordance with Chapter 10.2 of the ADG Code; and
 - (b) in a way that averts, eliminates or minimises risk.

Offence provision.

Regulation 10.2.5

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

Offence provision.

- {(4) An offence against {subclause} (3) is an offence of strict liability.}

- {(5) It is a defence to a prosecution for an offence against {subclause} (2) that the person complied with that {subclause} as far as practicable.} (10.7, amd/1 and 2)

10.2.5 Prime contractor's duties

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

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

Offence provision.

- (2) A prime contractor engaged in the bulk transfer of dangerous goods must ensure that dangerous goods are transferred:

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

Offence provision.

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

Offence provision.

Regulation 10.3.2

- {(4) An offence against {subclause} (1) or (3) is an offence of strict liability.}
- {(5) It is a defence to a prosecution for an offence against {subclause} (2) that the person complied with that {subclause} as far as practicable.} (10.8, amd/1 and 2)

10.2.6 Rail operator's duties

- (1) A rail operator must not engage in the bulk transfer of dangerous goods if a hose assembly that is used, or intended to be used, for the transfer of the dangerous goods (other than a hose assembly for which the rail operator is not responsible):
- (a) was not constructed, assembled and maintained in accordance with Chapter 10.1 of the ADG Code; or
 - (b) was not inspected or tested at the intervals, or in the way, required under the Chapter; or
 - (c) did not satisfy a test under the Chapter.

Offence provision.

- {(2) An offence against {subclause} (1) is an offence of strict liability.} (10.8-rail, amd)

Division 10.3 Filling ratio and ullage

10.3.1 Application of Division

This Division applies to bulk transfer into a tank vehicle.

10.3.2 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

Regulation 10.3.3

- (b) in any other case — the ullage in the tank complies with section 10.3.1 of the ADG Code.

Offence provision.

- {(2) It is a defence to a prosecution for an offence against {subclause} (1) that the person complied with the {subclause} as far as practicable.} (10.1, amd/2)

10.3.3 Prime contractor's and rail operator's duties

- (1) A prime contractor or rail operator must not engage in the bulk transfer of dangerous goods 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) in any other case — the ullage in the tank does not comply with section 10.3.1 of the ADG Code.

Offence provision.

- {(2) An offence against {subclause} (1) is an offence of strict liability.} (10.2. amd/2)

10.3.4 Driver's duties

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

- (a) for dangerous goods of 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) in any other case — the ullage in the tank does not comply with section 10.3.1 of the ADG Code. (10.3, amd/2)

Offence provision.

Part 11 Documentation

Division 11.1 Transport documentation

11.1.1 False or misleading information

A person must not include information in transport documentation for dangerous goods that the person knows or reasonably ought to know is false or misleading in a material particular. (11.1)

Offence provision.

Example of false information in transport documentation

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

11.1.2 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 that complies with Chapter 11.1 of the ADG Code for the goods.

Offence provision.

- (2) A person must not consign dangerous goods for transport by road if:
 - (a) the person knows, or reasonably ought to know, that the goods will be divided into, and transported in, separate loads; and
 - (b) the prime contractor, or the driver of each road vehicle transporting the load, has not been given separate transport documentation that complies with Chapter 11.1 of the ADG Code for each load.

Offence provision.

Regulation 11.1.3

{(3) For this {clause}}:

- (a) an offence against {subclause} (1) is an offence of strict liability; and
- (b) strict liability applies to paragraph (2) (b).} (11.2-road, amd/2)

11.1.3 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 that complies with Chapter 11.1 of the ADG Code for the goods.

Offence provision.

- (2) A person is taken to have satisfied {subclause} (1) if the person has communicated the contents of the transport documentation to the rail operator by means of electronic data processing or electronic data interchange. (11.2-rail)

{(3) An offence against {subclause} (1) is an offence of strict liability.}

11.1.4 Prime contractor's duties

- (1) A prime contractor must ensure that a person does not drive a road vehicle used by the prime contractor to transport dangerous goods if the person has not been given transport documentation that complies with Chapter 11.1 of the ADG Code for the goods. (11.3-road, amd/2)

Offence provision.

{(2) An offence against {subclause} (1) is an offence of strict liability.}

Regulation 11.1.7

11.1.5 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 that complies with Chapter 11.1 of the ADG Code for the goods.

Offence provision.

- {(2) An offence against {subclause} (1) is an offence of strict liability.}

11.1.6 Driver's duties

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

Offence provision.

- (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.

Offence provision.

- {(3) An offence against {subclause} (1) or (2) is an offence of strict liability.} (11.4-road, amd/2)

11.1.7 Train driver's duties

- (1) This {clause} does not apply if the train driver transporting dangerous goods is engaged in shunting operations and the transport documentation for the goods is readily available elsewhere in the immediate vicinity of those operations.

Regulation 11.2.1

- (2) A person must not drive a train, from a depot or yard, that the person knows, or reasonably ought to know, is transporting dangerous goods, if the person does not have transport documentation that complies with Chapter 11.1 of the ADG Code for the goods.

Offence provision.

- (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. (11.4-rail, amd)

Offence provision.

- {(4) An offence against {subclause} (3) is an offence of strict liability.}

Division 11.2 Emergency information

11.2.1 Meaning of *required emergency information*

In this Division:

required emergency information means:

- (a) emergency information that complies with Chapter 11.2 of the ADG Code; or
- (b) emergency information that is approved under {clause} 11.2.7. (11.5)

11.2.2 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, that the required emergency information is not on the vehicle. (11.6-road)

Offence provision.

Regulation 11.2.5

11.2.3 Prime contractor's duties

- (1) 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 is not in the holder. (11.7-road, amd/2)

Offence provision.

- {(2) An offence against {subclause} (1) is an offence of strict liability.}

11.2.4 Rail operator's duties

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

Offence provision.

- (2) {Subclause} (1) does not apply when a train transporting a placard load is involved in shunting operations and the emergency information for the goods is readily available elsewhere in the immediate vicinity of those operations. (11.7-rail)

- {(3) An offence against {subclause} (1) is an offence of strict liability.} (11.11-rail, amd)

11.2.5 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; and

Regulation 11.2.6

- (b) the required emergency information provided by the consignor of the goods, or by the prime contractor for the transport of the goods, is not in the holder. (11.8-road, amd/2)

Offence provision.

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

Offence provision.

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

Offence provision.

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

11.2.6 Train driver's duties

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

Offence provision.

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

Offence provision.

Regulation 12.1.1

- (3) {Subclauses} (1) and (2) do not apply if the train driver transporting dangerous goods is engaged in shunting operations and the emergency information for the goods is readily available elsewhere in the immediate vicinity of those operations. (11.8-rail, amd)
- {(4) An offence against {subclause} (1) or (2) is an offence of strict liability.}

11.2.7 Approvals — emergency information

The Competent Authority may, on application in accordance with {clause} 17.1.1 or on the Authority's own initiative, approve emergency information that does not comply with Chapter 11.2 of the ADG Code if the Authority considers that use of the information would be as accurate, and at least as convenient and efficient, as information that complies with the Chapter. (11.9)

Part 12 Safety equipment

12.1.1 Owner's duties

- (1) The owner of a road vehicle must not use the road vehicle, or allow 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 the Part.

Offence provision.

- {(2) An offence against {subclause} (1) is an offence of strict liability.} (12.1, amd/2)

Regulation 12.1.2

12.1.2 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 the Part.

Offence provision.

- (2) A prime contractor must not use a road vehicle to transport a placard load if the prime contractor knows, or reasonably ought to know, that the equipment for the road vehicle mentioned in {subclause} (1):
 - (a) has not been inspected or tested in accordance with the Part; or
 - (b) is not in good repair or is not in proper working order.

Offence provision.

- {(3) An offence against {subclause} (1) or (2) is an offence of strict liability.} (12.2, amd/2)

12.1.3 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 the Part.

Offence provision.

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

Regulation 13.1.2

- (b) has not been inspected or tested in accordance with the Part; or
- (c) is not in good repair or is not in proper working order.

Offence provision.

{(3) An offence against {subclause} (1) is an offence of strict liability.} (12.3, amd/2)

Part 13 Procedures during transport

Division 13.1 Immobilised and stopped vehicles

13.1.1 Driver's duties

- (1) This {clause} 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 must alert other road users of the hazard in accordance with Part 13 of the ADG Code.

Offence provision.

{(3) An offence against {subclause} (2) is an offence of strict liability.} (13.1-road, amd/2)

13.1.2 Prime contractor's duties

- (1) If a prime contractor knows or ought reasonably to know that 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 that the road vehicle is:
 - (a) repaired so that it can be driven safely off the road; or
 - (b) towed to a place where it can be repaired.

Offence provision.

Regulation 13.1.3

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

13.1.3 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 that a dangerous situation does not arise. (13.2-rail, amd)

Offence provision.

Division 13.2 Road vehicles — driver's duties

13.2.1 Driving

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

Offence provision.

- {(2) An offence against {subclause} (1) is an offence of strict liability.} (13.4, amd/2)

Regulation 13.2.3

13.2.2 Parking

- (1) 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.

Offence provision.

- {(2) An offence against {subclause} (1) is an offence of strict liability.} (13.5, amd/2)

13.2.3 Control of ignition sources

- (1) This {clause} applies to a road vehicle transporting a load of dangerous goods that contains dangerous goods that:
- (a) are in a receptacle with a capacity of more than 500 litres or kilograms; and
 - (b) are UN Division 2.1, UN Class 3, 4 or 5 dangerous goods or dangerous goods that have a subsidiary risk of 2.1, 3, 4 or 5.1.

- (2) The driver of the road vehicle must not:
- (a) have matches or a cigarette lighter in his or her possession in the road vehicle; or
 - (b) smoke in the road vehicle.

Offence provision.

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

Offence provision.

- {(4) An offence against {subclause} (2) is an offence of strict liability.} (13.6-road, amd/2)

Regulation 13.2.4

13.2.4 Unloading

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

Offence provision.

- {(2) An offence against {subclause} (1) is an offence of strict liability.} (13.4, amd/2)

13.2.5 Detaching trailer

- (1) The driver of a road vehicle that has attached to it a trailer transporting dangerous goods must not detach the trailer or permit it to be detached from the vehicle except in accordance with Part 13 of the ADG Code.

Offence provision.

- {(2) An offence against {subclause} (1) is an offence of strict liability.} (13.4, amd/2)

13.2.6 Road tank vehicle equipped with burner

- (1) The driver of a road tank vehicle equipped with a burner must not operate the burner or permit it to be operated except in accordance with Part 13 of the ADG Code.

Offence provision.

- {(2) An offence against {subclause} (1) is an offence of strict liability.} (13.4, amd/2)

Division 13.3 Routes, areas, vehicles and times

13.3.1 Prime contractor's and rail operator's duties

- (1) A prime contractor or rail operator must not transport goods contrary to a determination under {clause} 1.6.3.

Offence provision.

{(2) An offence against {subclause} (1) is an offence of strict liability.} (13.8, amd/2)

13.3.2 Driver's duties

- (1) A person must not drive a road vehicle transporting goods contrary to a determination under {clause} 1.6.3.

Offence provision.

{(2) An offence against {subclause} (1) is an offence of strict liability.} (13.9-road, amd/2)

Part 14 Emergencies

Division 14.1 Emergencies generally

14.1.1 Driver's duties

- (1) This {clause} 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 the reasonable assistance required by an authorised officer, or an officer of an emergency service, to deal with the situation. (14.1-road, amd/2)

Offence provision.

{(3) An offence against {subclause} (2) is an offence of strict liability.}

14.1.2 Rail operator's duties

- (1) This {clause} applies if train transporting dangerous goods is involved in an incident resulting in a dangerous situation.

Regulation 14.1.3

- (2) The driver of the train must:
- (a) notify the rail contractor or the rail authority of the incident as soon as practicable; and
 - (b) provide the reasonable assistance required by an authorised officer, or an officer of an emergency service, to deal with the situation. (14.1-road, amd/2)

Offence provision.

- (3) Where the rail operator is notified by the train driver of the incident, the rail operator must:
- (a) notify the rail authority, and the police or fire service, of the incident as soon as practicable; and
 - (b) provide the reasonable assistance required by an authorised officer, or an officer of an emergency service, to deal with the situation. (14.1-road, amd/2)

Offence provision.

- (4) Where the rail authority is notified by the train driver of the incident, the rail operator must:
- (a) notify the police or fire service, of the incident as soon as practicable; and
 - (b) provide the reasonable assistance required by an authorised officer, or an officer of an emergency service, to deal with the situation. (14.1-road, amd/2)

Offence provision.

- {(5) An offence against {subclause} (3) or (4) is an offence of strict liability.}

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

- (1) This {clause} applies if an incident involving food or food packaging and a vehicle transporting dangerous goods results in the leakage, spillage or accidental escape of the dangerous goods, contamination of the food or food packaging, or a fire or explosion.

Regulation 14.1.4

- (2) The food or food packaging must not be transported from the site of an incident during road transport of dangerous goods if the Competent Authority has not given permission to the prime contractor to do so.

Offence provision.

- (3) The food or food packaging must not be removed from rail premises unless the Competent Authority has given permission to the rail operator.

Offence provision.

- (4) A permission under {subclause} (2) or (3):

- (a) must be in writing; and
- (b) must state the name of the person to whom it is given; and
- (c) must identify the relevant incident; and
- (d) must identify the food or food packaging to which it relates; and
- (e) must take into consideration any requirements of the appropriate food and health authorities; and
- (e) may contain any other information that the Competent Authority considers necessary. (14.2-road, amd/2)

- {(5) An offence against {subclause} (2) or (3) is an offence of strict liability.}

14.1.4 Prime contractors, rail operators and drivers to inform Competent Authority

- (1) This {clause} applies if a vehicle transporting dangerous goods is involved in an incident resulting in a dangerous situation.
- (2) As soon as practicable after the incident, the driver must notify the prime contractor or rail operator and the Competent Authority about the incident, and provide the following details:
- (a) where the incident happened;
 - (b) the time and date of the incident;
 - (c) the nature of the incident;

Regulation 14.1.4

- (d) the dangerous goods being transported when the incident happened;
- (e) any other details that the Competent Authority may require.

Offence provision.

- (3) As soon as practicable after being told about the incident by the driver, the prime contractor or rail operator must provide to the Competent Authority the details mentioned in {subclause} (2).

Offence provision.

- (4) Not later than 21 days after the day when the incident happens, the driver and the prime contractor or rail operator must each 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) for the driver's report, what he or she believes to be the likely cause of the incident;
 - (e) for the prime contractor's or rail operator's report, what he or she 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 any leak, spill or accidental escape of dangerous goods and any fire or explosion, arising out of the incident;
 - (h) the measures taken after the incident in relation to the dangerous goods involved in the incident. (14.3-road, amd/2)

Offence provision.

- {(5) An offence against {subclause} (2), (3) or (4) is an offence of strict liability.}

Division 14.2 Emergencies involving placard loads

14.2.1 Telephone advisory service

- (1) In this {clause}:

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.

- (2) A prime contractor or rail operator must not transport a load of dangerous goods that contains dangerous goods in a receptacle with a capacity of more than 500 litres or kilograms if a telephone advisory service is not available during the journey.

Offence provision.

- (3) A person must not consign a load of dangerous goods that contains dangerous goods in a receptacle with a capacity of more than 500 litres or kilograms for transport if a telephone advisory service is not available during the journey.

Offence provision.

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

- (5) 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. (14.4, amd/2)

Regulation 14.2.2

14.2.2 Emergency plans

- (1) In this {clause}:

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

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

Offence provision.

- (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. (14.5, amd/2)

Offence provision.

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

14.2.3 Consignor's duties — information and resources

- (1) This {clause} 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 to the officer the information that the officer requires about:
- (i) the properties of the dangerous goods being transported; and
 - (ii) safe methods of handling the goods; and
 - (iii) safe methods of containing and controlling the goods in a dangerous situation; and

Regulation 14.2.4

- (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.

Offence provision.

{(3) An offence against {subclause} (2) is an offence of strict liability.}

- (4) If the prime contractor and the consignor, or the rail operator and the consignor, of the dangerous goods are asked to give the same information or provide the same resources for the incident, it is sufficient if the consignor or, as the case may be, the prime contractor or the rail operator gives the information or provides the resources. (14.6, amd/2)

14.2.4 Prime contractor's and rail operator's duties — information and resources

- (1) This {clause} 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 to the officer the information that 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.

Offence provision.

{(3) An offence against {subclause} (2) is an offence of strict liability.}

Regulation 15.1.1

- (4) If the prime contractor and the consignor, or the rail operator and the consignor, of the dangerous goods are asked to give the same information or provide the same resources for the incident, it is sufficient if the consignor gives the information or provides the resources. (14.7, amd/2)

Part 15 Mutual recognition

Division 15.1 Registers of determinations, exemptions, approvals and licences

15.1.1 Registers

Each of the following registers is a *register* for {this subordinate law}:

- (a) the register of determinations kept under {clause} 1.6.5;
- (b) the register of exemptions kept under {clause} 16.1.2;
- (c) the register of approvals kept under {clause} 17.2.1;
- (d) the register of dangerous goods driver licences kept under {subclause} 18.6.5 (1);
- (e) the register of dangerous goods vehicle licences kept under {subclause} 18.6.5 (2). (15.1)

15.1.2 Registers may be kept by computer

- (1) A register, or part of a register, under {this subordinate law} may be kept by computer.
- (2) An entry made by computer for a register is taken to be a record made in the register. (15.2)

15.1.3 Inspection of registers

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

- (2) The Competent Authority is taken to comply with {subclause} (1) by ensuring that there is reasonable access to:
- (a) copies of information in a register; or
 - (b) a computer terminal to inspect a register. (15.3)

Division 15.2 Competent Authorities Panel

15.2.1 Membership and function of CAP

- (1) *Competent Authorities Panel* or *CAP* means the panel of that name comprising persons each of whom:
- (a) is a Competent Authority (or a representative of a Competent Authority) of this or a participating jurisdiction; and
 - (b) is appointed by the Australian Transport Council. (new)
- (2) The function of CAP is to decide matters referred to it by a person mentioned in {subclause} (1) (a *CAP member*). (15.4, amd)

15.2.2 CAP meetings

- (1) CAP may hold a meeting to decide a matter referred to CAP.
- (2) CAP may permit a CAP member to participate in a meeting, or all meetings, by telephone, closed-circuit television or any other means of communication.
- (3) A member who participates in a meeting under a permission under {subclause} (2) is taken to be present at the meeting.
- (4) CAP may invite a person to be present at a meeting to advise or inform, or make a submission to, CAP. (15.5, amd)

15.2.3 CAP decisions

- (1) A CAP member has a single vote on a decision to be made by CAP.

Schedule 2	Model Subordinate Law on the Transport of Dangerous Goods by Road or Rail 2007
Part 15	Mutual recognition
Division 15.3	Recommendations by Competent Authority and corresponding authorities

Regulation 15.3.1

- (2) A matter that is referred to a meeting of CAP must be decided by a majority of votes.
- (3) However, if there are 2 or more CAP members representing this or a participating jurisdiction, the members jointly have a single vote on a decision to be made by CAP.
- (4) A decision is a valid decision of CAP, even though it is not made at a meeting of CAP, if each member of CAP agrees in writing to the proposed decision.
- (5) However, if there are 2 or more CAP members representing this or a participating jurisdiction, it is sufficient if 1 or more of those members agree. (15.6, amd)

Division 15.3 Recommendations by Competent Authority and corresponding authorities

15.3.1 Recommendations by Competent Authority

- (1) This {clause} applies if the Competent Authority considers that a ground exists for a corresponding authority to do any of the following (the *proposed action*):
 - (a) revoke or vary a corresponding determination that is not a corresponding administrative determination;
 - (b) cancel or vary a corresponding administrative determination;
 - (c) cancel or vary a corresponding approval or exemption;
 - (d) cancel, suspend or vary a corresponding dangerous goods driver licence or dangerous goods vehicle licence.
- (2) The Competent Authority may recommend, in writing, that the corresponding authority take the proposed action.
- (3) The Competent Authority must provide written reasons to the corresponding authority for the recommendation. (15.7)

Regulation 15.4.1

15.3.2 Recommendations by corresponding authorities

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

Division 15.4 Mutual recognition of determinations, exemptions, approvals and licences**15.4.1 Corresponding determinations**

- (1) This {clause} 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 any of the following {clauses}:
 - (i) {clause} 1.6.1 (Determinations — dangerous goods and packagings);
 - (ii) {clause} 1.6.2 (Determinations — foreign approved IBCs, tanks and MEGCs);

Schedule 2	Model Subordinate Law on the Transport of Dangerous Goods by Road or Rail 2007
Part 15	Mutual recognition
Division 15.4	Mutual recognition of determinations, exemptions, approvals and licences

Regulation 15.4.2

- (iii) {clause} 1.6.3 (Determinations — vehicles, routes, areas, vehicles and times); and
- (b) the determination has effect in the other jurisdiction; and
- (c) either of the following subparagraphs applies:
 - (i) CAP has decided that the determination should have effect in all participating jurisdictions or participating jurisdictions including this jurisdiction and CAP has not reversed the decision;
 - (ii) the determination is an administrative determination.
- (2) The determination has effect in this jurisdiction as if it were a determination made by the Competent Authority under the relevant provision. (15.9, amd)

15.4.2 Corresponding exemptions

- (1) This {clause} 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 subordinate law}; and
 - (b) the exemption has effect in the other jurisdiction; and
 - (c) CAP has decided that the exemption should have effect in all participating jurisdictions or participating jurisdictions including this jurisdiction, and CAP has not reversed the decision.
- (2) The exemption has effect in this jurisdiction as if it were an exemption granted by the Competent Authority for the relevant provision. (15.10, amd)
- (3) A decision of CAP that an exemption should have effect in all participating jurisdictions or participating jurisdictions including this jurisdiction ceases to be in force 10 years after the day on which the decision was made unless:
 - (a) the decision is sooner reversed by CAP; or
 - (b) the exemption to which the decision relates is sooner cancelled or varied by the corresponding authority.

Regulation 15.4.4

15.4.3 Corresponding approvals

- (1) This {clause} applies to an approval given 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 {clauses}:
 - (i) {clause} 1.3.2 (Approvals — tests and training courses for drivers);
 - (ii) {clause} 4.2.4 (Approvals — packaging designs);
 - (iii) {clause} 4.2.7 (Approvals — overpacks);
 - (iv) {clause} 9.1.8 (Approvals — segregation devices and methods of segregation);
 - (v) {clause} 11.2.7 (Approvals — emergency information);
 - (vi) {clause} 20.1.4 (Approvals — insurance); and
 - (b) the approval has effect in the other jurisdiction; and
 - (c) CAP has decided that the approval should have effect in all participating jurisdictions or participating jurisdictions including this jurisdiction, and CAP has not reversed the decision.
- (2) The approval has effect in this jurisdiction as if it were an approval given by the Competent Authority under the relevant provision. (15.11, amd)

15.4.4 Corresponding licences

- (1) This {clause} applies to a licence granted by a corresponding authority for road transport if:
 - (a) the licence is a licence granted under a provision of the law of the other jurisdiction corresponding to {clause} 18.3.5 (Grant of dangerous goods driver licences), or 18.4.4 (Grant of dangerous goods vehicle licences), (the **relevant provision**); and
 - (b) the licence has effect in the other jurisdiction.

Regulation 16.1.1

- (2) Except for circumstances that do not exist in this jurisdiction, the licence has effect in this jurisdiction as if it were a licence granted by the Competent Authority under the relevant provision. (15.12-road, amd)

Part 16 Exemptions

Note For other provisions about exemptions, see sections 64, 65, 66 and 67 of the Act.

Division 16.1 General

16.1.1 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 subordinate law}, 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

Regulation 16.1.3

- (1) if a fee is prescribed for the application — be accompanied by the prescribed fee. (new)
- (2) The Competent Authority may, by written notice, require the applicant to give to the Authority any additional information necessary for a proper consideration of the application. (16.1, amd)

16.1.2 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:
 - (a) each exemption granted by the Authority; and
 - (b) each corresponding exemption.
- (4) The Competent Authority must note in the register:
 - (a) the cancellation or variation of an exemption granted by the Authority; and
 - (b) a decision of CAP reversing a decision that a corresponding exemption should have effect in all participating jurisdictions or participating jurisdictions including this jurisdiction. (16.2, amd)

16.1.3 Records of exemptions

The record of an exemption in the register must include:

- (a) the terms of the exemption; or
- (b) the following information:
 - (i) if the exemption was notified in the Government Gazette of a participating jurisdiction (including this jurisdiction) — 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;

Regulation 16.2.1

- (iii) the date when the exemption was granted;
- (iv) the provisions of {this subordinate law}, 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. (16.3, amd)

Division 16.2 Reference of matters to CAP

16.2.1 References to CAP

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

16.2.2 Effect of CAP decisions about applications

- (1) This {clause} applies if:
 - (a) an application for an exemption is referred to CAP under {subclause} 16.2.1 (1); and
 - (b) CAP decides:
 - (i) that the exemption should be granted, what the terms of the exemption should be, and that the exemption should have effect in all participating jurisdictions or participating jurisdictions including this jurisdiction; or

Regulation 17.1.1

- (ii) that the exemption should not have effect in this jurisdiction.
- (2) The Competent Authority must have regard to CAP's decision.
(16.5)

16.2.3 Effect of CAP decisions about cancelling or varying exemptions

- (1) This { clause } applies if:
 - (a) an exemption is referred to CAP under { subclause } 16.2.1 (2); and
 - (b) CAP decides that the exemption:
 - (i) should, or should not, be cancelled; or
 - (ii) should be varied and should have effect as varied in all participating jurisdictions or participating jurisdictions including this jurisdiction; or
 - (iii) should not be varied.
- (2) The Competent Authority must have regard to CAP's decision.
(16.6)

Part 17 Administrative determinations and approvals

Note For provisions about determinations generally, see Division 1.6.

Division 17.1 General

17.1.1 Applications

- (1) An application for an administrative determination or approval, or for variation of an administrative determination or approval, must:
 - (a) be made to the Competent Authority in writing; and
 - (b) if a fee is prescribed for the application — be accompanied by the prescribed fee. (new)

Regulation 17.1.2

- (2) An application for variation of an administrative determination or written approval must have the determination or approval with it.
- (3) The Competent Authority may, by written notice, require an applicant to give to the Authority any additional information necessary for a proper consideration of the application. (17.1, amd/1)

17.1.2 Form of administrative determinations and approvals

An administrative determination, or an approval given on written application, must be in writing. (17.2, amd/1)

17.1.3 When administrative determinations and approvals not to be made etc

The Competent Authority must not make an administrative determination on the application of, or give an approval under {this subordinate law} to, a person who is prohibited by a court order from involvement in the transport of dangerous goods. (17.3)

17.1.4 Reasons for refusal of applications

- (1) This {clause} 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 subordinate law}.
- (2) The Competent Authority must inform the applicant in writing of the refusal and of the reasons for the refusal. (17.4, amd/1)

17.1.5 Periods and conditions

- (1) An administrative determination or a written approval under {this subordinate law} has effect for the period specified in the determination or approval.

Regulation 17.1.8

- (2) A condition to which an administrative determination, or a written approval, is subject must be specified in the determination or approval. (17.5, amd/1)

17.1.6 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 that the determination or approval has been defaced, destroyed, lost or stolen. (17.6)

17.1.7 Failure to comply with conditions

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

Offence provision.

- {(2) An offence against {subclause} (1) is an offence of strict liability.} (17.7, amd/2)

17.1.8 Grounds for cancelling administrative determinations and approvals

- (1) An administrative determination or approval may be cancelled if the application for the determination or approval:
 - (a) did not comply with {this subordinate law}; or
 - (b) was false or misleading in a material respect.
- (2) An administrative determination or approval may be cancelled if:
 - (a) a relevant change has happened since the determination was made or the approval was given; and
 - (b) if the change had happened earlier:
 - (i) the determination would not have been made; or

Regulation 17.1.9

- (ii) the approval would not have been given.
- (3) An administrative determination or approval may be cancelled if the person on whose application the determination was made, or to whom the approval was given, is unsuitable to continue to be a person to whom the determination applies, or the approval was given, because the person has contravened:
 - (a) a provision of the Act or {this subordinate law}; or
 - (b) a provision of the law in force in another participating jurisdiction corresponding to a provision mentioned in paragraph (a).
- (4) In {subclause} (2):
relevant change means a change about something that the Competent Authority may or must consider in deciding whether to make the determination or give the approval. (17.8)

17.1.9 Grounds for varying administrative determinations and approvals

- (1) An administrative determination or approval may be varied if the application for the determination or approval:
 - (a) did not comply with {this subordinate law}; or
 - (b) was false or misleading in a material respect.
- (2) An administrative determination or approval may be varied if:
 - (a) a relevant change has happened since the determination was made or the approval was given; and
 - (b) if the change had happened earlier:
 - (i) the determination would have been made in the way in which it is proposed to be varied; or
 - (ii) the approval would have been given in the way in which it is proposed to be varied.

Regulation 17.2.1

- (3) An administrative determination or approval may be varied if the person on whose application the determination was made, or to whom the approval was given, is unsuitable to continue to be a person to whom the determination applies, or the approval was given, without variation because the person has contravened:
- (a) a provision of the Act or {this subordinate law}; or
 - (b) a provision of the law in force in another participating jurisdiction corresponding to a provision mentioned in paragraph (a).
- (4) In {subclause} (2):
- relevant change* means a change about something that the Competent Authority may or must consider in deciding whether to make the determination or give the approval. (17.9)

Division 17.2 Register of approvals

17.2.1 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:
 - (a) each approval given in writing under {this subordinate law}; and
 - (b) each corresponding approval.
- (4) The Competent Authority must note in the register:
 - (a) the cancellation or variation of a written approval; and
 - (b) a decision of CAP reversing a decision that a corresponding approval should have effect in all participating jurisdictions or participating jurisdictions including this jurisdiction. (17.10)

Regulation 17.2.2

17.2.2 Records of approvals

The record of an approval in the register must include:

- (a) the terms of the approval; or
- (b) the following information:
 - (i) the name of the person to whom the approval was given;
 - (ii) the date when the approval was given;
 - (iii) the provisions of {this subordinate law}, 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. (17.11)

Division 17.3 Reference of approval matters to CAP

17.3.1 References to CAP

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

Regulation 17.3.3

17.3.2 Effect of CAP decisions about applications

- (1) This {clause} applies if:
 - (a) an application for an approval is referred to CAP under {subclause} 17.3.1 (1); and
 - (b) CAP decides:
 - (i) that 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 this jurisdiction; or
 - (ii) that the approval should not have effect in this jurisdiction.
- (2) The Competent Authority must have regard to CAP's decision.
(17.13)

17.3.3 Effect of CAP decisions about cancelling or varying approvals

- (1) This {clause} applies if:
 - (a) an approval is referred to CAP under {subclause} 17.3.2 (2); and
 - (b) CAP decides that 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 this jurisdiction; or
 - (iii) should not be varied.
- (2) The Competent Authority must have regard to CAP's decision.
(17.14)

Regulation 17.4.1

Division 17.4 Cancellation and variation

17.4.1 Cancellation and variation in dangerous situations

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

- (a) a ground exists to cancel or vary the administrative determination or approval; and
- (b) it is necessary to do so to avoid, eliminate or minimise a dangerous situation. (19.2)

17.4.2 Cancellation giving effect to court orders

The Competent Authority must cancel an administrative determination if the person to whom the determination applies is prohibited by a court order from involvement in the transport of dangerous goods. (19.3)

17.4.3 Variation of administrative determinations and approvals on application

- (1) This {clause} applies if:
 - (a) an application is made to vary an administrative determination or approval; and
 - (b) the application is made in accordance with {clause} 17.1.1 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. (19.4)

17.4.4 Cancellation and variation in other circumstances

- (1) This {clause} applies if:
 - (a) the Competent Authority considers that a ground exists to cancel or vary an administrative determination or approval (the *proposed action*); and

Regulation 17.4.5

- (b) {clauses} 17.4.1, 17.4.2 and 17.4.3 do not apply to the proposed action.
- (2) The Competent Authority must give to the person to whom the determination applies or the approval was given a written notice that:
 - (a) states what the proposed action is; and
 - (b) if the proposed action is to vary the determination or approval — sets out the proposed variation; and
 - (c) sets out the ground for the proposed action; and
 - (d) outlines the facts and other circumstances forming the basis for the ground; and
 - (e) invites the person to state in writing, within a specified period of at least 28 days after the day when the notice is given to the person, why the proposed action should not be taken.
- (3) If, after considering any written statement made within the specified period, the Competent Authority reasonably believes that 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. (19.5, amd/1)

17.4.5 When cancellation and variation take effect

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

- (a) the day when the 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. (19.6, amd/1)

Part 18 Licences

Division 18.1 Preliminary

18.1.1 Meaning of *licensing authority*

In this Part:

licensing authority means:

- (a) the Competent Authority for road transport; or
- (b) a person or body authorised by the Competent Authority to issue licences under this Part.

18.1.2 Application of Part

- (1) Except as provided by {clause (2)}, this Part applies to the transport by road of a load of dangerous goods that contains dangerous goods in a receptacle with a capacity of more than 500 litres or kilograms.
- (2) 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 filled or emptied on the vehicle; and
 - (c) the total capacity of IBCs containing dangerous goods on the vehicle is not more than 3 000 litres.

18.1.3 Part additional to other laws

This Part is in addition to any other law in force in this jurisdiction about:

- (a) the licensing of drivers; or
- (b) the employment or engaging of drivers; or
- (c) the registration of vehicles; or
- (d) the transport of goods by road. (18.2)

Division 18.2 Principal duties under this Part

18.2.1 Prime contractor's duties

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

Offence provision.

- (2) If a prime contractor employs, engages or permits another person to drive a road vehicle transporting dangerous goods, the other person must be licensed under this Part to drive the road vehicle. (18.3)

Offence provision.

18.2.2 Driver's duties

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

Offence provision.

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

Offence provision.

18.2.3 Consignor's duties

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

Offence provision.

Division 18.3 Dangerous goods driver licences

18.3.1 Applications for licences

- (1) A person resident in the State/Territory who is not the holder of a dangerous goods driver licence or a corresponding dangerous goods driver licence may apply to a licensing authority for a dangerous goods driver licence.
- (2) The application must be accompanied by:
 - (a) the driver licence evidence required by {clause} 18.3.2; and
 - (b) the competency evidence required by {clause} 18.3.3; and
 - (c) the medical fitness evidence required by {clause} 18.3.4; and
 - (d) 2 passport-size photographs of the applicant that were taken not more than 6 months before the day when the application is made; and
 - (e) if a fee is prescribed for the application — the prescribed fee. (18.10)

18.3.2 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 driving licences register kept by the driver licensing authority in each jurisdiction where the applicant has held a licence to drive; and
 - (b) either:
 - (i) the document mentioned in {subclause} (2); or
 - (ii) the authorisation mentioned in {subclause} (3).

Regulation 18.3.4

- (2) For subparagraph (1) (b) (i), the document is a copy, certified by the appropriate authority of the jurisdiction where the applicant was convicted, of the records of any conviction of the applicant for a driving offence.
- (3) For subparagraph (1) (b) (ii), the authorisation is the authorisation by the applicant for the licensing authority to have access to:
 - (a) entries about the applicant in the driver licences register of any State or Territory; and
 - (b) records of any conviction of the applicant for a driving offence in any State or Territory.
- (4) For paragraph (1) (a), a current certified extract is an extract certified by the driver licensing authority not more than 6 months before the day when the application is made. (18.7)

18.3.3 Required competency evidence

- (1) A document mentioned in {subclause} (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 when the application is made, by a person who conducted an approved test or approved training course stating that the applicant passed the test or completed the course; or
 - (b) other written evidence that the applicant passed an approved test or completed an approved training course not more than 6 months before the day when the application is made. (18.8)

18.3.4 Required medical fitness evidence

- (1) The certificate mentioned in {subclause} (2) is required as medical fitness evidence for an application for grant or renewal of a dangerous goods driver licence.

Regulation 18.3.5

- (2) The certificate must be:
- (a) about the 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 when the application is made, examined and passed the applicant in accordance with the standards in *Assessing Fitness to Drive — Medical Standards for Licensing and Clinical Management Guidelines* published by Austroads and the National Road Transport Commission in September 2003, as in force at the time of the examination. (18.9)

18.3.5 Grant of dangerous goods driver licences

- (1) A 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 {clause} 18.3.1 and otherwise complies with the {clause}.
- (2) However, the licensing authority must not grant the licence if:
- (a) in the 5 years before the day when the application is made:
 - (i) the applicant has been found guilty by a court in Australia of an offence that makes the applicant unsuitable to be the driver of a vehicle transporting dangerous goods; or
 - (ii) the applicant's driver licence has been cancelled or suspended on a ground that makes the applicant unsuitable to be the driver of a vehicle transporting dangerous goods; or
 - (b) the applicant is subject to a court order prohibiting the applicant from involvement in the transport of dangerous goods by road.
- (3) If the licensing authority refuses to grant a dangerous goods driver licence, the Authority must inform the applicant in writing of the refusal and of the reasons for the refusal. (18.11)

Regulation 18.3.7

18.3.6 Applications for renewal of licences

- (1) A person who holds a dangerous goods driver licence may apply to a licensing authority for renewal of the licence.
- (2) The application must be accompanied by:
 - (a) the driver licence evidence required by {clause} 18.3.2; and
 - (b) the competency evidence required by {clause} 18.3.3; and
 - (c) the medical fitness evidence required by {clause} 18.3.4; and
 - (d) 2 recent passport-size photographs of the applicant; and
 - (e) if a fee is prescribed for the application — the prescribed fee. (18.12)

18.3.7 Renewal of licences

- (1) A licensing authority must renew a dangerous goods driver licence if:
 - (a) an application is made to the authority for renewal of the licence; and
 - (b) the application is accompanied by the documents required by {clause} 18.3.6 and otherwise complies with the {clause}.
- (2) However, the licensing authority must not renew the licence if:
 - (a) while the licence had effect:
 - (i) the applicant was found guilty by a court in Australia of an offence that makes the applicant unsuitable to be the driver of a vehicle transporting dangerous goods; or
 - (ii) the applicant's driver licence has been cancelled or suspended on a ground that makes the applicant unsuitable to be the driver of a vehicle transporting dangerous goods; or
 - (b) the applicant is subject to a court order prohibiting the applicant from involvement in the transport of dangerous goods by road.

Regulation 18.3.8

- (3) If the licensing authority refuses to renew a dangerous goods driver licence, the authority must inform the applicant in writing of the refusal and of the reasons for the refusal. (18.13)

18.3.8 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 when the licence is granted or a later day specified in the licence.
- (3) A dangerous goods driver licence is renewed for the period specified in the renewed licence, being a period not longer than 5 years. (18.14)

18.3.9 Licence conditions

- (1) A licensing authority may grant or renew a dangerous goods driver licence subject to conditions mentioned in {subclauses} (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 containers 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.

Regulation 18.3.11

- (4) The licence may be subject to any other condition necessary for the safe transport of dangerous goods by road. (18.15)

18.3.10 Additional condition

- (1) It is a condition of a dangerous goods driver licence that a licensing authority may, by written notice given to the licensee, require the licensee to produce to the authority a certificate:
- (a) about the 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 when the certificate is given to the authority, examined and passed the applicant in accordance with the standards in *Assessing Fitness to Drive — Medical Standards for Licensing and Clinical Management Guidelines* published by Austroads and the National Road Transport Commission in September 2003, as in force at the time of the examination.
- (2) The written notice must specify a period of at least 2 months after the day when the notice is received by the licensee within which the licensee must produce the certificate.
- (3) A licensing authority must not give written notice under this {clause} if the period of validity of the dangerous goods driver licence is less than 4 months. (18.16, amd)

18.3.11 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 subordinate law}; or
 - (b) was false or misleading in a material respect.

Regulation 18.4.1

- (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 subordinate law}; 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. (18.17)

Division 18.4 Dangerous goods vehicle licences

18.4.1 Meaning of *vehicle*

In this Division:

vehicle does not include:

- (a) a prime mover; or
- (b) a converter dolly (within the meaning of clause 10.6 in the Schedule to the Road Transport Reform (Heavy Vehicles Standards) Regulations). (18.18)

Note That clause defines 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.

18.4.2 Applications for licences

- (1) A person may apply to a 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.

Regulation 18.4.4

- (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) If a fee is prescribed for the application, the application must be accompanied by the prescribed fee.
- (4) An application may be made for licences for 2 or more road vehicles in the same form. (18.19)

18.4.3 Additional information and inspections

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

18.4.4 Grant of dangerous goods vehicle licences

- (1) Subject to {subclause} (4), a 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

Regulation 18.4.5

- (b) the application complies with {clause} 18.4.2; and
 - (c) the applicant has complied with any requirement made under {clause} 18.4.3 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 paragraph (1) (d), if a road vehicle is intended for use in the transport of dangerous goods in the form of a liquid or gas using a tank that will form part of the vehicle or be attached to it, the vehicle is suitable only if:
 - (a) the tank is an approved tank; and
 - (b) the vehicle complies with the requirements of Chapters 4.4 and 6.9 of the ADG Code applying to road vehicles for use in transporting dangerous goods in the form of a liquid or gas.
- (3) 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 inform the applicant in writing of the refusal and of the reasons for the refusal. (18.21)

18.4.5 Applications for renewal of licences

- (1) A person who holds a dangerous goods vehicle licence for a road vehicle may apply to a licensing authority for renewal of the licence.
- (2) The application must include the information required under {subclause} 18.4.2 (2) for an application for the grant of a dangerous goods vehicle licence for the road vehicle.

Regulation 18.4.6

- (3) If a fee is prescribed for the application, the application must be accompanied by the prescribed fee. (18.22)

18.4.6 Renewal of licences

- (1) Subject to {subclause} (4), a licensing authority must renew a dangerous goods vehicle licence for a road vehicle if:
- (a) an application is made to the authority for renewal of the licence; and
 - (b) the application complies with {clause} 18.4.5; and
 - (c) the applicant has complied with any requirement made under {clause} 18.4.3 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 paragraph (1) (d), if a road vehicle is intended for use in the transport of dangerous goods in the form of a liquid or gas using a tank that will form part of the vehicle or be attached to it, the vehicle is suitable only if:
- (a) the tank is an approved tank; and
 - (b) the vehicle complies with the requirements of Chapters 4.4 and 6.9 of the ADG Code applying to road vehicles for use in transporting dangerous goods in the form of a liquid or gas.
- (3) 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 grant a dangerous goods vehicle licence, the authority must inform the applicant in writing of the refusal and of the reasons for the refusal. (18.23)

Regulation 18.4.7

18.4.7 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 when the licence is granted or a later day specified in the licence.
- (3) A dangerous goods vehicle licence is renewed for the period specified in the renewed licence, being a period not longer than 5 years. (18.24)

18.4.8 Licence conditions

- (1) A licensing authority may grant or renew a dangerous goods vehicle licence subject to conditions mentioned in {subclauses} (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) the inspections of the vehicle (if any) that are required.
- (4) The licence may be subject to any other condition necessary for the safe transport of dangerous goods by road. (18.25)

18.4.9 Disposal and transfer of licensed vehicles

- (1) Before selling or otherwise disposing of a vehicle (otherwise than by way of a business transfer) for which a dangerous goods vehicle licence has been granted (the *disposed vehicle*), the licensee must remove the licence label from the vehicle and:

Regulation 18.4.9

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

Offence provision.

- (2) Within the 21 days after selling or otherwise disposing of the disposed vehicle, the licensee must give, to the licensing authority, notice of the disposal.

Offence provision.

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

Offence provision.

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

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

Offence provision.

- (5) On receipt of a licence, the licensing authority must:

- (a) if the licence also relates to another vehicle:
 - (i) amend the licence by omitting reference to the disposed vehicle; and
 - (ii) return the licence to the licensee; or
- (b) if paragraph (a) does not apply — cancel the licence. (18.26, amd/2)

- (6) Within the 21 days after the transfer by 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 prescribed fee, for the transfer of the licence to that person.

Regulation 18.4.10

Offence provision.

- (7) On receipt of the application, licence and prescribed fee, the licensing authority must amend the licence to record the change in ownership and return the licence.
- (8) In this {clause}:
business transfer, in respect of a vehicle, means a transfer of the title to the vehicle as part of a transfer in ownership of the business in which the vehicle is used and is to continue to be used.
- {(9) An offence against {subclause} (1), (2), (3), (4) or (6) is an offence of strict liability.}

18.4.10 Grounds for cancelling, suspending or varying licences

- (1) A dangerous goods vehicle licence may be cancelled, suspended or varied if the application for the licence or an application for its renewal:
 - (a) did not comply with {this subordinate law}; or
 - (b) was false or misleading in a material respect.
- (2) A dangerous goods vehicle licence for a road vehicle may be cancelled, suspended or varied if the road vehicle does not comply with the Act or {this subordinate law}. (18.27)

18.4.11 Licence labels

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

Offence provision.

Regulation 18.5.2

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

Offence provision.

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

- {(5) An offence against {subclause} (2) or (3) is an offence of strict liability.} (18.28, amd/2)

Division 18.5 Requirements relating to dangerous goods driver licences

18.5.1 Licences to be carried

- (1) The holder of a dangerous goods driver licence must carry his or her dangerous goods driver licence when driving a road vehicle transporting dangerous goods if this Part applies to the vehicle by virtue of {clause} 18.1.2.

Offence provision.

- {(2) An offence against {subclause} (1) is an offence of strict liability.} (18.30, amd/2)

18.5.2 Licences to be produced for inspection

- (1) The driver of a road vehicle transporting dangerous goods must produce his or her dangerous goods driver licence for inspection by an authorised officer, if the officer asks the driver to produce the licence for inspection.

Offence provision.

- {(2) An offence against {subclause} (1) is an offence of strict liability.} (18.31, amd/2)

Regulation 18.6.1

Division 18.6 Licences generally

18.6.1 Meaning of *licence* and *licensee*

In this Division:

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

licensee means the holder of a licence. (18.32)

18.6.2 Replacement licences and licence labels

- (1) A licensing authority may issue a replacement licence to a licensee if:
 - (a) the licence is renewed; or
 - (b) the licence is varied; or
 - (c) a period of suspension of the licence ends.
- (2) The licensing authority must issue a replacement licence or licence label to a licensee if the authority is satisfied that the licence or label has been defaced, destroyed, lost or stolen. (18.33)

18.6.3 Failure to comply with licence conditions

- (1) A licensee must not contravene a condition of his or her licence.

Offence provision.

- {(2) An offence against {subclause} (1) is an offence of strict liability.} (18.34, amd/2)

18.6.4 Surrender of licences

- (1) A licensee may surrender his or her licence by giving notice of surrender to the licensing authority that issued the licence and returning the licence to that authority.
- (2) A licence ceases to have effect on its surrender. (18.35)

18.6.5 Registers of licences

- (1) A licensing authority must keep a register of dangerous goods driver licences.
- (2) A licensing authority must keep a register of dangerous goods vehicle licences.
- (3) A register may have separate divisions for different kinds of licences.
- (4) A licensing authority must record each licence granted under {this subordinate law} in the appropriate register.
- (5) A licensing authority must note in the register the cancellation, surrender, suspension or variation of a licence. (18.36)

18.6.6 Records of licences

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

- (a) the name of the licensee;
- (b) the date when the licence was granted or renewed;
- (c) either:
 - (i) the period for which the licence was granted or renewed; or
 - (ii) the expiry date of the licence;
- (d) for a dangerous goods driver licence — the licensee's date of birth;
- (e) for a dangerous goods vehicle licence — the registration number, make and type of each road vehicle to which the licence relates;
- (f) the Classes of dangerous goods for which the licence is valid;
- (g) any condition to which the licence is subject. (18.37)

Regulation 18.6.7

18.6.7 Change of information given in licence applications

- (1) This {clause} applies if a licensee becomes aware that information given by the licensee to a 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 respect.
- (2) Within 14 days after becoming aware of the matter, the licensee must inform the licensing authority about the matter and give the correct information to the authority.

Offence provision.

- {(3) An offence against {subclause} (2) is an offence of strict liability.} (18.38, amd/2)

18.6.8 Production of licences to licensing authority

- (1) A 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 when the notice is given to the person.

Offence provision.

- {(3) An offence against {subclause} (2) is an offence of strict liability.} (18.39, amd/2)

18.6.9 Return of licences

- (1) This {clause} applies if a licence is produced to a licensing authority or given to the authority by an authorised officer.
- (2) If the licence has not been cancelled 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 and a replacement licence is not issued, the licensing authority must return the licence to the licensee.

Regulation 18.7.4

- (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. (18.41)

Division 18.7 Cancellation, suspension and variation

18.7.1 Definitions

In this Part:

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

licensee means the holder of a licence. (19.1)

18.7.2 Cancellation, suspension and variation in dangerous situations

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

- (a) a ground exists to cancel, suspend or vary the licence; and
- (b) it is necessary to do so to avoid, eliminate or minimise a dangerous situation. (19.2, amd)

18.7.3 Cancellation and suspension giving effect to court orders

A 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. (19.3)

18.7.4 Variation of licence on application

- (1) This { clause } applies if:
 - (a) an application is made to vary a licence; and

Regulation 18.7.5

- (b) the application is made by the licensee and has the licence with it.
- (2) A licensing authority may vary the licence in accordance with the application. (19.4)

18.7.5 Cancellation, suspension and variation in other circumstances

- (1) This { clause } applies if:
 - (a) a licensing authority considers that a ground exists to cancel, suspend or vary a licence (the *proposed action*); and
 - (b) { clauses } 18.7.2, 18.7.3 and 18.7.4 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 when the notice is given to the licensee, why the proposed action should not be taken.
- (3) If, after considering any written statement made within the specified period, the licensing authority reasonably believes that a ground exists to take the proposed action, the licensing authority may:
 - (a) cancel or vary the licence; or
 - (b) suspend the licence for a period not longer than 12 months (except if the suspension is to give effect to a court order)

Regulation 19.1.1

specifying a longer period of suspension) {new, from 19.1.5 (2); or

- (c) if the proposed action is to vary the licence in a specified way — vary the licence in that way. (19.5, amd/1)

18.7.6 When cancellation, suspension and variation take effect

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

- (a) the day when the licensee is given written notice by the licensing authority of the cancellation, suspension or variation and of the reasons for the cancellation, suspension or variation; or
(b) a later day specified in the notice. (19.6, amd/1)

18.7.7 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. {19.7}

Part 19 Reconsideration and review of decisions

19.1.1 Application of Part

This Part applies to the following decisions made by the Competent Authority:

- (a) a decision, under Part 4 of the Act, to refuse to grant an exemption, to cancel an exemption, to impose a new condition or to vary or cancel a condition of an exemption;

Regulation 19.1.2

- (b) a decision under Part 6 of the Act to issue an improvement notice under section 72 of the Act, or to amend an improvement notice under section 74 of the Act;
- (c) a decision, under {clause} 1.3.2, to approve or not approve a test or training course for drivers of road vehicles transporting dangerous goods;
- (d) an administrative determination under {clause} 1.6.1 (dangerous goods and packaging), 1.6.2 (foreign approved IBCs, tanks and MEGCs) or 1.6.3 (vehicles, routes, areas and times);
- (e) a decision, under {clause} 4.2.4, to approve or not approve a design for a packaging;
- (f) a decision, under {clause} 4.2.7, to approve or not approve a method of preparing an overpack;
- (g) a decision, under {clause} 9.1.8, to approve or not approve a design for a segregation device;
- (h) a decision, under {clause} 11.2.7, to approve or not approve emergency information;
- (i) a decision, under {clause} 17.4.1, 17.4.3 or 17.4.4, to cancel, vary or refuse to vary a determination or approval;
- (j) a decision, under {clause} 18.3.5 or 18.4.4, to grant or refuse to grant a licence;
- (k) a decision, under {clause} 18.3.7 or 18.4.6, to renew or refuse to renew a licence;
- (l) a decision, under {clause} 18.6.2, to issue or refuse to issue a replacement licence or licence label;
- (m) a decision, under {clause} 18.7.2, 18.7.4 or 18.7.5, to cancel, suspend, vary or refuse to vary a licence;
- (n) a decision, under {clause} 20.1.4, to approve or not approve the use of a vehicle that is not covered by a policy of insurance or other form of indemnity.

19.1.2 Who may apply for reconsideration of decisions

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

Regulation 20.1.1

19.1.3 Applications for reconsideration

- (1) An application must be made within:
 - (a) 28 days after the day when the person was informed of the decision by the 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.

19.1.4 Competent Authority to reconsider decisions

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

19.1.5 Review of certain decisions

Application may be made {to the appropriate administrative review body of the adopting State or Territory} for review of a decision by the Competent Authority under {clause} 19.1.4.

Part 20 Insurance

20.1.1 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 if:
 - (a) the use of the vehicle is not covered by a policy of insurance or other form of indemnity, for a sum that is not less than \$5 000 000, in respect of:
 - (i) personal injury, death, property damage and other damage (except consequential economic loss)

Regulation 20.1.2

arising out of fire, explosion, leakage or spillage of dangerous goods in, on or from the vehicle or a container transported in or on the vehicle; and

- (ii) costs incurred by or on behalf of a Commonwealth, State or Territory government authority in a clean-up resulting from any event of the kind referred to in subparagraph (a) (i); or
- (b) the owner does not have an approval under {clause} 20.1.4 in relation to the vehicle.

Offence provision.

- (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 {subclause} (1).
- {(3) An offence against {subclause} (1) is an offence of strict liability.}

20.1.2 Prime contractor's duties

- (1) A prime contractor must not use a road vehicle to transport a placard load if:
 - (a) the use of the vehicle is not covered by a policy of insurance or other form of indemnity, for a sum that is not less than \$5 000 000, in respect of:
 - (i) personal injury, death, property damage and other damage (except consequential economic loss) arising out of fire, explosion, leakage or spillage of dangerous goods in, on or from the vehicle or a container transported in or on the vehicle; and
 - (ii) costs incurred by or on behalf of a Commonwealth, State or Territory government authority in a clean-up resulting from any event of the kind referred to in subparagraph (a) (i); or
 - (b) the prime contractor does not have an approval under {clause} 20.1.4 in relation to the vehicle.

Offence provision.

Regulation 20.1.4

- (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 {subclause} (1).
- {(3) An offence against {subclause} (1) is an offence of strict liability.}

20.1.3 Requiring evidence of insurance etc

- (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 paragraph 20.1.1 (1) (a) or 20.1.2 (1) (a); or
 - (b) an approval under {clause} 20.1.4 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 when the notice is given to the person.

Offence provision.

- {(3) An offence against {subclause} (2) is an offence of strict liability.}

20.1.4 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 {clause} 17.1.1 to use the vehicle even if the vehicle is not covered by a policy of insurance or other form of indemnity in accordance with paragraph 20.1.1 (1) (a) or 20.1.2 (1) (a).

Regulation 21.1.1

- (2) If the Competent Authority is satisfied that the owner or prime contractor is adequately capable of self-insurance for the purposes of paragraph 20.1.1 (1) (a) or 20.1.2 (1) (a), the Competent Authority may give written approval for the use of the vehicle.
- (3) An approval under {subclause} (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 Infringement notices

21.1.1 Meaning of *infringement penalty*

In this Part:

infringement penalty has the same meaning as in section 279 of the Act.

Note 1 Subsection 79 (4) of the Act defines *infringement penalty* as the monetary penalty that a person who is served with an infringement notice may, as an alternative to having the matter dealt with by a court, pay to dispose of the matter.

Note 2 The infringement penalty for infringement notice offences under the Act may be found in column 2 of Schedule 1.1 to the Act and the infringement penalty for infringement notice offences under {this subordinate law} may be found in column 2 of Schedule 2.1.

21.1.2 Infringement notice offences

For section 79 of the Act, each offence set out in Schedule 2.1 is declared to be an infringement notice offence.

21.1.3 Time for payment of infringement penalty

The time within which the infringement penalty must be paid is:

- (a) 28 days after the day when the notice is served on the person; or

Regulation 21.1.5

- (b) if a reminder notice is given to the person — 28 days after the reminder notice is served on the person; or
- (c) a longer time that may be allowed in writing by the authorised officer.

21.1.4 Contents of infringement notices

An infringement notice served by an authorised officer on a person for an offence must:

- (a) be identified by a unique number; and
- (b) specify the date of service of the notice; and
- (c) specify the full name, or surname and initials, and address of the person; and
- (d) give brief details of the offence, including:
 - (i) the date and approximate time of the offence; and
 - (ii) where the offence happened; and
 - (iii) the provision of the Act or {this Subordinate Law} contravened; and
- (e) specify the infringement penalty for the offence payable under the notice; and
- (f) specify the place where, and any method by which, the infringement penalty may be paid; and
- (g) specify the Competent Authority's name and address; and
- (h) contain the additional information required by {clause} 21.1.5; and
- (i) be signed by the authorised officer.

21.1.5 Additional information in infringement notices

The infringement notice must inform the person that:

- (a) the person may pay the infringement penalty specified in the notice:
 - (i) by posting or delivering the payment to the place of payment specified in the notice; or
 - (ii) in any other way specified in the notice; and

Regulation 21.1.6

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

21.1.6 Reminder notices

- (1) If an infringement notice is served by an authorised officer on a person for an offence and the infringement penalty specified in the notice is not paid within 28 days after the day when the notice is served on the person, the officer may give a reminder notice to the person.

Regulation 21.1.7

- (2) The reminder notice must:
- (a) include the information mentioned in paragraphs 21.1.4 (a) to (h); and
 - (b) contain the additional information required by {clause} 21.1.7; and
 - (c) be signed by the authorised officer.

21.1.7 Additional information in reminder notices

The reminder notice must inform the person that:

- (a) the time for payment of the infringement penalty specified in the infringement notice has been extended; and
- (b) the person may pay the infringement penalty specified in the infringement notice:
 - (i) by posting or delivering the payment to the place of payment specified in the notice; or
 - (ii) in any other way specified in the notice; and
- (c) unless the infringement notice is withdrawn, if the person pays the infringement penalty within 28 days after the day when the reminder notice is served on the person (or any longer time allowed in writing by the authorised officer):
 - (i) any liability of the person for the offence to which the notices relate will be discharged; and
 - (ii) the person will not be prosecuted in court for the offence; and
 - (iii) the person will not be taken to have been convicted of the offence; and
- (d) if the person does not pay the infringement penalty within that time, the person may be prosecuted in court for the offence; and
- (e) if the person wishes a court to decide whether he or she is guilty of the offence, the person must notify the Competent Authority in writing within 28 days after the day when the reminder notice is given to the person; and

Regulation 21.1.8

- (f) if the person notifies the Competent Authority in writing of that wish within the 28 days:
 - (i) the infringement notice may be withdrawn; and
 - (ii) he or she may be prosecuted in court for the offence; and
- (g) if the person is prosecuted in court and found guilty of the offence, the person may be convicted of the offence and ordered to pay a penalty and costs, and be subject to any other order that the court makes.

21.1.8 Withdrawal of infringement notices

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

21.1.9 Effect of Part

- (1) This Part does not:
 - (a) require an infringement notice to be served on a person for an offence; or
 - (b) affect the liability of a person to be prosecuted for an offence if an infringement notice is not served on the person for the offence; or

Regulation 22.1.1

- (c) prevent the service of 2 or more infringement notices on a person for an offence; or
 - (d) affect the liability of a person to be prosecuted for an offence if the person does not comply with an infringement notice for the offence; or
 - (e) limit or otherwise affect the penalty that may be imposed by a court on a person convicted of an offence.
- (2) However, if the person on whom an infringement notice is served for an offence pays the infringement penalty specified in the notice:
- (a) any liability of the person for the offence is discharged; and
 - (b) the person may not be prosecuted in a court for the offence; and
 - (c) the person is not taken to have been convicted of the offence.

Part 22 Transitional

22.1.1 Lawful conduct under previous law

- (1) A person does not commit an offence against the Act or {this subordinate law} if, within the period of 12 months {*local variation*} after the commencement of the Act, the person transports dangerous goods by road or rail in accordance with the law that regulated the transport of dangerous goods by road or rail and was in force in this jurisdiction immediately before the commencement of the Act.
- (2) Where an exemption or approval that is continued in effect by virtue of this Part does not have an expiry date, it will expire on the fifth anniversary of the commencement of the Act.

Regulation 22.1.2

22.1.2 Continuing effect of certain determinations

- (1) This {clause} applies to a determination (however described) that:
 - (a) was made under a law that regulated the transport of dangerous goods by road or rail; and
 - (b) was in force in this jurisdiction immediately before the commencement of the Act; and
 - (c) is a determination in respect of something that may be determined under a provision (the *relevant provision*) of any of the following {clauses}:
 - (i) 1.6.1 (Determinations — dangerous goods and packaging);
 - (ii) 1.6.2 (Determinations — foreign approved IBCs, tanks and MEGCs);
 - (iii) 1.6.3 (Determinations — vehicles, routes, areas and times).
- (2) The determination has effect for {this subordinate law} as if it were a determination made by the Competent Authority under the relevant {clause} of {this subordinate law}.
- (3) Without limiting {subclause (1)}, the Competent Authority may record the determination in the register of determinations kept under {clause} 1.6.5.
- (4) {Subclause (3)} does not apply to a determination if it was made on the application of a person and applies only to the person.

22.1.3 Continuing effect of corresponding determinations

- (1) This {clause} applies to a determination (however described) that:
 - (a) was made under a law regulating the transport of dangerous goods by road or rail made by a jurisdiction that has passed or has indicated that it intends to pass a corresponding law;

Regulation 22.1.5

- (b) was in force in the {State/Territory} immediately before the commencement of the Act; and
 - (c) is a determination about something that may be determined under a provision of the law of the other {State/Territory} (the *corresponding provision*) that corresponds to a provision of a {clause} mentioned in paragraph 22.1.2 (1) (c).
- (2) Except for circumstances that do not exist in this jurisdiction, the determination has effect for {this subordinate law} as if it were a determination made by the corresponding authority for the other {State/Territory} under the corresponding provision.

22.1.4 Continuing effect of certain exemptions

- (1) This {clause} applies to an exemption (however described) that:
- (a) was granted under a law regulating the transport of dangerous goods by road or rail; and
 - (b) was in force in this {State/Territory} immediately before the commencement of the Act; and
 - (c) is an exemption from compliance with a provision of that law corresponding to a provision (the *relevant provision*) of {this subordinate law}.
- (2) The exemption has effect for {this subordinate law} as if it were an exemption granted by the Competent Authority from compliance with the relevant provision.
- (3) Without limiting {subclause (2)}, the Competent Authority may record the exemption in the register of exemptions kept under {clause} 1.6.5.

22.1.5 Continuing effect of corresponding exemptions

- (1) This {clause} applies to an exemption (however described) that:
- (a) was granted under a law regulating the transport of dangerous goods by road or rail made by a

Regulation 22.1.6

- {State/Territory} that has passed or has indicated that it intends to pass a corresponding law; and
 - (b) was in force in the other {State/Territory} immediately before the commencement of the Act; and
 - (c) is an exemption from compliance with a provision of the law of the other {State/Territory} (the ***corresponding provision***) corresponding to a provision of the Act or {this subordinate law}.
- (2) Except for circumstances that do not exist in this {State/Territory}, the exemption has effect for the Act or {this subordinate law} as if it were an exemption granted by the corresponding authority for the other {State/Territory} from compliance with the corresponding provision.

22.1.6 Continuing effect of certain approvals

- (1) This {clause} applies to an approval (however described) if the approval:
 - (a) was given under a law regulating the transport of dangerous goods by road; and
 - (b) was in force in this {State/Territory} immediately before the commencement of the Act; and
 - (c) is an approval of something that may be approved under a provision (the ***relevant provision***) of any of the following provisions:
 - (i) {clause} 1.3.2 (Approvals — tests and training courses for drivers);
 - (ii) Division 4.2 (Suitability and design of packaging);
 - (iii) {clause} 9.1.8 (Approvals — segregation devices and methods of segregation;
 - (iv) {clause} 11.2.7 (Approvals — emergency information).
- (2) The approval has effect for {this subordinate law} as if it were an approval given by the Competent Authority under the relevant provision.

Regulation 22.1.8

- (3) Without limiting {subclause} (2), the Competent Authority may record the approval in the register of approvals kept under {clause} 17.2.1.

22.1.7 Continuing effect of corresponding approvals

- (1) This subordinate law applies to an approval (however described) that:
- (a) was given under a law regulating the transport of dangerous goods by road or rail made by a {State/Territory} that has passed or has indicated that it intends to pass a corresponding law; and
 - (b) was in force in the other {State/Territory} immediately before the commencement of the Act; and
 - (c) is an approval of something that may be approved under a provision of the law of the other {State/Territory} (the ***corresponding provision***) corresponding to a provision mentioned in paragraph 22.1.6 (1) (c).
- (2) Except for circumstances that do not exist in this {State/Territory}, the approval has effect for {this subordinate law} as if it were an approval given by the corresponding authority for the other {State/Territory} under the corresponding provision.

22.1.8 Continuing effect of certain licences

- (1) This {clause} applies to a licence (however described) that:
- (a) was granted under a law regulating the transport of dangerous goods by road; and
 - (b) was in force in this {State/Territory} immediately before the commencement of the Act; and
 - (c) is a licence that may be granted under either of the following provisions (the ***relevant provision***):
 - (i) {clause} 18.3.5 (Grant of dangerous goods driver licences)18.11 (which is about bulk driver licences);
 - (ii) {clause} 18.4.4 (Grant of dangerous goods vehicle licences).

Regulation 22.1.9

- (2) The licence has effect for {this subordinate law} as if it were a licence granted by the Competent Authority under the relevant provision.
- (3) Without limiting {subclause (2)}, the Competent Authority may record the licence in the relevant register of licences kept under {clause} 18.6.5.

22.1.9 Continuing effect of corresponding licences

- (1) This {clause} applies to a licence (however described) that:
 - (a) was granted under a law regulating the transport of dangerous goods by road or rail made by a {State/Territory} that has passed or has indicated that it intends to pass a corresponding law; and
 - (b) was in force in the other {State/Territory} immediately before the commencement of the Act; and
 - (c) is a licence that may be granted under a provision of the law of the other {State/Territory} (the ***corresponding provision***) corresponding to a provision mentioned in paragraph 22.1.8 (1) (c).
- (2) Except for circumstances that do not exist in this {State/Territory}, the licence has effect for {this subordinate law} as if it were a licence granted by the corresponding authority for the other jurisdiction under the corresponding provision.

Regulation 22.1.9

Schedule 2.1 Penalties

Note The penalties set out in this Schedule are recommended penalties only. It is intended that, when the model law is adopted by a State or Territory, the adopting State or Territory will adopt or replace the recommended penalties.

Offence provision	Infringement penalty (\$)	Maximum court-imposed penalty on individual (\$)
<i>Division 1.1 Introductory and application</i>		
1.1.8 (3) Special provisions for tools of trade	800	4 000
1.1.8 (4) Special provisions for tools of trade	800	4 000
1.1.8 (5) Special provisions for tools of trade	800	4 000
<i>Division 1.3 Training</i>		
1.3.1 (2) Instruction and training	800	4 000
1.3.1 (3) Instruction and training	800	4 000
<i>Division 1.5 Provisions about offences generally</i>		
1.5.2 (1) Goods suspected of being dangerous goods	800	4 000
1.5.2 (2) Goods suspected of being dangerous goods	800	4 000
<i>Division 1.6 Determinations</i>		
1.6.1 (4) Conditions of determination	800	4 000
<i>Division 4.2 Suitability and design of packaging</i>		
4.2.2 (1) Marking packaging	800	4 000
4.2.2 (2) Marking packaging	800	4 000

Regulation 22.1.9

Offence provision	Infringement penalty (\$)	Maximum court-imposed penalty on individual (\$)
<i>Division 4.3 Offences relating to packaging</i>		
4.3.1 (1) Manufacturer's duties	800	4 000
4.3.2 Consignor's duties	400	2 000
4.3.3 Packer's duties	400	2 000
4.3.4 Loader's duties	400	2 000
4.3.5 Prime contractor's and rail operator's duties	260	1 300
4.3.6 Driver's duties	260	1 300
<i>Division 4.4 Offences relating to containment units and bulk containers</i>		
4.4.1 (1) Compliance plates for portable tanks, MEGCs and tank vehicles	800	4 000
4.4.1 (2) Compliance plates for portable tanks, MEGCs and tank vehicles	800	4 000
4.4.2 (1) Owner's duties for certain portable tanks and MEGCs	800	4 000
4.4.3 (1) Consignor's duties — general	800	4 000
4.4.3 (2) Consignor's duties — general	800	4 000
4.4.3 (3) Consignor's duties — general	800	4 000
4.4.3 (4) Consignor's duties — general	800	4 000
4.4.4 (1) Consignor's duties — IBCs	800	4 000

Regulation 22.1.9

Offence provision	Infringement penalty (\$)	Maximum court-imposed penalty on individual (\$)
4.4.4 (2) Consignor's duties — IBCs	800	4 000
4.4.5 (1) Consignor's duties — portable tanks	800	4 000
4.4.5 (2) Consignor's duties — portable tanks	800	4 000
4.4.5 (3) Consignor's duties — portable tanks	800	4 000
4.4.6 (1) Consignor's duties — bulk container	800	4 000
4.4.6 (2) Consignor's duties — bulk containers	800	4 000
4.4.7 (1) Consignor's duties — tank vehicles	800	4 000
4.4.7 (2) Consignor's duties — tank vehicles	800	4 000
4.4.8 (1) Consignor's duties — MEGCs	800	4 000
4.4.8 (2) Consignor's duties — MEGCs	800	4 000
4.4.9 Loader's duties — general	400	2 000
4.4.10 (1) Loader's duties — freight container	400	2 000
4.4.10 (2) Loader's duties — freight container	800	4 000
4.4.11 (1) Prime contractor's and rail operator's duties — general	800	4 000

Regulation 22.1.9

Offence provision	Infringement penalty (\$)	Maximum court-imposed penalty on individual (\$)
4.4.11 (2) Prime contractor's and rail operator's duties — general	800	4 000
4.4.12 (1) Prime contractor's and rail operator's duties — bulk containers	800	4 000
4.4.12 (2) Prime contractor's and rail operator's duties — bulk containers	800	4 000
4.4.13 (1) Prime contractor's and rail operator's duties — tank vehicles	800	4 000
4.4.13 (2) Prime contractor's and rail operator's duties — tank vehicles	800	4 000
4.4.14 (1) Prime contractor's and rail operator's duties — freight containers	800	4 000
4.4.15 Driver's duties — IBCs, portable tanks and MEGCs	400	2 000
4.4.16 Driver's and train driver's duties — bulk containers	800	4 000
4.4.17 Driver's duties — road tank vehicles	400	2 000
4.4.18 Driver's duties — freight containers	400	2 000
<i>Division 4.5 Offences relating to certain foreign approved containment unit</i>		
4.5.1 (1) Consignor's duties	800	4 000
4.5.1 (2) Consignor's duties	800	4 000
4.5.6 (1) Consignor's duties	800	4 000

Regulation 22.1.9

Offence provision	Infringement penalty (\$)	Maximum court-imposed penalty on individual (\$)
4.5.6 (2) Consignor's duties	800	4 000
<i>Division 4.6 Offences relating to overpacks</i>		
4.6.1 (1) Consignor's duties	400	2 000
4.6.2 (1) Packer's duties	400	2 000
4.6.3 (1) Loader's duties	400	2 000
4.6.4 Prime contractor's duties and rail operator's duties	400	2 000
4.6.5 Driver's duties	200	1 000
4.6.6 Rail operator's duties	400	2 000
<i>Division 5.2 Marking and labelling</i>		
5.2.3 (1) Consignor's duties	(a) for large packaging or overpack — 400 (b) in any other case — 130	(a) for large packaging or overpack — 2 000 (b) in any other case — 650
5.2.3 (2) Consignor's duties	(a) for large packaging or overpack — 400 (b) in any other case — 130	(a) for large packaging or overpack — 2 000 (b) in any other case — 650
5.2.3 (3) Consignor's duties	(a) for large packaging or overpack — 400 (b) in any other case — 130	(a) for large packaging or overpack — 2 000 (b) in any other case — 650

Regulation 22.1.9

Offence provision	Infringement penalty (\$)	Maximum court-imposed penalty on individual (\$)
5.2.4 (1) Packer's duties	(a) for large packaging or overpack — 400 (b) in any other case — 130	(a) for large packaging or overpack — 2 000 (b) in any other case — 650
5.2.4 (2) Packer's duties	(a) for large packaging or overpack — 400 (b) in any other case — 130	(a) for large packaging or overpack — 2 000 (b) in any other case — 650
5.2.4 (3) Packer's duties	(a) for large packaging or overpack — 400 (b) in any other case — 130	(a) for large packaging or overpack — 2 000 (b) in any other case — 650
5.2.5 (1) Prime contractor's and rail operator's duties	(a) for large packaging or overpack — 400 (b) in any other case — 130	(a) for large packaging or overpack — 2 000 (b) in any other case — 650
5.2.5 (2) Prime contractor's and rail operator's duties	(a) for large packaging or overpack — 400 (b) in any other case — 130	(a) for large packaging or overpack — 2 000 (b) in any other case — 650

Regulation 22.1.9

Offence provision	Infringement penalty (\$)	Maximum court-imposed penalty on individual (\$)
5.2.5 (3) Prime contractor's and rail operator's duties	(a) for large packaging or overpack — 400 (b) in any other case — 130	(a) for large packaging or overpack — 2 000 (b) in any other case — 650
<i>Division 5.3 Placarding</i>		
5.3.3 (1) Consignor's duties	800	4 000
5.3.3 (2) Consignor's duties	800	4 000
5.3.3 (3) Consignor's duties	800	4 000
5.3.4 (1) Loader's duties	800	4 000
5.3.4 (2) Loader's duties	800	4 000
5.3.4 (3) Loader's duties	800	4 000
5.3.5 (1) Prime contractor's and rail operator's duties	800	4 000
5.3.5 (2) Prime contractor's and rail operator's duties	800	4 000
5.3.5 (3) Prime contractor's and rail operator's duties	800	4 000
5.3.6 (1) Driver's duties	800	4 000
5.3.6 (2) Driver's duties	800	4 000
5.3.6 (3) Driver's duties	800	4 000
<i>Part 6 Safety standards — vehicles and equipment</i>		
6.1.1 (1) Owner's duties	800	4 000
6.1.2 Consignor's duties	800	4 000
6.1.3 Loader's duties		2 000
6.1.4 (1) Prime contractor's and rail operator's duties	800	4 000

Regulation 22.1.9

Offence provision	Infringement penalty (\$)	Maximum court-imposed penalty on individual (\$)
6.1.5 Driver's duties	800	4 000
<i>Division 7.1 Self-reactive substances, organic peroxides and certain other substances</i>		
7.1.2 Consignor's duties	400	2 000
7.1.3 (1) Loader's duties	400	2 000
7.1.4 Prime contractor's and rail operator's duties	400	2 000
7.1.5 Driver's duties	260	1 300
<i>Division 7.2 Goods too dangerous to be transported</i>		
7.2.2 Loader's duties	400	2 000
7.2.3 Prime contractor's and rail operator's duties	400	2 000
7.2.4 Driver's duties	260	1 300
<i>Part 8 Stowage and attachment</i>		
8.1.1 Consignor's duties	400	2 000
8.1.2 (1) Loader's duties	400	2 000
8.1.3 Prime contractor's and rail operator's duties	400	2 000
8.1.4 Driver's duties	260	1 300
<i>Part 9 Segregation</i>		
9.1.3 Consignor's duties	800	4 000
9.1.4 Loader's duties	800	4 000
9.1.5 Prime contractor's duties	800	4 000
9.1.6 Rail operator's duties	800	4 000
9.1.7 Driver's duties	260	1 300

Regulation 22.1.9

Offence provision	Infringement penalty (\$)	Maximum court-imposed penalty on individual (\$)
<i>Division 10.2 Equipment and transfer</i>		
10.2.2 (1) Transferor's duties — hose assemblies	400	2 000
10.2.2 (2) Transferor's duties — hose assemblies	800	4 000
10.2.2 (3) Transferor's duties — hose assemblies	400	2 000
10.2.3 (1) Transferor's duties — general	400	2 000
10.2.3 (2) Transferor's duties — general	400	2 000
10.2.3 (3) Transferor's duties — general	400	2 000
10.2.4 (1) Occupier's duties	400	2 000
10.2.4 (2) Occupier's duties	800	4 000
10.2.4 (3) Occupier's duties	130	650
10.2.5 (1) Prime contractor's duties	400	2 000
10.2.5 (2) Prime contractor's duties	800	4 000
10.2.5 (3) Prime contractor's duties	130	650
10.2.6 (1) Rail operator's duties	400	2 000
<i>Division 10.3 Filling ratio and ullage</i>		
10.3.2 (1) Transferor's duties	400	2 000
10.3.3 (1) Prime contractor's and rail operator's duties	400	2 000
10.3.4 Driver's duties	400	2 000

Regulation 22.1.9

Offence provision	Infringement penalty (\$)	Maximum court-imposed penalty on individual (\$)
<i>Division 11.1 Transport documentation</i>		
11.1.1 False or misleading information	800	4 000
11.1.2 (1) Consignor's duties — transport by road	260	1 300
11.1.2 (2) Consignor's duties — transport by road	260	1 300
11.1.3 (1) Consignor's duties — transport by rail	260	1 300
11.1.4 (1) Prime contractor's duties	400	2 000
11.1.5 (1) Rail operator's duties	400	2 000
11.1.6 (1) Driver's duties	260	1 300
11.1.6 (2) Driver's duties	260	1 300
11.1.7 (2) Train driver's duties	260	1 300
11.1.7 (3) Train driver's duties	260	1300
<i>Division 11.2 Emergency information</i>		
11.2.2 Consignor's duties	260	1 300
11.2.3 (1) Prime contractor's duties	400	2 000
11.2.4 (1) Rail operator's duties	400	2 000
11.2.5 (1) Driver's duties	260	1 300
11.2.5 (2) Driver's duties	130	650
11.2.5 (3) Driver's duties	260	1 300

Regulation 22.1.9

Offence provision	Infringement penalty (\$)	Maximum court-imposed penalty on individual (\$)
11.2.6 (1) Train driver's duties	260	1 300
11.2.6 (2) Train driver's duties	260	1 300
<i>Part 12 Safety equipment</i>		
12.1.1 (1) Owner's duties	800	4 000
12.1.2 (1) Prime contractor's duties	800	4 000
12.1.2 (2) Prime contractor's duties	800	4 000
12.1.3 (1) Driver's duties	260	1 300
12.1.3 (2) Driver's duties	260	1 300
<i>Division 13.1 Immobilised and stopped vehicles</i>		
13.1.1 (2) Driver's duties	130	650
13.1.2 (1) Prime contractor's duties	400	2 000
13.1.2 (2) Prime contractor's duties	400	2 000
13.1.3 Rail operator's duties	400	2 000
<i>Division 13.2 Road vehicles — drivers' duties</i>		
13.2.1 (1) Driving	130	650
13.2.2 (1) Parking	260	1 300
13.2.3 (2) Control of ignition sources	800	4 000
13.2.3 (3) Control of ignition sources	800	4 000
13.2.4 (1) Unloading	800	4 000
13.2.5 (1) Detaching trailer	800	4 000

Regulation 22.1.9

Offence provision	Infringement penalty (\$)	Maximum court-imposed penalty on individual (\$)
13.2.6 (1) Road tank vehicle equipped with burner	800	4 000
<i>Division 13.3 Routes, areas, vehicles and times</i>		
13.3.1 (1) Prime contractor's and rail operator's duties	400	2 000
13.3.2 (1) Driver's duties	400	2 000
<i>Division 14.1 Emergencies generally</i>		
14.1.1 (2) Driver's duties	260	1 300
14.1.2 (2) Rail operator's duties	260	1 300
14.1.2 (3) Rail operator's duties	260	1 300
14.1.2 (4) Rail operator's duties	260	1,300
14.1.3 (2) Prime contractor's and rail operator's duties — food or food packaging	800	4 000
14.1.3 (3) Prime contractor's and rail operator's duties — food or food packaging	800	4 000
14.1.4 (2) Prime contractors, rail operators and drivers to inform Competent Authority	400	2 000
14.1.4 (3) Prime contractors, rail operators and drivers to inform Competent Authority	400	2 000
14.1.4 (4) Prime contractors, rail operators and drivers to inform Competent Authority	400	2 000

Regulation 22.1.9

Offence provision	Infringement penalty (\$)	Maximum court-imposed penalty on individual (\$)
<i>Division 14.2 Emergencies involving placard loads</i>		
14.2.1 (2) Telephone advisory service	800	4 000
14.2.1 (3) Telephone advisory service	800	4 000
14.2.2 (2) Emergency plans	800	4 000
14.2.2 (3) Emergency plans	800	4 000
14.2.3 (2) Consignor's duties — information and resources	400	2 000
14.2.4 (2) Prime contractor's and rail operator's duties — information and resources	400	2 000
<i>Division 17.1 General</i>		
17.1.7 (1) Failure to comply with conditions	400	2 000
<i>Division 18.2 Principal duties under this Part</i>		
18.2.1 (1) Prime contractor's duties	800	4 000
18.2.1 (2) Prime contractor's duties	800	4 000
18.2.2 (1) Driver's duties	800	4 000
18.2.2 (2) Driver's duties	800	4 000
18.2.3 Consignor's duties	800	4 000
<i>Division 18.4 Dangerous goods vehicle licences</i>		
18.4.9 (1) Disposal and transfer of licensed vehicles	130	650
18.4.9 (2) Disposal and transfer of licensed vehicles	130	650

Regulation 22.1.9

Offence provision	Infringement penalty (\$)	Maximum court-imposed penalty on individual (\$)
18.4.9 (3) Disposal and transfer of licensed vehicles	130	650
18.4.9 (4) Disposal and transfer of licensed vehicles	130	650
18.4.9 (6) Disposal and transfer of licensed vehicles	130	650
18.4.11 (2) Licence labels	130	650
18.4.11 (3) Licence labels	130	650
<i>Division 18.5 Requirements relating to dangerous goods driver licences</i>		
18.5.1 (1) Licences to be carried	130	650
18.5.2 (1) Licences to be produced for inspection	130	650
<i>Division 18.6 Licences generally</i>		
18.6.3 (1) Failure to comply with licence conditions	800	4 000
18.6.7 (2) Change of information given in licence applications	130	650
18.6.8 (2) Production of licences to licensing authority	130	650
<i>Part 20 Insurance</i>		
20.1.1 (1) Owner's duties	1200	6 000
20.1.2 (1) Prime contractor's duties	1200	6 000
20.1.3 (2) Requiring evidence of insurance etc	260	1 300

Note 1 The maximum infringement penalty for an offence must not exceed 20% of the maximum fine that could be imposed on an individual by a court for the offence (see subsection 79 (2) of the Act).

Regulation 22.1.9

Note 2 Court-imposed maximum penalties for bodies corporate are 5 times those for individuals (see subsection 84 (2) of the Act and {subclause} 1.5.1 (2)).

Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See www.frli.gov.au.