



Queensland

*Transport Operations (Road Use Management) Act 1995*

# **Transport Operations (Road Use Management—Dangerous Goods) Regulation 2018**

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Queensland

# Transport Operations (Road Use Management—Dangerous Goods) Regulation 2018

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# Transport Operations (Road Use Management—Dangerous Goods) Regulation 2018

## Part 1 Preliminary

### Division 1 Introductory and application

#### 1 Short title

This regulation may be cited as the *Transport Operations (Road Use Management—Dangerous Goods) Regulation 2018*.

#### 2 Commencement

This regulation commences on 31 August 2018.

#### 3 Main purposes of this regulation

- (1) The main purposes of this regulation are—
  - (a) to prescribe the obligations of persons involved in the transport of dangerous goods by road; and
  - (b) to reduce as far as practicable the risks arising from the transport of dangerous goods by road; and
  - (c) to give effect to the standards, requirements and procedures of the ADG Code as far as they apply to the transport of dangerous goods by road; and
  - (d) to promote consistency between the standards, requirements and procedures applying to the transport of dangerous goods by road and those applying to other modes of transport.
- (2) In this section—

*obligation* includes duty and requirement.

**4 Regulation is dangerous goods regulation for the Act—  
Act, sch 4, definition *dangerous goods regulation***

For schedule 4 of the Act, definition *dangerous goods regulation*, this regulation is a dangerous goods regulation for the Act.

**5 Matters prescribed for particular exempt transport—Act,  
s 151**

- (1) For section 151(2)(b)(ii) of the Act, the prescribed quantity for each type of dangerous goods is the quantity stated in section 1.1.1.2, note (3)(a), table 1.1.1.2 of the ADG Code for that type.
- (2) For section 151(2)(c)(i)(A) of the Act, the capacity prescribed is 500L.
- (3) For section 151(2)(c)(i)(B) of the Act, the quantity prescribed for a receptacle is 500kg.
- (4) For section 151(2)(c)(ii) of the Act, the following are prescribed as designated dangerous goods—
  - (a) dangerous goods of UN class 1 (explosives), other than dangerous goods of UN division 1.4S;
  - (b) dangerous goods of category A of UN division 6.2 (infectious substances);
  - (c) dangerous goods of UN class 7 (radioactive material).
- (5) For section 151(2)(c)(iii) of the Act, the aggregate quantity of dangerous goods in a load must be worked out in the way provided for under schedule 3, definition *aggregate quantity*.
- (6) In this section—

*type*, of dangerous goods, means a class or division of dangerous goods provided for in the ADG Code.

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## 6 Special provisions for tools of trade and dangerous goods for private use

- (1) This section applies in relation to dangerous goods that—
- (a) are not transported in the course of a business of transporting goods but are transported by a person who intends to use them, or so they may be used, for a commercial purpose; and
  - (b) are transported as part of a load that includes—
    - (i) an aggregate quantity of dangerous goods of less than 500 but does not include dangerous goods of UN division 2.1 (other than aerosols), UN division 2.3 or packing group I; or
    - (ii) an aggregate quantity of dangerous goods of less than 250 that includes dangerous goods of UN division 2.1 (other than aerosols), UN division 2.3 or packing group I, if the dangerous goods of UN division 2.3 and packing group I together make up less than 100 of the aggregate quantity.

*Note—*

An aggregate quantity in relation to a load containing dangerous goods mentioned in subsection (1)(b) is worked out in the way provided for under schedule 3, definition *aggregate quantity*.

- (2) This regulation, other than subsections (3) to (5), does not apply to the transport of the dangerous goods.
- (3) A person must not transport the dangerous goods unless each package in the load including the goods—
- (a) complies with the packaging requirements appropriate to the quantity of dangerous goods under part 4; and
  - (b) is marked and labelled as required under part 5, division 1; and
  - (c) is loaded, secured, segregated, unloaded and otherwise transported in a way that ensures—
    - (i) its packaging remains fit for its purpose; and

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- (ii) risks are eliminated or, if it is not practicable to eliminate risks, are minimised to the greatest practicable extent.

Maximum penalty—40 penalty units.

- (4) If the load contains dangerous goods of UN class 3, 4, 5 or 6 that together make up more than 250 of the aggregate quantity of dangerous goods in the load, a person must not transport the load—
  - (a) in the passenger compartment of a vehicle; or
  - (b) in an enclosed space that is not separated from the passenger compartment of a vehicle.

Maximum penalty—40 penalty units.

- (5) If the load contains dangerous goods of UN division 2.1, UN division 2.3 or packing group I that together make up more than 50 of the aggregate quantity of dangerous goods in the load, a person must not transport the load—
  - (a) in the passenger compartment of a vehicle; or
  - (b) in another enclosed space in the vehicle.

Maximum penalty—40 penalty units.

## **Division 2                      Interpretation**

### **7                      Definitions**

The dictionary in schedule 3 defines particular words used in this regulation.

### **8                      Applying ADG Code to this regulation**

For applying the ADG Code to this regulation, a reference in the code to competent authority in relation to the State is taken, if the context permits, to be a reference to the chief executive.

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## 9 References to codes, standards and rules

(1) In this regulation, a reference to an instrument includes a reference to another instrument as applied or adopted by, or incorporated in, the first instrument.

(2) In this section—

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

## 10 Inconsistency between regulation and other instruments

(1) This section applies if—

(a) this regulation applies, adopts or incorporates an instrument; and

(b) there is an inconsistency between a provision of this regulation and the instrument as applied, adopted or incorporated.

(2) The provision of this regulation prevails to the extent of the inconsistency.

(3) Despite subsection (2), if a provision of the instrument uses a term that is defined in both the instrument and in this regulation, the provision must be interpreted as if the term had the meaning stated in the instrument, unless the contrary intention appears.

(4) In this section—

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

## 11 References to determinations, exemptions, approvals and licences

In this regulation, a reference to—

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

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

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

## 12 References to amendment of particular instruments

In this regulation, a reference to an amendment of—

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

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

*Example of an amendment—*

the addition of a new condition to an existing administrative determination

## 13 References to road

Each reference in this regulation to a road includes a reference to a road-related area.

## 14 References to load

For this regulation, all the goods in or on a vehicle are a single load, even if the vehicle is transporting more than 1 cargo transport unit.

## 15 Meaning of *bulk container*

- (1) *Bulk container* means a container, with or without a liner or coating, that—

- 
- (a) has a capacity of 1m<sup>3</sup> or more; and
  - (b) is intended for the transport of solid dangerous goods that are in direct contact with the container.
- (2) However, none of the following is a bulk container—
- (a) large packaging that complies with the requirements of chapter 6.6 of the ADG Code;
  - (b) an IBC;
  - (c) a tank;
  - (d) a tank vehicle;
  - (e) other packaging complying with the requirements of chapter 6.1 or 6.3 of the ADG Code.

## 16 Meaning of *intermediate bulk container*

- (1) *Intermediate bulk container* means a rigid or flexible portable packaging for the transport of dangerous goods that complies with the requirements of chapter 6.5 of the ADG Code and that—
- (a) has a capacity of not more than—
    - (i) for solids of packing group I packed in a composite, fibreboard, flexible, wooden, or rigid plastics container—1,500L; or
    - (ii) for solids of packing group I packed in a metal container—3,000L; or
    - (iii) for solids or liquids of packing groups II and III—3,000L; and
  - (b) is designed for mechanical handling.
- (2) However, rigid or flexible portable packaging complying with the requirements of chapter 6.1, 6.3 or 6.6 of the ADG Code is not an intermediate bulk container.

**17 Meaning of *multiple-element gas container***

*Multiple-element gas container* means—

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

**18 Meaning of *tank***

(1) *Tank* means—

- (a) a receptacle for dangerous goods; and
  - (b) service equipment or structural equipment that enables the receptacle to transport the goods.
- (2) However, a receptacle for dangerous goods of UN class 2 is not a tank unless it has a capacity of more than 450L.
- (3) Also, none of the following is a tank—
- (a) packaging complying with the requirements of chapter 6.1, 6.3 or 6.6 of the ADG Code;

*Notes—*

- 1 Chapter 6.1 of the ADG Code deals with drums, jerry cans, boxes, bags and composite packaging.
  - 2 Chapter 6.3 of the ADG Code deals with packaging for infectious substances.
- (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.

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**19 When dangerous goods are *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 is not more than the quantity stated, or referred to, in column 7a of the dangerous goods list for the goods.

**Division 3 Instruction and training**

**20 Instruction and training**

- (1) This section applies in relation to a task involved in the transport of dangerous goods, including the following—
  - (a) packing dangerous goods;
  - (b) consigning dangerous goods;
  - (c) loading dangerous goods;
  - (d) unloading dangerous goods;
  - (e) handling a fumigated cargo transport unit;
  - (f) marking a package containing dangerous goods;
  - (g) placarding a placard load;
  - (h) preparing transport documentation;
  - (i) maintaining vehicles and equipment used in the transport of dangerous goods;
  - (j) driving a vehicle transporting dangerous goods;
  - (k) being the consignee of dangerous goods;
  - (l) following the procedures required under part 14 in a dangerous situation.

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- (2) A person who is responsible for managing or controlling the task must not employ, engage or permit someone else (the *worker*) to perform the task unless the worker—
- (a) has received instruction, and has satisfactorily finished training, specific to the task; or
  - (b) is—
    - (i) receiving instruction and training specific to the task; and
    - (ii) appropriately supervised in doing the task by a person who has received instruction, and has satisfactorily finished training, specific to the task;
- to enable the worker to do the task safely and in compliance with this regulation.

Maximum penalty—40 penalty units.

- (3) A person must not manage, control or supervise the task unless the person has received instruction, and has satisfactorily finished training, specific to the task to enable the person to manage, control or supervise someone else to perform the task safely and in compliance with this regulation.

Maximum penalty—40 penalty units.

- (4) Subsection (5) applies if a person responsible for managing or controlling the task claims that—

- (a) a person employed, engaged or permitted to do the task;  
or
- (b) a person who supervised a person employed, engaged or permitted to do the task;

has received instruction, and has satisfactorily finished training, specific to the task.

- (5) The chief executive may give the person responsible for managing or controlling the task a written notice asking the person, within 14 days after receiving the notice, to give the chief executive written evidence of the instruction and the satisfactory finishing of the training.

- (6) A person given a notice under subsection (5) must comply with the notice, unless the person has a reasonable excuse.

Maximum penalty—15 penalty units.

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

- (1) The chief executive may, on application under section 172 or on the chief executive's own initiative, approve—
- (a) a test of competence for drivers of vehicles transporting dangerous goods; or
  - (b) a training course for drivers of vehicles transporting dangerous goods.
- (2) The chief executive may approve a test of competence or a training course only if satisfied that a person who passes the test, or finishes the course, will have the skills and knowledge to perform the task to which the test or course relates safely and in compliance with this regulation.

## **Division 4 Goods suspected of being dangerous goods or goods too dangerous to be transported**

### **22 Goods suspected of being dangerous goods or goods too dangerous to be transported**

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

- (a) the goods have been classified in accordance with the ADG Code; or
- (b) a determination has been made that the goods are or are not—
  - (i) dangerous goods; or

(ii) goods too dangerous to be transported.

Maximum penalty—40 penalty units.

## **Division 5                      Determinations**

### **23            Determinations about dangerous goods and packaging**

- (1) The chief executive may decide that goods are or are not—
  - (a) dangerous goods; or
  - (b) dangerous goods of a particular UN class, UN division or category; or
  - (c) dangerous goods with a particular subsidiary hazard; or
  - (d) substances of a particular packing group; or
  - (e) incompatible with particular dangerous goods.
- (2) The chief executive may decide that—
  - (a) particular goods are or are not goods too dangerous to be transported; or
  - (b) particular dangerous goods may be or must not be transported in or on the same cargo transport unit as other goods, whether or not the other goods are dangerous goods; or
  - (c) particular dangerous goods may be or must not be transported in particular packaging, despite a prohibition or authorisation in the dangerous goods list.
- (3) A decision under subsection (1) or (2)—
  - (a) is a determination for this regulation; and
  - (b) must be made by written notice.

*Note—*

A notice under subsection (3)(b) is declared to be subordinate legislation under the *Statutory Instruments Regulation 2012*, section 2(3) and schedule 1.

- 
- (4) Subsection (3)(b) does not apply to an administrative determination.

*Note—*

See also section 173(1).

## **24 Determinations about vehicles, routes, areas and other matters**

- (1) The chief executive may decide that particular dangerous goods may, must or must not be transported—
- (a) using a stated vehicle, or kind of vehicle; or
  - (b) on a stated route; or
  - (c) in or through a stated area; or
  - (d) at a stated time; or
  - (e) in quantities more than a stated amount; or
  - (f) in stated packaging.
- (2) A decision under subsection (1)—
- (a) is a determination for this regulation; and
  - (b) must be made by written notice.

*Note—*

A notice under subsection (2)(b) is declared to be subordinate legislation under the *Statutory Instruments Regulation 2012*, section 2(3) and schedule 1.

- (3) Subsection (2)(b) does not apply to an administrative determination.

*Note—*

See also section 173(1).

## **25 Administrative determinations—Act, sch 4, definition *administrative determination***

For schedule 4 of the Act, definition *administrative determination*, a determination is an administrative determination if—

- (a) the determination—
  - (i) is made on the application of a person; and
  - (ii) applies to the person or the person and other persons named in the application; or
- (b) the determination—
  - (i) is made on the initiative of the chief executive; and
  - (ii) applies to 1 or more persons named in the determination; and
  - (iii) does not impose an obligation on a person, other than a condition that applies if action is taken on the basis of the determination.

*Notes—*

- 1 See part 17 for provisions about administrative determinations, including applications for, and amendment of, administrative determinations.
- 2 See also chapter 3, part 1A of the Act.

## **26 Determinations may be subject to conditions**

- (1) In making a determination, the chief executive may impose on the determination any condition necessary for the safe transport of dangerous goods.
- (2) A person to whom a determination applies must not contravene a condition of the determination.

Maximum penalty—40 penalty units.

## **27 Effect of determinations on contrary obligations under this regulation**

- (1) If this regulation imposes an obligation on a person, and the person is authorised or permitted to act contrary to that obligation by a determination, the obligation must be read as if it stated that the person could fulfil the obligation by acting in compliance with the determination.
- (2) In this section—

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*obligation* includes duty and requirement.

## 28 Register of determinations

- (1) The chief executive must—
  - (a) keep a register of determinations; and
  - (b) with other dangerous goods authorities, keep a central register of corresponding determinations.
- (2) A register kept under subsection (1) may have separate divisions for different kinds of determinations.
- (3) The chief executive must record each determination in the register kept under subsection (1)(a).
- (4) The chief executive must note the amendment, suspension or cancellation of a determination in the register kept under subsection (1)(a).
- (5) In this section—

*corresponding determination* includes a determination under this regulation that the competent authorities panel has decided should have effect in 1 or more other participating jurisdictions.

## 29 Records of determinations

The record of a determination in the register kept under section 28(1)(a) must include—

- (a) the provisions of the determination; or
- (b) the following information—
  - (i) for a determination other than an administrative determination—the title of the gazette and the day the determination is gazetted;
  - (ii) the provisions of this regulation, and of the ADG Code, to which the determination relates;

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- (iii) the dangerous goods, equipment, packaging, vehicle or other thing to which the determination relates.

### **30 Offence to do anything prohibited or regulated by determinations**

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

Maximum penalty—40 penalty units.

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

## **Division 6 Non-participating jurisdictions**

### **31 Declaration of non-participating dangerous goods jurisdictions**

- (1) A State is not a participating dangerous goods jurisdiction if—
  - (a) the Transport and Infrastructure Council decides the law of the State does not include provisions having the same, or substantially the same, effect as the model legislation; and
  - (b) the Minister, by gazette notice, declares the State is not a participating dangerous goods jurisdiction.
- (2) In this section—

*model legislation* means the model legislation called—

- (a) the ‘Model Act on the Transport of Dangerous Goods by Road or Rail’, as amended and approved by the Transport and Infrastructure Council from time to time; and

- (b) the ‘Model Subordinate Instrument on the Transport of Dangerous Goods by Road or Rail’, as amended and approved by the Transport and Infrastructure Council from time to time.

*Editor’s note—*

The model legislation is available on the Australasian Parliamentary Counsel’s Committee website.

## Part 2 Key concepts

### 32 **Dangerous goods—Act, sch 4, definition *dangerous goods***

- (1) For schedule 4 of the Act, definition *dangerous goods*, goods are dangerous goods if—
- (a) the chief executive has made a determination that the goods are dangerous goods; or
  - (b) the goods satisfy the criteria stated, or referred to, in part 2 of the ADG Code.
- (2) However, goods that satisfy the criteria stated, or referred to, in part 2 of the ADG Code are not dangerous goods if—
- (a) the chief executive has made a determination that the goods are not dangerous goods; or
  - (b) the goods are described as not subject to the ADG Code in a special provision in chapter 3.3 of the ADG Code that is applied to the goods under column 6 of the dangerous goods list.

### 33 **Goods too dangerous to be transported—Act, sch 4, definition *goods too dangerous to be transported***

For schedule 4 of the Act, definition *goods too dangerous to be transported*, goods are goods too dangerous to be transported if—

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- (a) the goods are stated or described in appendix A to the ADG Code; or
- (b) the chief executive has made a determination that the goods are goods too dangerous to be transported; or
- (c) the goods are so sensitive or unstable that they can not be safely transported even if the relevant requirements of this regulation and the ADG Code are complied with.

### **34 UN classes, UN divisions and categories of dangerous goods**

In this regulation, the UN class, UN division or category of particular dangerous goods is—

- (a) if a determination that the goods are of a particular UN class, UN division or category is in effect—the UN class, UN division or category stated in the determination; or
- (b) otherwise—the UN class, UN division or category for the goods worked out using the ADG Code.

*Notes—*

- 1 There are 9 classes of dangerous goods under the UN classification system and some of the classes are divided into divisions and some of the divisions are divided into categories. For example, UN division 6.2 (infectious substances) is divided into—
  - (a) category A (substances transported in a form that, if exposure occurs, can cause permanent disability or life-threatening or fatal disease to humans or animals); and
  - (b) category B (infectious substance which does not meet the criteria for inclusion in category A).
- 2 For the UN class or UN division for dangerous goods listed in the dangerous goods list, see column 3 of the list and any special provision of chapter 3.3 of the ADG Code applied to the goods under column 6 of the list.
- 3 For the category of dangerous goods listed in the dangerous goods list, see part 2 of the ADG Code and any special provision of chapter 3.3 of the code applied to the goods under column 6 of the list.

## 35 Subsidiary hazards

In this regulation, the subsidiary hazard of particular dangerous goods is—

- (a) if a determination that the goods have a particular subsidiary hazard is in effect—the subsidiary hazard stated in the determination; or
- (b) otherwise—the subsidiary hazard for the goods worked out using the ADG Code.

*Notes—*

- 1 If dangerous goods are able to be assigned to more than one UN class (or more than one UN division), the goods are assigned a subsidiary hazard which is the other UN class or classes (or UN division or divisions) to which the goods also belong.
- 2 For the subsidiary hazard of dangerous goods listed in the dangerous goods list, see column 4 of the list and any special provision of chapter 3.3 of the ADG Code applied to the goods under column 6 of the list.

## 36 Packing groups

In this regulation, the packing group for particular dangerous goods is—

- (a) if a determination that the goods are of a particular packing group is in effect—the packing group stated in the determination; or
- (b) otherwise—the packing group for the goods worked out using the ADG Code.

*Notes—*

- 1 Dangerous goods are assigned to a packing group to indicate the degree of danger, and the level of containment required, for the goods. The packing groups, and the degree of danger they indicate, are—
  - (a) packing group I (substances presenting high danger); and
  - (b) packing group II (substances presenting medium danger); and
  - (c) packing group III (substances presenting low danger).
- 2 For the packing group for dangerous goods listed in the dangerous goods list, see column 5 of the list and any special provision of



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**39 Definition for part**

In this part—

*special provision* means a special provision of chapter 3.3 of the ADG Code applying to dangerous goods under column 6 of the dangerous goods list.

**40 Duty of consignors**

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

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

Maximum penalty—20 penalty units.

**41 Duty of packers**

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

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

Maximum penalty—20 penalty units.

**42 Duty of loaders**

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

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

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Maximum penalty—20 penalty units.

#### **43 Duty of prime contractors**

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

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

Maximum penalty—20 penalty units.

#### **44 Duty of drivers**

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

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

Maximum penalty—10 penalty units.

## **Part 4 Packaging**

### **Division 1 General**

#### **45 Packing of dangerous goods in limited quantities**

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

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**46 References to part 4 of the ADG Code include dangerous goods list requirements**

In this part, a reference to dangerous goods being packed in accordance with a provision in part 4 of the ADG Code includes a reference to the goods being packed in accordance with each packing requirement stated for the goods in the dangerous goods list.

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

### **47 Unsuitability of packaging for transport**

- (1) Packaging is *unsuitable* for the transport of dangerous goods if—
  - (a) it must undergo a performance test under part 6 of the ADG Code and it is not approved packaging; or
  - (b) it does not meet a relevant standard or requirement of part 4 or 6 of the ADG Code, including a requirement about inspection, maintenance or repair; or
  - (c) its use, or re-use, for the transport of the goods does not comply with part 4 or 6 of the ADG Code; or
  - (d) its use for the transport of the goods is prohibited by, or does not comply with, a determination; or
  - (e) it is incompatible with the goods; or
  - (f) it is damaged or defective to the extent that it is not safe to use to transport the goods.
- (2) A freight container is also *unsuitable* for use as a bulk container for the transport of dangerous goods if it does not have affixed to it a safety approval plate as required under the International Convention for Safe Containers, 1972.
- (3) In this section—

*approved packaging* means—

  - (a) packaging of a design approved under section 50; or

- (b) foreign approved packaging.

#### **48 Marking packaging**

- (1) A person must not apply a marking required under part 6 of the ADG Code on packaging if the packaging is not of a design approved under section 50.

Maximum penalty—40 penalty units.

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

Maximum penalty—40 penalty units.

#### **49 Applications for approval of packaging designs**

- (1) This section applies in relation to packaging that must undergo a performance test under part 6 of the ADG Code.

*Examples of packaging required to undergo performance tests under part 6 of the ADG Code—*

portable tanks, MEGCs, tanks on tank vehicles, pressure receptacles, aerosol dispensers, IBCs, bulk containers and drums, jerry cans, boxes, bags, composite packaging

*Examples of kinds of performance tests required under part 6 of the ADG Code—*

drop, leakproofness, hydraulic and stacking tests

- (2) A person may apply to the chief executive for the approval of a design of the packaging for use in the transport of dangerous goods.
- (3) The application must—
- (a) be made under section 172; and
  - (b) include sufficient information to enable the chief executive to decide the matters mentioned in section 50(1).

## 50 Approval of packaging designs

- (1) The chief executive may, on application under section 49, approve a design of packaging for use in the transport of dangerous goods if satisfied a packaging of the design—
  - (a) will comply with, or is permitted by, part 6 of the ADG Code; and
  - (b) satisfies the relevant testing and inspection requirements of part 6 of the ADG Code.
- (2) In deciding whether packaging of a particular design satisfies a particular testing requirement, the chief executive may rely on a test certificate or report given by a recognised testing facility for the design type and complying with section 52.
- (3) In giving an approval under subsection (1), the chief executive may impose on the approval any condition about the construction, packing, maintenance or use of packaging manufactured in accordance with the design necessary for the safe use of the packaging to transport dangerous goods.
- (4) A person must not construct, pack or fail to maintain packaging for use in the transport of dangerous goods, or use packaging to transport dangerous goods, if the person knows, or ought reasonably to know, that—
  - (a) a condition about the construction, packing, maintenance or use of the packaging was imposed on the approval of the design for the packaging; and
  - (b) the construction, packing, failure to maintain, or use is in contravention of the condition.

Maximum penalty—40 penalty units.

## 51 Recognised testing facilities

Each of the following is a *recognised testing facility* for a packaging design type—

- (a) a testing facility registered by NATA to conduct performance tests under part 6 of the ADG Code for the packaging design type;

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- (b) if NATA has not registered a testing facility to conduct performance tests of a kind mentioned in paragraph (a)—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 a kind mentioned in paragraph (a).

## **52 Test certificates and reports**

- (1) A recognised testing facility for a packaging design type may certify in writing that the packaging design type has passed particular performance tests for particular dangerous goods.
- (2) If a performance test is conducted by a testing facility registered by NATA, a test certificate, or report on the test, must—
  - (a) contain the details required under the relevant chapter of part 6 of the ADG Code; and
  - (b) be in the appropriate form used by testing facilities registered by NATA.
- (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 chief executive; and
  - (b) a test certificate, or report on the test, must contain the details required under the relevant chapter of part 6 of the ADG Code.

## **53 Approval of overpack preparation methods**

- (1) The chief executive may, on application under section 172, approve a method of preparing an overpack for transport that does not comply with section 5.1.2 of the ADG Code if the chief executive considers that the risk involved in using the method is not greater than the risk involved in using a method complying with the section.

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- (2) In giving an approval under subsection (1), the chief executive may impose on the approval any condition about the use of the overpack necessary for the safe use of the overpack to transport dangerous goods.
  - (3) A person must not use an overpack to transport dangerous goods if the person knows, or ought reasonably to know, that—
    - (a) a condition about the use of the overpack was imposed on the approval of the method of preparing the overpack; and
    - (b) the use is in contravention of the condition.

Maximum penalty—40 penalty units.

#### **54 Authorised entity may give approvals**

- (1) The chief executive may authorise an entity to give approvals under section 50 or 53.
- (2) In giving an authorisation under subsection (1), the chief executive may impose on the authorisation any condition the chief executive considers appropriate for the giving of approvals by the entity.
- (3) In giving an approval, the entity must—
  - (a) comply with a condition imposed under subsection (2); and
  - (b) comply with the relevant requirements of part 6 of the ADG Code about the giving of the approval; and
  - (c) give the chief executive all of the information mentioned in section 180(b) about the approval.
- (4) If an entity is authorised to give approvals under this section—
  - (a) sections 49, 50 and 53 apply as if a reference in the sections to the chief executive were a reference to the entity; and

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- (b) part 17, division 1, to the extent it deals with approvals, applies as if a reference in the division to the chief executive were a reference to the entity.
- (5) An approval given by an entity under this section—
- (a) is taken to be an approval given by the chief executive; and
  - (b) may be amended, suspended or cancelled by the chief executive under the Act.
- Note—*  
See chapter 3, part 1A of the Act.
- (6) The chief executive may withdraw an authorisation given under this section at any time.
- (7) The withdrawal of an authorisation under subsection (6) does not affect an approval given by the entity before the withdrawal took effect.

## **Division 3                      Prohibition on the sale or supply of noncompliant packaging**

### **55            Offence to sell or supply noncompliant packaging**

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

- (a) the packaging is of a design that has been approved under section 50 and both of the following apply—
  - (i) the packaging is marked in accordance with part 6 or, if applicable, chapter 3.4 of the ADG Code;
  - (ii) according to the marking, the packaging's use is appropriate for the goods; or
- (b) the packaging complies with the relevant requirements of parts 4 and 6 or, if applicable, chapter 3.4 of the ADG Code, including any relevant marking requirements, and its use is appropriate for the goods.

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Maximum penalty—40 penalty units.

## **Division 4                    Offences about general packaging**

### **56            Definition for division**

In this division—

*general packaging* means packaging other than a portable tank, demountable tank, MEGC, bulk container, freight container, tank on a tank vehicle or overpack.

### **57            Duty of consignors**

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

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

Maximum penalty—40 penalty units.

### **58            Duty of packers**

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

Maximum penalty—40 penalty units.

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

Maximum penalty—40 penalty units.

## **59 Duty of loaders**

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

Maximum penalty—40 penalty units.

## **60 Duty of prime contractors**

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

Maximum penalty—40 penalty units.

## **61 Duty of drivers**

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

Maximum penalty—20 penalty units.

# **Division 5 Offences about other packaging**

## **62 Definitions for division**

In this division—

*dangerous goods compliance plate* means a plate that must be attached to a portable tank, MEGC or tank vehicle under part 6 of the ADG Code, and includes an identification plate.

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*other packaging* means a portable tank, demountable tank, MEGC, bulk container, freight container or tank on a tank vehicle.

**63 Attaching dangerous goods compliance plates to particular packaging**

A person must not attach a dangerous goods compliance plate, or something that purports to be a dangerous goods compliance plate, to a tank, MEGC or tank vehicle unless the design of the tank, MEGC or tank vehicle is approved under section 50.

Maximum penalty—40 penalty units.

**64 Duties of manufacturers about dangerous goods compliance plates for portable tanks, MEGCs and tank vehicles**

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

Maximum penalty—40 penalty units.

- (2) Subsection (1) does not apply to a person who manufactures a portable tank if—
- (a) chapter 6.7 of the ADG Code permits the marking of the tank instead of the attachment of a dangerous goods compliance plate; and
  - (b) the tank is marked as required by that chapter.
- (3) A person who manufactures a tank vehicle for use in the transport of dangerous goods must attach a dangerous goods compliance plate to the vehicle in accordance with section 6.9.2.2 of the ADG Code.

Maximum penalty—40 penalty units.

**65 Duty of owners of portable tanks, demountable tanks, MEGCs and tank vehicles**

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

Maximum penalty—40 penalty units.

**66 Duties of consignors**

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

Maximum penalty—40 penalty units.

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

Maximum penalty—40 penalty units.

**67 Duties of packers**

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

Maximum penalty—40 penalty units.

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

Maximum penalty—40 penalty units.

## **68 Duty of loaders**

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

Maximum penalty—40 penalty units.

## **69 Duties of prime contractors**

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

Maximum penalty—40 penalty units.

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

Maximum penalty—40 penalty units.

## **70 Duty of drivers**

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

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

Maximum penalty—20 penalty units.

## **Division 6 Offences about overpacks**

### **71 Duty of consignors**

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

- (a) section 5.1.2 of the ADG Code; or
- (b) an approval under section 53.

Maximum penalty—20 penalty units.

### **72 Duty of packers**

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

- (a) section 5.1.2 of the ADG Code; or
- (b) an approval under section 53.

Maximum penalty—20 penalty units.

### **73 Duty of loaders**

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

- (a) section 5.1.2 of the ADG Code; or
- (b) an approval under section 53.

Maximum penalty—20 penalty units.

### **74 Duty of prime contractors**

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

- (a) section 5.1.2 of the ADG Code; or
- (b) an approval under section 53.

Maximum penalty—20 penalty units.

### **75 Duty of drivers**

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

- (a) section 5.1.2 of the ADG Code; or
- (b) an approval under section 53.

Maximum penalty—15 penalty units.

## **Division 7                      Chief executive’s performance testing powers**

### **76        Requiring packaging for testing**

- (1) This section applies in relation to a person who—
  - (a) is—
    - (i) a manufacturer of packaging used, or intended to be used, to transport dangerous goods; or
    - (ii) the consignor or prime contractor for the transport of dangerous goods; and
  - (b) has possession of, or control over, packaging of a design type used, or intended to be used, to transport dangerous goods.
- (2) The chief executive may, by written notice, ask the person to give packaging manufactured or used by the person for performance testing to the chief executive or another person nominated in the notice (the *nominated person*).
- (3) The person must give the packaging to the chief executive or nominated person within 14 days after the day the notice is given, unless before the end of that period the person gives the packaging to another person for performance testing under an agreement with that other person.

Maximum penalty—15 penalty units.

### **77        Requiring evidence of performance tests**

- (1) This section applies in relation to a person who is—
  - (a) a manufacturer of packaging used, or intended to be used, to transport dangerous goods; or
  - (b) a consignor for the transport of dangerous goods.
- (2) The chief executive may, by written notice, ask the person to give written evidence that a packaging design type

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manufactured or used by the person has passed performance tests required under part 6 of the ADG Code.

- (3) The person must give the evidence to the chief executive within 14 days after the day the notice is given.

Maximum penalty—15 penalty units.

- (4) A test certificate or report under section 52 is evidence for this section.

## Part 5 Consignment procedures

### Division 1 Marking and labelling

#### 78 Meaning of *appropriately marked*

- (1) A receptacle for dangerous goods, other than a cargo transport unit or an overpack, that has a capacity of more than 500 kilograms or litres is *appropriately marked* if it is marked and labelled in accordance with chapter 5.2 and section 5.3.3 of the ADG Code.
- (2) Another package of dangerous goods, other than an overpack, is *appropriately marked* if it is marked and labelled in accordance with chapter 5.2 of the ADG Code.
- (3) An overpack for dangerous goods is *appropriately marked* if it is marked and labelled in accordance with section 5.1.2 of the ADG Code.
- (4) A package of dangerous goods packed in limited quantities is also *appropriately marked* if it is marked and labelled in accordance with chapter 3.4 of the ADG Code.
- (5) A package of dangerous goods packed in excepted quantities is also *appropriately marked* if it is marked and labelled in accordance with chapter 3.5 of the ADG Code.
- (6) For subsection (5), dangerous goods are *packed in excepted quantities* if—

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- (a) the goods are assigned to code E1, E2, E3, E4 or E5 in column 7b of the dangerous goods list; and
- (b) the goods are packed in accordance with chapter 3.5 of the ADG Code; and
- (c) the quantity of dangerous goods does not exceed the quantity specified in section 3.5.1.2 of the ADG Code.

## **79 Reference to label includes placard**

In this division, a reference to a label includes a reference to a placard.

## **80 Duties of consignors**

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

Maximum penalty—

- (a) for large packaging or an overpack—20 penalty units; or
- (b) otherwise—7½ penalty units.

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

Maximum penalty—

- (a) for large packaging or an overpack—20 penalty units; or
- (b) otherwise—7½ penalty units.

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

Maximum penalty—

- (a) for large packaging or an overpack—20 penalty units; or
- (b) otherwise—7½ penalty units.

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- (4) However, subsection (3) does not apply if the marking or labelling of the package complies with the requirements for the contents of the package in—
- (a) the ICAO technical instructions; or
  - (b) the IMDG Code.

## **81 Duties of packers**

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

Maximum penalty—

- (a) for large packaging or an overpack—20 penalty units; or
- (b) otherwise—7½ penalty units.

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

Maximum penalty—

- (a) for large packaging or an overpack—20 penalty units; or
- (b) otherwise—7½ penalty units.

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

Maximum penalty—

- (a) for large packaging or an overpack—20 penalty units; or
- (b) otherwise—7½ penalty units.

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- (4) However, subsection (3) does not apply if the marking or labelling of the package complies with the requirements for the contents of the package in—
- (a) the ICAO technical instructions; or
  - (b) the IMDG Code.

## **82 Duties of prime contractors**

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

Maximum penalty—

- (a) for large packaging or an overpack—20 penalty units; or
- (b) otherwise—7½ penalty units.

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

Maximum penalty—

- (a) for large packaging or an overpack—20 penalty units; or
- (b) otherwise—7½ penalty units.

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

Maximum penalty—

- (a) for large packaging or an overpack—20 penalty units; or
- (b) otherwise—7½ penalty units.

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- (4) However, subsection (3) does not apply if the marking or labelling of the package complies with the requirements for the contents of the package in—
- (a) the ICAO technical instructions; or
  - (b) the IMDG Code.

## **Division 2                      Placarding**

### **83            When loads must be placarded**

- (1) A load that contains dangerous goods must be placarded if—
- (a) it contains—
    - (i) dangerous goods in a receptacle with a capacity of more than 500L; or
    - (ii) more than 500kg of dangerous goods in a receptacle; or
  - (b) it contains an aggregate quantity of dangerous goods of 250 or more and the goods include—
    - (i) dangerous goods of UN division 2.1 that are not aerosols; or
    - (ii) dangerous goods of UN division 2.3; or
    - (iii) dangerous goods of packing group I; or
  - (c) it contains dangerous goods of category A of UN division 6.2; or
  - (d) it contains an aggregate quantity of dangerous goods of UN division 6.2 (other than category A) of 10 or more; or
  - (e) it contains an aggregate quantity of dangerous goods of 1,000 or more.
- (2) However, a load that contains an aggregate quantity of dangerous goods of less than 2,000 does not need to be placarded if the load contains only the following dangerous goods—

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- (a) goods packed in limited quantities;
  - (b) goods that are bonbons, party poppers or sparklers;
  - (c) goods that are domestic smoke detectors containing radioactive material;
  - (d) goods that are lighters or lighter refills containing flammable gas;
  - (e) goods that are fire extinguishers containing compressed gas or liquefied gas with a net mass of not more than 23kg;
  - (f) 2 or more goods mentioned in paragraphs (a) to (e).
- (3) Subsection (1)(a) does not apply to a dangerous good that is an article.

*Note—*

An aggregate quantity in relation to a load containing dangerous goods mentioned in this section is worked out in the way provided for under schedule 3, definition *aggregate quantity*.

## **84 Meaning of *placards* and *appropriately placarded***

- (1) A person *placards* a load that contains dangerous goods if the person affixes, stencils, prints or places a placard about the load on any thing that is being, or that is to be, used to transport the load.
- (2) A placard load is *appropriately placarded* if it is placarded in accordance with chapter 5.3 of the ADG Code.

## **85 Duties of consignors**

- (1) A person must not consign a placard load for transport if the load is not appropriately placarded.  
Maximum penalty—40 penalty units.
- (2) A person must not consign a placard load for transport if the placarding of the load is false or misleading in a material particular.  
Maximum penalty—40 penalty units.

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

Maximum penalty—40 penalty units.

- (4) However, subsection (3) does not apply if the placarding of the cargo transport unit complies with the requirements for the contents of the cargo transport unit in—
  - (a) the ICAO technical instructions; or
  - (b) the IMDG Code.

## **86 Duties of loaders**

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

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

Maximum penalty—40 penalty units.

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

Maximum penalty—40 penalty units.

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

Maximum penalty—40 penalty units.

- (4) However, subsection (3) does not apply if the placarding of the load complies with the requirements for the contents of the load in—
  - (a) the ICAO technical instructions; or
  - (b) the IMDG Code.

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## **87 Duties of prime contractors**

(1) A prime contractor must not transport a load that contains dangerous goods if the prime contractor knows, or ought reasonably to know, that—

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

Maximum penalty—40 penalty units.

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

Maximum penalty—40 penalty units.

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

Maximum penalty—40 penalty units.

(4) However, subsection (3) does not apply if the placarding of the cargo transport unit complies with the requirements for the contents of the cargo transport unit in—

- (a) the ICAO technical instructions; or
- (b) the IMDG Code.

## **88 Duties of drivers**

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

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

Maximum penalty—30 penalty units.

(2) A person must not drive a vehicle transporting a placard load if the person knows, or ought reasonably to know, that the

placarding of the load is false or misleading in a material particular.

Maximum penalty—30 penalty units.

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

Maximum penalty—30 penalty units.

## **Part 6**                      **Safety standards for vehicles and equipment**

### **89**      **Duty of owners**

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

Maximum penalty—40 penalty units.

### **90**      **Duty of consignors**

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

Maximum penalty—40 penalty units.

### **91**      **Duty of loaders**

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

Maximum penalty—20 penalty units.

## **92 Duty of prime contractors**

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

Maximum penalty—40 penalty units.

## **93 Duty of drivers**

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

Maximum penalty—30 penalty units.

# **Part 7 Transport operations for particular dangerous goods**

## **Division 1 Self-reactive substances, organic peroxides and particular other substances**

### **94 Application of division**

- (1) This division applies to the following types of dangerous goods—
  - (a) gases of UN class 2;
  - (b) self-reactive substances of UN division 4.1;
  - (c) organic peroxides of UN division 5.2;
  - (d) other substances for which—

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- (i) the proper shipping name, within the meaning of the ADG Code, contains the word ‘stabilised’; and
  - (ii) the self-accelerating decomposition temperature (as worked out under part 2 of the ADG Code) when presented for transport in a packaging is 50°C or lower;
  - (e) toxic substances of UN division 6.1 or subsidiary hazard 6.1;
  - (f) infectious substances of UN division 6.2;
  - (g) dangerous when wet substances of UN division 4.3.
- (2) This division also applies to empty dangerous goods packaging.
- (3) In this division, a reference to dangerous goods to which this division applies includes a reference to empty dangerous goods packaging.
- (4) In this section—
- empty dangerous goods packaging* means—
- (a) unused pre-labelled packaging intended for use with dangerous goods; or
  - (b) packaging that has been used for dangerous goods and is nominally empty.

## 95 Duty of consignors

A person must not consign dangerous goods to which this division applies for transport in or on a cargo transport unit if the person knows, or ought reasonably to know, that the goods are not loaded or stowed, or can not be transported or unloaded, in accordance with chapter 7.1 or 7.2 of the ADG Code.

Maximum penalty—20 penalty units.

## **96 Duty of loaders**

A person must not load dangerous goods to which this division applies for transport in a cargo transport unit other than in accordance with chapter 7.1 or 7.2 of the ADG Code.

Maximum penalty—20 penalty units.

## **97 Duties of prime contractors**

- (1) A prime contractor must not transport dangerous goods to which this division applies if the prime contractor knows, or ought reasonably to know, that the transport does not comply with chapter 7.1 or 7.2 of the ADG Code.

Maximum penalty—20 penalty units.

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

Maximum penalty—20 penalty units.

## **98 Duty of drivers**

A person must not drive a vehicle transporting dangerous goods to which this division applies if the person knows, or ought reasonably to know, that the dangerous goods are not being transported in accordance with chapter 7.1 or 7.2 of the ADG Code.

Maximum penalty—13 penalty units.

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## **Division 2                      Goods too dangerous to be transported**

### **99            Application of division**

This division applies in relation to goods too dangerous to be transported.

*Note—*

See also section 161Q of the Act.

### **100          Duty of loaders**

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

Maximum penalty—20 penalty units.

### **101          Duty of prime contractors**

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

Maximum penalty—20 penalty units.

### **102          Duty of drivers**

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

Maximum penalty—13 penalty units.



Maximum penalty—20 penalty units.

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

Maximum penalty—20 penalty units.

## **106 Duties of drivers**

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

Maximum penalty—13 penalty units.

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

Maximum penalty—13 penalty units.

## **Part 9 Segregation**

### **107 Application of part**

- (1) This part applies in relation to—
  - (a) the transport of a placard load; and
  - (b) the transport of a load that contains dangerous goods, but is not a placard load, if—
    - (i) the load contains dangerous goods of UN division 2.3, UN class 6 or UN class 8, or

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dangerous goods that have a subsidiary hazard of 6.1 or 8; and

- (ii) the load is being transported, or is to be transported, with food or food packaging.
- (2) However, this part does not apply to the transport of dangerous goods packed in limited quantities.

### **108 Exception for particular goods for driver's personal use**

- (1) Despite sections 109 to 112, food and food packaging may be transported in or on a vehicle with dangerous goods if the food or packaging is in the vehicle's cabin and is for the driver's personal use.
- (2) Despite sections 109 to 112, a fire-risk substance may be transported in or on a vehicle with dangerous goods if the fire-risk substance is in the vehicle's cabin and is for the driver's personal use.
- (3) In this section—

***fire-risk substance*** means a readily ignitable solid substance.

*Examples—*

hay, sawdust, wastepaper, woodchips

### **109 Duty of consignors**

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

- (a) the vehicle is, in the same journey, transporting goods that are incompatible with the dangerous goods; and
- (b) the dangerous goods will not be segregated from the incompatible goods in accordance with either—
  - (i) part 9 of the ADG Code; or
  - (ii) an approval under section 113.

Maximum penalty—40 penalty units.

### **110 Duty of loaders**

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

- (a) the vehicle is, in the same journey, transporting goods that are incompatible with the dangerous goods; and
- (b) the dangerous goods will not be segregated from the incompatible goods in accordance with either—
  - (i) part 9 of the ADG Code; or
  - (ii) an approval under section 113.

Maximum penalty—40 penalty units.

### **111 Duty of prime contractors**

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

- (a) the vehicle is, in the same journey, transporting goods that are incompatible with the dangerous goods; and
- (b) the dangerous goods are not segregated from the incompatible goods in accordance with either—
  - (i) part 9 of the ADG Code; or
  - (ii) an approval under section 113.

Maximum penalty—40 penalty units.

### **112 Duty of drivers**

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

- (a) the vehicle is, in the same journey, transporting goods that are incompatible with the dangerous goods; and

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- (b) the dangerous goods are not segregated from the incompatible goods in accordance with either—
  - (i) part 9 of the ADG Code; or
  - (ii) an approval under section 113.

Maximum penalty—13 penalty units.

### **113 Approval of methods of segregation**

- (1) The chief executive may, on application under section 172, approve a method of segregation, not complying with part 9 of the ADG Code, for transporting dangerous goods and goods that are incompatible with the dangerous goods, if the chief executive considers that—
  - (a) it is impracticable to segregate the dangerous goods from the incompatible goods by a segregation device, or method of segregation, complying with that part; and
  - (b) the risk involved in using the method to transport the goods is not greater than the risk involved in using a device or method complying with that part to transport the goods.
- (2) In giving an approval under subsection (1), the chief executive may impose on the approval any condition necessary for the safe transport of dangerous goods.
- (3) A person to whom an approval has been given under this section must not contravene a condition of the approval.

Maximum penalty—40 penalty units.

### **114 Approval of design of type II segregation devices**

- (1) This section provides for the approval of the design of a type II segregation device for chapter 6.11 of the ADG Code.
- (2) A person may apply to the chief executive for the approval of a design for a type II segregation device for use in the transport of dangerous goods.
- (3) An application for approval must—

- (a) be made under section 172; and
  - (b) include sufficient information to enable the chief executive to decide whether the design complies with chapter 6.11 of the ADG Code.
- (4) The chief executive may, on application under subsection (2), approve a design for a type II segregation device if the design complies with chapter 6.11 of the ADG Code.
- (5) In giving an approval under subsection (4), the chief executive may impose on the approval any condition necessary for the safe transport of dangerous goods.
- (6) A person to whom an approval has been given under this section must not contravene a condition of the approval.

Maximum penalty—40 penalty units.

## **Part 10**                      **Bulk transfer of dangerous goods**

### **Division 1**                      **General**

#### **115**      **Definition for part**

In this part—

*bulk transfer* means to transfer liquid, solid or gaseous goods—

- (a) by gravity, pump or pressure differential; and
- (b) using pipework or a hose; and
- (c) into or out of—
  - (i) a tank vehicle; or
  - (ii) a portable tank, demountable tank, bulk container, pressure drum, tube, MEGC or IBC that is on a vehicle.

## **Division 2                      Equipment and transfer**

### **116      Definitions for division**

In this division—

*prescribed dangerous goods* means—

- (a) dangerous goods of UN division 2.1 or subsidiary hazard 2.1; or
- (b) dangerous goods of UN class 3 or subsidiary hazard 3.

*prescribed way* means—

- (a) for the bulk transfer of prescribed dangerous goods—a way that—
  - (i) complies with chapter 10.2 of the ADG Code, to the extent the chapter is not inconsistent with subparagraph (ii); and
  - (ii) ensures the distance between a source of ignition and a hose connection point is at least—
    - (A) for dangerous goods of UN division 2.1 or subsidiary hazard 2.1—10m; or
    - (B) for dangerous goods of UN class 3 or subsidiary hazard 3—8m; or
- (b) for the bulk transfer of other dangerous goods—a way that complies with chapter 10.2 of the ADG Code.

### **117      Duties of transferors—hose assemblies**

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

Maximum penalty—30 penalty units.

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

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

Maximum penalty—40 penalty units.

### **118 Duties of transferors—general**

- (1) A person must not bulk transfer dangerous goods unless the goods are transferred—
  - (a) in the prescribed way; and
  - (b) in a way that eliminates risk or, if it is not possible to eliminate risk, that minimises risk to the maximum extent that is practicable.

Maximum penalty—20 penalty units.

- (2) A person must not bulk transfer dangerous goods if the person knows, or ought reasonably to know, that—
  - (a) the receptacle to which the goods are being or are to be transferred, or the equipment used or to be used to transfer the goods, is incompatible with the dangerous goods; or
  - (b) the receptacle to which the goods are being or are to be transferred contains goods that are incompatible with the dangerous goods.

Maximum penalty—20 penalty units.

- (3) If dangerous goods leak, spill or escape during a bulk transfer, the person transferring the goods—
  - (a) must immediately stop transferring the goods; and
  - (b) must take steps to eliminate risk or, if it is not possible to eliminate risk, to minimise risk to the greatest practicable extent; and

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

Maximum penalty—20 penalty units.

- (4) It is a defence to a prosecution for an offence against subsection (1) that the person complied with that subsection as far as practicable.
- (5) Subsection (4) does not apply in relation to a contravention of a requirement mentioned in section 116, definition *prescribed way*, paragraph (a)(ii).

## 119 Duties of occupiers

- (1) The occupier of premises at which the bulk transfer of dangerous goods happens must not keep on the premises a hose assembly for use in the transfer (other than a hose assembly brought on to the premises on the vehicle involved in the transfer) that—
  - (a) has not been constructed, assembled and maintained in accordance with chapter 10.1 of the ADG Code; or
  - (b) has not been inspected and tested at the intervals, and in the way, required under that chapter; or
  - (c) did not satisfy a test under that chapter.

Maximum penalty—20 penalty units.

- (2) The occupier of premises at which the bulk transfer of dangerous goods happens must not transfer the goods, or permit the goods to be transferred, other than—
  - (a) in the prescribed way; and
  - (b) in a way that eliminates risk or, if it is not possible to eliminate risk, that minimises risk to the maximum extent that is practicable.

Maximum penalty—40 penalty units.

- (3) The occupier of premises at which the bulk transfer of dangerous goods happens must keep, in accordance with

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section 10.1.3.4 of the ADG Code, accurate records of all maintenance work, and each inspection and test, performed on the hose assembly.

Maximum penalty—7½ penalty units.

- (4) It is a defence to a prosecution for an offence against subsection (2) that the person complied with that subsection as far as practicable.
- (5) Subsection (4) does not apply in relation to a contravention of a requirement mentioned in section 116, definition *prescribed way*, paragraph (a)(ii).

## 120 Duties of prime contractors

- (1) A prime contractor must not use, or permit to be used, a hose assembly for the bulk transfer of dangerous goods (other than a hose assembly for which the prime contractor is not responsible) that—
  - (a) has not been constructed, assembled and maintained in accordance with chapter 10.1 of the ADG Code; or
  - (b) has not been inspected and tested at the intervals, and in the way, required under that chapter; or
  - (c) did not satisfy a test under that chapter.

Maximum penalty—20 penalty units.

- (2) A prime contractor must not bulk transfer, or permit to be bulk transferred, dangerous goods unless the goods are transferred—
  - (a) in the prescribed way; and
  - (b) in a way that eliminates risk or, if it is not possible to eliminate risk, that minimises risk to the greatest practicable extent.

Maximum penalty—40 penalty units.

- (3) The prime contractor must keep, in accordance with section 10.1.3.4 of the ADG Code, accurate records of all

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maintenance work, and each inspection and test, performed on the hose assembly.

Maximum penalty—7½ penalty units.

- (4) It is a defence to a prosecution for an offence against subsection (2) that the prime contractor complied with that subsection as far as practicable.
- (5) Subsection (4) does not apply in relation to a contravention of a requirement mentioned in section 116, definition *prescribed way*, paragraph (a)(ii).

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

### **121      Application of division**

This division applies in relation to the bulk transfer of dangerous goods into a tank vehicle.

### **122      Duties of transferors**

- (1) A person must not bulk transfer dangerous goods into a tank of a tank vehicle if—
  - (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 is more than the maximum permitted filling ratio stated in section 10.3.2 of the ADG Code; or
  - (b) otherwise—the ullage in the tank does not comply with section 10.3.1 of the ADG Code.

Maximum penalty—20 penalty units.

- (2) A person must not bulk transfer other goods into a tank (the ***other goods tank***) of a tank vehicle if—
  - (a) the person knows, or ought reasonably to know, that the other goods tank or another tank of the tank vehicle—
    - (i) is carrying dangerous goods; or

- (ii) is likely to carry dangerous goods before the other goods tank is emptied; and
- (b) the ullage in the other goods tank would not comply with section 10.3.1 of the ADG Code if the other goods were dangerous goods.

Maximum penalty—20 penalty units.

### 123 Duties of prime contractors

- (1) A prime contractor must not transport dangerous goods in a tank of a tank vehicle 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 is more than the maximum permitted filling ratio stated in section 10.3.2 of the ADG Code; or
  - (b) otherwise—the ullage in the tank does not comply with section 10.3.1 of the ADG Code.

Maximum penalty—20 penalty units.

- (2) A prime contractor must not transport other goods in a tank (the *other goods tank*) of a tank vehicle if—
  - (a) the prime contractor uses the other goods tank or another tank of the tank vehicle to transport dangerous goods at the same time; and
  - (b) the ullage in the other goods tank would not comply with section 10.3.1 of the ADG Code if the other goods were dangerous goods.

Maximum penalty—20 penalty units.

### 124 Duties of drivers

- (1) A person must not drive a tank vehicle that is transporting dangerous goods if the person knows, or ought reasonably 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

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tank of the tank vehicle is more than the maximum permitted filling ratio stated in section 10.3.2 of the ADG Code; or

- (b) otherwise—the ullage in the tank of the tank vehicle does not comply with section 10.3.1 of the ADG Code.

Maximum penalty—20 penalty units.

- (2) A person must not drive a tank vehicle if—

- (a) the vehicle is transporting—
  - (i) goods (the *other goods*) that are not dangerous goods in a tank (the *other goods tank*); and
  - (ii) dangerous goods in the other goods tank, or another tank, at the same time; and
- (b) the person knows, or ought reasonably to know, that the ullage in the other goods tank would not comply with section 10.3.1 of the ADG Code if the other goods were dangerous goods.

Maximum penalty—20 penalty units.

## **Part 11                      Documentation**

### **Division 1                      Transport documentation**

#### **Subdivision 1                      False or misleading information**

##### **125      False or misleading information**

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

*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

Maximum penalty—40 penalty units.

- (2) It is enough for a complaint against a person for an offence against subsection (1) to state that the information was false or misleading to the person's knowledge.

## **Subdivision 2      Requirements about transport documentation**

### **126      Duties of consignors**

- (1) A person must not consign dangerous goods for transport in or on a vehicle if the prime contractor or driver of the vehicle does not have transport documentation complying with chapter 11.1 of the ADG Code for the goods.

Maximum penalty—40 penalty units.

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

Maximum penalty—40 penalty units.

### **127      Duties of prime contractors**

- (1) A prime contractor must not allow a person to drive a vehicle used by the prime contractor to transport dangerous goods if—

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- (a) the person has not been given transport documentation complying with chapter 11.1 of the ADG Code for the goods; and
- (b) the documentation is not able to be carried in the vehicle in the way required under chapter 11.1 of the ADG Code.

Maximum penalty—40 penalty units.

- (2) Also, the prime contractor must—
  - (a) keep the transport documentation, or a copy of the documentation, in a legible form for at least 3 months after the prime contractor transports the goods; and
  - (b) produce the documentation or copy during the 3 months if asked by an authorised officer.

Maximum penalty—40 penalty units.

## **128 Duties of drivers**

- (1) The driver of a vehicle transporting dangerous goods must—
  - (a) carry transport documentation complying with chapter 11.1 of the ADG Code for the goods; and
  - (b) ensure the documentation is carried in the vehicle in the way required under chapter 11.1 of the ADG Code.

Maximum penalty—40 penalty units.

- (2) A relevant emergency service officer may ask the driver of a vehicle transporting dangerous goods to give the transport documentation for the goods for inspection by the officer.

*Note—*

See also section 49 of the Act for the power of an authorised officer to require documents to be produced.

- (3) The driver must comply with the request, unless the driver has a reasonable excuse.

Maximum penalty—40 penalty units.

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## Division 2                      Emergency information

### 129      Definition for division

In this division—

*required emergency information*, for dangerous goods, means—

- (a) emergency information complying with chapter 11.2 of the ADG Code for the goods; or
- (b) emergency information approved under section 133 for the goods.

### 130      Duty of consignors

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

Maximum penalty—13 penalty units.

### 131      Duty of prime contractors

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

- (a) the vehicle is not equipped with an emergency information holder complying with chapter 11.2 of the ADG Code; or
- (b) the required emergency information for the dangerous goods in the load is not in the holder.

Maximum penalty—20 penalty units.

### 132      Duties of drivers

- (1) A person must not drive a vehicle transporting a placard load if—

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- (a) the vehicle is not equipped with an emergency information holder complying with chapter 11.2 of the ADG Code; or
- (b) the required emergency information for the dangerous goods in the load provided by the consignor of the goods, or by the prime contractor for the transport of the goods, is not in the holder.

Maximum penalty—13 penalty units.

- (2) The driver of a vehicle transporting a placard load must keep only the following in the vehicle's emergency information holder—
  - (a) the required emergency information for the dangerous goods in the load;
  - (b) the transport documentation for the goods.

Maximum penalty—6½ penalty units.

- (3) A relevant emergency service officer may ask the driver of a vehicle transporting a placard load to give the required emergency information for the dangerous goods in the load for inspection by the officer.

*Note—*

See also section 49 of the Act for the power of an authorised officer to require documents to be produced.

- (4) The driver must comply with the request, unless the driver has a reasonable excuse.

Maximum penalty—13 penalty units.

### **133 Approval of emergency information**

The chief executive may, on application under section 172 or on the chief executive's own initiative, approve emergency information that does not comply with chapter 11.2 of the ADG Code if the chief executive considers that use of the information would be as accurate, and at least as convenient and efficient, as information complying with the chapter.

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## Part 12 Safety equipment

### 134 Duty of owners

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

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

Maximum penalty—40 penalty units.

### 135 Duties of prime contractors

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

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

Maximum penalty—40 penalty units.

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

- (a) has not been inspected or tested as required by part 12 of the ADG Code; or
- (b) is not in good repair or is not in proper working order.

Maximum penalty—40 penalty units.

### 136 Duties of drivers

- (1) A person must not drive a vehicle transporting a placard load if the vehicle is not equipped with—

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

Maximum penalty—13 penalty units.

- (2) A person must not drive a vehicle transporting a placard load if the person knows, or ought reasonably to know, that the equipment for the vehicle mentioned in subsection (1)—
  - (a) is not stowed in accordance with part 12 of the ADG Code; or
  - (b) has not been inspected or tested in accordance with that part; or
  - (c) is not in good repair or is not in proper working order.

Maximum penalty—13 penalty units.

## **Part 13                      Procedures during transport**

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

#### **137      Duty of drivers**

- (1) This section applies if a vehicle transporting a placard load—
  - (a) has a GVM of 12t or less; and
  - (b) is broken down or otherwise immobilised, or has stopped, on a road; and
  - (c) is a traffic hazard.
- (2) The driver of the vehicle must alert other road users of the hazard in accordance with part 13 of the ADG Code.

Maximum penalty—13 penalty units.

*Note—*

For requirements about using portable warning triangles in relation to vehicles with a GVM of over 12t, see the *Transport Operations (Road Use Management—Road Rules) Regulation 2009*, section 227.

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## 138 Duties of prime contractors

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

Maximum penalty—20 penalty units.

- (2) The prime contractor must—
  - (a) remove the dangerous goods from the vehicle before the vehicle is repaired or towed; and
  - (b) transport the dangerous goods from the place of the breakdown or immobilisation.

Maximum penalty—20 penalty units.

- (3) Subsection (2) applies only if the risk involved in complying with the subsection is not greater than the risk involved in not complying with the subsection.
- (4) Subsection (5) applies if—
  - (a) after considering the risks under subsection (3), the prime contractor decides to tow the vehicle while the vehicle is carrying dangerous goods; and
  - (b) a person is required under the Act or this regulation to hold a dangerous goods driver licence to transport the goods in the vehicle.

- (5) The prime contractor must ensure that the driver of a vehicle (a *tow truck*) towing the vehicle carrying the dangerous goods—
  - (a) holds a dangerous goods driver licence; or
  - (b) is accompanied, in the cabin of the tow truck, by a person who holds a dangerous goods driver licence.

Maximum penalty—20 penalty units.

## **Division 2                      Duties of drivers**

### **139      Driving**

The driver of a vehicle transporting a placard load must not allow another person to ride in the vehicle other than in accordance with part 13 of the ADG Code.

Maximum penalty—7½ penalty units.

### **140      Parking**

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

Maximum penalty—13 penalty units.

### **141      Control of ignition sources**

(1) This section applies in relation to a vehicle transporting a load that contains dangerous goods if—

- (a) the load contains—
  - (i) dangerous goods in a receptacle with a capacity of more than 500L; or
  - (ii) more than 500kg of dangerous goods in a receptacle; and
- (b) the dangerous goods are of UN division 2.1 or UN class 3, 4 or 5 or have a subsidiary hazard of 2.1, 3, 4 or 5.1.

(2) The driver of the vehicle must not—

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

Maximum penalty—40 penalty units.

- (3) The driver of the vehicle must take all practicable steps to prevent another person in the vehicle from—
- (a) having matches or a cigarette lighter in the other person's possession; or
  - (b) smoking.

Maximum penalty—40 penalty units.

## **142 Unloading**

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

Maximum penalty—40 penalty units.

## **143 Detaching trailers**

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

Maximum penalty—40 penalty units.

## **144 Tank vehicles equipped with burners**

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

Maximum penalty—40 penalty units.

## **Division 3                    Duties of prime contractors**

### **145    Unloading**

A prime contractor must not authorise or instruct a driver to unload dangerous goods, from a vehicle transporting a placard load, in a way that does not comply with part 13 of the ADG Code.

Maximum penalty—40 penalty units.

### **146    Detaching trailers**

A prime contractor must not authorise or instruct a driver to detach a trailer containing a placard load from a vehicle other than in accordance with part 13 of the ADG Code.

Maximum penalty—40 penalty units.

## **Division 4                    Other matters**

### **147    Unauthorised access to goods**

A prime contractor for the transport of dangerous goods, or the driver of a vehicle transporting dangerous goods, must take all reasonable precautions to prevent access to the goods by anyone else other than someone lawfully entitled to have access to the goods.

Maximum penalty—40 penalty units.

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## **Part 14                      Emergencies**

### **Division 1                      Emergencies generally**

#### **148      Duties of drivers of vehicles**

- (1) This section applies if a vehicle transporting dangerous goods is involved in an incident resulting in a dangerous situation.
- (2) The driver of the vehicle must—
  - (a) notify the prime contractor, the chief executive, and either the Queensland Police Service or the Queensland Fire and Rescue Service, of the incident as soon as practicable, but not more than 24 hours, after the incident; and
  - (b) provide any reasonable assistance required by an authorised officer, or a relevant emergency service officer, to deal with the situation.

Maximum penalty—20 penalty units.

#### **149      Duty of prime contractors relating to food or food packaging**

- (1) This section applies if—
  - (a) an incident involving a vehicle transporting dangerous goods results in the leakage, spillage or escape of the dangerous goods, or in a fire or explosion; and
  - (b) there is food or food packaging in the vicinity of the incident that is within the control of a prime contractor.
- (2) The prime contractor must not remove, or permit to be removed, the food or food packaging from the site of the incident unless the chief executive has given permission to the prime contractor to transport the food or food packaging from the site.

Maximum penalty—40 penalty units.

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

## **150 Duties of prime contractors to inform chief executive**

- (1) This section applies if a vehicle transporting dangerous goods is involved in an incident resulting in a dangerous situation.
- (2) As soon as practicable, but not more than 24 hours, after becoming aware of the incident, the prime contractor responsible for the transport of the goods must provide the chief executive with the following details about the incident—
  - (a) where the incident happened;
  - (b) the time and day of the incident;
  - (c) the nature of the incident;
  - (d) the dangerous goods being transported when the incident happened;
  - (e) any other details the chief executive may reasonably require.

Maximum penalty—20 penalty units.

- (3) Within 21 days after the day the incident happens, the prime contractor must give to the chief executive a written report about the incident stating the following—
  - (a) where the incident happened;

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

Maximum penalty—20 penalty units.

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

### **151    Telephone advisory service**

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

Maximum penalty—40 penalty units.

- (2) A person must not consign a load of—
  - (a) dangerous goods in a receptacle with a capacity of more than 500L; or
  - (b) more than 500kg of dangerous goods in a receptacle;

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if a telephone advisory service for the transport is not available during the journey.

Maximum penalty—40 penalty units.

- (3) For subsection (1) or (2), a telephone advisory service may be provided by the prime contractor or consignor, or someone else for the prime contractor or consignor.
- (4) In this section—

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

## 152 Emergency plans

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

Maximum penalty—40 penalty units.

- (2) A prime contractor transporting a placard load, who becomes aware of a dangerous situation involving the load, must do everything that the emergency plan for the transport of the load requires the prime contractor to do that is relevant to the situation.

Maximum penalty—40 penalty units.

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- (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 load.

Maximum penalty—40 penalty units.

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

Maximum penalty—40 penalty units.

- (5) The chief executive may, by written notice, ask the prime contractor or consignor of a placard load to give the chief executive the emergency plan for the transport of the load.

- (6) The prime contractor or consignor must give the emergency plan to the chief executive within 14 days after the day the notice is given.

Maximum penalty—15 penalty units.

- (7) In this section—

***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 load, that is prepared having regard to guidelines approved by the Transport and Infrastructure Council.

*Editor's note—*

A copy of the guidelines is available on the website of the National Transport Commission.

### **153 Duties of consignors—information and resources**

- (1) This section applies if the consignor of dangerous goods in a placard load becomes aware that the vehicle transporting the load has been involved in an incident resulting in a dangerous situation.
- (2) The consignor must, unless the consignor has a reasonable excuse—

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- (a) give the prescribed person information about the following—
  - (i) the properties of the goods;
  - (ii) the construction and properties of packaging used to transport the goods;
  - (iii) safe methods of handling the goods;
  - (iv) safe methods of containing and controlling the goods in a dangerous situation; and
- (b) provide the equipment and other resources necessary for the following—
  - (i) controlling the dangerous situation;
  - (ii) containing, controlling, recovering or disposing of dangerous goods that have leaked, spilled or escaped.

Maximum penalty—20 penalty units.

- (3) Subsection (2)(a) does not apply if the prime contractor for the transport of the dangerous goods in the load gives the information mentioned in the subsection for the incident.
- (4) Subsection (2)(b) does not apply if the prime contractor for the transport of the dangerous goods in the load provides the equipment and resources mentioned in the subsection for the incident.
- (5) In this section—

***prescribed person*** means—

- (a) if the consignor has been notified of the relevant emergency service officer who is in charge of dealing with the dangerous situation—the relevant emergency service officer; or
- (b) otherwise—a relevant emergency service officer.

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## 154 Duties of prime contractors—information and resources

- (1) This section applies if the prime contractor for the transport of dangerous goods in a placard load becomes aware that the vehicle transporting the load has been involved in an incident resulting in a dangerous situation.
- (2) The prime contractor must, unless the prime contractor has a reasonable excuse—
  - (a) give the prescribed person information about the following—
    - (i) the vehicle’s construction, properties and equipment;
    - (ii) the construction and properties of packaging used to transport the goods; and
  - (b) provide the equipment and other resources for the following—
    - (i) controlling the dangerous situation;
    - (ii) recovering a vehicle involved in the situation or its equipment.

Maximum penalty—20 penalty units.

- (3) Subsection (2)(a) does not apply if the consignor of the dangerous goods in the load gives the information mentioned in the subsection for the incident.
- (4) Subsection (2)(b) does not apply if the consignor of the dangerous goods in the load provides the equipment and resources mentioned in the subsection for the incident.
- (5) In this section—

***prescribed person*** means—

- (a) if the prime contractor has been notified of the relevant emergency service officer who is in charge of dealing with the dangerous situation—the relevant emergency service officer; or
- (b) otherwise—a relevant emergency service officer.

## **Part 15                      Administrative matters**

### **Division 1                      Provisions about registers**

#### **155      Registers to which this division applies**

This division applies in relation to each of the following registers—

- (a) the register of determinations kept under section 28(1)(a);
- (b) the register of exemptions kept under section 167(1)(a);
- (c) the register of approvals kept under section 179(1)(a);
- (d) the register of dangerous goods driver licences kept under section 225(1);
- (e) the register of dangerous goods vehicle licences kept under section 225(2).

#### **156      Registers may be kept by computer**

- (1) The register, or part of the register, may be kept by computer.
- (2) An entry made by computer for the register is taken to be a record made in the register.

#### **157      Inspection of registers**

- (1) The chief executive must ensure that the register is available for inspection by a dangerous goods authority.
- (2) The chief executive must ensure that a register mentioned in section 155(a) to (c) is available for inspection by the public.
- (3) The chief executive is taken to comply with subsections (1) and (2) by ensuring there is reasonable access to—
  - (a) copies of information in a register; or
  - (b) a computer terminal to inspect a register.

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## Division 2                      **Recommendations by chief executive and dangerous goods authorities**

### 158      **Recommendations by chief executive**

- (1) This section applies if the chief executive considers that a ground exists for a dangerous goods authority to do any of the following (the *proposed action*)—
  - (a) amend or cancel a corresponding determination;
  - (b) amend or cancel a corresponding approval or corresponding exemption;
  - (c) amend, suspend or cancel a corresponding dangerous goods driver licence or corresponding dangerous goods vehicle licence.
- (2) The chief executive may recommend, in writing, that the dangerous goods authority take the proposed action.
- (3) The chief executive must provide written reasons to the dangerous goods authority for the recommendation.
- (4) If the recommendation is about a corresponding determination (other than a corresponding administrative determination), corresponding approval or corresponding exemption that has effect in 1 or more other participating jurisdictions, the chief executive must also refer the recommendation to the competent authorities panel.
- (5) In this section—

*corresponding administrative determination* means a corresponding determination—

  - (a) made by a dangerous goods authority on the application of a person; and
  - (b) that applies to the person or the person and other persons named in the application.

### **159 Recommendations by dangerous goods authorities**

- (1) This section applies if a dangerous goods authority recommends to the chief executive in writing that the chief executive do any of the following—
  - (a) amend or cancel a determination;
  - (b) amend, suspend or cancel an administrative determination;
  - (c) amend, suspend or cancel an approval or exemption;
  - (d) amend, suspend or cancel a dangerous goods driver licence or dangerous goods vehicle licence.
- (2) Subject to sections 169(2)(b) and 181(2)(b), if the recommendation is about a determination (other than an administrative determination), approval or exemption that has effect in 1 or more other participating jurisdictions, the chief executive need not take any action on the recommendation until the competent authorities panel has considered the recommendation.
- (3) In any other case, the chief executive must have regard to the recommendation.

## **Division 3 Mutual recognition of determinations, exemptions, approvals and licences**

### **160 Chief executive may refer corresponding decisions to competent authorities panel**

- (1) This section applies if—
  - (a) the chief executive considers any of the following (each a *corresponding decision*) should have effect in all participating jurisdictions, or this jurisdiction and 1 or more other participating jurisdictions—
    - (i) a decision to which section 161(1)(a) and (b) apply;

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- (ii) an exemption to which section 162(1)(a) and (b) apply;
    - (iii) an approval to which section 163(1)(a) and (b) apply; and
  - (b) the competent authorities panel has not considered whether the corresponding decision should have effect in all participating jurisdictions, or this jurisdiction and 1 or more other participating jurisdictions.
- (2) The chief executive may refer the corresponding decision to the competent authorities panel for considering whether the corresponding decision should have effect in—
- (a) all participating jurisdictions; or
  - (b) this jurisdiction and 1 or more other participating jurisdictions.

## 161 Corresponding determinations

- (1) This section applies to a decision, however called, made by a dangerous goods authority if—
- (a) the decision is made under a provision of the law of another jurisdiction corresponding to a provision (the *relevant provision*) of section 23 or 24; and
  - (b) the decision has effect in the other jurisdiction; and
  - (c) either of the following applies—
    - (i) the competent authorities panel has decided that the decision should have effect in all participating jurisdictions or 1 or more participating jurisdictions including this jurisdiction, and the panel has not reversed its decision;
    - (ii) the decision is an administrative determination under a provision of the law of the other jurisdiction corresponding to section 25.
- (2) Other than for circumstances that do not exist in this jurisdiction, the decision has effect in this jurisdiction as if it

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were a determination made by the chief executive under the relevant provision.

## 162 Corresponding exemptions

- (1) This section applies to an exemption granted by a dangerous goods authority if—
  - (a) the exemption is granted for a provision of the law of another jurisdiction corresponding to a provision (the *relevant provision*) of this regulation; and
  - (b) the exemption has effect in the other jurisdiction; and
  - (c) the competent authorities panel has decided that the exemption should have effect in all participating jurisdictions or 1 or more participating jurisdictions including this jurisdiction, and the panel has not reversed its decision.
- (2) Other than for circumstances that do not exist in this jurisdiction, the exemption has effect in this jurisdiction as if it were an exemption granted by the chief executive for the relevant provision.

## 163 Corresponding approvals

- (1) This section applies to an approval granted in another jurisdiction if—
  - (a) the approval is issued or given under a provision of the law of the other jurisdiction corresponding to a provision (the *relevant provision*) of any of the following sections—
    - (i) section 21;
    - (ii) section 50;
    - (iii) section 53;
    - (iv) section 113;
    - (v) section 114;

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- (vi) section 133;
  - (vii) section 245; and
  - (b) the approval has effect in the other jurisdiction; and
  - (c) the competent authorities panel has decided that the approval should have effect in all participating jurisdictions or 1 or more participating jurisdictions including this jurisdiction, and the panel has not reversed its decision.
- (2) Other than for circumstances that do not exist in this jurisdiction, the approval has effect in this jurisdiction as if it were an approval given by the chief executive under the relevant provision.

## **164 Corresponding licences**

- (1) This section applies to a licence granted in another jurisdiction if—
- (a) the licence is granted under a provision of the law of the other jurisdiction corresponding to section 193 or 208 (the *relevant provision*); and
  - (b) the licence has effect in the other jurisdiction.
- (2) Other than for circumstances that do not exist in this jurisdiction, the licence has effect in this jurisdiction as if it were a licence granted under the relevant provision.

# **Part 16 Exemptions**

## **Division 1 Purpose of part**

### **165 Purpose of part**

This part provides for the following matters in relation to an exemption under section 153 of the Act—

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- (a) how an application for the exemption must be made;
- (b) the keeping of a register of exemptions;
- (c) the role of the competent authorities panel in relation to the exemption.

## **Division 2                    General matters about exemptions**

### **166    Applications for exemptions**

- (1) An application for an exemption must—
  - (a) be made to the chief executive in the approved form; and
  - (b) state the applicant’s name and address; and
  - (c) 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
  - (d) state the provisions of this regulation, and of the ADG Code, to which the application relates; and
  - (e) state the dangerous goods to which the application relates; and
  - (f) state why, in the applicant’s opinion, compliance with the provisions mentioned in paragraph (d) is not reasonably practicable; and
  - (g) 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 mentioned in paragraph (d); and
  - (h) if the application relates to a vehicle, equipment, packaging or other thing—describe the vehicle, equipment, packaging or thing; and
  - (i) state the period for which the exemption is sought; and
  - (j) state the geographical area within which the exemption is to have effect; and

- (k) if a fee is stated for the application under section 246—  
be accompanied by the stated fee.
- (2) The chief executive may, by written notice given to the applicant, ask the applicant to give to the chief executive the additional information reasonably necessary to decide the application.

## 167 Register of exemptions

- (1) The chief executive must—
  - (a) keep a register of exemptions; and
  - (b) with other dangerous goods authorities, keep a central register of corresponding exemptions.
- (2) A register kept under subsection (1) may have separate divisions for different kinds of exemptions.
- (3) The chief executive must record each exemption in the register kept under subsection (1)(a).
- (4) The chief executive must note the amendment, suspension or cancellation of an exemption in the register kept under subsection (1)(a).
- (5) In this section—  
*corresponding exemption* includes an exemption under this regulation that the competent authorities panel has decided should have effect in 1 or more other participating jurisdictions.

## 168 Records of exemptions

The record of an exemption in the register kept under section 167(1)(a) must include—

- (a) the terms of the exemption; or
- (b) the following information—

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- (i) the name of the person to whom, or the name or a description of the class of persons to which, the exemption applies;
- (ii) the day the exemption was granted;
- (iii) the provisions of this regulation, and of the ADG Code, to which the exemption relates;
- (iv) the period for which the exemption has effect;
- (v) the dangerous goods, vehicle, equipment, packaging or other thing to which the exemption relates;
- (vi) the geographical area for which the exemption has effect.

## **Division 3                      Referring matters to the competent authorities panel**

### **169      Referring matters to the competent authorities panel**

- (1) The chief executive must refer an exemption, or an application for an exemption, to the competent authorities panel if the chief executive considers that the exemption should have effect in all participating jurisdictions or this jurisdiction and 1 or more other participating jurisdictions.
- (2) The chief executive must refer to the competent authorities panel an exemption having effect in this jurisdiction, and 1 or more other participating jurisdictions, if—
  - (a) the chief executive considers that the exemption should be amended, suspended or cancelled; or
  - (b) a dangerous goods authority recommends to the chief executive in writing that the exemption should be amended, suspended or cancelled.

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**170 Effect of competent authorities panel decisions about exemptions**

- (1) This section applies if—
  - (a) an exemption, or an application for an exemption, is referred to the competent authorities panel under section 169(1); and
  - (b) the competent authorities panel decides that the exemption—
    - (i) should have been, or should be, granted, what the terms of the exemption should be, and that the exemption should have effect in all participating jurisdictions or this jurisdiction and 1 or more other participating jurisdictions; or
    - (ii) should not have effect in this jurisdiction.
- (2) The chief executive must have regard to the competent authorities panel's decision.

**171 Effect of competent authorities panel decisions about amending, suspending or cancelling exemptions**

- (1) This section applies if—
  - (a) an exemption is referred to the competent authorities panel under section 169(2); and
  - (b) the competent authorities panel decides that the exemption—
    - (i) should be amended (whether or not the panel's decision is the same as the amendment proposed by the chief executive or recommended by the dangerous goods authority), and should have effect as amended in all participating jurisdictions or this jurisdiction and 1 or more other participating jurisdictions; or
    - (ii) should not be amended; or
    - (iii) should, or should not, be suspended or cancelled.

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- (2) The chief executive must have regard to the competent authorities panel's decision.

## **Part 17                      Administrative determinations and approvals**

### **Division 1                      General**

#### **172      Applications**

- (1) An application for an administrative determination or approval, or for the amendment of an administrative determination or approval, must—
  - (a) be made to the chief executive in writing; and
  - (b) if a fee is stated for the application under section 246—be accompanied by the stated fee.
- (2) An application for the amendment of an administrative determination or approval must have the determination or approval with it.
- (3) The chief executive may, by written notice given to the applicant, ask the applicant to give to the chief executive the additional information reasonably necessary to decide the application.

#### **173      Form of administrative determinations and approvals**

- (1) An administrative determination, or an approval on application, must be given by written notice to the applicant.
- (2) An approval under section 21 or 133 on the chief executive's initiative is given by recording it in the register kept under section 179(1)(a).

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**174 When administrative determinations and approvals not to be made**

The chief executive must not make an administrative determination on the application of, or give an approval under this regulation to, a person who is prohibited by a court order under section 160 of the Act from involvement in the transport of dangerous goods.

**175 Reasons for refusal of applications**

- (1) This section applies if the chief executive refuses an application to—
  - (a) make or amend an administrative determination; or
  - (b) give or amend an approval under this regulation.
- (2) The chief executive must inform the applicant by written notice of the refusal.
- (3) The notice must be or include an information notice for the refusal.

**176 Periods and conditions**

- (1) An administrative determination or approval has effect for the period stated in the determination or approval.
- (2) A condition to which an administrative determination, or an approval, is subject must be stated in the determination or approval.

**177 Replacement administrative determinations and approvals**

The chief executive must give to a person to whom an administrative determination applies, or an approval is granted, a replacement determination or approval if—

- (a) the determination or approval is amended; or
- (b) the chief executive is satisfied the determination or approval has been defaced, destroyed, lost or stolen.

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## **178 Amending, suspending or cancelling administrative determinations and approvals**

An administrative determination or an approval under this regulation is prescribed as an approval for section 18(1)(k) and (l) of the Act.

## **Division 2 Register of approvals**

### **179 Register of approvals**

- (1) The chief executive must—
  - (a) keep a register of approvals; and
  - (b) with other dangerous goods authorities, keep a central register of corresponding approvals.
- (2) A register kept under subsection (1) may have separate divisions for different kinds of approvals.
- (3) The chief executive must record each approval in the register kept under subsection (1)(a).
- (4) The chief executive must note the amendment, suspension or cancellation of an approval in the register kept under subsection (1)(a).
- (5) In this section—

*corresponding approval* includes an approval under this regulation that the competent authorities panel has decided should have effect in 1 or more other participating jurisdictions.

### **180 Records of approvals**

The record of an approval in the register kept under section 179(1)(a) 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 day the approval was given;
  - (iii) the provisions of this regulation, and of the ADG Code, to which the approval relates;
  - (iv) the period for which the approval has effect;
  - (v) the dangerous goods, equipment, packaging, vehicle or other thing to which the approval relates;
  - (vi) the conditions of the approval.

## **Division 3                      Referring matters to the competent authorities panel**

### **181      Referring matters to the competent authorities panel**

- (1) The chief executive must refer any of the following matters or applications to the competent authorities panel if the chief executive considers the matter or decision on the application should have effect in all participating jurisdictions, or this jurisdiction and 1 or more other participating jurisdictions—
  - (a) an approval;
  - (b) an application for an approval;
  - (c) an administrative determination;
  - (d) an application for an administrative determination.
- (2) The chief executive must refer to the competent authorities panel an approval or administrative determination having effect in this jurisdiction, and 1 or more other participating jurisdictions, if—
  - (a) the chief executive considers that the approval or administrative determination should be amended, suspended or cancelled; or
  - (b) a dangerous goods authority recommends to the chief executive in writing that the approval or administrative

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determination should be amended, suspended or cancelled.

## **182 Effect of competent authorities panel decisions about particular matters**

- (1) This section applies if—
  - (a) a matter is referred to the competent authorities panel under section 181(1); and
  - (b) the competent authorities panel decides—
    - (i) that the approval or administrative determination should have been, or should be, given, what the terms of the approval or administrative determination should be, and that the approval or administrative determination should have effect in all participating jurisdictions or this jurisdiction and 1 or more other participating jurisdictions; or
    - (ii) that the approval or administrative determination should not have effect in this jurisdiction.
- (2) The chief executive must have regard to the competent authorities panel's decision.

## **183 Effect of competent authorities panel decisions about amending, suspending or cancelling approvals or administrative determinations**

- (1) This section applies if—
  - (a) an approval or administrative determination is referred to the competent authorities panel under section 181(2); and
  - (b) the competent authorities panel decides that the approval or administrative determination—
    - (i) should be amended (whether or not the panel's decision is the same as the amendment proposed by the chief executive or recommended by the dangerous goods authority), and should have effect

as amended in all participating jurisdictions or this jurisdiction and 1 or more other participating jurisdictions; or

(ii) should not be amended; or

(iii) should, or should not, be suspended or cancelled.

(2) The chief executive must have regard to the competent authorities panel's decision.

## **Part 18 Licences**

### **Division 1 Preliminary**

#### **184 Application of part**

Despite anything to the contrary in this part, this part does not apply in relation to the transport of dangerous goods on a vehicle if—

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

#### **185 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.

## **Division 2                      Vehicles and drivers must be licensed under this part**

### **186      Vehicles must be licensed**

A vehicle must not be used to transport—

- (a) dangerous goods that are in a receptacle with a capacity of more than 500L; or
  - (b) more than 500kg of dangerous goods in a receptacle;
- unless the vehicle is licensed under this part to transport the goods.

*Note—*

See section 154 of the Act for offences relating to vehicles required to be licensed under this section.

### **187      Drivers must be licensed**

A person must not drive a vehicle transporting—

- (a) dangerous goods that are in a receptacle with a capacity of more than 500L; or
  - (b) more than 500kg of dangerous goods in a receptacle;
- unless the person holds a dangerous goods driver licence that authorises the person to drive the vehicle with the goods.

*Note—*

See section 154 of the Act for offences relating to drivers required to be licensed under this section.

## **Division 3                      Dangerous goods driver licences**

### **188      Definition for division**

In this division—

*licensee* means the holder of a dangerous goods driver licence.

## **189 Applications for licences**

- (1) A person resident in Queensland who is not the holder of a dangerous goods driver licence may apply to the chief executive for a dangerous goods driver licence.

*Note—*

See division 7, subdivision 2 for requirements about the application.

- (2) The application must be accompanied by—
- (a) the driver licence evidence required under section 190; and
  - (b) the competency evidence required under section 191; and
  - (c) the medical fitness evidence required under section 192; and
  - (d) if a fee is stated for the application under section 246—the stated fee.

## **190 Required driver licence evidence**

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 copy of—
  - (i) the applicant's open licence; or
  - (ii) if the applicant does not presently hold, but has previously held, an open licence—the applicant's probationary licence or restricted licence;
- (b) an authorisation by the applicant for the chief executive to have access to entries about the applicant in the driver licences register of any State.

*Note—*

See section 17C of the Act for when the chief executive may obtain information about the applicant's criminal history from the commissioner.

## **191 Required competency evidence**

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

*approved test* means a test approved under section 21(1)(a).

*approved training course* means a training course approved under section 21(1)(b).

## **192 Required medical fitness evidence**

- (1) The certificate mentioned in subsection (2) is required as medical fitness evidence for an application for the grant or renewal of a dangerous goods driver licence.
- (2) The certificate must be—
  - (a) about the medical fitness of the applicant to drive a vehicle; and
  - (b) issued by a doctor who, not more than 6 months before the day the application is made, examined and passed the applicant in accordance with the fitness to drive standards, as in force at the time of the examination.

## **193 Grant of dangerous goods driver licences**

- (1) The chief executive must grant a dangerous goods driver licence, with or without conditions, if—

- (a) an application is made to the chief executive for the licence; and
- (b) the application complies with section 189; and
- (c) the applicant holds an open licence.

*Notes—*

- 1 See also the *Transport Planning and Coordination Act 1994*, section 28EA(5) for when the chief executive must refuse to consider an application.
  - 2 See also section 200 for the conditions the chief executive may impose on a dangerous goods driver licence.
- (2) However, the chief executive must not grant a dangerous goods driver licence if—
- (a) in the 5 years before the day the application is made—
    - (i) the applicant was convicted by a court in Australia of an offence that in the chief executive’s opinion makes the applicant unsuitable to be the driver of a vehicle transporting dangerous goods; or
    - (ii) the applicant’s driver licence has been suspended or cancelled on a ground that in the chief executive’s opinion makes the applicant unsuitable to be the driver of a vehicle transporting dangerous goods; or
  - (b) the applicant is subject to a court order, under section 160 of the Act, prohibiting the applicant from involvement in the transport of dangerous goods.
- (3) Without limiting subsection (2)(a), the chief executive may consider a person to be unsuitable to be the driver of a vehicle transporting dangerous goods if—
- (a) the person has been convicted of an offence against the *Drugs Misuse Act 1986* or of an offence involving careless or dangerous driving or driving under the influence of liquor or a drug; or
  - (b) the person has been disqualified from holding or obtaining a driver licence, whether absolutely or for a period.

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- (4) Also, the chief executive may refuse to consider an application for a dangerous goods driver licence if the applicant already holds a dangerous goods driver licence under the name stated in the application or another name.

*Note—*

See also section 203.

- (5) If the chief executive grants a dangerous goods driver licence, the chief executive must give the applicant a driver authorising document.
- (6) If the chief executive refuses to grant a dangerous goods driver licence, or grants a dangerous goods driver licence subject to conditions, the chief executive must inform the applicant by written notice of the decision.
- (7) The notice must be or include an information notice.

## **194 Applications for renewal of licences**

- (1) A person resident in Queensland who holds a dangerous goods driver licence may apply to the chief executive for the renewal of the licence.

*Note—*

See division 7, subdivision 2 for requirements about the application.

- (2) The application must be accompanied by—
  - (a) the driver licence evidence required under section 190;  
and
  - (b) the competency evidence required under section 191;  
and
  - (c) the medical fitness evidence required under section 192;  
and
  - (d) if a fee is stated for the application under section 246—  
the stated fee.

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## 195 Renewal of licences

- (1) The chief executive must renew a dangerous goods driver licence, with or without conditions, if—
- (a) an application is made to the chief executive for renewal of the licence; and
  - (b) the application complies with section 194.

*Notes—*

- 1 See also the *Transport Planning and Coordination Act 1994*, section 28EA(5) for when the chief executive must refuse to consider an application.
  - 2 See also section 200 for the conditions the chief executive may impose on a dangerous goods driver licence.
- (2) However, the chief executive must not renew a dangerous goods driver licence if—
- (a) while the licence was in force—
    - (i) the applicant was convicted in Australia of an offence that in the chief executive’s opinion makes the applicant unsuitable to be the driver of a vehicle transporting dangerous goods; or
    - (ii) the applicant’s driver licence has been suspended or cancelled on a ground that in the chief executive’s opinion makes the applicant unsuitable to be the driver of a vehicle transporting dangerous goods; or
  - (b) the applicant is subject to a court order, under section 160 of the Act, prohibiting the applicant from involvement in the transport of dangerous goods.
- (3) Without limiting subsection (2)(a), the chief executive may consider a person to be unsuitable to be the driver of a vehicle transporting dangerous goods if—
- (a) the person has been convicted of an offence against the *Drugs Misuse Act 1986* or of an offence involving careless or dangerous driving or driving under the influence of liquor or a drug; or

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- (b) the person has been disqualified from holding or obtaining a driver licence, whether absolutely or for a period.
- (4) If the chief executive refuses to renew a dangerous goods driver licence, or renews a dangerous goods driver licence subject to conditions, the chief executive must inform the applicant by written notice of the decision.
- (5) The notice must be or include an information notice.

### **196 Licence periods**

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

### **197 Form of driver authorising documents**

- (1) This section applies if the chief executive—
  - (a) grants a dangerous goods driver licence to a person, or renews a person's dangerous goods driver licence, and gives the person a driver authorising document; or
  - (b) gives a person a replacement driver authorising document.
- (2) The driver authorising document may be in the form of a smartcard dangerous goods driver licence or an interim transport authority.
- (3) Subsection (2) does not limit the form of a driver authorising document.
- (4) A smartcard dangerous goods driver licence given to a person may be in the form of a smartcard transport authority that

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includes information about 1 or more other transport authorities held by the person.

(5) In this section—

*smartcard transport authority* has the meaning given by the *Transport Planning and Coordination Act 1994*, section 36G(1).

*transport authority* see the *Transport Planning and Coordination Act 1994*, section 36G(3).

## **198 General provisions about driver authorising documents**

(1) A driver authorising document may—

- (a) indicate by way of a code, expression or otherwise that a person holds a dangerous goods driver licence and whether the licence is subject to a condition; and
- (b) contain information about—
  - (i) the licence; and
  - (ii) the person’s personal particulars.

(2) A code or expression mentioned in subsection (1) may be—

- (a) stated on a driver authorising document; or
- (b) stored electronically on a smartcard dangerous goods driver licence.

(3) Subsection (1) does not limit the information a driver authorising document may contain.

## **199 Expressions on driver authorising documents**

- (1) The expression ‘dangerous goods driver licence’ on a driver authorising document indicates that the person is the holder of a dangerous goods driver licence.
- (2) The expression ‘authority no.’ on a driver authorising document indicates the licence number given to the holder of a dangerous goods driver licence.

## **200 Licence conditions**

- (1) The chief executive may grant or renew a dangerous goods driver licence subject to a condition mentioned in subsection (2) or (3).
- (2) A dangerous goods driver licence may be subject to a condition about—
  - (a) the dangerous goods that may or may not be transported in or on a vehicle driven by the licensee; or
  - (b) the packaging that may or may not be used to transport dangerous goods in or on a vehicle driven by the licensee; or
  - (c) the vehicles that may be driven by the licensee in transporting dangerous goods; or
  - (d) the areas where the licensee may or may not drive a vehicle transporting dangerous goods or particular dangerous goods; or
  - (e) the supervision of the licensee when driving a vehicle transporting dangerous goods; or
  - (f) the medical examinations required to be undergone by the licensee in accordance with the fitness to drive standards.
- (3) A dangerous goods driver licence may be subject to any other condition necessary for the safe transport of dangerous goods by road.

## **201 Codes on driver authorising document**

The following codes may be used on a driver authorising document—

- (a) ‘N’ stated on a driver authorising document to show that—
  - (i) the dangerous goods driver licence is not subject to a condition; or

- (ii) the dangerous goods driver licence is subject to a condition evidence of which need not be carried by the holder of the licence while carrying out activities for which the licence is required;
- (b) ‘Y’ stated on a driver authorising document to show that the dangerous goods driver licence is subject to a condition evidence of which must be carried by the holder of the licence while carrying out activities for which the licence is required;
- (c) ‘TEXT’ stored on a smartcard driver dangerous goods driver licence to show that the licence is subject to a condition.

## **202 Additional condition**

- (1) It is a condition of a dangerous goods driver licence that the chief executive may, by written notice given to the licensee, require the licensee to produce to the chief executive a certificate that would be required under section 192 if the licensee were to apply for a renewal of the licence.
- (2) The written notice must state a period of at least 2 months after the day the notice is given to the licensee within which the licensee must produce the certificate.
- (3) The chief executive must not give written notice under this section if the period of validity of the dangerous goods driver licence is less than 4 months.

## **203 Only 1 dangerous goods driver licence to be held at the same time**

A person must not hold more than 1 dangerous goods driver licence at the same time.

Maximum penalty—40 penalty units.

## **204 Amending, suspending or cancelling licences**

A dangerous goods driver licence is prescribed as an approval for section 18(1)(l) of the Act.

## **Division 4 Dangerous goods vehicle licences**

### **205 Definitions for division**

In this division—

*converter dolly* see the *Transport Operations (Road Use Management—Vehicle Standards and Safety) Regulation 2010*, schedule 4.

*vehicle* does not include—

- (a) a prime mover; or
- (b) a converter dolly.

### **206 Applications for licences**

- (1) A person may apply to the chief executive for a dangerous goods vehicle licence for a vehicle—
  - (a) used, or intended to be used, for transporting dangerous goods; and
  - (b) for which the person does not hold a dangerous goods vehicle licence.

*Note—*

See division 7, subdivision 2 for requirements about the application.

- (2) The application must include the following information—
  - (a) the registration number, make and type of the vehicle;
  - (b) the type of dangerous goods intended to be transported in or on the vehicle;
  - (c) if the applicant holds a dangerous goods vehicle licence for another vehicle—the number of the other dangerous goods vehicle licence.

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- (3) If a fee is stated for the application under section 246, the application must be accompanied by the stated fee.
  - (4) An application may be made for dangerous goods vehicle licences for 2 or more vehicles—
    - (a) if the application is made under section 236(1)(a)—in the same approved form; or
    - (b) if the application is made under section 236(1)(b)—in the same approved way; or
    - (c) if the application is made under section 236(1)(c)—in the same application in writing.

## **207 Additional information and inspections**

- (1) This section applies in relation to the applicant for a dangerous goods vehicle licence, or the renewal of a dangerous goods vehicle licence, for a vehicle.
- (2) The chief executive may, by written notice given to the applicant, ask the applicant—
  - (a) to give to the chief executive the additional information reasonably necessary to decide the application; or
  - (b) to make the vehicle available for inspection by the chief executive at a stated place and time.
- (3) If a report of an inspection under subsection (2)(b) is prepared, the chief executive must give a copy of it to the applicant if the applicant asks for it.

## **208 Grant of dangerous goods vehicle licences**

- (1) The chief executive must grant, with or without conditions, a dangerous goods vehicle licence for a vehicle if—
  - (a) an application is made to the chief executive for the licence; and
  - (b) the application complies with section 206; and

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- (c) the applicant has complied with a request made under section 207 in relation to the application; and
- (d) the vehicle is suitable to transport each type of dangerous goods intended to be transported in or on the vehicle.

*Note—*

See section 212 for the conditions the chief executive may impose on a dangerous goods vehicle licence.

- (2) Without limiting subsection (1)(d), if a 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 to transport the goods 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 vehicles for use in transporting dangerous goods in the form of a liquid or gas.
- (3) However, the chief executive must not grant a dangerous goods vehicle licence if the applicant is subject to a court order, under section 160 of the Act, prohibiting the applicant from involvement in the transport of dangerous goods.
- (4) The chief executive may issue a single dangerous goods vehicle licence for more than 1 vehicle.
- (5) If the chief executive refuses to grant a dangerous goods vehicle licence, or grants a dangerous goods vehicle licence subject to conditions, the chief executive must inform the applicant by written notice of the decision.
- (6) The notice must be or include an information notice.

## **209 Applications for renewal of licences**

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

*Note—*

See division 7, subdivision 2 for requirements about the application.

- (2) The application must include the information mentioned in section 206(2).
- (3) If a fee is stated for the application under section 246, the application must be accompanied by the stated fee.

## **210 Renewal of licences**

- (1) The chief executive must, with or without conditions, renew a dangerous goods vehicle licence for a vehicle if—
  - (a) an application is made to the chief executive for the renewal of the licence; and
  - (b) the application complies with section 209; and
  - (c) the applicant has complied with a request made under section 207 in relation to the application; and
  - (d) the vehicle is suitable to transport each type of dangerous goods intended to be transported in or on the vehicle.

*Note—*

See section 212 for the conditions the chief executive may impose on the renewal of a dangerous goods vehicle licence.

- (2) Without limiting subsection (1)(d), if a 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 vehicles for use in transporting dangerous goods in the form of a liquid or gas.
- (3) However, the chief executive must not renew a dangerous goods vehicle licence if the applicant is subject to a court order, under section 160 of the Act, prohibiting the applicant from involvement in the transport of dangerous goods.

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- (4) The chief executive may issue a single dangerous goods vehicle licence for more than 1 vehicle.
- (5) If the chief executive refuses to renew a dangerous goods vehicle licence, or renews a dangerous goods vehicle licence subject to conditions, the chief executive must inform the applicant by written notice of the decision.
- (6) The notice must be or include an information notice.

## **211 Licence periods**

- (1) A dangerous goods vehicle licence is granted for the period stated in the licence.
- (2) A dangerous goods vehicle licence takes effect on the day the licence is granted or a later day stated in the licence.
- (3) A dangerous goods vehicle licence is renewed for the period stated in the renewed licence.

## **212 Licence conditions**

- (1) The chief executive may grant or renew a dangerous goods vehicle licence subject to a condition mentioned in subsection (3) or (4).
- (2) A condition to which a dangerous goods vehicle licence is subject must be stated in the licence.
- (3) A dangerous goods vehicle licence for a vehicle may be subject to a condition 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 that are required.
- (4) A dangerous goods vehicle licence may be subject to any other condition necessary for the safe transport of dangerous goods.

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## 213 Disposal of licensed vehicles

- (1) Within 21 days after transferring possession or otherwise disposing of a licensed vehicle (the *disposed vehicle*), the person who holds the dangerous goods vehicle licence for the vehicle must notify the chief executive of the disposal.

Maximum penalty—7½ penalty units.

- (2) Within 21 days after transferring possession or otherwise disposing of the disposed vehicle, the person who holds the dangerous goods vehicle licence for the vehicle must—

- (a) destroy the licence; and
- (b) if asked by the chief executive, provide to the chief executive sufficient evidence to show the licence has been destroyed.

Maximum penalty—6½ penalty units.

- (3) If the dangerous goods vehicle licence for the disposed vehicle relates to another vehicle, on receipt of notification of disposal of the disposed vehicle under subsection (1), the chief executive must—

- (a) amend the record of the licence in the register kept under section 225(2) by omitting the reference to the disposed vehicle; and
- (b) issue an amended licence that does not include a reference to the disposed vehicle to the holder of the licence.

- (4) In this section—

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

## **Division 5                      Requirements about dangerous goods driver licences**

### **214      Driver authorising documents and conditions to be carried**

- (1) The holder of a dangerous goods driver licence must carry a driver authorising document when driving a vehicle transporting—
  - (a) dangerous goods that are in a receptacle with a capacity of more than 500L; or
  - (b) more than 500kg of dangerous goods in a receptacle.

Maximum penalty—7½ penalty units.

- (2) If the chief executive has imposed a condition on a dangerous goods driver licence, the holder must also carry a document evidencing the imposed condition if the imposed condition requires it.

Maximum penalty—7½ penalty units.

### **215      Damaging driver authorising documents**

A person must not wilfully damage a driver authorising document.

Maximum penalty—20 penalty units.

### **216      Chief executive may direct superseded driver authorising documents to be destroyed**

- (1) The chief executive may direct a person to destroy the person's superseded driver authorising document.
- (2) The person must comply with the direction.

Maximum penalty—20 penalty units.

- (3) In this section—

*superseded driver authorising document* includes a superseded smartcard transport authority.

*Note—*

See the *Transport Planning and Coordination Regulation 2017*, section 7(5) for when an interim transport authority has effect as a smartcard transport authority.

## **217 Possessing another person’s driver authorising documents**

- (1) A person must not possess another person’s driver authorising document, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

- (2) A person must not give the person’s driver authorising document to another person if the person knows, or ought reasonably to know, the other person intends to use the document to deceive someone.

Maximum penalty—40 penalty units.

- (3) For subsection (2), it is irrelevant whether the person intended to be deceived is known or unknown, or exists or does not exist.

## **218 Documents purporting to be driver authorising documents**

- (1) A person must not possess a document that resembles a driver authorising document and is calculated to deceive someone.

Maximum penalty—40 penalty units.

- (2) A person must not give another person a document that resembles a driver authorising document and is calculated to deceive someone.

Maximum penalty—40 penalty units.

- (3) For subsections (1) and (2), it is irrelevant whether the person intended to be deceived is known or unknown, or exists or does not exist.

## **Division 6                      Licences generally**

### **219      Definitions for division**

In this division—

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

*licence document* means—

- (a) a driver authorising document; or
- (b) a dangerous goods vehicle licence.

*licensee* means the holder of a licence.

### **220      Chief executive may require licence documents to be replaced**

- (1) This section applies if—
  - (a) a licensee’s licence is renewed; or
  - (b) a licensee’s licence is amended under section 19 of the Act; or
  - (c) a period of suspension of a licensee’s licence ends or a suspension is withdrawn; or
  - (d) information stated on a licensee’s licence document is incorrect and the chief executive reasonably believes the error was caused by the chief executive.
- (2) The chief executive may, by written notice given to the licensee, ask the licensee to return the licensee’s licence document to the chief executive for replacement.
- (3) If subsection (1)(d) applies, the notice must include a statement identifying the information that is incorrect and the correct information.
- (4) The licensee must comply with the notice, unless the licensee has a reasonable excuse.

Maximum penalty—20 penalty units.

- (5) After receiving the licence document, the chief executive must give the licensee a replacement licence document.
- (6) If subsection (1)(d) applies, the replacement licence document must state the correct information.

## 221 Applications by licensees for replacement licence documents

- (1) This section applies if—
  - (a) information stated on a licence document is incorrect; or
  - (b) the licensee becomes aware, or reasonably suspects, the licence document has been damaged, lost or stolen.

*Note—*

See also section 228 for notifying the chief executive if a licence document has been damaged, lost or stolen.

- (2) The licensee may apply to the chief executive for a replacement licence document.

*Note—*

See division 7, subdivision 2 for requirements about the application.

- (3) The application must be accompanied by—
  - (a) the licence document, unless it has been, or the licensee reasonably suspects it has been, damaged, lost or stolen; and
  - (b) if a fee is stated for the application under section 246—the stated fee.
- (4) After receiving the application, the chief executive must give the licensee a replacement licence document if the chief executive is satisfied—
  - (a) if subsection (1)(a) applies—the information on the licence document was incorrect; or
  - (b) if subsection (1)(b) applies—the licence document has been damaged, lost or stolen.
- (5) If the licence document that has been replaced (the ***original licence document***) comes into, or returns to, the licensee's

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possession after a replacement licence document has been issued to the licensee, the licensee must destroy the original licence document.

Maximum penalty—20 penalty units.

- (6) The chief executive may waive payment of the fee mentioned in subsection (3)(b) if—
- (a) the licence document being replaced was a smartcard dangerous goods driver licence; and
  - (b) the chief executive is satisfied the licensee has not received the smartcard dangerous goods driver licence because it has been lost or stolen.

## **222 Upgrading to smartcard dangerous goods driver licences**

- (1) This section applies to the holder of a driver authorising document that is not a smartcard dangerous goods driver licence.
- (2) The holder may apply to the chief executive to replace the driver authorising document with a smartcard dangerous goods driver licence.

*Note—*

See division 7, subdivision 2 for requirements about the application.

- (3) The chief executive may replace the driver authorising document with a smartcard dangerous goods driver licence for the same period as the unexpired portion of the superseded dangerous goods driver licence.

## **223 Failure to comply with licence conditions**

A licensee must not contravene a condition of the licensee's licence.

Maximum penalty—40 penalty units.

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## **224 Voluntary surrender of licences**

- (1) A licensee may surrender a licensee's licence by giving the chief executive a notice of surrender.

*Note—*

See division 7, subdivision 3 for requirements about the notice.

- (2) To be effective, the notice of surrender must be accompanied by—
  - (a) for the surrender of a dangerous goods driver licence—the driver authorising document; or
  - (b) for the surrender of a dangerous goods vehicle licence—the dangerous goods vehicle licence;

unless the licensee has a reasonable excuse for not returning it.

- (3) Subject to subsection (2), the surrender of the licence takes effect on the day the notice is given to the chief executive.

## **225 Registers of licences**

- (1) The chief executive must keep a register of dangerous goods driver licences.
- (2) The chief executive must keep a register of dangerous goods vehicle licences.
- (3) A register under subsection (1) or (2) may have separate divisions for different kinds of licences to which it applies.
- (4) The chief executive must record each licence granted under this regulation in the relevant register.
- (5) The chief executive must note in the relevant register the amendment, suspension, cancellation or surrender of a licence.

## **226 Records of licences**

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

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- (a) the name of the licensee;
- (b) the day 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 vehicle to which the licence relates;
- (f) the classes of dangerous goods for which the licence is valid;
- (g) any other condition to which the licence is subject.

## **227 Change of information given in licence applications**

- (1) This section applies if a licensee becomes aware that information given by the licensee to the chief executive 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 chief executive about the matter and give the correct information to the chief executive.

Maximum penalty—20 penalty units.

## **228 Notifying chief executive if licence documents damaged, lost or stolen**

- (1) This section applies if a licensee becomes aware, or reasonably suspects, the licensee’s licence document has been damaged, lost or stolen.

- (2) The licensee must give the chief executive notice of the damage, loss or theft as soon as practicable after becoming aware of, or suspecting, it.

Maximum penalty—20 penalty units.

*Note—*

See division 7, subdivision 3 for requirements about the notice.

- (3) Despite subsection (2), the notice is sufficiently given if an application for a replacement licence document is made under section 221.

## **229 Change of name, address or postal address**

- (1) This section applies if a licensee changes any of the following—

- (a) the licensee's name or address;
- (b) if there is a current postal address for the licensee—the postal address.

- (2) The licensee must, within 14 days after the change, give the chief executive notice of the change.

Maximum penalty—20 penalty units.

*Note—*

See division 7, subdivision 3 for requirements about the notice.

- (3) If the chief executive is satisfied the information given by the licensee is correct, the chief executive must—

- (a) for a change of name—give the licensee a replacement licence or driver authorising document that records the change of name; or
- (b) for a change of address—
  - (i) give the person a replacement licence or driver authorising document that records the change of address; or
  - (ii) if the change of address relates to a dangerous goods driver licence—give the person a change of address label.

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- (4) If a change of address label is damaged, lost or stolen, the licensee must promptly ask the chief executive for a replacement label.

Maximum penalty—20 penalty units.

- (5) On receipt of a change of address label or a replacement label, the licensee must promptly attach the label to the back of the driver authorising document in the space provided for a change of address label.

Maximum penalty—20 penalty units.

### **230 Notifiable events under other Acts**

- (1) This section applies if a licensee—
- (a) has an obligation under the Act to notify the chief executive of a notifiable event; and
  - (b) has an obligation under a prescribed smartcard Act to notify the chief executive, or the general manager under the *Maritime Safety Queensland Act 2002*, of the same notifiable event; and
  - (c) complies with the obligation under the prescribed smartcard Act.
- (2) The obligation under the Act to notify the chief executive of the notifiable event is taken to have been satisfied if, at the time the notification is given under the prescribed smartcard Act, any time allowed to make the notification under the Act has not expired.
- (3) In this section—
- notifiable event***, for a licensee, means any of the following—
- (a) a change of the licensee's name;
  - (b) a change of the licensee's address;
  - (c) if there is a current postal address for the licensee—a change of the postal address;
  - (d) the damage, loss or theft of a licence or driver authorising document.

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*prescribed smartcard Act* means any of the following Acts—

- (a) the *Photo Identification Card Act 2008*;
- (b) the *Tow Truck Act 1973*;
- (c) the *Transport Operations (Marine Safety) Act 1994*;
- (d) the *Transport Operations (Passenger Transport) Act 1994*.

### **231 Production of licences to chief executive**

- (1) The chief executive may, by written notice given to a licensee, require the licensee to produce the licence or driver authorising document to the chief executive.
- (2) The person must produce the licence or driver authorising document to the chief executive within 14 days after the day the notice is given.

Maximum penalty—7½ penalty units.

### **232 Seizure of licences and documents**

- (1) An authorised officer to whom a licence or driver authorising document is produced for inspection may seize the licence or driver authorising document if the officer reasonably believes—
  - (a) the licence has been suspended or cancelled; or
  - (b) the licence has ended; or
  - (c) the licence has been amended and the amendment is not recorded on the licence or driver authorising document; or
  - (d) the person who produces the licence or driver authorising document is not the licensee.

*Note—*

See section 49 of the Act for when an authorised officer may require a person to produce particular documents for inspection.

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- (2) An authorised officer to whom a document that purports to be a licence or driver authorising document is produced for inspection may seize the document if the officer reasonably believes the document is not genuine.

### **233 Return of licences**

- (1) This section applies if, after seizing a licence or driver authorising document under section 232, an authorised officer finds—
  - (a) the licence is not suspended, has not been cancelled, and has not ended; or
  - (b) the licence has been suspended, the suspension has ended and a replacement licence or driver authorising document has not been issued; or
  - (c) the licence has been amended, the amendment is recorded on the licence or driver authorising document and a replacement licence or driver authorising document has not been issued; or
  - (d) for a licence or driver authorising document seized under section 232(1)(d)—the person who produced the licence or driver authorising document is the licensee.
- (2) An authorised officer must return the licence or driver authorising document to the licensee.
- (3) However, if the licence period has ended, the authorised officer is not required to return the licence or driver authorising document to the licensee.

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## **Division 7                    Applications, customer communications and other matters**

### **Subdivision 1            Preliminary**

#### **234    Definitions for division**

In this division—

*application* means an application required or permitted to be made under this part.

*customer communication* means a notice, however described, required to be given by a person to the chief executive under this part.

*decision-maker*, for an application, means the office holder (however described) whose function it is, under this regulation, to decide the application.

*information* includes a document.

### **Subdivision 2            Applications**

#### **235    Chief executive may publish a notice about applications**

(1) The chief executive may, by publishing a notice on the department's website—

(a) approve a way in which a stated type of application may be made; or

*Examples of ways—*

orally, by electronic communication or by another form of communication

(b) require stated information to be given in or with a stated type of application.

(2) A notice under subsection (1)(a) may include requirements for making an application in the approved way.

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- (3) A notice under subsection (1)(b) may only require information that is reasonably necessary for—
  - (a) enabling the decision-maker to decide the application; or
  - (b) another purpose related to the application or the thing being applied for.

*Example—*

Required information may not include—

- (a) irrelevant personal information; or
  - (b) relevant personal information if the provision of the information would be excessively intrusive to personal privacy.
- (4) Subsection (1) applies whether or not there is an approved form for making the application.

## **236 How applications must be made**

- (1) An application must be made in any of the following ways—
  - (a) in the approved form for the application;
  - (b) in the way approved under section 235(1)(a) for making the application;
  - (c) if there is no approved form and no approved way for making the application—in writing.
- (2) An application must include the information required under section 235(1)(b).
- (3) Subsection (2) does not limit another provision of this regulation that requires an application to include, or be accompanied by, particular information.

## **237 Decision-maker may request further information**

- (1) The decision-maker may, by written notice given to the applicant, ask the applicant to give to the decision-maker the additional information reasonably necessary to decide the application.

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- (2) The notice—
    - (a) must state—
      - (i) the information required; and
      - (ii) the time, no earlier than 28 days after the notice is given, by which the information must be given; and
      - (iii) that, if the applicant does not comply with the notice, the decision-maker may cancel the application; and
    - (b) may state a way in which the information must be given.
  - (3) If the notice does not state a way in which the information must be given, the applicant must give the information in writing.
  - (4) If the applicant does not comply with the notice, the decision-maker may give the applicant a further written notice cancelling the application.
  - (5) A notice cancelling the application has effect on the day it is given to the applicant or a later day stated in it.

### **Subdivision 3      Customer communications**

#### **238      Chief executive may publish a notice about particular customer communications**

- (1) The chief executive may, by publishing a notice on the department's website—
  - (a) approve a way in which a stated customer communication may be given; or  
*Examples—*
    - orally, by electronic communication or by another form of communication
  - (b) require stated information to be given in or with a stated customer communication.

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- (2) The notice may include requirements for giving or making a customer communication in the approved way.
- (3) Subsection (1) applies whether or not there is an approved form for the giving or making of the customer communication.

### **239 How customer communications must be given or made**

- (1) A customer communication must be given or made in any of the following ways—
  - (a) in the approved form for the customer communication;
  - (b) in the way approved under section 238(1)(a) for giving or making the customer communication; or
  - (c) if there is no approved form and no approved way for giving or making the customer communication—in writing.
- (2) A customer communication must include, or be accompanied by, any information required under section 238(1)(b).
- (3) Subsection (2) does not limit another provision of this regulation that requires a customer communication to include, or be accompanied by, particular information.

## **Subdivision 4 Miscellaneous**

### **240 Electronic issuing of driver authorising documents**

- (1) This section applies if—
  - (a) an application is made under this part by electronic communication; and
  - (b) as a result of deciding the application, the decision-maker must, under this part, issue a driver authorising document to the applicant.
- (2) This section also applies if, under section 229—

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- (a) a licensee gives a notice to the chief executive by electronic communication; and
  - (b) the chief executive must issue a driver authorising document to the licensee.
- (3) The driver authorising document must be electronically issued.
- (4) However, subsection (3) does not apply if the driver authorising document is a smartcard dangerous goods driver licence.

## Part 19 Review of decisions

### 241 Internal and external review of decisions

- (1) Sections 65 and 65A of the Act apply to a schedule 1 decision as if a reference to an original decision in the sections were a reference to the schedule 1 decision.
- (2) In this section—

*schedule 1 decision* means a decision mentioned in schedule 1.

## Part 20 Insurance

### 242 Duty of owners

- (1) The owner of a 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 of at least \$5,000,000, for—
    - (i) personal injury, death, property damage and other damage (other than consequential economic loss) arising out of fire, explosion, leakage or spillage of

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dangerous goods in, on or from the vehicle or packaging transported in or on the vehicle; and

- (ii) costs incurred by or for a Commonwealth or State authority in a clean-up resulting from a fire, explosion, leakage or spillage of dangerous goods in, on or from the vehicle or packaging transported in or on the vehicle; or
- (b) the owner does not have an approval under section 245 for the use of the vehicle or is not complying with the conditions of the approval.

Maximum penalty—60 penalty units.

- (2) Each load bearing vehicle, whether or not a motor vehicle and whether or not it is being used in combination with another vehicle, is a vehicle for subsection (1).
- (3) For subsection (1), each vehicle in a combination may be insured under a policy that applies to the combination as a whole.

## **243 Duty of prime contractors**

- (1) A prime contractor must not use a 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 of at least \$5,000,000, for—
    - (i) personal injury, death, property damage and other damage (other than consequential economic loss) arising out of fire, explosion, leakage or spillage of dangerous goods in, on or from the vehicle or packaging transported in or on the vehicle; and
    - (ii) costs incurred by or for a Commonwealth or State government authority in a clean-up resulting from a fire, explosion, leakage or spillage in, on or from the vehicle or packaging transported in or on the vehicle; or

- (b) the prime contractor does not have an approval under section 245 for the use of the vehicle or is not complying with the conditions of the approval.

Maximum penalty—60 penalty units.

- (2) Each load bearing vehicle, whether or not a motor vehicle and whether or not it is being used in combination with another vehicle, is a vehicle for subsection (1).
- (3) For subsection (1), each vehicle in a combination may be insured under a policy that applies to the combination as a whole.

#### **244 Requiring evidence of particular matters**

- (1) The chief executive may, by written notice given to the owner of a vehicle used to transport a placard load, or a prime contractor responsible for the condition of the vehicle, require the owner or prime contractor to produce—
  - (a) written evidence that the vehicle is covered by a policy of insurance or other form of indemnity under section 242(1)(a) or 243(1)(a); or
  - (b) an approval under section 245 for the use of the vehicle.
- (2) The owner or prime contractor must produce the evidence or approval to the chief executive within 14 days after the day the notice is given.

Maximum penalty—15 penalty units.

#### **245 Approvals—insurance**

- (1) The owner of a vehicle used to transport a placard load, or a prime contractor responsible for the condition of the vehicle, may make an application under section 172 to use the vehicle even if the vehicle is not covered by a policy of insurance or other form of indemnity under section 242(1)(a) or 243(1)(a).
- (2) If the chief executive is satisfied that the owner or prime contractor is adequately capable of self-insurance for

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section 242(1)(a) or 243(1)(a), the chief executive may give an approval for the use of the vehicle.

- (3) The approval may be given by the chief executive—
  - (a) for a single use or for a period not longer than 5 years; and
  - (b) subject to any other condition.

## **Part 21 Fees**

### **246 Fees**

The fees payable under this regulation are stated in schedule 2.

### **247 Waiver of additional application fees**

The chief executive may waive the payment of an additional application fee payable under schedule 2, item 3(b) for an application mentioned in item 3.

### **248 Refund of additional application fees**

- (1) This section applies if—
  - (a) a person makes an application for—
    - (i) a dangerous goods driver licence; or
    - (ii) the renewal of a dangerous goods driver licence; and
  - (b) the chief executive does not ask the commissioner, under section 17C of the Act, for a written report about the person's criminal history for the application.
- (2) The additional application fee paid under schedule 2, item 3(b) for the application must be refunded to the applicant.

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**249 Refund of fees in relation to smartcard dangerous goods driver licences**

- (1) This section applies if—
- (a) the chief executive refuses to grant an application in relation to a smartcard dangerous goods driver licence; or
  - (b) an applicant withdraws an application in relation to a smartcard dangerous goods driver licence before the chief executive grants the application.
- (2) The chief executive may refund the whole or part of a fee paid by the applicant in relation to the application.

**Part 22 Repeal and transitional provisions**

**Division 1 Repeal provision**

**250 Repeal**

The Transport Operations (Road Use Management—Dangerous Goods) Regulation 2008, SL No. 427 is repealed.

**Division 2 Transitional provisions**

**Subdivision 1 General provisions**

**251 Definition for division**

In this division—

*repealed regulation* means the *Transport Operations (Road Use Management—Dangerous Goods) Regulation 2008*.

## **252 References to repealed regulation**

In this division, unless otherwise stated, a reference to the repealed regulation is a reference to the repealed regulation as in force before the commencement.

## **253 Lawful conduct under previous law**

A person does not commit an offence against this regulation if, within 12 months after the commencement, the person transports dangerous goods in accordance with the Act, including the repealed regulation, as in force immediately before the commencement.

## **Subdivision 2 Determinations**

### **254 Continuing effect of particular determinations**

- (1) This section applies to a determination that—
  - (a) was made under the repealed regulation; and
  - (b) was in force in this jurisdiction immediately before the commencement; and
  - (c) is a determination in relation to something that may be decided under a provision (the *relevant provision*) of section 23 or 24.
- (2) This section also applies to a determination, made under the repealed regulation following a review under subdivision 10, that is in relation to something that may be decided under a provision (the *relevant provision*) of section 23 or 24.
- (3) The determination is taken to be a determination under the relevant provision subject to the same conditions and restrictions.
- (4) To remove any doubt, it is declared that the determination was made when it was made under the repealed regulation.

- (5) Without limiting subsection (3), the chief executive may record the determination in the register of determinations kept under section 28(1)(a).

## **255 Existing applications for administrative determinations**

- (1) This section applies to an application that—
- (a) is for an administrative determination in relation to something that may be decided under a provision (the *relevant provision*) mentioned in section 254(1)(c); and
  - (b) was made under section 171 of the repealed regulation; and
  - (c) had not been finally decided before the commencement.
- (2) On the commencement, the application is taken to be an application made under section 172 for an administrative determination under the relevant provision.

## **256 Existing applications for amendments of administrative determinations**

- (1) This section applies to an application that—
- (a) is for an amendment of an administrative determination in relation to something that may be decided under a provision (the *relevant provision*) mentioned in section 254(1)(c); and
  - (b) was made under section 171 of the repealed regulation; and
  - (c) had not been finally decided before the commencement.
- (2) On the commencement, the application is taken to be an application made under section 172 for an amendment of the administrative determination under the relevant provision.

## **Subdivision 3      Approvals**

### **257      Continuing effect of particular approvals**

- (1) This section applies to an approval that—
  - (a) was given under the repealed regulation; and
  - (b) was in force in this jurisdiction immediately before the commencement; and
  - (c) is an approval of something that may be approved under a provision (the *relevant provision*) of any of the following sections—
    - (i) section 21;
    - (ii) section 50;
    - (iii) section 113;
    - (iv) section 114;
    - (v) section 133.
- (2) This section also applies to an approval, given under the repealed regulation following a review under subdivision 10, that is an approval of something that may be approved under a provision (the *relevant provision*) mentioned in subsection (1)(c).
- (3) The approval is taken to be an approval given by the chief executive under the relevant provision subject to the same conditions and restrictions.
- (4) To remove any doubt, it is declared that the approval was given when it was given under the repealed regulation.
- (5) Without limiting subsection (3), the chief executive may record the approval in the register of approvals kept under section 179(1)(a).
- (6) If the approval does not have an expiry day, the approval expires 5 years after the commencement.

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**258 Existing applications for particular approvals**

- (1) This section applies to an application that—
  - (a) is for an approval—
    - (i) under section 224 of the repealed regulation; or
    - (ii) of something that may be approved under a provision (the *relevant provision*) mentioned in section 257(1)(c); and
  - (b) was made under section 171 of the repealed regulation; and
  - (c) had not been finally decided before the commencement.
- (2) On the commencement, the application is taken to be an application made under section 172 for an approval under section 245 or the relevant provision.

**259 Existing applications for amendments of particular approvals**

- (1) This section applies to an application that—
  - (a) is for an amendment of an approval of something that may be approved under a provision (the *relevant provision*) mentioned in section 257(1)(c); and
  - (b) was made under section 171 of the repealed regulation; and
  - (c) had not been finally decided before the commencement.
- (2) On the commencement, the application is taken to be an application made under section 172 for an amendment of an approval under the relevant provision.

## **Subdivision 4 Exemptions**

### **260 Existing exemptions**

- (1) This section applies to an exemption made under section 153 of the Act that—
  - (a) exempts a person or class of persons from complying with a provision of the repealed regulation that is substantially the same as a provision (the *relevant provision*) of this regulation; and
  - (b) was in effect immediately before the commencement.
- (2) This section also applies to an exemption made under section 153 of the Act after the commencement—
  - (a) following a review under chapter 4 of the Act; and
  - (b) that exempts a person or class of persons from complying with a provision of the repealed regulation that is substantially the same as a provision (the *relevant provision*) of this regulation.
- (3) A reference in the exemption to the provision of the repealed regulation is taken to be a reference to the relevant provision of this regulation.

### **261 Existing applications for exemptions**

- (1) This section applies to an application made under section 165 of the repealed regulation that—
  - (a) is for an exemption from complying with a provision of the repealed regulation that is substantially the same as a provision (the *relevant provision*) of this regulation; and
  - (b) had not been finally decided before the commencement.
- (2) On the commencement, the application is taken to be an application made under section 166 for an exemption from complying with the relevant provision.

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## **Subdivision 5 Particular existing requirements**

### **262 Particular existing requirements continue**

- (1) This section applies if—
  - (a) before the commencement, a requirement was made of a person, or a person was required to do something, under any of the following sections of the repealed regulation—
    - (i) section 21(5);
    - (ii) section 77(2);
    - (iii) section 78(2);
    - (iv) section 127(2);
    - (v) section 128(2);
    - (vi) section 132(3);
    - (vii) section 152(5);
    - (viii) section 153(2);
    - (ix) section 154(2);
    - (x) section 197(1);
    - (xi) section 211(2);
    - (xii) section 217(1);
    - (xiii) section 223(1); and
  - (b) the requirement had not been complied with before the commencement.
- (2) The requirement continues to apply in relation to the person as if this regulation had not been made.
- (3) The repealed regulation as in force immediately before the commencement continues to apply in relation to the requirement as if this regulation had not been made.

## **263 Requirements relating to particular incidents continue**

- (1) This section applies if—
  - (a) an incident to which section 148, 149 or 150 of the repealed regulation applies happened before the commencement; and
  - (b) the section required something to be done or not done in relation to the incident; and
  - (c) the thing had not been done, or had been done, before the commencement.
- (2) The repealed regulation as in force immediately before the commencement continues to apply in relation to the incident as if this regulation had not been made.

## **264 Requirements relating to disposal of licensed vehicles continue**

- (1) This section applies if, before the commencement—
  - (a) a person sold or otherwise disposed of a vehicle to which a dangerous goods vehicle licence under the repealed regulation relates; and
  - (b) the person had not given notice of the sale or disposal under section 207 of the repealed regulation.
- (2) The repealed regulation as in force immediately before the commencement continues to apply in relation to the sale or disposal as if this regulation had not been made.

## **Subdivision 6 Permissions**

### **265 Continuing effect of particular permissions**

- (1) This section applies if, before the commencement—
  - (a) the chief executive gave permission to a prime contractor to transport food or food packaging from a site under section 149(2) of the repealed regulation; and

- (b) the food or food packaging had not been removed from the site.
- (2) The permission is taken to be a permission given by the chief executive under section 149(2) of this regulation.
- (3) To remove any doubt, it is declared that the permission was given when it was given under the repealed regulation.

## **Subdivision 7 Licences**

### **266 Existing licences**

- (1) This section applies to the following licences under the repealed regulation in effect immediately before the commencement—
  - (a) a dangerous goods driver licence;
  - (b) a dangerous goods vehicle licence.
- (2) This section also applies to a dangerous goods driver licence or dangerous goods vehicle licence given under the repealed regulation following a review under subdivision 10.
- (3) The licence is taken to be a dangerous goods driver licence or dangerous goods vehicle licence given under this regulation subject to the same conditions and restrictions.
- (4) To remove any doubt, it is declared that the dangerous goods driver licence or dangerous goods vehicle licence was given when it was given under the repealed regulation.

### **267 Existing applications for particular licences**

- (1) This section applies to an application that—
  - (a) was made—
    - (i) under section 188 of the repealed regulation for a dangerous goods driver licence; or
    - (ii) under section 200 of the repealed regulation for a dangerous goods vehicle licence; and

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- (b) had not been finally decided before the commencement.
- (2) The repealed regulation as in force immediately before the commencement continues to apply in relation to the application as if this regulation had not been made.
- (3) If a dangerous goods driver licence or dangerous goods vehicle licence is given under the repealed regulation in relation to the application, the licence is taken to be a dangerous goods driver licence or dangerous goods vehicle licence given under this regulation subject to the same conditions and restrictions.

## **268 Existing applications for renewals of particular licences**

- (1) This section applies to an application that—
  - (a) was made—
    - (i) under section 193 of the repealed regulation for the renewal of a dangerous goods driver licence; or
    - (ii) under section 203 of the repealed regulation for the renewal of a dangerous goods vehicle licence; and
  - (b) had not been finally decided before the commencement.
- (2) The repealed regulation as in force immediately before the commencement continues to apply in relation to the application as if this regulation had not been made.
- (3) If the dangerous goods driver licence or dangerous goods vehicle licence is renewed under the repealed regulation, the licence is taken to be a dangerous goods driver licence or dangerous goods vehicle licence given under this regulation.

## **269 Existing applications for replacement of licence documents**

- (1) This section applies to an application that—
  - (a) was made under section 211A of the repealed regulation for a replacement licence document; and
  - (b) had not been finally decided before the commencement.

- (2) The repealed regulation as in force immediately before the commencement continues to apply in relation to the application as if this regulation had not been made.
- (3) If the replacement licence document is given under the repealed regulation, the replacement licence document is taken to be a replacement licence document given under this regulation.

**270 Existing applications for upgrade to smartcard dangerous goods driver licence**

- (1) This section applies to an application that—
  - (a) was made under section 211B of the repealed regulation for the replacement of a driver authorising document with a smartcard dangerous goods driver licence; and
  - (b) had not been finally decided before the commencement.
- (2) The repealed regulation as in force immediately before the commencement continues to apply in relation to the application as if this regulation had not been made.
- (3) If the smartcard dangerous goods driver licence is given under the repealed regulation, the licence is taken to be a smartcard dangerous goods driver licence given under this regulation.

**271 Existing directions about destruction of superseded driver authorising documents**

- (1) This section applies if a person was, immediately before the commencement, directed to destroy the person's superseded driver authorising document under section 209B of the repealed regulation.
- (2) The repealed regulation as in force immediately before the commencement continues to apply in relation to the direction as if this regulation had not been made.

## **Subdivision 8 Existing recommendations**

### **272 Existing recommendations by chief executive**

- (1) This section applies if, before the commencement—
  - (a) the chief executive made a recommendation under section 158(2) of the repealed regulation that a dangerous goods authority take a proposed action; and
  - (b) the dangerous goods authority had not taken the proposed action.
- (2) On the commencement, the recommendation is taken to have been made by the chief executive under section 158(2) of this regulation.

### **273 Existing recommendations by dangerous goods authority**

- (1) This section applies if, before the commencement—
  - (a) a dangerous goods authority made a recommendation under section 159(1) of the repealed regulation that the chief executive do a thing stated in section 159(1) of the repealed regulation; and
  - (b) the chief executive had not done the thing.
- (2) On the commencement, the recommendation is taken to have been made by the dangerous goods authority under section 159(1) of this regulation.

## **Subdivision 9 Existing referrals**

### **274 Existing referrals by chief executive**

- (1) This section applies if, before the commencement—
  - (a) the chief executive had referred a matter to the competent authorities panel under section 159A(2),

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- 168(1) or (2) or 180(1) or (2) of the repealed regulation;  
and
- (b) the competent authorities panel had not made a decision in relation to the referral.
- (2) On the commencement, the referral is taken to have been made by the chief executive under—
- (a) if the referral was made under section 159A(2) of the repealed regulation—section 160(2); or
  - (b) if the referral was made under section 168(1) or (2) of the repealed regulation—section 169(1) or (2); or
  - (c) if the referral was made under section 180(1) or (2) of the repealed regulation—section 181(1) or (2).

## Subdivision 10    Reviews

### 275    Definition for subdivision

In this subdivision—

*reviewable decision* means a decision mentioned in schedule 1 of the repealed regulation.

### 276    Internal reviews about particular decisions

- (1) Subsection (2) applies if, before the commencement—
  - (a) a person made an application under section 65 of the Act, as applied by section 220 of the repealed regulation, for a review of a reviewable decision; and
  - (b) a decision on the application for review had not been made.
- (2) The decision (the *review decision*) on the application for review must be made under the repealed regulation as in force immediately before the commencement.
- (3) Subsections (4) and (5) apply if—

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- (a) immediately before the commencement, a person could have applied under section 65 of the Act, as applied by section 220 of the repealed regulation, for a review of a reviewable decision; and
  - (b) the person had not made the application before the commencement.
- (4) The person may apply for a review of the decision under the repealed regulation as in force immediately before the commencement.
- (5) If the person applies for a review of the decision, the decision (also the *review decision*) on the application must be made under the repealed regulation as in force immediately before the commencement.
- (6) If the review decision is an amendment or substitution of the reviewable decision, the review decision must be given effect under the repealed regulation.

*Example—*

If the effect of a review decision about the chief executive's refusal to make an administrative determination is that the administrative determination must be made, the administrative determination must be made under the repealed regulation as in force immediately before the commencement.

- (7) If the review decision is a confirmation of the reviewable decision, despite the repeal of the repealed regulation—
- (a) the matter to which the reviewable decision relates continues to be a matter to be dealt with under the repealed regulation as in force immediately before the commencement; and

*Example—*

If the reviewable decision relates to an application for an administrative determination, the application continues to be an application for an administrative determination under the repealed regulation as in force immediately before the commencement.

- (b) any further decision about the matter must be made under the repealed regulation as in force immediately before the commencement; and

- (c) the person in relation to whom the review decision is made may apply to QCAT for a review of the review decision under the repealed regulation as in force immediately before the commencement.
- (8) For subsections (2) and (4) to (7), the repealed regulation continues to have effect as if this regulation had not been made.

### **277 External review about particular decisions**

- (1) Subsection (2) applies if, before the commencement—
  - (a) a person applied to QCAT under section 65A of the Act, as applied by section 220 of the repealed regulation, to review a decision made under section 65 of the Act confirming a reviewable decision; and
  - (b) the review had not been decided.
- (2) QCAT must hear, or continue to hear, and decide the application under the repealed regulation as in force immediately before the commencement.
- (3) Subsection (5) applies if—
  - (a) immediately before the commencement, a person could have applied to QCAT under section 65A of the Act, as applied by section 220 of the repealed regulation, to review a decision mentioned in subsection (1)(a); and
  - (b) the person had not made the application before the commencement.
- (4) Subsection (5) also applies in relation to a decision made under section 276(2) or (5).
- (5) The person may apply to QCAT for a review of the decision under the repealed regulation as in force immediately before the commencement.
- (6) If the person applies for a review of the decision, QCAT must review the decision under the repealed regulation as in force immediately before the commencement.

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- (7) If QCAT decides in favour of the applicant, the chief executive must give effect to QCAT's decision under the repealed regulation as in force immediately before the commencement.

*Example—*

If QCAT decides that an administrative determination the subject of the review must be made, the administrative determination must be made under the repealed regulation.

- (8) If QCAT refers the matter to the chief executive with directions—
- (a) the matter must be dealt with under the repealed regulation as in force immediately before the commencement; and
- (b) the chief executive must follow QCAT's directions to the extent possible.
- (9) If QCAT confirms the decision being reviewed, despite the repeal of the repealed regulation—
- (a) the matter to which the decision relates continues to be a matter to be dealt with under the repealed regulation as in force immediately before the commencement; and

*Example—*

If the decision reviewed relates to an application for an administrative determination, the application continues to be an application for an administrative determination under the repealed regulation as in force immediately before the commencement.

- (b) any further decision about the matter must be made under the repealed regulation as in force immediately before the commencement.
- (10) For subsections (2) and (5) to (9), the repealed regulation continues to have effect as if this regulation had not been made.

## **Subdivision 11 Other provision**

### **278 Return of licences**

- (1) This section applies if, before the commencement, an authorised officer seized, under section 218 of the repealed regulation, a licence or driver authorising document granted under the repealed regulation.
- (2) Section 219 of the repealed regulation continues to apply in relation to the seizure as if this regulation had not been made.

## **Schedule 1      Reviewable decisions**

section 241

| <b>Section</b> | <b>Description of decision</b>   |
|----------------|--|
| 21             | refusing to approve, or amend an approval of, a test of competence or training course  |
| 23 or 26       | refusing to make or amend an administrative determination under section 23(1) or (2) or making, or amending, an administrative determination on conditions under section 26(1) |
| 24 or 26       | refusing to make or amend an administrative determination under section 24(1) or making, or amending, an administrative determination on conditions under section 26(1)        |
| 50             | refusing to approve, or amend an approval of, a design of packaging or approving a design, or amending an approval, on conditions  |
| 53             | refusing to approve, or amend an approval of, a method of preparing an overpack or approving a method, or amending an approval, on conditions                                  |
| 113            | refusing to approve, or amend an approval of, a method of segregation or approving a method, or amending an approval, on conditions  |
| 114            | refusing to approve, or amend an approval of, a design of a type II segregation device or approving a design, or amending an approval, on conditions                           |
| 133            | refusing to approve, or amend an approval of, emergency information  |

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| <b>Section</b> | <b>Description of decision</b>  |
|----------------|---|
| 193 or 200     | refusing to grant or amend a dangerous goods driver licence or granting or amending a dangerous goods driver licence on conditions  |
| 195 or 200     | refusing to renew a dangerous goods driver licence or renewing a dangerous goods driver licence on conditions   |
| 208 or 212     | refusing to grant or amend a dangerous goods vehicle licence or granting or amending a dangerous goods vehicle licence on conditions  |
| 210 or 212     | refusing to renew a dangerous goods vehicle licence or renewing a dangerous goods vehicle licence on conditions   |
| 245            | refusing to approve, or amend an approval of, the use of a vehicle that is not covered by a policy of insurance or other form of indemnity mentioned in section 242(1)(a) or 243(1)(a) or approving the use, or amending an approval, on conditions |

## Schedule 2 Fees

section 246

|   | \$     |
|---|--------|
| 1 Application for approval of a design of a tank under section 49 (s 172(1)(b))   | 275.40 |
| 2 Application for approval of a design of an IBC under section 49 (s 172(1)(b))   | 55.10  |
| 3 Application for grant or renewal of a dangerous goods driver licence (s 189(2)(d) or 194(2)(d))—the total of the following— |        |
| (a) standard application fee  | 57.35  |
| (b) additional application fee  | 44.90  |
| 4 Application for grant or renewal of a dangerous goods vehicle licence (s 206(3) or 209(3))—                                 |        |
| (a) for a vehicle with a GVM of 8t or less  | 73.35  |
| (b) for a vehicle with a GVM of more than 8t  | 146.95 |

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## Schedule 3 Dictionary

## section 7

**ADG Code** means the code called ‘Australian Code for the Transport of Dangerous Goods by Road and Rail’, seventh edition, published by the National Transport Commission, as amended from time to time.

*Editor’s note—*

A copy of the ADG Code is available on the website of the National Transport Commission.

**administrative determination** means a determination that is an administrative determination under section 25.

**ADR, ICAO, IMO, RID or UN approved**, for packaging, means approved in accordance with any of the following documents—

- (a) the European Agreement concerning the International Carriage of Dangerous Goods by Road published by the Inland Transport Committee of the United Nations Economic Commission for Europe;
- (b) the ICAO technical instructions;
- (c) the IMDG code;
- (d) the Regulations concerning the International Carriage of Dangerous Goods by Rail published by the Intergovernmental Organisation for International Carriage by Rail;
- (e) the Recommendations on the Transport of Dangerous Goods: Model Regulations published by the United Nations.

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

- (a) the number of kilograms of the following in the load—
  - (i) solid dangerous goods;

- (ii) articles, including aerosols; and
- (b) the number of litres or kilograms, being whichever is used to describe the goods in the transport documentation for the transport of the goods, of liquid dangerous goods in the load; and
- (c) the total capacity in litres of receptacles in the load containing dangerous goods of UN class 2 other than aerosols.

**application**, for part 18, division 7, see section 234.

**appropriately marked** see section 78.

**appropriately placarded** see section 84(2).

**approval** means an approval, other than an administrative determination, exemption or licence, that—

- (a) is given under this regulation by the chief executive or an authorised entity; and
- (b) is in effect.

**approved tank** means—

- (a) a tank of a design approved under section 50; or
- (b) a foreign approved tank.

**article** means a manufactured item, other than a fluid or particle, that—

- (a) is formed into a particular shape or design during manufacture; and
- (b) has hazardous properties and a function that are wholly or partly dependant on the shape or design.

*Examples—*

battery, aerosol dispenser, lighter, refrigeration device

**AS/NZS** means a standard published jointly by Standards Australia and Standards New Zealand.

**authorised entity** means an entity authorised under section 54 to issue approvals under section 50 or 53.

**bulk container** see section 15.

***bulk transfer***, for part 10, see section 115.

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

***cargo transport unit*** means any of the following—

- (a) a tank vehicle;
- (b) a vehicle transporting freight;
- (c) a portable tank;
- (d) a bulk container;
- (e) a freight container;
- (f) an MEGC.

***category***, for dangerous goods, means the category to which the dangerous goods belong under section 34.

***competent authorities panel*** means the entity—

- (a) whose members include—
  - (i) the chief executive; and
  - (ii) dangerous goods authorities; and
- (b) established by the Competent Authorities Panel Rules made by the National Transport Commission on 16 June 2008, as amended from time to time.

***converter dolly***, for part 18, division 4, see section 205.

***corresponding approval*** means an approval to which section 163 applies.

***corresponding dangerous goods driver licence*** means a licence to which section 164 applies that has effect in this jurisdiction under that section as a dangerous goods driver licence.

***corresponding dangerous goods vehicle licence*** means a licence to which section 164 applies that has effect in this jurisdiction under that section as a dangerous goods vehicle licence.

***corresponding determination*** means a decision to which section 161 applies.

***corresponding exemption*** means an exemption to which section 162 applies.

***current postal address***, for a person, means a postal address—

- (a) given by the person to the department for use by the department (whether or not it was given for the purpose of this regulation); and
- (b) for which no written notice from the person, requiring the department to discontinue use of the postal address, has been received by the department.

***customer communication***, for part 18, division 7, see section 234.

***damaged***—

1 *Damaged*, in relation to a document other than a smartcard dangerous goods driver licence, includes destroyed, defaced, mutilated or made illegible.

2 *Damaged*, in relation to a smartcard dangerous goods driver licence—

(a) means—

(i) the licence is damaged to an extent that—

(A) any information on the licence is impossible or difficult to read without the use of technology; or

(B) a digital photo or a digitised signature on the licence is impossible or difficult to recognise without the use of technology; or

(ii) any information stored electronically on the licence is no longer accessible by using the holder's PIN; and

(b) includes destroyed.

3 However, *damaged*, in relation to a document, does not include the document being destroyed as required under section 213, 216 or 221(5).

*dangerous goods* means goods that are dangerous goods under section 32.

*dangerous goods compliance plate*, for part 4, division 5, see section 62.

*dangerous goods driver licence* means a dangerous goods driver licence that is in effect under part 18, division 3.

*dangerous goods list* means the dangerous goods list set out in section 3.2.3 of the ADG Code.

*dangerous goods vehicle licence* means a dangerous goods vehicle licence that is in effect under part 18, division 4.

*decision-maker*, for part 18, division 7, see section 234.

*demountable tank* means a tank, other than a portable tank, that—

- (a) is designed to be carried on a vehicle; and
- (b) does not form part of and is not permanently attached to the vehicle; and
- (c) is designed to be removable.

*determination* means a decision made by the chief executive under section 23 or 24 that is in effect.

*driver authorising document* means a document evidencing a dangerous goods driver licence.

*exemption* means an exemption given under section 153 of the Act that is in effect.

*Note—*

Part 16 provides for matters relating to exemptions under section 153 of the Act.

*fitness to drive standards* means the standards stated in the document called ‘Assessing Fitness to Drive for Commercial and Private Vehicle Drivers—Medical Standards for Licensing and Clinical Management Guidelines’ published by Austroads and the National Transport Commission.

**food** includes—

- (a) a substance prepared or intended for human or animal consumption; and
- (b) a substance, other than a dangerous good, intended to be an ingredient of food.

**food packaging** means—

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

**foreign approved**, in relation to packaging, means packaging that has the markings required under part 6 of the ADG Code for packaging of its type, in confirmation that the packaging is ADR, ICAO, IMO, RID or UN approved.

**freight container** means a re-usable container of the kind mentioned in AS/NZS 3711 that is designed for repeated use for the transport of goods by 1 or more modes of transport.

**general packaging**, for part 4, division 4, see section 56.

**goods too dangerous to be transported** means goods that are goods too dangerous to be transported under section 33.

**hose assembly** means a hose, or 2 or more hoses connected together, for use in the transfer of dangerous goods to or from a tank on a vehicle, portable tank or 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 or receptacle; and
- (c) anything else other than the vehicle, portable tank or receptacle that is attached to the hose or hoses.

**IBC** means an intermediate bulk container.

**ICAO technical instructions** means the document called ‘Technical Instructions for the Safe Transport of Dangerous Goods by Air’, published by the International Civil Aviation Organization, as amended from time to time.

**IMDG code** means the document called ‘International Maritime Dangerous Goods Code’, published by the International Maritime Organization, as amended from time to time.

**incompatible** means—

- (a) in relation to dangerous goods or other goods—see section 37(1); or
- (b) in relation to packaging or equipment—see section 37(2).

**information**, for part 18, division 7, see section 234.

**information notice**, for a decision made in relation to a person, means a written notice stating—

- (a) the reasons for the decision; and
- (b) that the person may—
  - (i) under section 65 of the Act—ask for the decision to be reviewed by the chief executive; and
  - (ii) under the *Transport Planning and Coordination Act 1994*, part 5, division 2—apply to QCAT for the decision to be stayed; and
  - (iii) under section 65A of the Act—ask for the chief executive’s decision on the review (the **reviewed decision**) to be reviewed by QCAT; and
  - (iv) under the QCAT Act—apply for the reviewed decision to be stayed.

**inner packaging** means packaging for which outer packaging is required for the transport of dangerous goods under the ADG Code.

**interim transport authority** means an interim transport authority issued under the *Transport Planning and Coordination Regulation 2017*, section 7.

**intermediate bulk container** see section 16.

**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.

***large packaging*** means outer packaging that—

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

***licence***, for part 18, division 6, see section 219.

***licence document***, for part 18, division 6, see section 219.

***licensee***, for—

- (a) part 18, division 3—see section 188; or
- (b) part 18, division 6—see section 219.

***MEGC*** means multiple-element gas container.

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

***multiple-element gas container*** see section 17.

***NATA*** means the National Association of Testing Authorities, Australia.

***other packaging***, for part 4, division 5, see section 62.

***outer packaging*** means external packaging, including absorbent materials, cushioning and any other components, necessary for transport to contain and protect—

- (a) an article; or
- (b) a receptacle in composite packaging within the meaning of section 1.2.1.1 of the ADG Code; or
- (c) inner packaging in combination packaging within the meaning of section 1.2.1.1 of the ADG Code.

***overpack*** means packaging, other than large packaging, used to hold and consolidate packages of goods into a single unit for easier handling and stowage.

*Examples—*

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

***packaging*** includes inner packaging, outer packaging, an overpack, large packaging, an IBC, an MEGC, a tank (including the tank of a tank vehicle), a bulk container, a freight container, a drum, a jerry can, a box and a bag.

***packed in limited quantities*** see section 19.

***packing group***, for dangerous goods, means the packing group to which the dangerous goods belong under section 36.

***participating jurisdiction*** means—

- (a) this jurisdiction; or
- (b) a participating dangerous goods jurisdiction.

***placard***, when used as a noun, means—

- (a) a label within the meaning of the ADG Code; or
- (b) an emergency information panel within the meaning of the ADG Code.

***placard load*** means a load that contains dangerous goods and must be placarded under section 83.

***placards***, when used as a verb, see section 84(1).

***portable tank*** means a multimodal tank that—

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

***prescribed dangerous goods***, for part 10, division 2, see section 116.

***prescribed way***, for part 10, division 2, see section 116.

***pressure drum*** means a welded transportable pressure receptacle with a water capacity of more than 150L but not more than 1,000L.

*Example of a welded transportable pressure receptacle—*

a cylindrical receptacle equipped with a rolling hoop or sphere on skids

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

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

***recognised testing facility***, for a packaging design type, see section 51.

***required emergency information***, for dangerous goods, for part 11, division 2, see section 129.

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

***service equipment*** has the meaning given by—

- (a) for a tank—section 6.7.2.1, 6.7.3.1 or 6.7.4.1 of the ADG Code; or
- (b) for an MEGC—section 6.7.5.1 of the ADG Code.

***smartcard dangerous goods driver licence*** means a dangerous goods driver licence in the form of a card or something similar approved by the chief executive and on which information may be stored electronically.

***special provision***, for part 3, see section 39.

***structural equipment*** has the meaning given by—

- (a) for a tank—section 6.7.2.1, 6.7.3.1 or 6.7.4.1 of the ADG Code; or
- (b) for an MEGC—section 6.7.5.1 of the ADG Code.

***subsidiary hazard***, for dangerous goods, means the subsidiary hazard to which the dangerous goods belong under section 35.

***tank*** see section 18.

***tank vehicle*** means a vehicle—

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

***this jurisdiction*** means the State.

***Transport and Infrastructure Council*** means the council of Commonwealth, New Zealand and State Ministers, established on 11 June 1993 and known as the Transport and Infrastructure Council, but constituted so that it consists of only 1 Minister representing each of the Commonwealth and the States.

*Note—*

The Transport and Infrastructure Council was previously known as the Australian Transport Council.

***tube*** means a seamless transportable pressure receptacle with a water capacity of more than 150L but not more than 3,000L.

***UN class***, for dangerous goods, means the class to which the dangerous goods belong under section 34.

***UN division***, for dangerous goods, means the division to which the dangerous goods belong under section 34.

***unsuitable***, in relation to packaging, see section 47.

***vehicle***, for part 18, division 4, see section 205.