



Australian Capital Territory

Dangerous Substances (General) Regulation 2004

Subordinate Law SL2004-56

The Australian Capital Territory Executive makes the following regulation under the *Dangerous Substances Act 2004*.

Dated 13 December 2004.

KATY GALLAGHER
Minister

JOHN HARGREAVES
Minister



Australian Capital Territory

Dangerous Substances (General) Regulation 2004

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made under the

Dangerous Substances Act 2004

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Chapter 1 Preliminary

1 Name of regulation

This regulation is the *Dangerous Substances (General) Regulation 2004*.

2 Commencement

- (1) Part 6.1, part 6.3, section 607, section 679 and section 682 commence on the day after this regulation's notification day.
- (2) The remaining provisions (except the provisions mentioned in subsection (3)) commence on 31 March 2005.
- (3) The following provisions commence on 30 June 2005:
 - chapter 4 (Security sensitive substances)
 - section 613
 - section 618
 - sections 620 and 621
 - section 625
 - section 633
 - sections 638 and 639
 - sections 643 to 646
 - section 652
 - sections 663 to 665
 - section 667
 - sections 677 and 678
 - section 681
 - schedule 4

Note The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

3 Dictionary

The dictionary at the end of this regulation is part of this regulation.

Note 1 The dictionary at the end of this regulation defines certain terms used in this regulation, and includes references (*signpost definitions*) to other terms defined elsewhere in this regulation.

For example, the signpost definition ‘*asbestos*, for chapter 3 (Asbestos and asbestos products)—see section 301.’ means that the term ‘asbestos’ is defined in that section for chapter 3.

Note 2 A definition in the dictionary (including a signpost definition) applies to the entire regulation unless the definition, or another provision of the regulation, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

4 Notes

A note included in this regulation is explanatory and is not part of this regulation.

Note See the Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

5 Incorporated documents

- (1) If a provision of an incorporated document that applies to this regulation is inconsistent with a provision of this regulation, the provision of this regulation prevails to the extent of the inconsistency.
- (2) For this regulation, a reference to an incorporated document (in this regulation or in another incorporated document) is a reference to—
 - (a) if the document is properly notified—the document as in effect at the commencement of this section; and
 - (b) if the document is amended after the commencement of this section, and the amendment is properly notified—the document as amended by the amendment; and

- (c) if the document (or a replacement document mentioned in this paragraph) is replaced by another document after the commencement of this section, and the replacement document is properly notified—the replacement document; and
- (d) if a replacement document mentioned in paragraph (c) is amended, and the amendment is properly notified—the replacement document as amended.

Example of replacement document

a new edition of an incorporated document published after the commencement of this section

Note 1 If a document, amendment or replacement document is not properly notified, as described in s (4), the document, amendment or replacement document has no effect (see Act, s 220 (4)).

Note 2 An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (3) If this regulation requires compliance (however expressed) with an incorporated document, and a provision of the document is expressed in advisory terms only (for example, as a recommendation rather than a requirement), this regulation is taken to require compliance with the provision unless the provision cannot reasonably be interpreted in that way.
- (4) In this section:

incorporated document means any of the following:

- (a) AS 2700S–1996 (R13) (Colour standards for general purposes—signal red);
- (b) AS 2700S–1996 (Y11) (Colour standards for general purposes—canary);
- (c) AS/NZS 2106 (Methods for the determination of the flash point of flammable liquids (closed cup));

Note This includes AS/NZS 2106.0 to AS/NZS 2106.6.

- (d) AS/NZS 2430.3 (Classification of hazardous areas);

Note This includes AS/NZS 2430.3.1 to AS/NZS 2430.3.9.

- (e) AS/NZS 60079.10 (Electrical apparatus for explosive gas atmospheres—Classification of hazardous areas);
- (f) AS/NZS 61241.3 (Electrical apparatus for use in the presence of combustible dust—Classification of areas where combustible dusts are or may be present);
- (g) the International Air Transport Association Regulations;
- (h) the International Civil Aviation Organization Standards;
- (i) the International Maritime Dangerous Goods Code;
- (j) the National Exposure Standards;
- (k) any other document incorporated, applied or adopted by a document mentioned in paragraphs (a) to (j).

Note Provisions of the Australian Dangerous Goods Code and Australian Standard 1940 also apply to this regulation. See the Act, s 9 and s 10 (3) and (4) for similar provisions relating to those documents relating to their application for the Act and this regulation.

properly notified—a document, amendment or replacement document mentioned in subsection (2) is ***properly notified*** if—

- (a) an incorporated document notice under the Act, section 220 is notified in relation to the document, amendment or replacement document; or

- (b) the document, amendment or replacement document is notified under the Legislation Act, section 47 (6).

Note For the meaning of **notification**, see the Legislation Act, s 63.

6 Meaning of **ensure**

- (1) This section applies if a provision of this regulation requires a person to **ensure** that something is or is not done in relation to a dangerous substance.
- (2) The requirement is satisfied if the person takes reasonable steps to eliminate the hazards, and eliminate or minimise the risks, that might result if the requirement were not met.
- (3) Subsection (2) does not limit the ways in which the requirement may be satisfied.

Note The following terms are defined in the Act:

- **hazard** (see s 15 (1))
- **risk** (see s 15 (2))
- **reasonable steps** (see s 16).

7 Offences against regulation—application of Criminal Code etc

Other legislation applies in relation to offences against this regulation.

Note 1 *Criminal Code*

The Criminal Code, ch 2 applies to all offences against this regulation (see Code, pt 2.1).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg **conduct**, **intention**, **recklessness** and **strict liability**).

Note 2 *Penalty units*

The Legislation Act, s 133 deals with the meaning of offence penalties that are expressed in penalty units.

Chapter 2 Certain dangerous substances

Part 2.1 Important concepts

Division 2.1.1 Application of ch 2

200 Application—ch 2

- (1) This chapter applies only in relation to the following dangerous substances:

- (a) dangerous substances classes 2, 3, 4, 5, 6.1, 8 and 9;

Note Dangerous substances have the classes the Australian Dangerous Goods Code gives to the corresponding dangerous goods. See s 203, def *class*.

- (b) goods too dangerous to be transported, other than unstable explosive articles or substances within the meaning of the *Dangerous Substances (Explosives) Regulation 2004*, section 9;

- (c) C1 combustible liquids;

- (d) if a C2 combustible liquid is taken to be a dangerous substance under subsection (2)—the C2 combustible liquid.

- (2) A C2 combustible liquid is taken to be a dangerous substance for the Act (including this regulation) if it is handled together with a fire risk dangerous substance.

Note 1 For the classification scheme for dangerous substances applied by this chapter, see the Australian Dangerous Goods Code (see s 203, def *class*).

Note 2 The classes of dangerous substances are as follows:

- class 2—gases
- class 3—flammable liquids

- class 4—flammable solids
- class 5—oxidizing substances; organic peroxides
- class 6.1—toxic substances
- class 8—corrosive substances
- class 9—miscellaneous substances and articles.

Note 3 The classes and types of dangerous substances to which this chapter does not apply are as follows:

- class 1—explosives (see the *Dangerous Substances (Explosives) Regulation 2004*)
- class 6.2—infected substances
- class 7—radioactive substances
- hazardous substances that cannot be given a dangerous substances classification (see the Act, s 10, the NOHSC approved criteria and the NOHSC List of Designated Hazardous Substances, which define certain dangerous substances that are also hazardous substances).

Note 4 The Act (including this regulation) does not apply to certain substances and other things (see Act, s 7).

201 Non-application of ch 2—non-commercial handling

This chapter does not apply in relation to the non-commercial handling of a dangerous substance.

Note The handling of a dangerous substance is *non-commercial* if it does not take place in the course of trade or commerce (see Act, s 12). *Trade or commerce* includes a business or professional activity (see Act, dict).

202 Non-application of ch 2—air and marine transport

This chapter does not apply in relation to a dangerous substance at particular premises if—

- (a) the dangerous substance is on a vehicle at the premises, and is in transit; and

- (b) 1 or more of the following (the *applicable rules*) apply to the vehicle, the substances making up the vehicle's load or the way the substances are being handled:
- (i) the International Air Transport Association Regulations;
 - (ii) the International Civil Aviation Organization Standards;
 - (iii) the International Maritime Dangerous Goods Code; and
- (c) the vehicle, the substances making up the vehicle's load and the way the substances are being handled comply with the applicable rules.

Note The *Road Transport Reform (Dangerous Goods) Act 1995* (Cwlth) and the *Road Transport Reform (Dangerous Goods) Regulations 1997* (Cwlth) made under that Act apply to the transport of dangerous goods by road as if they were enactments of the Legislative Assembly (see that Act, s 4). If they apply, the *Dangerous Substances Act 2004* and this regulation do not apply to the handling of the goods (which includes carrying the goods—see the Act, s 11) to the extent of any inconsistency.

Division 2.1.2 Definitions for ch 2

203 Definitions—ch 2

In this chapter:

C1 combustible liquid means a combustible liquid with a flashpoint of 150°C or less.

C2 combustible liquid means a combustible liquid with a flashpoint of more than 150°C.

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

class, of a dangerous substance of a particular kind, has the meaning given by the Australian Dangerous Goods Code for dangerous goods of the same kind.

Note 1 See the Australian Dangerous Goods Code, div 2.1.

Note 2 The notes to s 200 (Application—ch 2) indicate which classes of dangerous substance this chapter applies to.

class label, for a class of dangerous substances of a particular kind, means the class label required by the Australian Dangerous Goods Code for dangerous goods of the same kind.

Note See the Australian Dangerous Goods Code, cl 7.1.1 and table 7.1.

combustible liquid means a combustible liquid under Australian Standard 1940.

compatible—2 substances are **compatible** if they do not react together to cause a fire, explosion, harmful reaction or the evolution of flammable, toxic or corrosive vapours.

Examples of substances that are not compatible

- 1 concentrated strong acids and concentrated strong alkalis
- 2 cyanides and acids

Note An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

container, for a dangerous substance, means anything in or by which the substance is completely or partly cased, covered, enclosed, contained or packed.

dangerous substance means a dangerous substance to which this chapter applies under section 200.

Note See also the Act, s 10, def **dangerous substance**.

emergency plan, for div 2.8.2 (Manifest quantity registrable premises—emergency plans)—see section 273.

emergency service—see the *Emergencies Act 2004*, dictionary.

fire risk dangerous substance means a dangerous substance that burns readily or supports combustion, if the substance—

- (a) is of class 2.1, 3, 4 or 5; or
- (b) has a subsidiary risk of 2.1, 3, 4 or 5.

flashpoint, of a liquid, means the temperature at which the liquid first evolves vapour in a sufficient quantity to be ignited when tested in accordance with—

- (a) AS/NZS 2106 (Methods for the determination of the flash point of flammable liquids (closed cup)); or
- (b) a technical standard that provides a test corresponding to the test under AS/NZS 2106.

health and safety representative—see the *Occupational Health and Safety Act 1989*, dictionary.

importer, of a dangerous substance, means a person in control of the import of the substance.

Note The following terms are defined in the Act:

- **person in control** (see Act, s 17)
- **import** (see Act, dict).

in transit—a dangerous substance at premises is **in transit** while—

- (a) it has remained at the premises for 5 days or less; and
- (b) it has not been used at the premises; and
- (c) for a substance that arrived at the premises in a closed package—the package remains unopened.

manifest quantity—see section 205.

manifest quantity registrable premises—see section 209.

manufacturer, of a dangerous substance, means a person in control of the manufacture of the substance.

Note The following terms are defined in the Act:

- ***person in control*** (see Act, s 17)
- ***manufacture*** (see Act, dict).

non-registrable premises—see section 210.

package, of a dangerous substance—

- (a) means the complete product of the packing of the substance; and
- (b) consists of the substance and its packaging.

packaged—a dangerous substance is ***packaged*** if it is in a container—

- (a) for a class 2 dangerous substance—with a capacity of not more than 500L; or
- (b) for a dangerous substance of another kind—with a capacity of not more than 450L or a net mass of not more than 400kg.

packaging, of a dangerous substance—

- (a) means the container in which the substance is handled; and
- (b) includes anything that enables the container to receive or hold the substance, or to be closed.

packing group, for a dangerous substance of a particular kind, has the meaning given by the Australian Dangerous Goods Code in relation to dangerous goods of the same kind.

pipework means any of the following, if used in association with a dangerous substance:

- (a) a pipe or an assembly of pipes;
- (b) associated pipe fittings, valves or pipe accessories.

placard quantity—see section 204.

placard quantity notice—see section 261.

placard quantity register—see section 260.

proper shipping name, of a dangerous substance of a particular kind, has the meaning given by the Australian Dangerous Goods Code for dangerous goods of the same kind.

Note See the Australian Dangerous Goods Code, cl 2.2.1.

registrable premises—see section 208.

retailer, of a dangerous substance, means a person in control of the retail supply of the substance.

Note The following terms are defined in the Act:

- *person in control* (see Act, s 17)
- *supply* (see Act, dict).

risk assessment, for a hazard at premises—see section 222 (Risk assessment—making).

safety data sheet (or *SDS*)—see section 215.

Note *Safety data sheets* are referred to in some corresponding laws and the National Standard for the Storage and Handling of Workplace Dangerous Goods as *material safety data sheets*.

SDS—see section 215.

subsidiary risk, for a dangerous substance of a particular kind, has the meaning given by the Australian Dangerous Goods Code in relation to dangerous goods of the same kind.

subsidiary risk label, for a dangerous substance of a particular kind, means the subsidiary risk label required by the Australian Dangerous Goods Code for dangerous goods of the same kind.

Note See the Australian Dangerous Goods Code, cl 7.1.1 and table 7.2.

supplier, of a dangerous substance, means a person in control of the supply of the substance.

Note The following terms are defined in the Act:

- **person in control** (see Act, s 17)
- **supply** (see Act, dict).

tank means a container containing a dangerous substance—

- (a) for a class 2 dangerous substance—with a capacity of more than 500L; or
- (b) for any other dangerous substance—with a capacity of more than 450L or a net mass of more than 400kg.

transfer, of a dangerous substance, means a process that involves—

- (a) the filling, loading, pumping or pouring of the substance into a container; or
- (b) the discharging, unloading, pumping or pouring of the substance from a container.

Note **Transit**—see *in transit*.

Division 2.1.3 Quantities of dangerous substances

204 Meaning of placard quantity—ch 2

- (1) For this chapter, a **placard quantity** of a dangerous substance to which an item in schedule 1, table 1.1 (other than item 4 or 6) applies is the total quantity of the dangerous substance stated in the item as the placard quantity for the substance (in relation to any relevant packing group or groups).
- (2) For this chapter—
 - (a) a reference to the **placard quantity**, at particular premises, of a dangerous substance to which schedule 1, table 1.1, item 4 or 6 applies includes a reference to the total quantity stated in the

item as the placard quantity for all the substances to which the item applies, taken together, that are handled at the premises; and

- (b) in the application of paragraph (a), the reference in this chapter to the substance is taken to be a reference to all the substances to which the item applies that are handled at the premises.

Note 1 If the total quantity of dangerous substances is made up of quantities of some substances worked out under sch 1 in kilograms and others worked out under sch 1 in litres, the total quantity is worked out by adding the total number of kilograms to the total number of litres (see s 206).

Note 2 Sch 1, table 1.1, item 4 applies to mixed classes of dangerous substances.

Note 3 Sch 1, table 1.1, item 6 applies to combustible liquids that are handled with fire risk dangerous substances.

205 Meaning of *manifest quantity*—ch 2

- (1) For this chapter, a *manifest quantity* of a dangerous substance to which an item in schedule 1, table 1.1 (other than item 4 or 6) applies is the total quantity of the dangerous substance stated in the item as the manifest quantity for the substance (in relation to any relevant packing group or groups).
- (2) For this chapter—
- (a) a reference to the *manifest quantity*, at particular premises, of a dangerous substance to which schedule 1, table 1.1, item 4 or 6 applies includes a reference to the total quantity stated in the item as the manifest quantity for all the substances to which the item applies, taken together, that are handled at the premises; and

(b) in the application of paragraph (a), the reference in this chapter to the substance is taken to be a reference to all the substances to which the item applies that are handled at the premises.

Note 1 If the total quantity of dangerous substances is made up of quantities of some substances worked out under sch 1 in kilograms and others worked out under sch 1 in litres, the total quantity is worked out by adding the total number of kilograms to the total number of litres (see s 206).

Note 2 Sch 1, table 1.1, item 4 applies to mixed classes of dangerous substances.

Note 3 Sch 1, table 1.1, item 6 applies to combustible liquids that are handled with fire risk dangerous substances.

206 **Meaning of *total quantity*—ch 2**

For this chapter, if the quantity of dangerous substances of some kinds is measured in kilograms, and the quantity of dangerous substances of other kinds is measured in litres, the ***total quantity*** of both kinds of substances, taken together, is the number of kilograms added to the number of litres.

Example

Under section 261 (Registration—placard quantity notices), a person in control of premises commits an offence if the total quantity of dangerous substances at the premises is at least the placard quantity, and the premises are not registered under part 2.6. The placard quantity of class 9 dangerous substances in packing group II is 1 000kg or L (see sch 1, table 1.1, item 3).

Samara is a person in control of premises where there is 750kg of a particular kind of class 9 dangerous substance and 800L of another kind of class 9 dangerous substance (each in packing group II). There are no other dangerous substances at the premises.

The **total quantity** of class 9 dangerous substances (of packing group II) stored at the premises is 1 550kg or L (750kg + 800L). This exceeds the placard quantity for those substances (see section 204, def **placard quantity**). Accordingly, Samara must register the premises under part 2.6 to avoid committing an offence against section 261 (Registration—placard quantity notices) while storing that quantity of those substances there.

Note 1 The applicable methods for working out quantities of dangerous substances are set out in sch 1 (Dangerous substances—quantity) (see s 207 (Working out quantities—ch 2)).

Note 2 An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

207 Working out quantities—ch 2

For this chapter, schedule 1 (Dangerous substances—quantity) sets out the methods to be applied in working out quantities of dangerous substances.

Division 2.1.4 Premises

208 Meaning of *registrable premises*—ch 2

For this chapter, premises are **registrable premises** if a dangerous substance is present, or is likely to be present, at the premises in at least the placard quantity.

209 Meaning of *manifest quantity registrable premises*—ch 2

For this chapter, premises are **manifest quantity registrable premises** if a dangerous substance is present, or is likely to be present, at the premises in at least the manifest quantity.

Note All **manifest quantity registrable premises** are also **registrable premises**, because all manifest quantities listed in sch 1, table 1.1 are greater than the placard quantities listed in the schedule that qualify premises as **registrable premises** (see section 208 (Meaning of *registrable premises*)).

210 **Meaning of *non-registrable premises*—ch 2**

For this chapter, premises are *non-registrable premises* if—

- (a) a dangerous substance is present, or is likely to be present, at the premises; but
- (b) the premises are not registrable premises.

Part 2.2 **Manufacturers, importers and suppliers**

Division 2.2.1 **Packing, marking and supply**

211 **Correct classification—Act, s 13**

A dangerous substance is correctly classified if—

- (a) the substance can be classified under the Australian Dangerous Goods Code; and
- (b) the correct UN number, class, subsidiary risk and packing group have been given to the substance under the Australian Dangerous Goods Code.

Note 1 See Australian Dangerous Goods Code, cl 1.1.3, def **Class**, **Packing Group**, **Subsidiary Risk** and **UN Number**, and appendix 2.

Note 2 Under the Act, s 13 (1) (a), a dangerous substance is correctly classified if it is classified in accordance with the regulations. For the Act, s 26, s 27 or s 28, a manufacturer, importer or supplier of the substance must ensure that it is correctly classified. Failure to comply may be an offence against the Act, pt 3.2.

212 **Correct packing—Act, s 14**

- (1) A dangerous substance (other than a substance mentioned in subsection (2)) is correctly packed if the Australian Dangerous Goods Code is complied with for—
 - (a) the condition of the substance; and
 - (b) the packaging containing the substance.

Note See the Australian Dangerous Goods Code, ch 3 (Packaging).

- (2) A dangerous substance that is a good too dangerous to be transported or a C1 combustible liquid is correctly packed if the

substance is packed in packaging that is of a type and in a condition that will hold the substance and not react adversely with it.

- (3) This section does not apply to the packing of a dangerous substance if section 214 (Supply by retailer in consumer's container—Act, s 14) applies to the supply of the substance.

Note Under the Act, s 14 (1), a dangerous substance is correctly packed if it is packed in accordance with the regulations. For the Act, s 26, s 27 or s 28, a manufacturer, importer or supplier of the substance must ensure that it is correctly packed. Failure to comply may be an offence against the Act, pt 3.2.

213 Correct labelling—Act, s 14

- (1) A dangerous substance (other than a substance mentioned in subsection (2)) is correctly labelled if the Australian Dangerous Goods Code is complied with for the marking on the package of the substance.

Note See the Australian Dangerous Goods Code, ch 7 (Marking and placarding).

- (2) A dangerous substance that is a good too dangerous to be transported or a C1 combustible liquid is correctly labelled if the package of the substance is clearly labelled with the substance's name.

- (3) This section does not apply to the labelling of a dangerous substance if section 214 (Supply by retailer in consumer's container—Act, s 14) applies to the supply of the substance.

Note Under the Act, s 14 (2) (a), a dangerous substance is correctly labelled if it is labelled in accordance with the regulations. For the Act, s 26, s 27 or s 28, a manufacturer, importer or supplier of the substance must ensure that it is correctly labelled. Failure to comply may be an offence against the Act, pt 3.2.

214 Supply by retailer in consumer's container—Act, s 14

- (1) This section applies if a retailer of a dangerous substance supplies the substance to a person in a container supplied by the person, with—
- (a) for a class 2 dangerous substance—a capacity of not more than 500L; or
 - (b) for any other dangerous substance—a capacity of not more than 450L, or a net mass of not more than 400kg.
- (2) The dangerous substance is correctly packed if—
- (a) for a class 2 dangerous substance—the container is packaging that meets the requirements of the Australian Dangerous Goods Code for class 2 dangerous goods; or
 - (b) for another dangerous substance, the container—
 - (i) is of a type and in a condition that will hold the substance and not react adversely with it; and
 - (ii) has the name of the substance clearly marked on the container; and
 - (iii) is not ordinarily used to hold foodstuffs, and cannot be mistakenly identified as containing foodstuffs.

Note 1 For par (a), see the Australian Dangerous Goods Code, ch 3 (Packaging).

Note 2 Under the Act, s 14 (1) (a), a dangerous substance is correctly packed if it is packed in accordance with the regulations. For the Act, s 28, a supplier of the substance who is a retailer of the substance must ensure that it is correctly packed. Failure to comply may be an offence against the Act, pt 3.2.

Division 2.2.2 Safety data sheets

215 SDS preparation and review—Act, s 26 (1) (e) and s 27 (1) (e)

- (1) A manufacturer or importer of a dangerous substance must—
- (a) prepare a document that complies with this section (a *safety data sheet* or *SDS*) for the substance—
 - (i) before first manufacturing or importing the substance; or
 - (ii) if that is not practicable—as soon as practicable after first manufacturing or importing the substance; and
 - (b) review the safety data sheet at least once every 5 years; and
 - (c) amend the safety data sheet whenever necessary to ensure that it contains correct current information.

Example for par (a) (ii)

It may not be practicable to prepare a safety data sheet before first manufacturing a dangerous substance if the substance is discovered through research.

Note 1 For the Act, s 26 or s 27, a manufacturer or importer of a dangerous substance must ensure that the safety information prescribed by regulation is prepared and kept up to date in accordance with the regulations. Failure to comply may be an offence against the Act, pt 3.2.

Note 2 An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (2) A safety data sheet for a dangerous substance must—
- (a) be in English; and
 - (b) contain unit measures expressed in Australian legal units of measurement under the *National Measurement Act 1960* (Cwlth); and

- (c) state the date it was last reviewed or, if it has not been reviewed, the date it was prepared; and
 - (d) state the product name for the substance; and
 - (e) unless the substance is a good too dangerous to be transported—state the proper shipping name, UN number, class, subsidiary risk and packing group of the substance; and
 - (f) if the substance is a good too dangerous to be transported—state the name of the substance as mentioned in the Australian Dangerous Goods Code, appendix 5; and
 - (g) state the following information about the substance:
 - (i) the chemical and physical properties;
 - (ii) the health and safety hazards;
 - (iii) how it may be safely used;
 - (iv) first-aid information; and
 - (h) state the manufacturer's or importer's name, Australian address and Australian telephone number; and
 - (i) state the following information about the substance:
 - (i) the chemical name of the ingredients of the substance or, if the identity of an ingredient is commercially confidential, the generic name for the ingredient;
 - (ii) the proportion or the proportion ranges of the ingredients in the substance.
- (3) However, subsection (2) (i) does not apply if—
- (a) the manufacturer or importer considers giving the information about an ingredient would cause commercial disadvantage; and
 - (b) the ingredient is not a dangerous substance; and

- (c) the ingredient does not have a known synergistic effect; and
- (d) the safety data sheet includes either of the following statements:
 - (i) ‘other ingredients determined not to be dangerous substances’;
 - (ii) ‘other ingredients determined not to be dangerous goods’.

216 SDS prepared under corresponding law

- (1) Section 215 (Preparing, amending and reviewing safety data sheets) does not apply to a manufacturer or importer of a dangerous substance if the manufacturer or importer has already prepared a document corresponding to a safety data sheet for the substance under a corresponding law.

- (2) In this section:

corresponding law means any of the following laws that provides for the preparation of a document corresponding to a safety data sheet for the substance:

- (a) another law of the Territory;
- (b) a law of the Commonwealth, a State or another Territory.

217 Provision of SDS by manufacturer, importer or supplier— Act, s 26 (1) (e), s 27 (1) (e) and s 28 (1) (e)

- (1) A manufacturer, importer or supplier of a dangerous substance must ensure that a copy of the current safety data sheet for the substance is provided—
 - (a) to a person on or before the first occasion the substance is supplied to the person for use; and
 - (b) if the safety data sheet is amended under section 215 (SDS preparation and review—Act, s 26 (1) (e) and s 27 (1) (e))—to a

person on or before the first occasion the substance is supplied to the person after the amendment for use; and

- (c) on request—
- (i) to the person in control of any premises where the substance is handled; or
 - (ii) to the chief executive.

Note For the Act, s 26, s 27 or s 28, a manufacturer, importer or supplier of a dangerous substance must ensure that the safety information prescribed by regulation is prepared and kept up to date in accordance with the regulations. Failure to comply may be an offence against the Act, pt 3.2.

(2) Subsection (1) does not apply to a supplier if—

- (a) the supplier is a retailer and the dangerous substance is packaged; or

Note A dangerous substance is **packaged** if it is in a container of a defined limited capacity (see s 203 (Definitions—ch 2)).

- (b) the supplier is a retailer supplying fuel to a vehicle; or
- (c) the supplier is a retailer to whom section 214 (Supply by retailer in consumer's container, Act, s 14) applies.

218 Additional information for doctors—Act, s 26 (1) (e) and s 27 (1) (e)

(1) This section applies if—

- (a) the chemical name of an ingredient of a dangerous substance is not stated on the safety data sheet for the substance or the marking on the package of the substance; and

Note Section 215 (3) (SDS preparation and review—Act, s 26 (1) (e) and s 27 (1) (e)) provides that the manufacturer or importer need not list a chemical ingredient of a dangerous substance in the SDS for the substance in certain circumstances.

- (b) a doctor believes on reasonable grounds that knowing the chemical name of the ingredient may help the doctor to treat a patient; and
 - (c) the doctor asks a manufacturer or importer of the substance for the chemical name of the ingredient.
- (2) The manufacturer or importer must immediately comply with the doctor's request.

Maximum penalty: 15 penalty units.

Note For the Act, s 26 or s 27, a manufacturer or importer of a dangerous substance must ensure that the safety information prescribed by regulation is supplied in accordance with the regulations. Failure to comply may be an offence against the Act, pt 3.2.

- (3) An offence against this section is a strict liability offence.

219 Additional information for people responsible for health and safety—Act, s 26 (1) (e) and s 27 (1) (e)

- (1) This section applies if—
- (a) the chemical name of an ingredient of a dangerous substance is not stated on the safety data sheet for the substance or the marking on the package of the substance; and
- Note* Section 215 (3) (SDS preparation and review—Act, s 26 (1) (e) and s 27 (1) (e)) provides that the manufacturer or importer need not list a chemical ingredient of a dangerous substance in the SDS for the substance in certain circumstances.
- (b) a responsible person believes on reasonable grounds that making a request under this section to a manufacturer or importer of the substance for the chemical name of the ingredient is justified; and
 - (c) the responsible person makes the request, stating the reasons for the request.

- (2) For this section, the request is justified only if knowing the chemical name of the ingredient would help protect the health of a person (the *exposed person*) who may be exposed to the substance through its use at premises where the exposed person works.
- (3) The manufacturer or importer must give the responsible person a written response to the request in accordance with subsection (4) within 30 days after the day the request is received.

Maximum penalty: 15 penalty units.

Note For the Act, s 26 or s 27, a manufacturer or importer of a dangerous substance must ensure that the safety information prescribed by regulation is supplied in accordance with the regulations. Failure to comply may be an offence against the Act, pt 3.2.

- (4) The response to the request must—
- (a) disclose the chemical name of the ingredient; or
 - (b) if the manufacturer or importer is not satisfied that the request is justified—
 - (i) state that the request is refused, giving reasons, supported by evidence; and
 - (ii) give alternative information, without disclosing the chemical name of the ingredient, that the manufacturer or importer believes on reasonable grounds would help protect the health of the exposed person.
- (5) If the manufacturer or importer tells the responsible person the chemical name of the ingredient, the responsible person must not disclose the name for any purpose except protecting the health of any exposed person.

Maximum penalty: 15 penalty units.

- (6) An offence against this section is a strict liability offence.

(7) In this section:

responsible person means—

- (a) a person in control of premises where the exposed person works; or
- (b) a health and safety representative of the employees at the premises where the exposed person works; or
- (c) the chief executive.

Part 2.3 Registrable premises—safety management systems

220 Safety management systems—Act, s 19 (1) (e)

- (1) A safety management system for handling a dangerous substance at registrable premises must be prepared, documented and implemented in accordance with this part.
- (2) Subsection (1) applies in addition to the requirements of the Act, section 19 (1) (a) to (d) in relation to a safety management system for the substance.

Note Under the Act, s 19 (1) (e), a *safety management system* for a dangerous substance must comply with requirements prescribed by regulation. For the Act, s 31, a person in control of premises where there is a dangerous substance must ensure that there is a safety management system for the substance at the premises, and that the system is implemented for the premises. Failure to comply may be an offence against the Act, pt 3.2.

221 Hazard identification—Act, s 19 (2) (c)

- (1) This section applies if a person in control of registrable premises is—
 - (a) preparing a safety management system for the premises; and
 - (b) for that purpose, identifying the hazards associated with a dangerous substance at the premises.
- (2) In identifying the hazards associated with the substance, the person in control of the premises must consider the following:
 - (a) the information in the safety data sheet for the substance and any other information known to the person about the hazardous properties of the substance;

- (b) any structures, plant, and systems that are not used to handle the substance, but that could interact with the substance at the premises;
- (c) any manufacturing and transport processes involving the substance at the premises;
- (d) the physical location and arrangement of areas, structures and safety and health systems at the premises;
- (e) any incidents involving the substance—
 - (i) that have happened at the premises; or
 - (ii) that may reasonably be expected to be known to the person.

Examples for par (e) (ii)

- 1 an incident that happened at other premises while the person was in control of those premises
- 2 an incident described in an occupational health and safety alert bulletin sent to the premises, or to other premises, while the person was in control of the premises or other premises

Note An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (3) A person in control of registrable premises where there is a dangerous substance must take all reasonable steps to find out about the hazardous properties of the substance.

Maximum penalty: 15 penalty units.

- (4) An offence against this section is a strict liability offence.

Note 1 The safety management system must, among other things, identify the hazards associated with the substance, having regard to the current state of knowledge about the hazards (see Act, s 19 (1) (a)). The safety management system must also comply with this part (see s 220 (Safety management systems—Act, s 19 (1) (e)) and Act, s 19 (1) (e)).

Note 2 In addition to the considerations mentioned in this section, the Act, s 19 (2) sets out further matters that must be considered in identifying hazards associated with a dangerous substance as follows:

- the chemical and physical properties of the substance (s 19 (2) (a))
- any chemical or physical reactions that may happen if the substance comes into contact with other substances (s 19 (2) (b))
- the premises, plant and systems for handling the substance (s 19 (2) (c))

222 Risk assessment—making

- (1) If a hazard associated with a dangerous substance is identified at registrable premises, a person in control of the premises must ensure that—
 - (a) a written assessment is made of the risks associated with the hazard (a *risk assessment*) in accordance with subsection (2); and
 - (b) a dated copy of the risk assessment is kept at the premises.

Note If a person stops being in control of registrable premises, the copy of the risk assessment must continue to be kept at the premises (see s 250 (Records—change of person in control)).

- (2) The person in control of the premises must, in the risk assessment, state the methods considered, and those used, to control the risks associated with the hazard.

223 Risk assessment—availability

- (1) This section applies if a risk assessment has been made for a hazard at registrable premises.
- (2) A person in control of the premises must ensure that a copy of the risk assessment, as amended after any review under this part, is made available to anyone likely to be exposed to the hazard while working at the premises.

224 Risk assessment—regular review

- (1) This section applies if—
 - (a) a risk assessment has been made for a hazard associated with a dangerous substance at registrable premises; and
 - (b) either—
 - (i) there is a significant change to a process, system or procedure in relation to the handling of the substance at the premises; or
 - (ii) there is evidence to indicate that the risk assessment no longer adequately assesses the risk associated with the hazard.
- (2) A person in control of the premises must ensure that—
 - (a) the risk assessment for the hazard at the premises is reviewed; and
 - (b) a dated record of the review is kept at the premises; and
 - (c) if the review results in an amendment to the risk assessment—a copy of the risk assessment as amended, indicating the date of amendment, is kept at the premises.

Note If a person stops being in control of registrable premises, the record of the review and (if applicable) the copy of the amended risk assessment must continue to be kept at the premises (see s 250 (Records—change of person in control)).

225 Risk assessment—5-year review

- (1) This section applies if a risk assessment has been made for a hazard at registrable premises.
- (2) A person in control of the premises must ensure that—
 - (a) the risk assessment for the premises is reviewed within—

- (i) 5 years after the day it was made; or
 - (ii) if it has been reviewed after it was made (including a review under this section)—5 years after the day the dated record was made of its last review; and
- (b) a dated record of the review is kept at the premises; and
 - (c) if the review results in an amendment to the risk assessment—a copy of the risk assessment as amended, indicating the date of amendment, is kept at the premises.

Note If a person stops being in control of registrable premises, the record of the review and (if applicable) the copy of the amended risk assessment must continue to be kept at the premises (see s 250 (Records—change of person in control)).

226 Consultation with employees

- (1) A person in control of registrable premises must consult with the following people about the matters mentioned in subsection (2):
 - (a) the employees;
 - (b) any health and safety representative of the employees.
- (2) For subsection (1), the consultation must be about the following:
 - (a) induction, training, information provision, hazard identification, risk assessment and risk control in relation to the substance;
 - (b) any proposed changes to structures, plant, processes or systems of work that are likely to increase the risk to the employees consulted.
- (3) In this section:
employee, in relation to registrable premises, means an individual employed under a contract of service to work at the premises.

227 Substitution and reduction

To eliminate the hazards associated with handling a dangerous substance at registrable premises, or to minimise the risks associated with the hazards, a person in control of the premises must consider both of the following:

- (a) substituting an alternative substance (whether or not the substance is a dangerous substance) that has a lower risk associated with its handling;
- (b) reducing the quantity of the substance that is handled at the premises.

Part 2.4 Registrable premises—risk control

Division 2.4.1 Registrable premises— isolation, stability and interaction

228 Isolation

- (1) A person in control of registrable premises must ensure that the risk to people or property outside the premises from any dangerous occurrence resulting from the handling at the premises of a dangerous substance—
 - (a) is eliminated; or
 - (b) if it is not practicable to eliminate the risk—is reduced as far as practicable by the physical separation of the substance from the people or property by distance or physical barriers, or both.

Maximum penalty: 30 penalty units.

- (2) An offence against this section is a strict liability offence.

229 Stability

- (1) A person in control of registrable premises must ensure that a dangerous substance handled at the premises does not become unstable, decompose or change so as to—
 - (a) create a hazard that is different from the hazard originally created by the substance; or
 - (b) increase the risk associated with any hazard in relation to the substance.

Maximum penalty: 30 penalty units.

- (2) A person in control of registrable premises must ensure that—

- (a) if the stability of a dangerous substance handled at the premises is dependent on the maintenance of levels of stabilisers—the levels are maintained as stated by the manufacturer of the goods; and
- (b) if a dangerous substance is required to be stored at the premises below a particular control temperature stated by the manufacturer—the substance is stored below that temperature.

Example for par (b)

Organic peroxides are dangerous substances. Their manufacturer states in the SDS for the substances that they must be stored below their self-accelerating decomposition temperature. A person in control of the premises must ensure that they are stored at a temperature below their self-accelerating decomposition temperature.

Maximum penalty: 30 penalty units.

Note An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (3) An offence against this section is a strict liability offence.
- (4) This section does not apply to a dangerous substance if the substance is about to be used in a manufacturing process.
- (5) In this section:

stabiliser, in relation to a dangerous substance, means a substance added to, or present in, the substance to overcome chemical instability inherent in the substance.

Examples of stabilisers

- 1 diluents
- 2 inhibitors
- 3 desensitisers
- 4 phlegmatisers
- 5 solvents
- 6 wetting agents

7 adulterants

230 Preventing interaction with other substances

- (1) A person in control of registrable premises must ensure that a dangerous substance at the premises that is not compatible with another substance at the premises (including another dangerous substance) is stored separately from the other substance.

Maximum penalty: 30 penalty units.

- (2) An offence against this section is a strict liability offence.

Note Section 282 (Non-registrable premises—preventing interaction with other substances) imposes the same requirement for non-registrable premises.

231 Preventing contamination of food or personal products

- (1) A person in control of registrable premises must ensure that a dangerous substance is not handled at the premises so as to contaminate food, food packaging or personal use products.

Maximum penalty: 30 penalty units.

- (2) An offence against this section is a strict liability offence.

Note Section 282 (Non-registrable premises—preventing interaction with other substances) imposes the same requirement for non-registrable premises.

Division 2.4.2 Registrable premises—plant and structures

232 Tanks for bulk dangerous substances

- (1) A person in control of registrable premises where a dangerous substance is stored in a tank must ensure that—
- (a) the tank and any associated pipework have stable foundations and supports; and

- (b) any pipework or equipment connected to the tank is installed so as to prevent excessive stress on the tank, pipework or equipment; and
- (c) the tank and its associated pipework are protected from corrosion; and
- (d) the tank and its associated pipework are inspected at intervals that are sufficient to ensure their integrity and serviceability.

Maximum penalty: 30 penalty units.

- (2) A person in control of the premises must ensure that—
 - (a) an inspection mentioned in subsection (1) (d) is recorded; and
 - (b) a record of all inspections of the tank and its associated pipework is kept at the premises while the tank remains in service on the premises.

Maximum penalty: 30 penalty units.

Note If a person stops being in control of registrable premises, the record must continue to be kept at the premises (see s 250 (Records—change of person in control)).

- (3) An offence against this section is a strict liability offence.

233 Decommissioning

- (1) This section applies if a container used to store a dangerous substance at registrable premises—
 - (a) is to be disposed of; or
 - (b) is no longer to be used in association with the substance.
- (2) A person in control of the premises must ensure that—
 - (a) the container is thoroughly cleaned so that the container is in the condition it would be in if it had never contained the substance; and

- (b) if the dangerous substance is a gas or volatile liquid—the concentration (calculated as the time-weighted average over 8 hours) of the gas or vapour in the atmosphere of the container is less than the concentration listed in the National Exposure Standards for the substance; and
- (c) if the dangerous substance is of class 2.1 or 3 or subsidiary risk 3 (including a gas or a volatile liquid)—the concentration of the substance (including the vapours of the substance) in the atmosphere in the container is less than 5% of the lower explosive limit for the substance when sampled at ambient temperature.

Maximum penalty: 30 penalty units.

- (3) An offence against subsection (2) is a strict liability offence.

Note Section 284 (Non-registrable premises—decommissioning) imposes a similar requirement for non-registrable premises.

234 Protection from impact

- (1) A person in control of registrable premises must ensure that any plant at the premises associated with the handling of a dangerous substance is, as far as practicable, protected against damage from impact with vehicles, or any other plant, at the premises.

Maximum penalty: 30 penalty units.

- (2) An offence against this section is a strict liability offence.

Note **Plant** is defined in the Act, dict to include (among other things) a container or vehicle used for handling dangerous substances.

235 Personal protective or safety equipment

- (1) This section applies if there are reasonable grounds for a person in control of registrable premises to require personal protective or safety equipment to be used by a person (the **exposed person**) to eliminate or minimise the risk from a dangerous substance while the

exposed person is (or may be) exposed to the substance at the premises.

- (2) The person in control of the premises must ensure that the exposed person is required to use the equipment while the person is (or may be) exposed to the dangerous substance at the premises.

Maximum penalty: 30 penalty units.

- (3) The person in control of the premises must ensure that the equipment available for use by the exposed person while the exposed person is (or may be) exposed to the substance is—

- (a) suitable for that use; and
- (b) undamaged and effective; and
- (c) maintained in a suitable condition for that use.

Maximum penalty: 30 penalty units.

- (4) A person must not engage in conduct that damages or makes ineffective any personal protective or safety equipment provided at the premises.

Maximum penalty: 30 penalty units.

- (5) An offence against subsection (2) or (3) is a strict liability offence.

Note Section 285 (Non-registrable premises—personal protective or safety equipment) imposes the same requirement for non-registrable premises.

Division 2.4.3 Registrable premises—lighting, access and security

236 Lighting

- (1) A person in control of registrable premises must ensure that sufficient and suitable lighting is provided to enable safe access within, to and from each part of the premises where a dangerous substance is handled.

Maximum penalty: 20 penalty units.

- (2) An offence against this section is a strict liability offence.

Note Section 286 (Non-registrable premises—lighting) imposes the same requirement for non-registrable premises.

237 Access

- (1) A person in control of registrable premises must ensure that safe means of access within, to and from each part of the premises where a dangerous substance is handled is provided and maintained.

Maximum penalty: 20 penalty units.

- (2) An offence against this section is a strict liability offence.

Note Section 287 (Non-registrable premises—access) imposes the same requirement for non-registrable premises.

238 Security

- (1) This section applies if a person (the *unauthorised person*) is not authorised by a person in control of registrable premises to have access to a dangerous substance handled at the premises.

- (2) A person in control of the premises must ensure that the unauthorised person does not have access to the substance.

Maximum penalty: 30 penalty units.

- (3) An offence against this section is a strict liability offence.

Note Section 288 (Non-registrable premises—security) imposes the same requirement for non-registrable premises.

Division 2.4.4 Registrable premises—spills

239 Spill containment

- (1) A person in control of registrable premises must ensure that, in each area of the premises where a dangerous substance is handled, provision is made for a spill containment system that—

- (a) eliminates the risk from any spill or leak of the substance or, if it is not practicable to eliminate the risk, minimises the risk; and
(b) would contain within the premises any part of the substance that spills or leaks, and any effluent arising from a spill or leak.

Maximum penalty: 30 penalty units.

- (2) A person in control of registrable premises must ensure that the spill containment system for a tank containing a dangerous substance would not create a hazard by bringing together different kinds of dangerous substance that are not compatible.

Maximum penalty: 30 penalty units.

- (3) If there is a spill or leak of a dangerous substance at registrable premises, a person in control of the premises must ensure that—

- (a) immediate action is taken to eliminate any risk associated with the spill or leak or, if it is not practicable to eliminate the risk, minimise the risk; and

(b) the substance and any resulting effluent are, as soon as practicable—

- (i) cleaned up and disposed of; or
- (ii) otherwise made safe.

Maximum penalty: 30 penalty units.

(4) An offence against this section is a strict liability offence.

Note Section 289 (Non-registrable premises—spill containment) imposes a similar requirement for non-registrable premises.

240 Transfer of dangerous substances

(1) This section applies to the transfer of a dangerous substance—

- (a) from area to area within registrable premises; or
- (b) from or into a container at registrable premises.

(2) A person in control of the premises must ensure that subsection (3) is complied with to the extent necessary—

- (a) to eliminate any risk associated with the transfer; or
- (b) if it is not practicable to eliminate the risk—to minimise the risk.

Maximum penalty: 30 penalty units.

(3) For subsection (2)—

- (a) any spills, leaks and overflows because of the transfer must be avoided; and
- (b) any static electricity because of the transfer must be minimised; and
- (c) any vapour generation because of the transfer must be minimised; and

- (d) any ignition source to which the substance may be exposed because of the transfer must be eliminated or controlled; and
 - (e) any pipework used in the transfer must be appropriate for the substance and adequate for the transfer.
- (4) An offence against this section is a strict liability offence.

Note Section 290 (Non-registrable premises—transfer of dangerous substances) imposes the same requirement for non-registrable premises.

241 Equipment for clean-ups

- (1) A person in control of registrable premises must ensure that equipment and materials appropriate for use for the containment and clean-up of spills or leaks at the premises of any dangerous substance are, while the substance is handled at the premises—
- (a) kept at the premises; and
 - (b) maintained in good condition; and
 - (c) accessible to people at the premises.

Maximum penalty: 30 penalty units.

Examples of equipment and materials

The following equipment and materials may be appropriate in particular circumstances:

- 1 neutralisers
- 2 decontaminants
- 3 pressure relief valves.

Note An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (2) An offence against this section is a strict liability offence.

Note Section 290 (Non-registrable premises—transfer of dangerous substances) imposes the same requirement for non-registrable premises.

Division 2.4.5 Registrable premises—atmospheric risks

242 Ignition sources

- (1) A person in control of registrable premises must ensure that—
 - (a) ignition sources in a hazardous area at the premises are eliminated; or
 - (b) if it is not reasonably practicable to eliminate the sources— the risk from the sources is minimised.

Maximum penalty: 25 penalty units.

- (2) An offence against this section is a strict liability offence.
- (3) In this section:

hazardous area means an area—

- (a) classified as hazardous under either of the following standards:
 - (i) AS/NZS 2430.3 (Classification of hazardous areas);
 - (ii) AS/NZS 60079.10 (Electrical apparatus for explosive gas atmospheres—classification of hazardous areas); or
- (b) classified under AS/NZS 61241.3 (Electrical apparatus for use in the presence of combustible dust—classification of areas where combustible dusts are or may be present) as an area where combustible dusts are or may be present.

Note Section 292 (Non-registrable premises—ignition sources) imposes the same requirement for non-registrable premises.

243 Ventilation and atmospheric emissions

- (1) A person in control of registrable premises must ensure that any risk associated with atmospheric conditions that are flammable, explosive or asphyxiant—

- (a) is eliminated; or
- (b) if it is not practicable to eliminate the risk—is minimised.

Maximum penalty: 30 penalty units.

- (2) An offence against this section is a strict liability offence.

Note Section 293 (Non-registrable premises—ventilation and atmospheric emissions) imposes the same requirement for non-registrable premises.

Division 2.4.6 Risk control—fire protection

244 Fire protection

- (1) A person in control of registrable premises must ensure that—
 - (a) each area of the premises where a dangerous substance is handled is provided with a fire protection system that—
 - (i) is designed and constructed for the substance in the quantities in which it is handled at the premises, and the conditions under which it is handled; and
 - (ii) uses firefighting methods adapted for the substance and effective in the control of incidents involving the substance in the quantities in which it is handled at the premises; and
 - (b) the fire protection system is—
 - (i) properly installed, tested and maintained; and
 - (ii) accessible at all times to people at the premises and to the emergency services; and
 - (c) a dated written record is kept of the testing results and maintenance; and

- (d) fire hydrants and fire hose coupling points at the premises that may be used by the fire brigade or rural fire service are suitable for use by the brigade or service.

Maximum penalty: 30 penalty units.

Note If a person stops being in control of registrable premises, the testing and maintenance record must continue to be kept at the premises (see s 250 (Records—change of person in control)).

- (2) If a part of a fire protection system provided at premises for subsection (1) becomes unserviceable or inoperative, a person in control of the premises must ensure that—
 - (a) the implications of the part being unserviceable or inoperative are assessed; and
 - (b) for risks that were eliminated or minimised by the system when functioning fully, alternative measures are taken in compliance with subsection (3)—
 - (i) to eliminate the risks; or
 - (ii) if it is not practicable to eliminate the risks—to minimise the risks.

Maximum penalty: 30 penalty units.

- (3) For subsection (2), the person in control of the premises must, to the extent necessary to eliminate or minimise the risks mentioned in subsection (2) (b)—
 - (a) provide alternative fire protection measures; and
 - (b) reduce the quantity of the dangerous substance handled at the premises; and
 - (c) stop or limit the processes used for handling the dangerous substance; and

- (d) change systems of work used to handle the dangerous substance.
- (4) If a part of a fire protection system provided at premises for subsection (1) becomes unserviceable or inoperative, a person in control of the premises must ensure that the system is returned to full operation as soon as practicable.

Maximum penalty: 30 penalty units.

- (5) An offence against this section is a strict liability offence.

Part 2.5 Registrable premises— information

Division 2.5.1 Registrable premises— communication

245 Information for substance handlers

- (1) This section applies to—
 - (a) a person in control of registrable premises (the *person in control*) in relation to the handling of a dangerous substance at the premises; and
 - (b) someone else (the *handler*) who carries out, or is to carry out, tasks involving the handling of the substance (*handling tasks*) at the premises.
- (2) The person in control must ensure that the handler is given induction, information, training and supervision that is—
 - (a) in a language and way appropriate to the handler; and
 - (b) relevant to the handling tasks and the associated risks.Maximum penalty: 30 penalty units.
- (3) The person in control must ensure that the induction, information and training given under subsection (2) includes instruction about—
 - (a) the nature of the hazards and properties of the dangerous substance, and the processes used for identifying, assessing and eliminating or reducing the risks associated with the hazards that are relevant to the handling tasks; and
 - (b) the purpose, use and maintenance of measures for eliminating or reducing the risks; and

- (c) the systems of work and the conduct of people at the premises to the extent that the systems or conduct may affect the safe handling of dangerous goods; and
- (d) the operation of any emergency plans for the premises and any procedures and equipment that may be needed for use if there is a dangerous occurrence at the premises; and
- (e) the proper use and fitting of personal protective or safety equipment.

Maximum penalty: 30 penalty units.

Note 1 Emergency plans are required for manifest quantity registrable premises (see **div 2.8.2**).

Note 2 Under s 276 (Emergency plan—instruction for employee representatives and neighbouring occupiers), health and safety representatives of employees at the premises must also be given information about emergency plans.

Note 3 Under s 277 (Emergency plan—review as necessary) and s 278 (Emergency plan—5-year review), substance handlers, health and safety representatives of employees at the premises, neighbouring occupiers and the emergency services must be consulted about the review of emergency plans.

- (4) The person in control must ensure that a record of induction, information, training and supervision given under this section is made and kept for at least 5 years after the day the record is made.

Maximum penalty: 30 penalty units.

Note If a person stops being in control of registrable premises, the record must continue to be kept at the premises (see s 250 (Records—change of person in control)).

- (5) If, within 5 years after a record is made under subsection (4), dangerous substances stop being handled at the premises, a person in control of the premises immediately before the substances stopped being handled at the premises must keep the record until the end of the 5-year period.

Maximum penalty: 30 penalty units.

- (6) If, after dangerous substances stop being handled at premises, a person holds a record under subsection (5) in relation to the premises, the person must, if an inspector asks within the 5-year period mentioned in subsection (5), give the inspector a copy of the record.

Maximum penalty: 30 penalty units.

- (7) An offence against this section is a strict liability offence.

Note Section 294 (Non-registrable premises—information for substance handlers) imposes similar requirements for non-registrable premises.

246 Information for plant users

- (1) A person in control of registrable premises must ensure that a person responsible for plant at the premises that is used to handle a dangerous substance is given the information on procedures for the safe operation of the plant necessary to ensure that—
- (a) any risk to the responsible person or anyone else at the premises is eliminated; or
 - (b) if it is not practicable to eliminate the risk—the risk is minimised.

Maximum penalty: 30 penalty units.

- (2) An offence against this section is a strict liability offence.

(3) In this section:

responsible—a person is *responsible* for plant at registrable premises if the person does any of the following:

- (a) operates the plant;
- (b) accesses the plant;
- (c) maintains the plant
- (d) repairs the plant;
- (e) inspects the plant;
- (f) tests the plant.

Note Section 295 (Non-registrable premises—information for plant users) imposes the same requirement for non-registrable premises.

247 Information for visitors

- (1) A person in control of registrable premises must ensure that a visitor to the premises is given any information, safety instructions and supervision necessary to ensure that—
- (a) any risk to the visitor or anyone else at the premises is eliminated; or
 - (b) if it is not practicable to eliminate the risk—the risk is minimised.

Maximum penalty: 30 penalty units.

- (2) An offence against this section is a strict liability offence.

Note Section 296 (Non-registrable premises—information for visitors) imposes the same requirement for non-registrable premises.

Division 2.5.2 Registrable premises—keeping accurate information

248 Keeping safety data sheets

- (1) A person in control of registrable premises must, for a dangerous substance handled, or proposed to be handled, at the premises—
- (a) obtain a current safety data sheet for the substance on or before the first occasion the substance is supplied to the premises; and
 - (b) ensure that a current safety data sheet for the substance is readily accessible to anyone handling the substance at the premises, and to the emergency services; and
 - (c) not amend a safety data sheet for the substance otherwise than—
 - (i) under section 215 (SDS preparation and review—Act, s 26 (1) (e) and s 27 (1) (e)); or
 - (ii) for a safety data sheet prepared overseas—as necessary to enable it to be easily understood by people at the premises.

Maximum penalty: 30 penalty units.

- (2) Subsection (1) (a) and (b) do not apply to a dangerous substance that is—
- (a) in transit; or
 - (b) handled (or to be handled) at a retail outlet or warehouse in packaged form, is correctly packed and labelled, and is sold (or to be sold) unopened.

Note 1 A dangerous substance is **packaged** if it is in a container of a defined limited capacity (see s 203 (Definitions—ch 2)).

Note 2 See s 212 (Correct packing—Act, s 14) and s 213 (Correct labelling—Act, s 14).

- (3) If, because of subsection (2), a person in control of registrable premises is not required to have, and does not have, a safety data sheet for a dangerous substance, the person must ensure that alternative information for the safe handling of the substance is readily accessible to people at the premises.

Maximum penalty: 30 penalty units.

- (4) If a person in control of registrable premises makes accessible a safety data sheet for a dangerous substance, and the person also makes accessible other information about the safe handling of the substance, the person in control of the premises must ensure that the other information is—
- (a) consistent with the information contained in the safety data sheet; and
 - (b) clearly identified as information provided by the person in control of the premises.

Maximum penalty: 30 penalty units.

- (5) An offence against this section is a strict liability offence.

Note Section 297 (Non-registrable premises—safety data sheets) imposes similar requirements for non-registrable premises.

249 Register of dangerous substances

- (1) A person in control of registrable premises must ensure that—
- (a) a register is kept for dangerous substances handled at the premises; and
 - (b) the register contains a list of each dangerous substance handled at the premises, together with a safety data sheet for the substance (if required under section 248 (Keeping safety data sheets)); and

(c) the register is readily accessible to people at the premises.

Maximum penalty: 30 penalty units.

- (2) Subsection (1) does not apply to a dangerous substance—
- (a) received in a package not large enough to require marking under the Australian Dangerous Goods Code; or
 - (b) in transit.
- (3) An offence against this section is a strict liability offence.

Note Section 298 (Non-registrable premises—register of dangerous substances) imposes the same requirement for non-registrable premises.

250 Records—change of person in control

- (1) This section applies if a person (the *departing controller*) stops being a person in control of registrable premises while dangerous substances remain at the premises.
- (2) The following documents must remain at the premises, and continue to be kept at the premises, while dangerous substances are present, or are likely to be present, at the premises—
- (a) the register under section 249 (Register of dangerous substances);
 - (b) any documents required to be kept at the premises under the following provisions:
 - section 222 (1) (b) (Risk assessment—making)
 - section 224 (2) (b) or (c) (Risk assessment—regular review)
 - section 225 (2) (b) or (c) (Risk assessment—5-year review)
 - section 232 (2) (b) (Tanks for bulk dangerous substances)
 - section 244 (Fire protection) (1) (b) (i)
 - section 245 (4) (Information for substance holders)

- section 268 (Records of actual and likely dangerous occurrences—Act, s 216 (1) (m))
 - section 275 (Emergency plan—making)
 - section 277 (Emergency plan—review as necessary)
 - section 278 (Emergency plan—5-year review)
 - section 267 (2) (Registration—amendment or cancellation).
- (3) The departing controller must ensure that any documents to which subsection (2) applies remain at the premises when the departing controller stops being a person in control of the premises.

Maximum penalty: 20 penalty units.

- (4) A person in control of the premises at any time after the departing controller stops being a person in control of the premises must ensure that subsection (2) is complied with.

Maximum penalty: 20 penalty units.

- (5) An offence against this section is a strict liability offence.

Note Section 299 (Non-registrable premises records—change of person in control) imposes a similar requirement for non-registrable premises.

Division 2.5.3 Registrable premises—labels

251 Incorrectly labelled packages

A person in control of registrable premises commits an offence if—

- (a) the person receives, and accepts, a package at the premises; and
- (b) the person knows, or ought reasonably to know—
 - (i) that the package contains a dangerous substance; and
 - (ii) that the package is not correctly labelled; and

- (c) the person fails to ensure that—
 - (i) the labelling on the package is corrected; or
 - (ii) the package is relabelled correctly.

Maximum penalty: 30 penalty units.

Note 1 See s 213 (Correct labelling—Act, s 14).

Note 2 Section 299A (Non-registrable premises—incorrectly labelled packages) imposes the same requirement for non-registrable premises.

252 Labelling and removing labelling from packages

- (1) A person in control of registrable premises must ensure that, while a package of a dangerous substance is at the premises—
 - (a) the package is correctly labelled; and
 - (b) the label is not removed, and remains legible.

Maximum penalty: 20 penalty units.

Note See s 213 (*Correct* labelling—Act, s 14).

- (2) A person in control of registrable premises must ensure that packaging labelled to indicate that it contains a dangerous substance of a particular kind is not used to contain—
 - (a) a dangerous substance of a different kind; or
 - (b) any other substance.

Maximum penalty: 20 penalty units.

- (3) An offence against this section is a strict liability offence.

253 Labelling portable containers

- (1) If a dangerous substance is transferred into a portable container for use at registrable premises, the person in control of the premises must ensure that—

- (a) the portable container is clearly labelled with the class label, subsidiary risk label and product name of the substance; or
- (b) if it is not possible to label the portable container under paragraph (a)—the substance is otherwise clearly identified.

Maximum penalty: 25 penalty units.

- (2) Subsection (1) does not apply if—
 - (a) the dangerous substance is used immediately; and
 - (b) the container is thoroughly cleaned so that the container is in the condition it would be in if it had never contained the substance.
- (3) An offence against this section is a strict liability offence.

Division 2.5.4 Registrable premises—placards

Note Under the Act, s 14 (2) (a), a dangerous substance is correctly placarded if it is placarded in accordance with the regulations. For the Act, s 26, s 27 or s 28, a manufacturer, importer or supplier of the substance must ensure that it is correctly placarded. Failure to comply may be an offence against the Act, pt 3.2.

254 Placards—requirement to display

- (1) A person in control of registrable premises must ensure that warning placards of the following types are displayed at the premises:
 - (a) a HAZCHEM outer warning placard;
 - (b) if a dangerous substance at the premises is stored in a tank, or is stored in packaged form—an information placard.

Note A dangerous substance is **packaged** if it is in a container of a defined limited capacity (see s 203 (Definitions—ch 2)).

Maximum penalty: 30 penalty units.

- (2) Subsection (1) does not apply to LPG if it is—

- (a) packaged; and
- (b) outside a building; and
- (c) connected by piping to appliances that use gas within the building.

Note **LPG** is a dangerous substance.

- (3) Subsection (1) (b) does not apply to a dangerous substance stored in a tank if—
 - (a) the substance is intended to be carried, and is placarded, in accordance with the requirements of the Australian Dangerous Goods Code for dangerous goods of the same kind; or
 - (b) the substance is a combustible liquid in a quantity no more than 10 000 L and is stored separately and isolated from other dangerous substances; or
 - (c) the substance is—
 - (i) of class 2.1 or 3, or is a combustible liquid; and
 - (ii) stored in an underground tank at retail premises; and
 - (iii) to be used for refuelling vehicles.
- (4) Subsection (1) (b) applies in relation to each area of the premises where a dangerous substance is stored in packaged form in at least the placard quantity.
- (5) A person in control of premises must ensure that a warning placard displayed under this section—
 - (a) is made of durable and weather-resistant material; and
 - (b) is maintained in good repair; and
 - (c) is legible; and
 - (d) is not covered or obscured.

Maximum penalty: 30 penalty units.

(6) An offence against this section is a strict liability offence.

(7) In this section:

LPG—see the *Gas Safety Act 2000*, dictionary, definition of *gas*, paragraph (b).

255 Placards—location of HAZCHEM outer warnings

(1) A person in control of registrable premises must ensure that a HAZCHEM outer warning placard is displayed at each entrance to the premises so that it is clearly visible.

Maximum penalty: 30 penalty units.

(2) An offence against this section is a strict liability offence.

256 Placards—location of information placards

(1) This section applies if an information placard for a dangerous substance is required to be displayed at registrable premises under section 254 (Placards—requirement to display).

(2) If a dangerous substance is stored indoors at registrable premises, a person in control of the premises must ensure that an information placard for the substance is displayed so that it is clearly visible—

(a) at the main entrance to each building where the substance is stored; and

(b) either—

(i) at each entrance to each room, enclosure or other area where the substance is stored; or

(ii) next to the substance.

Maximum penalty: 30 penalty units.

- (3) If a dangerous substance is stored outdoors at registrable premises, a person in control of the premises must ensure that an information placard for the substance is displayed so that it is clearly visible—
- (a) if the substance is in a tank—next to the substance or on the external surface of the tank; or
 - (b) next to the substance.

Maximum penalty: 30 penalty units.

- (4) An offence against this section is a strict liability offence.

257 Placards—form of HAZCHEM outer warning placard

- (1) A person in control of registrable premises must ensure that each HAZCHEM outer warning placard displayed at the premises complies with schedule 2.

Maximum penalty: 25 penalty units.

- (2) An offence against this section is a strict liability offence.

258 Placards—form of information placards for tanks

- (1) A person in control of registrable premises must ensure that an information placard for a dangerous substance stored in a tank at the premises complies with schedule 2.

Maximum penalty: 25 penalty units.

- (2) An offence against this section is a strict liability offence.

259 Placards—form of information placards for packages

- (1) A person in control of registrable premises must ensure that an information placard for a dangerous substance stored at the premises in packaged form complies with schedule 2.

Note A dangerous substance is *packaged* if it is in a container of a defined limited capacity (see s 203 (Definitions—ch 2)).

Maximum penalty: 25 penalty units.

- (2) An offence against this section is a strict liability offence.

Part 2.6 Registrable premises— registration

260 Placard quantity register

The chief executive must maintain a register of premises (the *placard quantity register*) where there is, or is likely to be, a dangerous substance in at least the placard quantity.

261 Registration—placard quantity notices

- (1) This section applies in relation to premises if a person in control of the premises knows, or ought reasonably to know, that there is, or is likely to be, a dangerous substance at the premises in at least the placard quantity.

Example

The Acme Chemical Plant has a tank on its premises. The tank is routinely filled with a dangerous substance. When full, the tank contains more than the placard quantity of the substance. The routine operation of the plant is for the tank to be filled, then gradually emptied as the substance is carried away from the premises (for use elsewhere), then filled again. As a result of this routine, from time to time the tank contains less than the placard quantity of the substance. There are no other dangerous substances on the premises.

For this section, there is likely to be a dangerous substance on the premises of Acme Chemical Plant in at least the placard quantity.

Note An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (2) The person in control of the premises may give the chief executive written notice in accordance with subsection (3) (a *placard quantity notice*) that there is, or is likely to be, a dangerous substance at the premises in at least the placard quantity.

- (3) If the premises are not registered in the placard quantity register, the person in control of the premises must give the chief executive a placard quantity notice about the substance.

Maximum penalty:

- (a) if at least the manifest quantity of the substance is, or is likely to be, present at the premises—30 penalty units; or
- (b) if less than the manifest quantity of the substance is, or is likely to be, present at the premises—20 penalty units.
- (4) A placard quantity notice must include the following details:
- (a) the class or kind, and the expected average and maximum quantities, of all the dangerous substances that are, or are likely to be, at the premises;
- (b) any information or documents required by a form for the notice approved under the Act, section 222.

Note A person in control of premises that are required to be registered under the regulations may also commit an offence against the Act, s 84 if the person fails to ensure that the premises are registered.

262 Registration—further information notices

- (1) This section applies if a placard quantity notice about a dangerous substance at premises is given to the chief executive.
- (2) After receiving the placard quantity notice, the chief executive may, by written notice (a **further information notice**), require a person in control of the premises to give the chief executive, within a period stated in the notice, further stated information about the presence or likely presence of dangerous substances at the premises.
- (3) The period stated in a further information notice must be at least 14 days after the day the notice is given.

- (4) A person to whom a further information notice is given must comply with the notice.

Maximum penalty:

- (a) if there is, or is likely to be, any dangerous substance at the premises in at least the manifest quantity—30 penalty units; or
- (b) in any other case—20 penalty units.
- (5) An offence against this section is a strict liability offence.

263 Registration—obligation to register

After receiving a placard quantity notice for premises that are not registered in the placard quantity register, and any further information under section 262 (Registration—further information notices), the chief executive must—

- (a) register the premises in the placard quantity register by giving the premises a unique registration number; and
- (b) enter in the placard quantity register the information in the placard quantity notice and the further information notice (if any); and
- (c) give a person in control of the premises written notice of registration in the placard quantity register stating the date of registration, the registration number and the information entered in the register.

264 Registration—duration and renewal

- (1) The registration of premises in the placard quantity register remains in force for 2 years (the *2-year period*) starting on the day of registration, or the last day when registration was renewed, unless it is cancelled earlier under section 267 (Registration—amendment or cancellation).

- (2) Before the end of the 2-year period, a person in control of the premises may apply for the renewal of registration by giving the chief executive a placard quantity notice in accordance with section 261 (Registration—placard quantity notices).

Note A placard quantity notice must contain the information mentioned in s 261 (4) (Registration—placard quantity notices). The chief executive may also require a person in control of the premises to give further information under s 262 (Registration—further information notices).

- (3) After receiving an application under subsection (2), and any further information under section 262 (Registration—further information notices), the chief executive must—
- (a) renew the registration of the premises in the placard quantity register; and
 - (b) give the person in control of the premises written notice of renewal stating the date of renewal.

265 Registration—significant change of risk

- (1) This section applies if a person in control of premises registered in the placard quantity register knows, or ought reasonably to know, that there is, or is likely to be, a significant change in the risk associated with the handling of dangerous substances at the premises.

Examples of significant change in risk

- 1 A significant quantity of a highly volatile dangerous substance that has not previously been stored at registered premises is proposed to be stored at the premises.
- 2 A significant quantity of a highly volatile dangerous substance that has been stored at registered premises is no longer stored at the premises.
- 3 Dangerous substances are no longer stored at the premises.
- 4 There are no dangerous substances stored at the premises in at least the placard quantity.

- 5 The quantity of a dangerous substance that has been stored at the premises in the placard quantity is proposed to be increased to manifest quantity or higher.

Note An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (2) The person in control of the premises must give the chief executive a written notice including details of the change, or likely change, in the risk (a ***risk change notice***) within 14 days after the day the person becomes aware of the risk, or ought reasonably to have become aware of the risk.

Maximum penalty:

- (a) if, after the change in risk, there is, or is likely to be, any dangerous substance at the premises in at least the manifest quantity—30 penalty units; or
- (b) if, after the change in risk, there is, or is likely to be, no dangerous substance at the premises in at least the manifest quantity, but there is, or is likely to be, any dangerous substance at the premises in at least the placard quantity—20 penalty units; or
- (c) in any other case—10 penalty units.

266 Registration—further information about risk change

- (1) This section applies if a risk change notice about dangerous substances at premises registered in the placard quantity register is given to the chief executive under section 265 (Registration—significant change of risk).
- (2) After receiving the risk change notice, the chief executive may, by written notice (a ***further information notice***) to a person in control of the premises, require the person to give the chief executive further stated information about the change in risk stated in the notice, within a period stated in the notice.

- (3) The period stated in a further information notice must be at least 14 days after the day the notice is given.
- (4) A person to whom a further information notice is given must comply with the notice.

Maximum penalty:

- (a) if, after the change in risk, there is, or is likely to be, any dangerous substance at the premises in at least the manifest quantity—30 penalty units; or
 - (b) if, after the change in risk, there is, or is likely to be, no dangerous substance at the premises in at least the manifest quantity, but there is, or is likely to be, any dangerous substance at the premises in at least the placard quantity—20 penalty units; or
 - (c) in any other case—10 penalty units.
- (5) An offence against this section is a strict liability offence.

267 Registration—amendment or cancellation

After receiving a risk change notice under section 265 (Registration—significant change of risk) for particular premises, and any further information under section 266 (Registration—further information about risk change), the chief executive must—

- (a) either—
 - (i) amend the placard quantity register to reflect the information in the notice and the further information (if any); or
 - (ii) if the chief executive is satisfied that there are, or are likely to be, no dangerous substances at the premises in at least the placard quantity—cancel the registration of the premises; and

- (b) give a person in control of the premises written notice of the amendment or cancellation stating the date of the amendment or cancellation and, for an amendment, the details of the amendment.

Part 2.7 Registrable premises— dangerous occurrence reporting

268 Records of actual and likely dangerous occurrences— Act, s 216 (1) (m)

- (1) This section applies if, under the Act, section 39 (Person in control of premises—safety duty to report actual or likely dangerous occurrences) a person in control of registrable premises tells the chief executive about an actual or likely dangerous occurrence at the premises.
- (2) The person in control of the premises must ensure that—
 - (a) a written record (a *dangerous occurrence record*) is made of what the person tells to the chief executive under the Act, section 39; and
 - (b) a dated copy of the record is kept at the premises.

Maximum penalty: 15 penalty units.

Note If a person stops being in control of registrable premises, the copy of the record must continue to be kept at the premises (see s 250 (Records—change of person in control)).

- (3) If, within 10 years after the day the person in control of the premises tells the chief executive about the actual or likely dangerous occurrence (the *10-year period*), dangerous substances stop being handled at the premises, a person in control of the premises immediately before the substances stopped being handled at the premises must keep any records made for this section in relation to the premises until the end of the 10-year period.

Maximum penalty: 15 penalty units.

- (4) If, after dangerous substances stop being handled at premises, a person has a record under subsection (3) in relation to the premises,

the person must, if an inspector asks within the 10-year period, give the inspector a copy of the record.

Maximum penalty: 15 penalty units.

- (5) An offence against this section is a strict liability offence.

269 Form of records of actual and likely dangerous occurrences

- (1) This section applies if a person in control of registrable premises is required to make a record under section 268 (2) (Records of actual and likely dangerous occurrences—Act, s 216 (1) (m)) in relation to an actual or likely dangerous occurrence (the *incident*) at the premises.
- (2) The person in control of the premises must include the following information in the record:
- (a) the date, time and location of the incident;
 - (b) the type, quantity and containment or handling method for the dangerous substances involved in the incident;
 - (c) a description of events before, during and after the incident;
 - (d) details of any injury, death, hospitalisation or evacuation;
 - (e) details of damage to equipment, property or the environment;
 - (f) an assessment of the cause of the incident;
 - (g) specific actions that the person intends to take to prevent a recurrence of the incident or similar incidents.

Maximum penalty: 15 penalty units.

- (3) An offence against this section is a strict liability offence.

Part 2.8 Manifest quantity registrable premises

Division 2.8.1 Manifest quantity registrable premises—manifests

270 Manifests—requirement to keep

- (1) A person in control of manifest quantity registrable premises must ensure that a manifest that complies with schedule 3 (Manifests) is kept at the premises.

Maximum penalty: 30 penalty units.

- (2) An offence against this section is a strict liability offence.

271 Manifests—must be kept up to date

- (1) A person in control of manifest quantity registrable premises must ensure that the manifest for the premises is revised as soon as practicable, but no later than 7 days, after the day the person becomes aware of a change to the information required for schedule 3 (Manifests).

Maximum penalty: 30 penalty units.

- (2) An offence against this section is a strict liability offence.

272 Manifests—how kept

- (1) A person in control of manifest quantity registrable premises must ensure that the manifest for the premises is kept—
 - (a) in a red weatherproof container inside, and as close as practicable to, the main entry to the premises; and

(b) at a place where it is readily accessible to the emergency services.

Maximum penalty: 30 penalty units.

(2) An offence against this section is a strict liability offence.

Division 2.8.2 Manifest quantity registrable premises—emergency plans

273 Meaning of *emergency plan*—div 2.8.2

In this division:

emergency plan, for handling dangerous substances at manifest quantity registrable premises, means a written record of a plan to manage dangerous occurrences that may arise from the handling of the substances.

274 Emergency plan—safety management systems for Act, s 19 (1) (e)

- (1) A safety management system for handling a dangerous substance at manifest quantity registrable premises must include an emergency plan prepared and documented in accordance with this division.
- (2) Subsection (1) is in addition to the requirements of the Act, section 19 (1) (a) to (d) in relation to a safety management system for the substance.

Note Under the Act, s 19 (1) (e), a *safety management system* for a dangerous substance must comply with requirements prescribed by regulation. For the Act, s 31, a person in control of premises where a dangerous substance is handled must ensure that there is a safety management system for the substance at the premises, and that the system is implemented for the premises. Failure to comply may be an offence against the Act, pt 3.2.

275 Emergency plan—making

- (1) A person in control of manifest quantity registrable premises must ensure that an emergency plan is made for the premises.

Maximum penalty: 30 penalty units.

- (2) A person in control of manifest quantity registrable premises (the *controlled premises*) must ensure that a copy of the emergency plan made for the controlled premises, indicating the date it was made, is—

- (a) kept at the controlled premises; and
- (b) given to any health and safety representative of employees who handle dangerous substances at the controlled premises; and
- (c) given to the emergency services; and
- (d) if premises (*neighbouring premises*) near the controlled premises are likely to be affected by a dangerous occurrence at the controlled premises—given to a person in control of the neighbouring premises.

Maximum penalty: 30 penalty units.

- (3) An offence against this section is a strict liability offence.

Note If a person stops being in control of manifest quantity registrable premises, a copy of the emergency plan must continue to be kept at the premises (see s 250 (Records—change of person in control)).

276 Emergency plan—instruction for employee representatives and neighbouring occupiers

- (1) This section applies if an emergency plan is made for manifest quantity registrable premises.
- (2) A person in control of the premises must ensure that any health and safety representative of employees at the premises, and a person in control of any premises (the *neighbouring premises*) near the

premises, is given instruction about the following, in a language and way appropriate to the representative and the person in control of the neighbouring premises:

- (a) the operation of the emergency plan; and
- (b) any procedures and equipment that may be needed for use if there is a dangerous occurrence at the manifest quantity registrable premises.

Maximum penalty: 30 penalty units.

- (3) An offence against this section is a strict liability offence.
- (4) This section only applies in relation to a person in control of the neighbouring premises if the neighbouring premises are likely to be affected by a dangerous occurrence at the manifest quantity registrable premises.

Note Section 245 (Information for substance handlers) requires handlers of dangerous substances at the premises to be given the instruction mentioned in s (2) about the emergency plan.

277 Emergency plan—review as necessary

- (1) This section applies if—
 - (a) an emergency plan has been made for manifest quantity registrable premises; and
 - (b) either—
 - (i) there is a significant change to a process, system or procedure in relation to the handling of dangerous substances at the premises; or
 - (ii) there is evidence to indicate that the emergency plan is no longer adequate to manage emergencies that may reasonably be expected to affect the handling of dangerous substances at the premises.

- (2) A person in control of the premises must ensure that—
- (a) the emergency plan for the premises is reviewed; and
 - (b) a dated record of the review is kept at the premises.

Note The person in control of the premises must consult with various people in the course of reviewing the plan (see s 279 (Emergency plan—consultation for review)).

- (3) If the review of an emergency plan results in an amendment to the plan, a person in control of the premises must ensure that a copy of the plan, as amended, indicating the date of amendment, is—
- (a) kept at the premises; and
 - (b) given to any health and safety representative of employees who handle dangerous substances at the premises; and
 - (c) given to the emergency services; and
 - (d) if premises (*neighbouring premises*) near the manifest quantity registrable premises are likely to be affected by a dangerous occurrence at the manifest quantity registrable premises—given to a person in control of the neighbouring premises.

Maximum penalty: 30 penalty units.

- (4) An offence against this section is a strict liability offence.

Note If a person stops being in control of manifest quantity registrable premises, a copy of the review, and the plan as amended (if applicable), must continue to be kept at the premises (see s 250 (Records—change of person in control)).

278 Emergency plan—5-year review

- (1) This section applies if an emergency plan has been made for manifest quantity registrable premises.
- (2) A person in control of the premises must ensure that—

- (a) the emergency plan for the premises is reviewed within—
 - (i) 5 years after it was made; or
 - (ii) if it has been reviewed after it was made (including a review under this section)—5 years after the dated record was made of its last review; and
- (b) a dated record of the review is kept at the premises.

Maximum penalty: 30 penalty units.

Note The person in control of the premises must consult with various people in the course of reviewing the plan (see s 279 (Emergency plan—consultation for review)).

- (3) If a review of an emergency plan under subsection (2) results in an amendment to the plan, a person in control of the premises must ensure that a copy of the plan, as amended, indicating the date of amendment, is—
 - (a) kept at the premises; and
 - (b) given to any health and safety representative of employees who handle dangerous substances at the premises; and
 - (c) given to the emergency services; and
 - (d) if premises (*neighbouring premises*) near the manifest quantity registrable premises are likely to be affected by a dangerous occurrence at the manifest quantity registrable premises—given to a person in control of the neighbouring premises.

Maximum penalty: 30 penalty units.

- (4) An offence against this section is a strict liability offence.

Note If a person stops being in control of manifest quantity registrable premises, a copy of the review, and the plan as amended (if applicable), must continue to be kept at the premises (see s 250 (Records—change of person in control)).

279 Emergency plan—consultation for review

- (1) This section applies if a review of an emergency plan for manifest quantity registrable premises is conducted under section 277 (Emergency plan—review as necessary) or section 278 (Emergency plan—5-year review)).
- (2) A person in control of the premises must consult with the following entities in the course of the review:
 - (a) the employees who carry out tasks involving the handling of any dangerous substance at the premises;
 - (b) any health and safety representative of those employees;
 - (c) the emergency services;
 - (d) a person in control of any premises (*neighbouring premises*) near the manifest quantity registrable premises.

Maximum penalty: 30 penalty units.

- (3) An offence against this section is a strict liability offence.
- (4) Subsection (2) (d) only applies in relation to a person in control of the neighbouring premises if the neighbouring premises are likely to be affected by a dangerous occurrence at the manifest quantity registrable premises.
- (5) In reviewing the emergency plan, the person in control of the premises must take into consideration any written advice received from an entity mentioned in subsection (2).

Part 2.9 Non-registrable premises

Division 2.9.1 Non-registrable premises—safety management system requirements

280 Non-registrable premises—safety management system requirements for Act, s 19 (1) (e)

- (1) A safety management system for handling a dangerous substance at non-registrable premises must be prepared in accordance with this division.
- (2) Subsection (1) is in addition to the requirements of the Act, section 19 (1) (a) to (d) in relation to a safety management system for the substance.

Note Under the Act, s 19 (1) (e), a *safety management system* for a dangerous substance must comply with requirements prescribed by regulation. For the Act, s 31, a person in control of premises where a dangerous substance is handled must ensure that there is a safety management system for the substance at the premises, and that the system is implemented for the premises. Failure to comply may be an offence against the Act, pt 3.2.

281 Non-registrable premises—hazard identification for Act, s 19 (2)

- (1) This section applies if a person in control of non-registrable premises is—
 - (a) preparing a safety management system for the premises; and
 - (b) for that purpose, identifying the hazards associated with a dangerous substance at the premises.

- (2) In identifying the hazards associated with the substance, the person in control of the premises must consider the following:
- (a) information in the safety data sheet for the substance;
 - (b) any other information known to the person about the hazardous properties of the substance.

Note 1 A person in control of premises where a dangerous substance is handled must ensure that a safety management system is prepared, documented and implemented (see Act, s 31 (1)). The safety management system must, among other things, identify the hazards associated with the substance, having regard to the current state of knowledge about the hazards (see Act, s 19 (1) (a)). The safety management system must also comply with this division (see s 280 (Non-registrable premises—safety management system requirements for Act, s 19 (1) (e)) and the Act, s 19 (1) (e)).

Note 2 In addition to the considerations mentioned in this section, the Act, s 19 (2) sets out further matters that must be considered in identifying hazards associated with a dangerous substance as follows:

- the chemical and physical properties of the substance (s 19 (2) (a))
- any chemical or physical reactions that may happen if the substance comes into contact with other substances (s 19 (2) (b))
- the premises, plant and systems for handling the substance (s 19 (2) (c))

- (3) A person in control of non-registrable premises where there is a dangerous substance must take all reasonable steps to find out about the hazardous properties of the substance.

Maximum penalty: 15 penalty units.

- (4) An offence against this section is a strict liability offence.

Division 2.9.2 Non-registrable premises—risk control

282 Non-registrable premises—preventing interaction with other substances

- (1) A person in control of non-registrable premises must ensure that a dangerous substance at the premises that is not compatible with another substance at the premises (including another dangerous substance) is stored separately from the other substance.

Maximum penalty: 15 penalty units.

- (2) An offence against this section is a strict liability offence.

283 Non-registrable premises—preventing contamination of food or personal products

- (1) A person in control of non-registrable premises must ensure that a dangerous substance is not handled at the premises so as to contaminate food, food packaging or personal use products.

Maximum penalty: 15 penalty units.

- (2) An offence against this section is a strict liability offence.

284 Non-registrable premises—decommissioning

- (1) This section applies if a container used to store a dangerous substance at non-registrable premises—

- (a) is to be disposed of; or
- (b) is no longer to be used in association with the substance.

- (2) A person in control of the premises must ensure that—

- (a) the container is thoroughly cleaned so that the container is in the condition it would be in if it had never contained the substance; and

- (b) the contents of the container are neutralised, cured or chemically deactivated.

Maximum penalty: 15 penalty units.

- (3) An offence against this section is a strict liability offence.

285 Non-registrable premises—personal protective or safety equipment

- (1) This section applies if there are reasonable grounds for a person in control of non-registrable premises to require personal protective or safety equipment to be used by a person (the *exposed person*) to eliminate or minimise the risk from a dangerous substance while the exposed person is (or may be) exposed to the substance at the premises.
- (2) The person in control of the premises must ensure that the exposed person is required to use the equipment while the person is (or may be) exposed to the dangerous substance at the premises.

Maximum penalty: 30 penalty units.

- (3) The person in control of the premises must ensure that the equipment available for use by an exposed person while the exposed person is (or may be) exposed to the substance is—
- (a) suitable for that use; and
 - (b) undamaged and effective; and
 - (c) maintained in a suitable condition for that use.

Maximum penalty: 30 penalty units.

- (4) A person must not engage in conduct that damages or makes ineffective any personal protective or safety equipment provided at the premises.

Maximum penalty: 30 penalty units.

- (5) An offence against subsection (2) or (3) is a strict liability offence.

286 Non-registrable premises—lighting

- (1) A person in control of non-registrable premises must ensure that sufficient and suitable lighting is provided to enable safe access within, to and from each part of the premises where a dangerous substance is handled.

Maximum penalty: 10 penalty units.

- (2) An offence against this section is a strict liability offence.

287 Non-registrable premises—access

- (1) A person in control of non-registrable premises must ensure that safe means of access within, to and from each part of the premises where a dangerous substance is handled is provided and maintained.

Maximum penalty: 10 penalty units.

- (2) An offence against this section is a strict liability offence.

288 Non-registrable premises—security

- (1) This section applies if a person (the *unauthorised person*) is not authorised by a person in control of non-registrable premises to have access to a dangerous substance handled at the premises.

- (2) A person in control of the premises must ensure that the unauthorised person does not have access to the substance.

Maximum penalty: 15 penalty units.

- (3) An offence against this section is a strict liability offence.

289 Non-registrable premises—spill containment

- (1) A person in control of non-registrable premises must ensure that, in each area of the premises where a dangerous substance is handled, provision is made for spill containment that—
- (a) eliminates the risk from any spill or leak of the substance or, if it is not practicable to eliminate the risk, minimises the risk; and
 - (b) would contain within the premises any part of the substance that spills or leaks, and any effluent arising from a spill or leak.

Maximum penalty: 15 penalty units.

- (2) If there is a spill or leak of a dangerous substance at non-registrable premises, a person in control of the premises must ensure that—
- (a) immediate action is taken to eliminate any risk associated with the spill or leak or, if it is not practicable to eliminate the risk, minimise the risk; and
 - (b) the substance and any resulting effluent are, as soon as practicable—
 - (i) cleaned up and disposed of; or
 - (ii) otherwise made safe.

Maximum penalty: 15 penalty units.

- (3) An offence against this section is a strict liability offence.

290 Non-registrable premises—transfer of dangerous substances

- (1) This section applies to the transfer of a dangerous substance—
- (a) from area to area within non-registrable premises; or
 - (b) from or into a container at non-registrable premises.

- (2) A person in control of the premises must ensure that subsection (3) is complied with to the extent necessary—
- (a) to eliminate any risk associated with the transfer; or
 - (b) if it is not practicable to eliminate the risk—to minimise the risk.

Maximum penalty: 15 penalty units.

- (3) For subsection (2)—
- (a) any spills, leaks and overflows because of the transfer must be avoided; and
 - (b) any static electricity because of the transfer must be minimised; and
 - (c) any vapour generation because of the transfer must be minimised; and
 - (d) any ignition source to which the substance may be exposed because of the transfer must be eliminated or controlled; and
 - (e) any pipework used in the transfer must be appropriate for the substance and adequate for the transfer.
- (4) An offence against this section is a strict liability offence.

291 Non-registrable premises—equipment for clean-ups

- (1) A person in control of non-registrable premises must ensure that equipment and materials appropriate for use for the containment and clean-up of spills or leaks at the premises of any dangerous substance are, while the substance is handled at the premises—
- (a) kept at the premises; and
 - (b) maintained in good condition; and

(c) accessible to people at the premises.

Maximum penalty: 15 penalty units.

Examples of equipment and materials

The following equipment and materials may be appropriate in particular circumstances:

- 1 neutralisers
- 2 decontaminants
- 3 pressure relief valves.

Note An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

(2) An offence against this section is a strict liability offence.

292 Non-registrable premises—ignition sources

- (1) A person in control of non-registrable premises must ensure that—
- (a) any ignition source in a hazardous area at the premises is eliminated; or
 - (b) if it is not reasonably practicable to eliminate the source— the risk from the source is minimised.

Maximum penalty: 15 penalty units.

(2) An offence against this section is a strict liability offence.

(3) In this section:

hazardous area means an area—

- (a) classified as hazardous under either of the following standards:
 - (i) AS/NZS 2430.3 (Classification of hazardous areas);

- (ii) AS/NZS 60079.10 (Electrical apparatus for explosive gas atmospheres—classification of hazardous areas); or
- (b) classified under AS/NZS 61241.3 (Electrical apparatus for use in the presence of combustible dust—classification of areas where combustible dusts are or may be present) as an area where combustible dusts are or may be present.

293 Non-registrable premises—ventilation and atmospheric emissions

- (1) A person in control of non-registrable premises must ensure that any risk associated with atmospheric conditions that are flammable, explosive or asphyxiant—
 - (a) is eliminated; or
 - (b) if it is not practicable to eliminate the risk—is minimised.

Maximum penalty: 15 penalty units.

- (2) An offence against this section is a strict liability offence.

Division 2.9.3 Non-registrable premises—information

294 Non-registrable premises—information for substance handlers

- (1) This section applies to—
 - (a) a person in control of non-registrable premises (the *person in control*) in relation to the handling of a dangerous substance at the premises; and
 - (b) someone else (the *handler*) who carries out, or is to carry out, tasks involving the handling of the substance (*handling tasks*) at the premises.

- (2) The person in control must ensure that the handler is given induction, information, training and supervision that is—
- (a) in a language and way appropriate to the handler; and
 - (b) relevant to the handling tasks and the associated risks.

Maximum penalty: 30 penalty units.

- (3) The person in control must ensure that the induction, information and training given under subsection (2) includes instruction about—
- (a) the nature of the hazards and properties of the dangerous substance, and the processes used for identifying, assessing and eliminating or reducing the risks associated with the hazards that are relevant to the handling tasks; and
 - (b) the purpose, use and maintenance of measures for eliminating or reducing the risks; and
 - (c) the proper use and fitting of personal protective or safety equipment.

Maximum penalty: 30 penalty units.

- (4) An offence against this section is a strict liability offence.

295 Non-registrable premises—information for plant users

- (1) A person in control of non-registrable premises must ensure that a person responsible for plant at the premises that is used to handle a dangerous substance is given the information on procedures for the safe operation of the plant necessary to ensure that—
- (a) any risk to the responsible person or anyone else at the premises is eliminated; or

- (b) if it is not practicable to eliminate the risk—the risk is minimised.

Maximum penalty: 15 penalty units.

- (2) An offence against this section is a strict liability offence.
- (3) In this section:

responsible—a person is *responsible* for plant at non-registrable premises if the person does any of the following:

- (a) operates the plant;
- (b) accesses the plant;
- (c) maintains the plant;
- (d) repairs the plant;
- (e) inspects the plant;
- (f) tests the plant.

296 Non-registrable premises—information for visitors

- (1) A person in control of non-registrable premises must ensure that a visitor to the premises is given any information, safety instructions and supervision necessary to ensure that—
 - (a) any risk to the visitor or anyone else at the premises is eliminated; or
 - (b) if it is not practicable to eliminate the risk—the risk is minimised.

Maximum penalty: 15 penalty units.

- (2) An offence against this section is a strict liability offence.

297 Non-registrable premises—safety data sheets

- (1) A person in control of non-registrable premises must, for a dangerous substance handled, or proposed to be handled, at the premises—
- (a) obtain a current safety data sheet for the substance on or before the first occasion the substance is supplied to the premises; and
 - (b) ensure that a current safety data sheet for the substance is readily accessible to anyone handling the substance at the premises, and to the emergency services.

Maximum penalty: 15 penalty units.

- (2) Subsection (1) does not apply to a dangerous substance that is—
- (a) in transit; or
 - (b) handled (or to be handled) at a retail outlet or warehouse in packaged form, is correctly packed and labelled, and is sold (or to be sold) unopened.

Note 1 A dangerous substance is **packaged** if it is in a container of a defined limited capacity (see s 203 (Definitions—ch 2)).

Note 2 See s 212 (Correct packing—Act, s 14) and s 213 (Correct labelling—Act, s 14).

- (3) If, because of subsection (2), a person in control of non-registrable premises is not required to have, and does not have, a safety data sheet for a dangerous substance, the person must ensure that alternative information for the safe handling of the substance is readily accessible to people at the premises.

Maximum penalty: 15 penalty units.

- (4) If a person in control of non-registrable premises makes accessible a safety data sheet for a dangerous substance, and the person also makes accessible other information about the safe handling of the

substance, the person in control of the premises must ensure that the other information is—

- (a) consistent with the information contained in the safety data sheet; and
- (b) clearly identified as information provided by the person in control of the premises.

Maximum penalty: 15 penalty units.

- (5) An offence against this section is a strict liability offence.

298 Non-registrable premises—register of dangerous substances

- (1) A person in control of non-registrable premises must ensure that—
 - (a) a register is kept for dangerous substances handled at the premises; and
 - (b) the register contains a list of each dangerous substance handled at the premises, together with the safety data sheet for the substance (if required under section 297 (Non-registrable premises—safety data sheets)); and
 - (c) the register is readily accessible to people at the premises.

Maximum penalty: 15 penalty units.

- (2) Subsection (1) does not apply to a dangerous substance—
 - (a) received in a package not large enough to require marking under the Australian Dangerous Goods Code; or
 - (b) in transit.
- (3) An offence against this section is a strict liability offence.

299 Non-registrable premises records—change of person in control

- (1) This section applies if a person (the *departing controller*) stops being a person in control of non-registrable premises while dangerous substances remain at the premises.
- (2) The departing controller must ensure that the register kept under section 298 (Non-registrable premises—register of dangerous substances) remains at the premises when the departing controller stops being a person in control of the premises.

Maximum penalty: 10 penalty units.

- (3) A person in control of the premises at any time after the departing controller stops being a person in control of the premises must ensure that the register kept under section 298 (Non-registrable premises—register of dangerous substances) remains, and continues to be kept, at the premises while dangerous substances are present, or are likely to be present, at the premises.

Maximum penalty: 10 penalty units.

- (4) An offence against this section is a strict liability offence.

299A Non-registrable premises—incorrectly labelled packages

A person in control of non-registrable premises commits an offence if—

- (a) the person receives, and accepts, a package at the premises; and
- (b) the person knows, or ought reasonably to know—
 - (i) that the package contains a dangerous substance; and
 - (ii) that the package is not correctly labelled; and
- (c) the person fails to ensure that—

- (i) the labelling on the package is corrected; or
- (ii) the package is relabelled correctly.

Maximum penalty: 15 penalty units.

Note See s 213 (Correct labelling—Act, s 14).

299B Non-registrable premises—information placards for tanks

- (1) This section applies to a dangerous substance stored in a tank at non-registrable premises, unless the substance is in a tank that is—
 - (d) intended to be carried; and
 - (e) placarded in accordance with the requirements of the Australian Dangerous Goods Code for dangerous goods of the same kind.
- (2) A person in control of the premises must ensure that an information placard for the dangerous substance is displayed that—
 - (a) complies with schedule 2, part 2.2 (Information placards—tanks); and
 - (b) is clearly visible to a person approaching the tank.

Maximum penalty: 15 penalty units.

- (3) An offence against this section is a strict liability offence.

Chapter 3 Asbestos and asbestos products

Part 3.1 Important concepts

300 Object—ch 3

The object of this chapter is to protect people against the risk of asbestos-related disease resulting from exposure to airborne asbestos fibres.

301 Definitions—ch 3

In this chapter:

asbestos means the fibrous form of the mineral silicates belonging to the serpentine and amphibole groups of rock-forming minerals, including the following:

- (a) actinolite;
- (b) amosite (brown asbestos);
- (c) anthophyllite;
- (d) chrysotile (white asbestos);
- (e) crocidolite (blue asbestos);
- (f) tremolite.

asbestos product means anything that contains asbestos.

authorised activity, for asbestos or an asbestos product—see section 302 (1).

authorised activity condition, for an authorised activity for asbestos or an asbestos product—see section 302 (2).

chrysotile product means chrysotile and anything that contains chrysotile.

exemption, in relation to the use of a chrysotile product, means an exemption under section 312.

302 **Meaning of *authorised activity* and *authorised activity condition*—ch 3**

- (1) For this chapter, each of the following is an ***authorised activity*** for asbestos or an asbestos product:
 - (a) genuine scientific research in relation to the asbestos or asbestos product;
 - (b) the sampling of a substance for identifying the kind or quantities of ingredients in the substance;
 - (c) carrying out demonstrations, education or practical training in relation to the asbestos or asbestos product.
- (2) For this chapter, each of the following is an ***authorised activity condition*** for an authorised activity for asbestos or an asbestos product:
 - (a) the asbestos or asbestos product must be the minimum quantity practicable for the activity;
 - (b) the asbestos or asbestos product must be correctly packed and labelled;
 - (c) the asbestos or asbestos product must be used in a way that minimises the possibility of the release into the environment of airborne asbestos fibres.

**303 When asbestos and asbestos product correctly packed—
Act, s 14 (1) (a)**

Asbestos or an asbestos product is correctly packed if it is packed in a way that minimises the possibility of the release into the environment of airborne asbestos fibres.

**304 When asbestos and asbestos product correctly labelled—
Act, s 14 (2) (a)**

Asbestos or an asbestos product is correctly labelled if the package in which it is packed is clearly labelled to identify that the package contains asbestos or an asbestos product.

**305 Asbestos and asbestos products are prohibited
dangerous substances—Act, s 73**

Asbestos and asbestos products are prohibited dangerous substances.

Note See the Act, s 73, def *prohibited dangerous substance*, par (b).

Part 3.2 Authorised handling of asbestos and asbestos products

Note 1 The manufacture of asbestos products is prohibited except in certain circumstances (see Act, s 74 (1)).

Note 2 The transport of asbestos and asbestos products is regulated by the *Road Transport Reform (Dangerous Goods) Act 1995* (Cwlth).

306 Authorised importation of asbestos and asbestos products—Act, s 75 (1) (b)

(1) A person is authorised to import asbestos or an asbestos product (including a chrysotile product) if—

(a) the asbestos or asbestos product is in plant or a vehicle imported by the person; and

Note **Plant** includes machinery and equipment and a building or other structure (see Act, dict).

(b) the asbestos or asbestos product is fixed in place; and

(c) the asbestos or asbestos product was fixed in place before 31 December 2003; and

(d) the asbestos or asbestos product is fixed in a way that does not cause a risk unless it is disturbed.

Note **Import** means import into the ACT (see Act, dict).

(2) A person is authorised to import asbestos or an asbestos product (including a chrysotile product) if—

(a) the person imports the asbestos or asbestos product for an authorised activity; and

(b) the person complies with the authorised activity conditions for the authorised activity.

- (3) A person is authorised to import asbestos (including chrysotile) if the person imports the asbestos in its natural form in minimal quantities in another mineral and the presence of the asbestos is incidental to the purpose of disturbing or extracting the other mineral.
- (4) A person is authorised to import a chrysotile product if—
 - (a) the person imports the chrysotile product under an exemption; and
 - (b) the person complies with the exemption (including any conditions to which the exemption is subject); and
 - (c) the chrysotile product is correctly packed and labelled.
- (5) On 1 January 2008, this section is amended—
 - (a) by omitting from subsections (1) and (2) ‘(including a chrysotile product)’ and substituting ‘, except chrysotile or a chrysotile product,’; and
 - (b) by omitting from subsection (3) ‘(including chrysotile)’ and substituting ‘, except chrysotile,’.
- (6) Subsections (4), (5) and this subsection expire on 1 January 2008.

**307 Authorised supply of asbestos and asbestos products—
Act, s 76 (1) (b) and (3) (b)**

- (1) A person is authorised to supply asbestos or an asbestos product (including a chrysotile product) to someone else if—
 - (a) the asbestos or asbestos product is in plant or a vehicle supplied by the person to the other person; and
 - Note* **Plant** includes machinery and equipment and a building or other structure (see Act, dict).
 - (b) the asbestos or asbestos product is fixed in place; and

- (c) the asbestos or asbestos product was fixed in place before 31 December 2003; and
 - (d) the asbestos or asbestos product is fixed in a way that does not cause a risk unless it is disturbed.
- (2) A person is authorised to supply asbestos or an asbestos product (including a chrysotile product) to someone else (the *recipient*) if—
- (a) the person supplies the asbestos or asbestos product to the recipient for disposal and the asbestos or asbestos product is correctly packed and labelled; or
 - (b) the person (the *supplier*) supplies the asbestos or asbestos product to the recipient for an authorised activity and the supplier complies with the authorised activity conditions for the authorised activity.
- (3) A person is authorised to supply asbestos (including chrysotile) to someone else if the person supplies the asbestos in its natural form in minimal quantities in another mineral to the other person and the presence of the asbestos is incidental to the purpose of disturbing or extracting the other mineral.
- (4) A person is authorised to supply a chrysotile product to someone else if—
- (a) the chrysotile product was obtained by the person under an exemption; and
 - (b) the person complies with the exemption (including any conditions to which the exemption is subject); and
 - (c) the chrysotile product is correctly packed and labelled.
- (5) On 1 January 2008, this section is amended—
- (a) by omitting from subsections (1) and (2) ‘(including a chrysotile product)’ and substituting ‘, except chrysotile or a chrysotile product,’; and

(b) by omitting from subsection (3) ‘(including chrysotile)’ and substituting ‘, except chrysotile,’.

(6) Subsections (4), (5) and this subsection expire on 1 January 2008.

Note For the meaning of *supply*, see the Act, dict.

308 Authorised possession of asbestos and asbestos products—Act, s 77 (1) (b)

(1) A person is authorised to possess asbestos or an asbestos product (including a chrysotile product) if—

(a) the person is authorised to handle (the *authorised handling*) the asbestos or asbestos product under another provision of this division; and

Note **Handling** a dangerous substance includes importing, manufacturing, storing, supplying, possessing, receiving or using the substance (see Act, s 11).

(b) the person possesses the asbestos or asbestos product for the purpose of the authorised handling; and

(c) the person complies with the requirements of this division in relation to the authorised handling of the asbestos or asbestos product.

(2) A person is authorised to possess asbestos or an asbestos product (including a chrysotile product) if—

(a) the asbestos or asbestos product is in plant or a vehicle in the person’s possession; and

Note **Plant** includes machinery and equipment and a building or other structure (see Act, dict).

(b) the asbestos or asbestos product is fixed in place; and

(c) the asbestos or asbestos product was fixed in place before 31 December 2003; and

- (d) the asbestos or asbestos product is fixed in a way that does not cause a risk unless it is disturbed.
- (3) A person is authorised to possess asbestos (including chrysotile) if the person possesses the asbestos in its natural form in minimal quantities in another mineral and the presence of the asbestos is incidental to the purpose of disturbing or extracting the other mineral.
- (4) On 1 January 2008, this section is amended—
 - (a) by omitting from subsections (1) and (2) ‘(including a chrysotile product)’ and substituting ‘, except chrysotile or a chrysotile product,’; and
 - (b) by omitting from subsection (3) ‘(including chrysotile)’ and substituting ‘, except chrysotile,’.
- (5) Subsection (4) and this subsection expire on 1 January 2008.

**309 Storage of asbestos and asbestos products—
Act, s 78 (1) (a)**

- (1) A person who stores asbestos or an asbestos product that has been removed from plant or a vehicle (the *waste*) must ensure that—
 - (a) the waste is correctly packed and labelled; and
 - (b) the person disposes of the waste as soon as practicable after the person comes into possession of the waste.

Note **Plant** includes machinery and equipment and a building or other structure (see Act, dict).

- (2) A person who stores asbestos or an asbestos product for an authorised activity must comply with the authorised activity conditions for the authorised activity.

- (3) A person who stores a chrysotile product obtained under an exemption must ensure that the chrysotile product is correctly packed and labelled.
- (4) Subsection (3) and this subsection expire on 31 December 2007.

310 Authorised use of asbestos and asbestos products—Act, s 79 (1) (b)

- (1) A person is authorised to use asbestos or an asbestos product (including a chrysotile product) if—
 - (a) the asbestos or asbestos product is in plant or a vehicle used by the person; and

Note **Plant** includes machinery and equipment and a building or other structure (see Act, dict).
 - (b) the asbestos or asbestos product is fixed in place; and
 - (c) the asbestos or asbestos product was fixed in place before 31 December 2003; and
 - (d) the asbestos or asbestos product is fixed in a way that does not cause a risk unless it is disturbed.
- (2) A person is authorised to use asbestos or an asbestos product (including a chrysotile product) for an authorised activity if the person complies with the authorised activity conditions for the authorised activity.
- (3) A person is authorised to use asbestos (including chrysotile) in its natural form in minimal quantities in another mineral if the presence of the asbestos is incidental to the purpose of disturbing or extracting the other mineral.
- (4) A person is authorised to use a chrysotile product that was obtained by the person under an exemption if—

- (a) the chrysotile product is used for the purpose stated in the exemption; and
 - (b) the person complies with the exemption (including any conditions to which the exemption is subject); and
 - (c) the chrysotile product is used in a way that minimises the possibility of the release into the environment of airborne asbestos fibres.
- (5) On 1 January 2008, this section is amended—
- (a) by omitting from subsections (1) and (2) ‘(including a chrysotile product)’ and substituting ‘, except chrysotile or a chrysotile product,’; and
 - (b) by omitting from subsection (3) ‘(including chrysotile)’ and substituting ‘, except chrysotile,’.
- (6) Subsections (4), (5) and this subsection expire on 1 January 2008.

Part 3.3 Chrysotile product exemptions

311 Chrysotile product exemptions—application

- (1) A person may apply in writing to the chief executive for an exemption that authorises the person to import, supply, store or use a chrysotile product (the *proposed activity*) for a use mentioned in table 311, column 2.

Note 1 If a form is approved under the Act, s 222 for an application, the form must be used.

Note 2 A fee may be determined under the Act, s 221 for this section.

- (2) An application for an exemption must include the following information (the *required information*):
- (a) the applicant's name and any business name used by the applicant;
 - (b) the applicant's address and telephone number;
 - (c) the proposed activity to which the application relates;
 - (d) the category of chrysotile product to which the application relates;
 - (e) the amount of chrysotile product to which the application relates;
 - (f) the address of the premises where the proposed activity will be carried out;
 - (g) if a person other than the applicant will be the person directly involved in the proposed activity—the name, address and telephone number of the person;

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- (h) the measures that the applicant will take, if the exemption is given, to control the risks resulting from the use of the chrysotile product;
 - (i) if the proposed activity is the use of a chrysotile product—the name, address and telephone number of anyone who the applicant proposes will import, supply or store the chrysotile product for the applicant.
- (3) The chief executive need not decide the application if it does not include the required information.
 - (4) This subsection and table 311, item 2 expire on 31 December 2004.
 - (5) This subsection and table 311, items 1 and 4 expire on 31 December 2006.
 - (6) In this section:

category, of a chrysotile product, means a category of the product mentioned in table 311, column 3.

Table 311 Table of exempt chrysotile product uses

column 1 item	column 2 uses for which exemption may be given	column 3 category	column 4 latest date exemption may end
1	use of chrysotile product in a compressed asbestos fibre gasket that is for use with chlorine in a plant used in liquid chlorine service with design process conditions of 45°C and 1 500kPa	1	31 December 2006

column 1 item	column 2 uses for which exemption may be given	column 3 category	column 4 latest date exemption may end
2	<p>use of chrysotile product in a compressed asbestos fibre gasket that is for use with—</p> <ul style="list-style-type: none"> (a) saturated steam; or (b) superheated steam; or (c) substances that are classified as dangerous goods under the Australian Dangerous Goods Code 	1	31 December 2004
3	<p>use of chrysotile product in a product that consists of a mixture of asbestos with a phenol formaldehyde resin or with a cresylic formaldehyde resin used in:</p> <ul style="list-style-type: none"> (a) a vane for rotary vacuum pumps; or (b) a vane for rotary compressors; or (c) a split face seal of at least 150mm in diameter used to prevent leakage of water from cooling water pumps in fossil fuel electricity generating stations 	2	31 December 2007

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column 1 item	column 2 uses for which exemption may be given	column 3 category	column 4 latest date exemption may end
4	use of chrysotile product in a diaphragm for use in an electrolytic cell in an existing electrolysis plant for chlor-alkali manufacture	3	31 December 2006
5	use of chrysotile product in relation to which an exemption under the <i>Occupational Health and Safety (Commonwealth Employment) (National Standards) Regulations 1994</i> (Cwlth) has been given to the Department of Defence or the Australian Defence Force for mission-critical parts or components of plant	4	31 December 2007

Note The categories in table 311, col 3 reflect the exemption numbering in the NOHSC model regulations, sch 2 mentioned in s 312 (5).

312 Chrysotile product exemptions—giving

- (1) The chief executive must give an exemption authorising a person to use a chrysotile product if the chief executive is satisfied that—
 - (a) the use is for a use (the *authorised use*) mentioned in table 311, column 2; and
 - (b) the authorised use is essential to the applicant’s activities; and
 - (c) the applicant has in place appropriate measures to control the risks resulting from the use of the chrysotile product; and
 - (d) the applicant can comply with the condition mentioned in section 313 (3); and
 - (e) the giving of the exemption is consistent with the object of this part.

- (2) The chief executive must refuse to give an exemption authorising a person to use a chrysotile product if the chief executive is not satisfied about the matters mentioned in subsection (1).
- (3) The chief executive must give an exemption authorising a person to import, supply or store a chrysotile product if the chief executive is satisfied that—
 - (a) the import, supply or storage of the chrysotile product is for a use mentioned in table 311, column 2; and
 - (b) the use has been, or will be, authorised under an exemption; and
 - (c) the person has in place appropriate measures to control the risks resulting from the import, storage or supply of the chrysotile product; and
 - (d) the giving of the exemption is consistent with the object of this part.
- (4) The chief executive must refuse to give an exemption authorising a person to import, supply or store a chrysotile product if the chief executive is not satisfied about the matters mentioned in subsection (3).
- (5) In making a decision under this section, the chief executive may have regard to the notes mentioned in the *National Model Regulations for the Control of Workplace Hazardous Substances*, schedule 2, approved by the National Occupational Health and Safety Commission under the *National Occupational Health and Safety Commission Act 1985* (Cwlth), as in force on 31 December 2003.

313 Chrysotile product exemptions—conditions

- (1) The chief executive may include conditions in an exemption to protect people against the risk of asbestos-related disease resulting from exposure to airborne asbestos fibres.

- (2) An exemption is subject to—
 - (a) any conditions included in the exemption by the chief executive; and
 - (b) for an exemption that authorises a person to use a chrysotile product—the exemption stated in subsection (3).
- (3) An exemption that authorises an exemption-holder to use a chrysotile product is subject to the condition that the exemption-holder tells the chief executive, in writing, as soon as possible after the exemption-holder becomes aware that the use authorised by the exemption is no longer essential to the exemption-holder's activities.

314 Chrysotile product exemptions—term

The chief executive may only give an exemption for a period that ends on or before the date stated in table 311, column 4 that relates to the exemption.

315 Chrysotile product exemptions—non-transferable

An exemption is not transferable.

316 Chrysotile product exemptions—form

- (1) An exemption must show the following information:
 - (a) the full name of the exemption-holder;
 - (b) the premises where a person is authorised to carry out activities under the exemption;
 - (c) the activities authorised by the exemption;
 - (d) any conditions included in the exemption by the chief executive;
 - (e) a unique identifying number;

- (f) when the exemption ends.
- (2) If the exemption authorises a person to use a chrysotile product, the exemption must state the condition mentioned in section 313 (3).
- (3) An exemption may also include any other information the chief executive considers appropriate.

317 Chrysotile product exemptions—commencement and cancellation

- (1) An exemption begins on—
 - (a) the day it is given; or
 - (b) if a later date is stated in the exemption—the later date.
- (2) The chief executive must cancel an exemption if—
 - (a) satisfied that continuing the exemption would be inconsistent with the object of this chapter; or
 - (b) the exemption-holder asks the chief executive to cancel it.

318 Chrysotile product exemptions—amendment

- (1) A exemption-holder may apply to the chief executive to amend the exemption.

Examples of amendments

- 1 to amend or revoke a condition included in the exemption by the chief executive
- 2 to change the premises where activities may be carried out under the exemption

Note 1 If a form is approved under the Act, s 222 for an application, the form must be used.

Note 2 A fee may be determined under the Act, s 221 for this section.

Note 3 An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (2) The chief executive must amend the exemption if, assuming that the application to amend were an application under section 311 (Chrysotile product exemptions—application) for an exemption that included the proposed amendment, the chief executive would be required to give the exemption.
- (3) If subsection (2) does not apply, the chief executive must refuse the application to amend the exemption.

319 Chrysotile product exemptions—disciplinary action

- (1) This section applies to an exemption-holder if the chief executive proposes, on the chief executive's own initiative, to do any of the following (the *proposed action*):
 - (a) cancel the exemption;
 - (b) amend the exemption to impose a condition;
 - (c) amend or revoke a condition included in the exemption by the chief executive.
- (2) The chief executive must give the exemption-holder a written notice stating—
 - (a) the proposed action; and
 - (b) if the proposed action is to cancel the exemption—any action that the exemption-holder may take to avoid the cancellation of the exemption; and
 - (c) if the proposed action is to impose a condition—the proposed condition; and
 - (d) if the proposed action is to amend a condition—the condition as proposed to be amended; and
 - (e) an explanation for the proposed action; and

- (f) that the exemption-holder may, within 14 days after the day the exemption-holder receives the notice, give a written response to the chief executive about the notice.
- (3) In deciding whether to take the proposed action, the chief executive must consider any response given to the chief executive in accordance with the notice.
- (4) If the chief executive is satisfied that a reasonable ground exists for taking the proposed action, the chief executive may take the proposed action.
- (5) The chief executive must give the exemption-holder written notice of the chief executive's decision.
- (6) If the chief executive decides to take the proposed action, the chief executive's decision takes effect 14 days after the day when notice of the decision is given to the exemption-holder or, if the notice states a later date of effect, that date.
- (7) If the exemption is amended, the chief executive must, as soon as practicable after the exemption has been returned to the chief executive, amend the exemption or give the exemption-holder a replacement exemption showing the amendment.

320 Chrysotile product exemptions—continuation of earlier exemptions

- (1) An exemption (the *former exemption*) in force under the *Dangerous Goods Regulations 1978*, part 11 immediately before the commencement of the Act is taken to be an exemption given under this regulation.
- (2) The former exemption is subject to—
 - (a) any conditions stated in the former exemption; and
 - (b) the conditions (if any) as amended under the *Dangerous Goods Regulations 1978* or this regulation; and

- (c) any conditions imposed under this regulation.
- (3) The term of the former exemption is taken to be the unexpired term of the former exemption before the commencement of the Act.

321 Expiry—pt 3.3

- (1) This part expires on 31 December 2007.
- (2) Section 301, definitions of *chrysotile product* and *exemption*, and the dictionary definitions of those terms, expire on 31 December 2007.

Chapter 4 Security sensitive substances

Part 4.1 Important concepts

400 Meaning of *security sensitive substance*—ch 4

- (1) In this chapter:

security sensitive substance means—

- (a) a substance mentioned in schedule 4, table 4.1; or
- (b) a substance determined under subsection (2) to be a security sensitive substance.

- (2) The Minister may, in writing, determine that a dangerous substance (other than an explosive) is a security sensitive substance.

Note For the meaning of *explosive*, see the Act, s 73 and the *Dangerous Substances (Explosives) Regulation 2004*, s 7.

- (3) A determination under subsection (2) is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

401 Security sensitive substance is controlled dangerous substance—Act, s 73

A security sensitive substance is a controlled dangerous substance for the Act.

402 Definitions—ch 4

In this chapter:

adverse security assessment—see the *Australian Security Intelligence Organisation Act 1979* (Cwlth), section 35.

close associate, of a person—see the Act, section 48.

qualified security assessment—see the *Australian Security Intelligence Organisation Act 1979* (Cwlth), section 35.

security cleared responsible person—a person is a **security cleared responsible person** in relation to a security sensitive substance if—

- (a) the person is a responsible person for the substance; and
- (b) the person is an adult; and
- (c) an adverse security assessment or qualified security assessment has not been given in relation to the person or a close associate of the person; and
- (d) the person has not been convicted or found guilty in the ACT or elsewhere within the previous 5 years of an offence involving—
 - (i) a dangerous substance; or
 - (ii) a firearm; or
 - (iii) actual or threatened violence; or
 - (iv) fraud or dishonesty.

Note The Act, s 18 defines a **responsible person** for a dangerous substance (including a security sensitive substance) as a person in control of the handling of the substance, premises where the substance is handled, or plant or a system for handling the substance.

security plan, for a licence, means a security plan for handling a security sensitive substance under the licence—

- (a) in the form required to be included in an application for the licence; and
- (b) as amended from time to time under this chapter.

security risk assessment, in relation to the handling of a security sensitive substance, means a written assessment that identifies and

assesses the security risks (external and internal) associated with the handling of the substance.

security sensitive substance—see section 400.

unsupervised access—a person has *unsupervised access* to a security sensitive substance if the person has access to the substance when not under the supervision of a person who—

- (a) holds a licence for this chapter; or
- (b) is a security cleared responsible person.

Part 4.2 Security sensitive substances— general duties

403 Loss or theft of security sensitive substances—reporting

- (1) A responsible person for a security sensitive substance, on becoming aware of an incident of theft or loss at premises where the substance is stored, must—
- (a) without delay, tell the chief executive and a police officer about the incident; and
 - (b) as soon as practicable, give a written report to the chief executive setting out the details of the incident and describing the kind and amount of any security sensitive substances lost or stolen.

Maximum penalty: 30 penalty units.

Note 1 **Premises** are defined in the Act, dict, to include land, structures and vehicles.

Note 2 **Responsible person**, for a dangerous substance (including a security sensitive substance) is defined in the Act, s 18.

- (2) An offence against this section is a strict liability offence.
- (3) In this section:

incident of theft or loss, at premises, means—

- (a) the theft or loss of a security sensitive substance from the premises; or
- (b) a break-in at the premises; or
- (c) an attempt to do something mentioned in paragraph (a) or (b).

Part 4.4 Manufacturing security sensitive substances

406 Meaning of *manufacturing licence*—ch 4

In this chapter:

manufacturing licence means a licence issued for this part authorising the manufacture of a security sensitive substance.

Note 1 Licences are issued under the Act (see Act, dict, def *licence*).

Note 2 *Manufacture* is defined in the Act, dict.

407 Authority to manufacture security sensitive substances

A person is authorised to manufacture a security sensitive substance if the person—

- (a) holds a manufacturing licence authorising the manufacture of the substance; or
- (b) is an individual engaged (as an employee or contractor) to manufacture the substance under the supervision of a person who holds a manufacturing licence.

Note 1 Licences are issued under the Act, ch 4 (Licences for dangerous substances). Security sensitive substances are dangerous substances.

Note 2 A person who manufactures a security sensitive substance without authorisation may commit an offence against the Act, pt 5.1.

408 Person in control of manufacture—Act, s 17 (1) (e)

For the Act, the holder of a manufacturing licence is a person in control of all of the following in relation to the manufacture of a security sensitive substance under the licence:

- (a) the handling of the substance;

- (b) the premises where the substance is manufactured;
- (c) any associated plant or system;
- (d) any associated activity.

Note The Act, ch 3 (Safety duties for dangerous substances) imposes safety duties on a person in control of activities, plants, systems and premises relating to the handling of the dangerous substances.

409 Manufacturing licence applications—Act, s 50 (2)

An application for a manufacturing licence for a security sensitive substance must include the following:

- (a) the name and address of, and copies of identification papers for—
 - (i) the applicant; and
 - (ii) anyone who is to be a responsible person for the substance;
- (b) if the applicant is a corporation—the corporation's ACN;
- (c) the purpose of the manufacture;
- (d) the address of the premises where the substance is to be manufactured;
- (e) a security plan prepared in accordance with section 410;
- (f) any information or documents required by a form for the application approved under the Act, section 222.

410 Manufacturing licence applications—security plans

- (1) A security plan for the manufacture of a security sensitive substance must be based on a security risk assessment.
- (2) The security plan must include the following:
 - (a) details of the production process to be used;

- (b) details of the ingredients to be used and the source of any ingredient that is a dangerous substance;
- (c) recording and reconciliation protocols;
- (d) a system for recording—
 - (i) the name and licence details of a person who receives any of the security sensitive substance; and
 - (ii) the amount of the substance taken by the person;
- (e) procedures for reporting any loss, theft or attempted theft of the security sensitive substance;
- (f) any information or documents required by a form for the security plan approved under the Act, section 222.

411 Manufacturing licence conditions—Act, s 53 (2) (b)

The following conditions apply to a manufacturing licence for a security sensitive substance:

- (a) the licensee must ensure that the substance is manufactured only for the purpose stated in the licence;
- (b) the licensee must ensure that—
 - (i) the security plan for the licence is implemented; and
 - (ii) a copy of the plan is available for inspection at each premises used for manufacturing the substance under the licence;
- (c) the licensee must ensure that no-one other than a security cleared responsible person named in the licence has unsupervised access to the substance;
- (d) the licensee must apply to the chief executive to amend the licence if the licensee proposes to—

- (i) add someone to, or remove someone from, the licence as a security cleared responsible person; or
- (ii) change the name stated in the licence of a security cleared responsible person;

Note Licence amendments are made under the Act, s 58.

- (e) the licensee must—
 - (i) comply with the obligations imposed on the licensee under this part; and
 - (ii) ensure that this part is complied with in relation to the manufacture of the substance under the licence.

Note 1 A licence is also subject to any conditions included in the licence by the chief executive (see Act, 53 (2) (a)).

Note 2 A licensee who fails to comply with a condition of the licence may commit an offence against the Act, s 63 (Failure to comply with conditions of licence).

412 Manufacturing licences—review of security plans

The holder of a manufacturing licence for a security sensitive substance must—

- (a) amend the security plan whenever necessary to ensure that it is kept up-to-date; and
- (b) review the security plan (and make any necessary amendments) at least once every 5 years; and
- (c) state on the security plan—
 - (i) the date it was prepared; and
 - (ii) if it has been amended—the last date it was amended; and
 - (iii) if it has been reviewed—the last date it was reviewed.

413 Manufacture records

- (1) The holder of a manufacturing licence must, for each security sensitive substance manufactured under the licence, make a record of the manufacture that complies with subsection (2).
- (2) The record must include the following:
 - (a) the name and classification of the substance;
 - (b) the quantity of the substance manufactured;
 - (c) the date of manufacture;
 - (d) a certificate of analysis for each batch;
 - (e) whether the substance was manufactured for immediate use or supply;
 - (f) if the substance is stored, details of storage, including the name and licence details for a person responsible for its storage;
 - (g) any information or documents required by a form for the record approved under the Act, section 222.

Note The licensee must make a record of the disposal under s 463.

- (3) The holder of a manufacturing licence must keep a record made under this section of the manufacture of a security sensitive substance for at least 3 years after the day of manufacture, whether or not the licence continues in force.

Maximum penalty: 20 penalty units.

- (4) An offence against this section is a strict liability offence.

Part 4.5 Importing security sensitive substances

414 **Meaning of *import licence*—ch 4**

In this chapter:

import licence means a licence issued for this part authorising the import of a security sensitive substance.

Note 1 Licences are issued under the Act (see Act, dict, def *licence*).

Note 2 *Import* means import into the ACT (see Act, dict).

415 **Authority to import security sensitive substances**

A person is authorised to import a security sensitive substance if the person holds an import licence for the import of the substance.

Note 1 Licences are issued under the Act, ch 4 (Licences for dangerous substances). Security sensitive substances are dangerous substances.

Note 2 A person who imports a security sensitive substance without a licence may commit an offence against the Act, pt 5.1.

416 **Person in control of import—Act, s 17 (1) (e)**

For the Act, the holder of an import licence is a person in control of all of the following in relation to the import of a security sensitive substance under the licence:

- (a) the handling of the substance;
- (b) any premises where the substance is stored by the licensee after import;
- (c) any associated plant or system;

- (d) any associated activity.

Note The Act, ch 3 (Safety duties for dangerous substances) imposes safety duties on a person in control of activities, plants, systems and premises relating to the handling of the dangerous substances.

417 Import licence applications—Act, s 50 (2)

An application for an import licence for a security sensitive substance must include the following:

- (a) the name and address of, and copies of identification papers for—
 - (i) the applicant; and
 - (ii) anyone who is to be a responsible person for the substance;
- (b) if the applicant is a corporation—the corporation’s ACN;
- (c) the purpose of the import;
- (d) the address of the premises where the substance is to be stored;
- (e) the name and classification of the substance;
- (f) any information or documents required by a form for the application approved under the Act, section 222.

418 Import licence conditions—Act, s 53 (2) (b)

The following conditions apply to an import licence for a security sensitive substance:

- (a) the licensee must import the substance only for the purpose stated in the licence;
- (b) the licensee must ensure that no-one other than a security cleared responsible person named in the licence has unsupervised access to the substance;

- (c) the licensee must apply to the chief executive to amend the licence if the licensee proposes to—
- (i) add someone to, or remove someone from, the licence as a security cleared responsible person; or
 - (ii) change the name stated in the licence of a security cleared responsible person;

Note Licence amendments are made under the Act, s 58.

- (d) the licensee must—
- (i) comply with the obligations imposed on the licensee under this part; and
 - (ii) ensure that this part is complied with in relation to the import of the substance under the licence.

Note 1 A licence is also subject to any conditions included in the licence by the chief executive (see Act, 53 (2) (a)).

Note 2 A licensee who fails to comply with a condition of the licence may commit an offence against the Act, s 63 (Failure to comply with conditions of licence).

419 Notice of import

- (1) The holder of an import licence must give the chief executive written notice of the licensee's intention to import a security sensitive substance.
- (2) The notice must be given no later than 2 business days before the day when the substance is to arrive in the ACT.
- (3) The notice must include the following:
 - (a) the licensee's licence details;
 - (b) the intended date of import of the substance;
 - (c) how the substance is to be carried into the ACT;

- (d) the name, classification and quantity of the substance to be imported;
- (e) contact and licence details for the person who is to receive the import;
- (f) the address of the place where the substance is to be stored in the ACT;
- (g) the name and licence details of the person who is to carry the substance into the ACT;
- (h) any information or documents required by a form for the notice approved under the Act, section 222.

420 Import records

- (1) The holder of an import licence must make a record of all security sensitive substances imported into the ACT under the licence.
- (2) The holder of an import licence must keep a record made under this section of the import of a security sensitive substance for at least 3 years after the day of import, whether or not the licence continues in force.

Maximum penalty: 20 penalty units.

- (3) An offence against this section is a strict liability offence.

Part 4.6 Carrying security sensitive substances

Note If this part requires a security sensitive substance to be carried in a particular way, and a person carrying the security sensitive substance does not comply with the requirement, the person may commit an offence against the Act, s 80 (Unauthorised carrying of certain dangerous substances).

421 Carrying definitions—ch 4

In this chapter:

carrying licence means a licence issued for this part authorising the carrying of a security sensitive substance by road or rail.

Note 1 Licences are issued under the Act (see Act, dict, def *licence*).

Note 2 *Carry* (a dangerous substance) is defined in the Act, dict to mean the moving of the substance by any means.

interstate security sensitive substances carrying authority, in relation to a security sensitive substance carried by road or rail, means a written authority (however called—for example, a licence or permit) issued under a corresponding law that authorises the authority-holder to carry the substance by road or rail.

Note An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

422 Application of pt 4.6

- (1) This part applies to the carrying of security sensitive substances by road or rail.
- (2) However, this part does not apply to—

- (a) the carrying of a quantity of a security sensitive substance that is less than the exempt quantity mentioned in schedule 4, table 4.1, column 4 for the substance; or
- (b) the carrying of a security sensitive substance by an inspector or police officer exercising a function under the Act.

423 Authority to carry security sensitive substances by road

- (1) A person must not carry a security sensitive substance by road (in the ACT) unless—
 - (a) the person is authorised to carry the substance by road (in the ACT) under a carrying licence; or
 - (b) the person holds an interstate security sensitive substances carrying authority that authorises the person to carry the substance by road (in the ACT).
- (2) A carrying licence that authorises the carrying of a security sensitive substance by road (in the ACT) authorises the carrying of the substance by—
 - (a) the licensee; or
 - (b) an individual engaged (as an employee or contractor) to carry the substance by road under the licensee's supervision.

Note 1 Carrying licences are issued under the Act, ch 4 (Licences for dangerous substances). Security sensitive substances are dangerous substances.

Note 2 A person who carries a security sensitive substance without authorisation may commit an offence against the Act, pt 5.1.

424 Authority to carry security sensitive substances by rail

- (1) A person must not carry a security sensitive substance by rail (in the ACT) unless—

- (a) the person is authorised under a carrying licence to carry the security sensitive substance by rail (in the ACT); or
 - (b) the person is authorised under an interstate security sensitive substances carrying authority to carry the substance by rail (in the ACT or elsewhere).
- (2) A carrying licence that authorises the carrying of a security sensitive substance by rail (in the ACT) authorises the carrying of the substance by—
- (a) the licensee; or
 - (b) an individual engaged (as an employee or contractor) to carry the substance by rail under the licensee's supervision.

Note 1 Carrying licences are issued under the Act, ch 4 (Licences for dangerous substances). Security sensitive substances are dangerous substances.

Note 2 A person who carries a security sensitive substance without authorisation may commit an offence against the Act, pt 5.1.

425 Engaging someone else to carry security sensitive substances

- (1) A person must not engage someone else to carry a security sensitive substance by road or rail.
- Maximum penalty: 30 penalty units.
- (2) Subsection (1) does not apply if the person whose services are engaged is authorised under section 423 or section 424 to carry the substance.
- (3) An offence against this section is a strict liability offence.

426 Person in control of carrying security sensitive substances—Act, s 17 (1) (e)

For the Act, the holder of a carrying licence is a person in control of all of the following in relation to the carrying of a security sensitive substance under the licence:

- (a) the handling of the substance;
- (b) any premises where the substance is stored by the licensee for carrying;
- (c) any associated plant or system;
- (d) any associated activity.

Note The Act, ch 3 (Safety duties for dangerous substances) imposes safety duties on a person in control of activities, plants, systems and premises relating to the handling of the dangerous substances.

427 Carrying licence applications—Act, s 50 (2)

An application for a carrying licence for a security sensitive substance must include the following:

- (a) the name and address of, and copies of identification papers for—
 - (i) the applicant; and
 - (ii) anyone who is to be a responsible person for the substance;
- (b) if the applicant is a corporation—the corporation's ACN;
- (c) the purpose of the carrying;
- (d) details of each vehicle to be used for carrying the substance, including the following:
 - (i) make;
 - (ii) model;

- (iii) year of manufacture;
- (iv) registration number;
- (v) engine number;
- (vi) carrying capacity;
- (vii) type of fuel;
- (e) a security plan prepared in accordance with section 428 (Carrying licence applications—security plans);
- (f) any information or documents required by a form for the application approved under the Act, section 222.

428 Carrying licence applications—security plans

- (1) A security plan for carrying a security sensitive substance must be based on a security risk assessment.
- (2) The security plan must include the following:
 - (a) details of the precautions to be taken to ensure the security sensitive substance is secure for the duration of the entire journey;
 - (b) procedures for working out routes for the transport of the security sensitive substance;
 - (c) recording and reconciliation protocols;
 - (d) procedures for reporting any loss, theft or attempted theft of the security sensitive substance;
 - (e) any information or documents required by a form for the security plan approved under the Act, section 222.

429 Carrying licence conditions—Act, s 53 (2) (b)

The following conditions apply to a carrying licence for a security sensitive substance:

- (a) the licensee must ensure that the substance is carried only for the purpose stated in the licence;
 - (b) the licensee must ensure that—
 - (i) the security plan for the licence is implemented; and
 - (ii) a copy of the plan is available for inspection in each vehicle used for carrying the substance under the licence;
 - (c) the licensee must ensure that no-one other than a security cleared responsible person named in the licence has unsupervised access to the substance;
 - (d) the licensee must apply to the chief executive to amend the licence if the licensee proposes to—
 - (i) add someone to, or remove someone from, the licence as a security cleared responsible person; or
 - (ii) change the name stated in the licence of a security cleared responsible person;
- Note* Licence amendments are made under the Act, s 58.
- (e) the licensee must—
 - (i) comply with the obligations imposed on the licensee under this part; and

- (ii) ensure that this part is complied with in relation to the carrying of the substance under the licence.

Note 1 A licence is also subject to any conditions included in the licence by the chief executive (see Act, 53 (2) (a)).

Note 2 A licensee who fails to comply with a condition of the licence may commit an offence against the Act, s 63 (Failure to comply with conditions of licence).

430 Carrying licences—review of security plans

The holder of a carrying licence for a security sensitive substance must—

- (a) amend the security plan whenever necessary to ensure that it is kept up-to-date; and
- (b) review the security plan (and make any necessary amendments) at least once every 5 years; and
- (c) state on the security plan—
 - (i) the date it was prepared; and
 - (ii) if it has been amended—the last date it was amended; and
 - (iii) if it has been reviewed—the last date it was reviewed.

431 Route and time restrictions

- (1) The chief executive may, in writing, determine—
- (a) routes by which, and times when, particular quantities of a security sensitive substance may be carried by road in the ACT; or
 - (b) routes by which, and times when, particular quantities of a security sensitive substance must not be carried by road in the ACT.

- (2) An determination is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

- (3) If the chief executive makes a determination in relation to a security sensitive substance, the substance must not be carried by road except in accordance with the determination.

Part 4.7 Storing security sensitive substances

Note If this part requires a security sensitive substance to be stored in a particular way, and a person storing the substance does not comply with the requirement—

- the substance is not correctly stored for the Act, s 14 (1) (a)
- if the person is in control of the manufacture, import or supply of the substance, the person may commit an offence against the Act, pt 3.2 for contravention of s 26, s 27 or s 28
- in addition, the person may commit an offence against the Act, pt 5.1.

432 **Meaning of *storage licence*—ch 4**

In this chapter:

storage licence means a licence issued for this part authorising the storage of a security sensitive substance.

Note Licences are issued under the Act (see Act, dict, def *licence*).

433 **Authority to store security sensitive substances**

A person must not store a security sensitive substance unless the person is authorised under a storage licence to store the substance.

Note 1 Licences are issued under the Act, ch 4 (Licences for dangerous substances). Security sensitive substances are dangerous substances.

Note 2 A person who stores a security sensitive substance without a licence may commit an offence against the Act, pt 5.1.

434 Person in control of storing security sensitive substances—Act, s 17 (1) (e)

For the Act, the holder of a storage licence is a person in control of all of the following in relation to the storage of a security sensitive substance under the licence:

- (a) the handling of the substance;
- (b) the premises where the substance is stored;
- (c) any associated plant or system;
- (d) any associated activity.

Note The Act, ch 3 (Safety duties for dangerous substances) imposes safety duties on a person in control of activities, plants, systems and premises relating to the handling of the dangerous substances. A security sensitive substance is a dangerous substance.

435 Storage licence applications—Act, s 50 (2)

An application for a storage licence for a security sensitive substance must include the following:

- (a) the name and address of, and copies of identification papers for—
 - (i) the applicant; and
 - (ii) anyone who is to be a responsible person for the substance;
- (b) if the applicant is a corporation—the corporation's ACN;
- (c) the purpose of the storage;
- (d) the address of premises where the substance is to be stored;
- (e) a security plan prepared in accordance with section 436 (Storage licence applications—security plans);

- (f) any information or documents required by a form for the application approved under the Act, section 222.

436 Storage licence applications—security plans

- (1) A security plan for storing a security sensitive substance must be based on a security risk assessment.
- (2) The security plan must include the following:
 - (a) details of the precautions to be taken to ensure the premises where the substance is stored are secure;
 - (b) procedures for controlling access to the premises and to the substance;
 - (c) recording and reconciliation protocols;
 - (d) procedures for reporting any loss, theft or attempted theft of the security sensitive substance;
 - (e) any information or documents required by a form for the security plan approved under the Act, section 222.

437 Storage licence conditions—Act, s 53 (2) (b)

The following conditions apply to a storage licence for a security sensitive substance:

- (a) the licensee must store the substance only for the purpose stated in the licence;
- (b) the licensee must ensure that—
 - (i) the security plan for the licence is implemented; and
 - (ii) a copy of the plan is available for inspection at each premises used for storing the substance under the licence;

- (c) the licensee must ensure that no-one other than a security cleared responsible person named in the licence has unsupervised access to the substance;
- (d) the licensee must apply to the chief executive to amend the licence if the licensee proposes to—
 - (i) add someone to, or remove someone from, the licence as a security cleared responsible person; or
 - (ii) change the name stated in the licence of a security cleared responsible person;

Note Licence amendments are made under the Act, s 58.

- (e) the licensee must—
 - (i) comply with the obligations imposed on the licensee under this part; and
 - (ii) ensure that this part is complied with in relation to the storage of the substance under the licence.

Note 1 A licence is also subject to any conditions included in the licence by the chief executive (see Act, 53 (2) (a)).

Note 2 A licensee who fails to comply with a condition of the licence may commit an offence against the Act, s 63 (Failure to comply with conditions of licence).

438 Storage licences—review of security plans

The holder of a storage licence for a security sensitive substance must—

- (a) amend the security plan whenever necessary to ensure that it is kept up-to-date; and
- (b) review the security plan (and make any necessary amendments) at least once every 5 years; and
- (c) state on the security plan—

- (i) the date it was prepared; and
- (ii) if it has been amended—the last date it was amended; and
- (iii) if it has been reviewed—the last date it was reviewed.

439 Storage records

- (1) The holder of a storage licence must, for each premises used for the storage of security sensitive substances under the licence—
 - (a) make a record of the storage of each security sensitive substance at the premises that complies with subsection (2); and
 - (b) while a security sensitive substance is stored at the premises under the licence, maintain an accurate inventory of all security sensitive substances stored at the premises.
- (2) The record must include the following:
 - (a) the name and classification of the substance;
 - (b) the date of receipt;
 - (c) the name and licence details of the person (if any) from whom the substance was received;
 - (d) the date the security sensitive substance is removed from the premises;
 - (e) the reason for removal;

Examples of reasons

- 1 use
- 2 supply
- 3 disposal

(f) any information or documents required by a form for the record approved under the Act, section 222.

Note An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

(3) The holder of a storage licence must keep a record made under this section of the storage of a security sensitive substance from the day it is stored until at least 3 years after the day the substance is removed from storage, whether or not the licence continues in force.

Maximum penalty: 20 penalty units.

(4) An offence against this section is a strict liability offence.

Part 4.8 Supplying security sensitive substances

Division 4.8.1 Supply licences

440 Meaning of *supply licence*—ch 4

In this chapter:

supply licence means a licence issued for this part authorising the supply of a security sensitive substance.

Note 1 Licences are issued under the Act (see Act, dict, def *licence*).

Note 2 *Supply* is defined in the Act, dict.

441 Authority to supply security sensitive substances

A person is authorised to supply a security sensitive substance if the person holds a supply licence for the substance.

Note 1 Licences are issued under the Act, ch 4 (Licences for dangerous substances). Security sensitive substances are dangerous substances.

Note 2 A person who supplies a security sensitive substance without a licence may commit an offence against the Act, pt 5.1.

442 Person in control of supply—Act, s 17 (1) (e)

For the Act, the holder of a supply licence is a person in control of all of the following in relation to the supply of a security sensitive substance under the licence:

- (a) the handling of the substance;
- (b) the premises from which the substance is supplied;
- (c) any associated plant or system;

- (d) any associated activity.

Note The Act, ch 3 (Safety duties for dangerous substances) imposes safety duties on a person in control of activities, plants, systems and premises relating to the handling of the dangerous substances. A security sensitive substance is a dangerous substance.

443 Supply licence applications—Act, s 50 (2)

An application for a supply licence for a security sensitive substance must include the following:

- (a) the name and address of, and copies of identification papers for—
 - (i) the applicant; and
 - (ii) anyone who is to be a responsible person for the substance;
- (b) if the applicant is a corporation—the corporation’s ACN;
- (c) the purpose of the supply;
- (d) details of any licence authorising the storage of the substance at the premises from which the substance is to be supplied;
- (e) procedures to ensure that the substance is only supplied to a person authorised to receive the substance;
- (f) any information or documents required by a form for the application approved under the Act, section 222.

444 Supply licence conditions—Act, s 53 (2) (b)

The following conditions apply to a supply licence for a security sensitive substance:

- (a) the licensee must supply the substance only for the purpose stated in the licence;

- (b) the licensee must supply the substance only from premises where the substance is authorised to be stored under a licence;
- (c) the licensee must ensure that no-one other than a security cleared responsible person named in the licence has unsupervised access to the substance;
- (d) the licensee must apply to the chief executive to amend the licence if the licensee proposes to—
 - (i) add someone to, or remove someone from, the licence as a security cleared responsible person; or
 - (ii) change the name stated in the licence of a security cleared responsible person;

Note Licence amendments are made under the Act, s 58.

- (e) the licensee must—
 - (i) comply with the obligations imposed on the licensee under this part; and
 - (ii) ensure that this part is complied with in relation to the supply of the substance under the licence.

Note 1 A licence is also subject to any conditions included in the licence by the chief executive (see Act, 53 (2) (a)).

Note 2 A licensee who fails to comply with a condition of the licence may commit an offence against the Act, s 63 (Failure to comply with conditions of licence).

445 Supply only to authorised people

A security sensitive substance must not be supplied to a person unless—

- (a) the person is authorised under a licence to receive the substance; and
- (b) the person shows the supplier—

- (i) the licence or a certified copy of it; and
- (ii) identification papers for the person.

Note This requirement is a condition of a licence (see s 444 (e)). A licensee who fails to comply with a condition of the licence may commit an offence against the Act, s 63 (Failure to comply with conditions of licence).

446 Supply records

- (1) The holder of a supply licence must, for each security sensitive substance supplied under the licence, make a record of the supply that complies with subsection (2).
- (2) The record must include the following:
 - (a) the name and classification of the substance;
 - (b) the quantity of the substance supplied and how it was packaged;

Examples

- 1 30 kg supplied in 3 bags of 10kg
- 2 30 kg supplied in 1 bag of 30kg
- 3 20L supplied in the customer's own container

- (c) the date of supply;
- (d) the name, address and telephone number of the person for whom the substance is supplied;
- (e) the licence details shown to the supplier for section 445;
- (f) the signature of the person taking delivery of the substance and, if that person is not the person for whom the substance is supplied, the name, address and telephone number of the person taking delivery;
- (g) the proposed use of the substance;

(h) any information or documents required by a form for the record approved under the Act, section 222.

Note An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

(3) The holder of a supply licence must keep a record made under this section of the supply of a security sensitive substance for at least 5 years after the day of supply, whether or not the licence continues in force.

Maximum penalty: 20 penalty units.

(4) An offence against this section is a strict liability offence.

Division 4.8.2 Advertising supply of security sensitive substances

447 False or misleading statements about authority to supply security sensitive substances

- (1) A person commits an offence if—
- (a) the person makes a statement (whether orally, in a document or in any other way); and
 - (b) the statement is about—
 - (i) the supply or possible supply of a security sensitive substance; or
 - (ii) the promotion in any way of the supply or use of a security sensitive substance; and
 - (c) the statement is about the availability of the security sensitive substance to members of the public; and
 - (d) the statement is false or misleading; and
 - (e) the person is reckless about whether the statement—

- (i) is false or misleading; or
- (ii) omits anything without which the statement is false or misleading; and
- (f) the statement is made in the course of trade or commerce.

Maximum penalty: 30 penalty units.

- (2) Absolute liability applies to subsection (1) (f).
- (3) Subsection (1) (d) and (e) (i) do not apply if the statement is not false or misleading in a material particular.
- (4) Subsection (1) (d) and (e) (ii) do not apply if the omission does not make the statement misleading in a material particular.

Part 4.9 Using security sensitive substances

448 **Meaning of *user licence*—ch 4**

In this chapter:

user licence means a licence issued for this part authorising the use of a security sensitive substance.

Note Licences are issued under the Act (see Act, dict, def *licence*).

449 **Application of pt 4.9**

- (1) This part applies to the use of security sensitive substances.
- (2) However, this part does not apply to the use of a security sensitive substance by an inspector or police officer exercising a function under the Act.

450 **Authority to use security sensitive substances**

A person is authorised to use a security sensitive substance if the person—

- (a) holds a user licence for the use of the substance; or
- (b) is an individual engaged (as an employee or contractor) to use the substance under the direct supervision of a person who holds a user licence.

Note 1 Licences are issued under the Act, ch 4 (Licences for dangerous substances). Security sensitive substances are dangerous substances.

Note 2 A person who uses a security sensitive substance without a licence may commit an offence against the Act, pt 5.1.

451 Person in control of use—Act, s 17 (1) (e)

For the Act, the holder of a user licence is a person in control of all of the following in relation to the use of a security sensitive substance under the licence:

- (a) the handling of the substance;
- (b) the premises where the substance is used;
- (c) any associated plant or system;
- (d) any associated activity.

Note The Act, ch 3 (Safety duties for dangerous substances) imposes safety duties on a person in control of activities, plants, systems and premises relating to the handling of the dangerous substances.

452 User licence applications—Act, s 50 (2)

An application for a user licence for a security sensitive substance must include the following:

- (a) the name and address of, and copies of identification papers for—
 - (i) the applicant; and
 - (ii) anyone who is to be a responsible person for the substance;
- (b) if the applicant is a corporation—the corporation's ACN;
- (c) the purpose of the use;
- (d) the address of the premises where the substance is to be stored;
- (e) any information or documents required by a form for the application approved under the Act, section 222.

453 User licence conditions—Act, s 53 (2) (b)

The following conditions apply to a user licence for a security sensitive substance:

- (a) the licensee must ensure that the substance is used only for the purpose stated in the licence;
- (b) the licensee must ensure that no-one other than a security cleared responsible person named in the licence has unsupervised access to the substance;
- (c) the licensee must apply to the chief executive to amend the licence if the licensee proposes to—
 - (i) add someone to, or remove someone from, the licence as a security cleared responsible person; or
 - (ii) change the name stated in the licence of a security cleared responsible person;
- (d) the licensee must—
 - (i) comply with the obligations imposed on the licensee under this part; and
 - (ii) ensure that this part is complied with in relation to the use of the substance under the licence.

Note Licence amendments are made under the Act, s 58.

Note 1 A licence is also subject to any conditions included in the licence by the chief executive (see Act, 53 (2) (a)).

Note 2 A licensee who fails to comply with a condition of the licence may commit an offence against the Act, s 63 (Failure to comply with conditions of licence).

454 Use of security sensitive substances—responsibilities of person in control

- (1) A person in control of premises must ensure that a security sensitive substance is used at the premises only by a person authorised to use the substance under this part.

Maximum penalty: 10 penalty units.

- (2) This section does not apply to the use of a security sensitive substance under the supervision of an inspector or police officer.
- (3) An offence against this section is a strict liability offence.

455 Use records

- (1) The holder of a user licence must, for each security sensitive substance used under the licence, make a record of the use that complies with subsection (2).

- (2) The record must include the following:

- (a) the name and classification of the substance;
- (b) the quantity of the substance used;
- (c) the purpose for which the substance was used;
- (d) any information or documents required by a form for the record approved under the Act, section 222.

- (3) The holder of a user licence must keep a record made under this section of the use of a security sensitive substance for at least 3 years after the day of use, whether or not the licence continues in force.

Maximum penalty: 20 penalty units.

- (4) An offence against this section is a strict liability offence.

Part 4.10 Disposal of security sensitive substances

Note If this part requires a security sensitive substance to be disposed of in a particular way, and a person disposing of the security sensitive substance does not comply with the requirement, the person may commit an offence under the Act, s 81 (Unauthorised disposal of dangerous substances, plant and systems).

456 Meaning of *dispose*—pt 4.10

In this part:

dispose does not include supply.

Note *Dispose* and *supply* are defined in the Act, dict. Those definitions apply to this regulation. However, the definition in this regulation qualifies the definition in the Act.

457 Application of pt 4.10

- (1) This part applies to the disposal of security sensitive substances.
- (2) However, this part does not apply to the disposal of a security sensitive substance by an inspector or police officer exercising a function under the Act.

458 Authority to dispose of security sensitive substances

- (1) A person must not dispose of a security sensitive substance unless the person is authorised under a licence to handle the security sensitive substance.
- (2) A licence that authorises the handling of a security sensitive substance authorises the disposal of the substance by—
 - (a) the licensee; or

- (b) any individual engaged (as an employee or contractor) to handle the substance under the licensee's supervision.

Note 1 Licences are issued under the Act, ch 4 (Licences for dangerous substances). Security sensitive substances are dangerous substances.

Note 2 A person who disposes of a security sensitive substance without authorisation may commit an offence against the Act, pt 5.1.

459 **Conditions for disposal of security sensitive substances—Act, s 53 (2) (b)**

It is a condition of a licence that authorises the handling of a security sensitive substance that the licensee must—

- (a) comply with the obligations imposed on the licensee under this part; and
- (b) ensure that this part is complied with in relation to the disposal of the substance under the licence.

Note A licensee who fails to comply with a condition of the licence may commit an offence against the Act, s 63 (Failure to comply with conditions of licence).

460 **Discarding security sensitive substances**

- (1) A person must not discard a security sensitive substance.

Maximum penalty: 30 penalty units.

Examples of discarding

- 1 throwing away the substance
- 2 dumping the substance in a waterway

Note An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (2) An offence against this section is a strict liability offence.

**461 Secure disposal of security sensitive substances—
general rules**

A person disposing of a security sensitive substance must ensure—

- (a) that the method of disposal used provides the greatest degree of security possible; and
- (b) that the method of disposal is appropriate to the kind of security sensitive substance and the condition of the security sensitive substance.

**462 Secure disposal of security sensitive substances—
inspector's instructions**

Despite section 460 and section 461, if an inspector tells a person (orally or in writing) who is authorised to handle a security sensitive substance under a licence to dispose of the substance in a particular way, the person must ensure that the direction is complied with.

463 Disposal records

- (1) The holder of a licence under which a security sensitive substance is disposed of must make a record of the disposal that complies with subsection (2).
- (2) The record must include the following:
 - (a) the name and licence details of the owner of the substance;
 - (b) the name and classification of the substance;
 - (c) the quantity of the substance disposed of;
 - (d) the date of disposal;
 - (e) the method of disposal;
 - (f) the reason for disposal;

- (g) any information or documents required by a form for the record approved under the Act, section 222.
- (3) The holder of a licence must keep a record made under this section of the disposal of a security sensitive substance for at least 3 years after the day of disposal, whether or not the licence continues in force.

Maximum penalty: 20 penalty units.
- (4) An offence against this section is a strict liability offence.

Chapter 5 Administrative review of decisions

500 Reviewable decisions—Act, s 186 (b)

The decisions of the Minister, the chief executive or an inspector mentioned in any part of schedule 5, column 3 are reviewable decisions.

501 Notice of reviewable decisions—Act, s 187 (1)

If the Minister, chief executive or inspector (the *decision-maker*) makes a reviewable decision, the decision-maker must give written notice of the decision to each person mentioned in any part of schedule 5, column 4 in relation to the decision.

Note For the giving of notice of a reviewable decision, see the code of practice under the *Administrative Appeals Tribunal Act 1989*, s 25B.

502 Internally reviewable decisions—Act, s 188 (1)

The decisions of an inspector mentioned in schedule 5, part 5.2 are internally reviewable decisions.

Note 1 For the giving of notice of an internally reviewable decision, see the code of practice under the *Administrative Appeals Tribunal Act 1989*, s 25B.

Note 2 A person may apply to the AAT for review of a decision made by an internal reviewer (see Act, s 191 (a)), including a decision under the Act, s 189 (1) (b) refusing to allow a longer period to make an application for internal review.

Chapter 6 Transitional and consequential amendments

Part 6.1 Modification of Act, ch 14

600 Act modified—pt 6.1

This part modifies the *Dangerous Substances Act 2004*, chapter 14 (Consequential and transitional matters).

601 Section 226 (3)

substitute

- (3) The prescribed former licence ends on 31 March 2005.

602 Expiry—pt 6.1

This part expires on 5 April 2006.

Part 6.2 Licences

603 Term of licence—Act, s 54 (2)

- (1) This section applies to a licence issued before 1 July 2005.
- (2) The licence may not be issued for longer than 1 year.
- (3) This part expires on 1 July 2005.

Part 6.3 **Dangerous Substances (General)** **Regulation 2004 SL2004-9**

604 **Legislation amended—pt 6.3**

This part amends the *Dangerous Substances (General) Regulation 2004* SL2004-9.

605 **Part 5**

omit

Part 6.4 **Repeal of Dangerous Substances
(General) Regulation 2004
SL2004-9**

606 **Repeal**

The *Dangerous Substances (General) Regulation 2004* SL2004-9
is repealed.

Part 6.5 Dangerous Substances (Explosives) Regulation 2004

607 Legislation amended—pt 6.4

This part amends the *Dangerous Substances (Explosives) Regulation 2004*.

608 Incorporated documents Section 5 (2)

substitute

- (2) For this regulation, a reference to an incorporated document (in this regulation or in another incorporated document) is a reference to—
- (a) if the document is properly notified—the document as in effect at the commencement of this section; and
 - (b) if the document is amended after the commencement of this section, and the amendment is properly notified—the document as amended by the amendment; and
 - (c) if the document (or a replacement document mentioned in this paragraph) is replaced by another document after the commencement of this section, and the replacement document is properly notified—the replacement document; and
 - (d) if a replacement document mentioned in paragraph (c) is amended, and the amendment is properly notified—the replacement document as amended.

Section 609 Section 5 (4), definition of incorporated document, paragraphs (b) and (c) □

Example of replacement document

a new edition of an incorporated document published after the commencement of this section

Note 1 If a document, amendment or replacement document is not properly notified, as described in s (4), the document, amendment or replacement document has no effect (see Act, s 220 (4)).

Note 2 An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

609 Section 5 (4), definition of *incorporated document*, paragraphs (b) and (c)

omit

610 Section 5 (4), definition of *incorporated document*

renumber paragraphs when regulation next republished under the Legislation Act

611 Section 5 (4), new definition of *properly notified*

insert

properly notified—a document, amendment or replacement document mentioned in subsection (2) is ***properly notified*** if—

- (a) an incorporated document notice under the Act, section 220 is notified in relation to the document, amendment or replacement document; or
- (b) the document, amendment or replacement document is notified under the Legislation Act, section 47 (6).

Note For the meaning of ***notification***, see the Legislation Act, s 63.

612 Section 20

substitute

20 Meaning of ensure

- (1) This section applies if a provision of this regulation requires a person to **ensure** that something is or is not done in relation to an explosive.
- (2) The requirement is satisfied if the person takes reasonable steps to eliminate the hazards, and eliminate or minimise the risks, that might result if the requirement were not met.
- (3) Subsection (2) does not limit the ways in which the requirement may be satisfied.

Note The following terms are defined in the Act:

- **hazard** (see s 15 (1))
- **risk** (see s 15 (2))
- **reasonable steps** (see s 16).

613 New section 22A

in division 1.2.3, insert

22A Security definitions

In this regulation:

adverse security assessment—see the *Australian Security Intelligence Organisation Act 1979* (Cwlth), section 35.

close associate, of a person—see the Act, section 48.

qualified security assessment—see the *Australian Security Intelligence Organisation Act 1979* (Cwlth), section 35.

security cleared responsible person—a person is a ***security cleared responsible person*** in relation to an explosive if—

- (a) the person is a responsible person for the explosive; and
- (b) the person is an adult; and
- (c) an adverse security assessment or qualified security assessment has not been given in relation to the person or a close associate of the person; and
- (d) the person has not been convicted or found guilty in the ACT or elsewhere within the previous 5 years of an offence involving—
 - (i) a dangerous substance; or
 - (ii) a firearm; or
 - (iii) actual or threatened violence; or
 - (iv) fraud or dishonesty.

Note The Act, s 18 defines a ***responsible person*** for a dangerous substance (including an explosive) as a person in control of the handling of the substance, premises where the substance is handled, or plant or a system for handling the substance.

security plan, for a licence, means a security plan for handling an explosive under the licence—

- (a) in the form required to be included in an application for the licence; and
- (b) as amended from time to time under this regulation.

security risk assessment, in relation to the handling of an explosive, means a written assessment that identifies and assesses the security risks (external and internal) associated with the handling of the explosive.

unsupervised access—a person has *unsupervised access* to an explosive if the person has access to the explosive when not under the supervision of a person who—

- (a) holds a licence for this regulation; or
- (b) is a security cleared responsible person.

**614 Loss or theft of explosives—reporting
Section 25 (1) (b)**

substitute

- (b) as soon as practicable, give a written report to the chief executive setting out the details of the incident and describing the kind and amount of any explosives lost or stolen.

615 Section 25 (2)

omit

616 Section 25

renumber subsections when regulation next republished under Legislation Act

**617 Authorisation decision-making
Section 32 (3) (b) (ii)**

omit

section 6 (1).

substitute

section 6 (1); or

618 New part 2.2A

insert

Part 2.2A General licence requirements

40A Suitable person to hold licence—Act, s 49 (1) (i)

For the Act, the matters the chief executive must have regard to in deciding whether a person is a suitable person to be issued with, or to continue to hold, a licence to handle an explosive include—

- (a) whether an adverse security assessment or qualified security assessment has been given in relation to—
 - (i) the person or a close associate of the person; or
 - (ii) if the person is a corporation—an officer of the corporation or a close associate of an officer of the corporation; and
- (b) if the person is an individual, whether the person is—
 - (i) an adult; or
 - (ii) for an explosives driving licence—at least 21 years old.

Note 1 For par (b) (ii), see s 112 (1) (a).

Note 2 For working out who is a suitable person to be issued with a licence, see also the Act, s 49 (1) (a) to (h), and the following sections of this regulation:

- s 112 (Suitable people to hold explosives driving licences—Act, s 49 (1) (i))
- s 190 (Suitable people to hold blasting permits—Act, s 49 (1) (i))
- s 305 (Suitable people to hold display operator licences—Act, s 49 (1) (i))
- s 308 (Suitable people to hold fireworks display permits—Act, s 49 (1) (i)).

Note 3 Additional criteria apply to the issue of licences (see Act, pt 4.2).

619 **Exceptions—labelling and placarding**
Section 45 (b) (i)

omit

section 196 (Site receptacles)

substitute

section 196 (Temporary on-site storage)

620 **Section 51**

substitute

51 **Manufacturing licence applications for Act, s 50 (2)—**
general

An application for a manufacturing licence for an explosive must include the following:

- (a) the name and address of, and copies of identification papers for—
 - (i) the applicant; and
 - (ii) anyone who is to be a responsible person for the explosive;
- (b) if the applicant is a corporation—the corporation’s ACN;
- (c) the purpose of the manufacture;
- (d) the address of premises where the explosive is to be manufactured and stored;
- (e) documentation describing a safety management system for the proposed manufacture;
- (f) the maximum number of people likely to be present in—
 - (i) the explosives manufacturing area; and

- (ii) other parts of the premises;
- (g) details of the fire protection proposed to be used;
- (h) a security plan prepared in accordance with section 51A;
- (i) any information or documents required by a form for the application approved under the Act, section 222.

51A Manufacturing licence applications—security plans

- (1) A security plan for the manufacture of an explosive must be based on a security risk assessment.
- (2) The security plan must include the following:
 - (a) details of the production process to be used;
 - (b) details of the ingredients to be used and the source of any ingredient that is a dangerous substance;
 - (c) recording and reconciliation protocols;
 - (d) a system for recording—
 - (i) the name and licence details of a person who receives any of the explosive; and
 - (ii) the amount of the explosive taken by the person;
 - (e) procedures for reporting any loss, theft or attempted theft of the explosive;
 - (f) any information or documents required by a form for the security plan approved under the Act, section 222.

621 Sections 55 and 56

substitute

55 Manufacturing licence conditions—Act, s 53 (2) (b)

- (1) The following conditions apply to a manufacturing licence for an explosive:
- (a) the explosive must be an authorised explosive;
 - (b) anyone who handles the explosive or another dangerous substance under the licence must have the appropriate skills and training;
 - (c) the licensee must provide anyone with a safety data sheet for the explosive on request;
 - (d) the licensee must ensure that the explosive is manufactured only for the purpose stated in the licence;
 - (e) the licensee must ensure that—
 - (i) the security plan for the licence is implemented; and
 - (ii) a copy of the plan is available for inspection at each premises used for manufacturing the explosive under the licence;
 - (f) the licensee must ensure that no-one other than a security cleared responsible person named in the licence has unsupervised access to the explosive;
 - (g) the licensee must apply to the chief executive to amend the licence if the licensee proposes to—
 - (i) add someone to, or remove someone from, the licence as a security cleared responsible person; or
 - (ii) change the name stated in the licence of a security cleared responsible person;

Note Licence amendments are made under the Act, s 58.

- (h) the licensee must—

- (i) comply with the obligations imposed on the licensee under this part; and
- (ii) ensure that this part is complied with in relation to the manufacture of the explosive under the licence.

Note 1 A licence is also subject to any conditions included in the licence by the chief executive (see the Act, s 53 (2) (a)).

Note 2 A licensee who fails to comply with a condition of the licence may commit an offence against the Act, s 63 (Failure to comply with conditions of licence).

- (2) Subsection (1) (c) takes effect on 5 April 2006.
- (3) Subsection (2) and this subsection expire on 5 April 2006.

55A Manufacturing licences—review of security plans

The holder of a manufacturing licence for an explosive must—

- (a) amend the security plan whenever necessary to ensure that it is kept up-to-date; and
- (b) review the security plan (and make any necessary amendments) at least once every 5 years; and
- (c) state on the security plan—
 - (i) the date it was prepared; and
 - (ii) if it has been amended—the last date it was amended; and
 - (iii) if it has been reviewed—the last date it was reviewed.

56 Manufacture records

- (1) The holder of a manufacturing licence must, for each explosive manufactured under the licence, make a record of the manufacture that complies with subsection (2).

- (2) The record must include the following:
- (a) the name and classification code of the explosive;
 - (b) the quantity of the explosive manufactured;
 - (c) the date of manufacture;
 - (d) a certificate of analysis for each batch;
 - (e) whether the explosive was manufactured for immediate use or supply;
 - (f) if the explosive is stored, details of storage, including the name and licence details for a person responsible for its storage;
 - (g) any information or documents required by a form for the record approved under the Act, section 222.

Note If the substance is disposed of, the licensee must make a record of the disposal under s 258.

- (2) The holder of a manufacturing licence must keep a record made under this section of the manufacture of an explosive for at least 3 years after the day of manufacture, whether or not the licence continues in force.

Maximum penalty: 20 penalty units.

- (3) An offence against this section is a strict liability offence.

622 Explosives for which no import licence required
Section 91 (4)

omit

subsection (1) (f)

substitute

subsection (2) (f)

**623 Import licence applications—Act, s 50 (2)
Section 94 (a)**

substitute

- (a) the name and address of, and copies of identification papers for—
 - (i) the applicant; and
 - (ii) anyone who is to be a responsible person for the explosives;
- (aa) if the applicant is a corporation—the corporation’s ACN;

624 Section 94

*renumber paragraphs when regulation next republished under
Legislation Act*

625 Section 95

substitute

55 Import licence conditions—Act, s 53 (2) (b)

- (1) The following conditions apply to an import licence for an explosive:
 - (a) the explosive must be an authorised explosive;
 - (b) the licensee must import the explosive only for the purpose stated in the licence;
 - (c) the licensee must establish and maintain a safety management system for the import of explosives under the licence;
 - (d) the licensee must provide anyone with a safety data sheet for the explosive on request;

- (e) the licensee must ensure that no-one other than a security cleared responsible person named in the licence has unsupervised access to the explosive;
- (f) the licensee must apply to the chief executive to amend the licence if the licensee proposes to—
 - (i) add someone to, or remove someone from, the licence as a security cleared responsible person; or
 - (ii) change the name stated in the licence of a security cleared responsible person;

Note Licence amendments are made under the Act, s 58.

- (g) the licensee must—
 - (i) comply with the obligations imposed on the licensee under this part; and
 - (ii) ensure that this part is complied with in relation to the import of the explosive under the licence.

Note 1 A licence is also subject to any conditions included in the licence by the chief executive (see the Act, s 53 (2) (a)).

Note 2 A licensee who fails to comply with a condition of the licence may commit an offence against the Act, s 63 (Failure to comply with conditions of licence).

- (2) Subsection (1) (d) takes effect on 5 April 2006.
- (3) Subsection (2) and this subsection expire on 5 April 2006.

626 **Notice of import**
Section 96 (4)

substitute

- (4) The notice must include the following:
 - (a) the name and licence number of the licensee;

- (b) the intended date of import of the explosives;
- (c) how the explosives are to be carried into the ACT;
- (d) the name and authorisation number of the explosives and the classification code assigned on authorisation;
- (e) the details of each explosive imported, as follows:
 - (i) if the explosives are in a package containing only a single kind of explosive—the weight of each individual package and the number of packages;
 - (ii) if the import is in bulk—the quantity of the explosive;
 - (iii) if the import is in a package containing different kinds of explosive—the quantity of each kind of explosives (by weight or numbers of articles, or both);
- (f) contact and licence details for the person who is to receive the imported explosives;
- (g) the address of the place where the explosives are to be stored in the ACT;
- (h) the name and licence details of the person who is to carry the explosives into the ACT;
- (i) any information or documents required by a form for the notice approved under the Act, section 222.

627 **Application of pt 2.6**
Section 98 (3) (a) and (b)

omit

interstate explosives driving licence

substitute

interstate explosives driving authority

628 Authority to carry explosives by road
Section 100 (1)

substitute

- (1) A person must not carry an explosive by road (in the ACT) unless—
- (a) the person is authorised to carry the explosive by road (in the ACT) under a carrying licence; or
 - (b) the person holds an interstate explosives carrying authority that authorises the person to carry the explosive by road (in the ACT); or
 - (c) the person—
 - (i) drives a vehicle carrying the explosive by road (in the ACT); and
 - (ii) is authorised to carry the explosive by road in the vehicle (in the ACT or elsewhere) under an interstate explosives carrying authority; and
 - (iii) holds an explosives driving licence, or an interstate explosives driving authority, authorising the driving of the vehicle carrying the explosive by road (whether in the ACT or elsewhere); or
 - (d) the person (an *exempt carrier*)—
 - (i) carries a category 1 load of explosives; or
 - (ii) is authorised (otherwise than under a carrying licence) or permitted to handle the explosive under the Act (including this regulation).

Examples of authority or permission for par (d) (ii)

- 1 An adult ACT resident who holds a consumer fireworks receipt is authorised under this regulation to possess and use the consumer fireworks mentioned in the receipt (see s 294).

- 2 The handling of general use fireworks is permitted under the Act. There are no restrictions on handling general use fireworks apart from generalised safety duties under the Act relating to dangerous substances.

Note An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

629 Section 100 (2) (b) (ii) and (2), note 3

omit

interstate explosives driving licence

substitute

interstate explosives driving authority

630 Section 101 heading

substitute

101 Authority to carry explosives by rail

631 Section 101 (1)

substitute

- (1) A person must not carry explosives by rail (in the ACT) unless—
- (a) the person is authorised under a carrying licence to carry the explosives by rail (in the ACT); or
 - (b) the person is authorised under an interstate explosives carrying authority to carry the explosives by rail (in the ACT or elsewhere).

632 Section 101 (2)

omit

the carrying of explosives by rail authorises the carrying of the explosives by

substitute

the carrying of an explosive by rail (in the ACT) authorises the carrying of the explosive by

633 Sections 105 and 106

substitute

105 Carrying licence applications—Act, s 50 (2)

An application for a carrying licence for an explosive must include the following:

- (a) the name and address of, and copies of identification papers for—
 - (i) the applicant; and
 - (ii) anyone who is to be a responsible person for the explosive;
- (b) if the applicant is a corporation—the corporation’s ACN;
- (c) the purpose of the carrying;
- (d) documentation describing a safety management system (including an emergency plan) for carrying the explosive;

Example of other matters for inclusion in the safety management system

safe handling and security procedures for carrying the explosive

- (e) details of each vehicle to be used for carrying the explosive, including the following:
 - (i) make;
 - (ii) model;
 - (iii) year of manufacture;
 - (iv) authorisation number;
 - (v) engine number;
 - (vi) registration number;
 - (vii) carrying capacity;
 - (viii) type of fuel;
 - (ix) category of load that can be carried;
 - (x) any modifications making the vehicle suitable for carrying that category of load;
- (f) the hazard division, of the explosive and the maximum quantity to be carried;
- (g) details of training to be undertaken to comply with section 106 (1) (e);
- (h) a security plan prepared in accordance with section 105A (Carrying licence applications—security plans);
- (i) any information or documents required by a form for the application approved under the Act, section 222.

Note An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

105A Carrying licence applications—security plans

- (1) A security plan for carrying an explosive must be based on a security risk assessment.
- (2) The security plan must include the following:
 - (a) details of the precautions to be taken to ensure the explosive is secure for the duration of their entire journey;
 - (b) procedures for working out routes for the transport of the explosive;
 - (c) recording and reconciliation protocols;
 - (d) procedures for reporting any loss, theft or attempted theft of the explosive;
 - (e) any information or documents required by a form for the security plan approved under the Act, section 222.

106 Carrying licence conditions—Act, s 53 (2) (b)

- (1) The following conditions apply to a carrying licence for an explosive:
 - (a) the explosive must be an authorised explosive;
 - (b) the licensee must ensure that the only vehicles used for carrying the explosive under the licence are approved vehicles;
 - (c) the licensee must ensure that the explosive is carried only for the purpose stated in the licence;
 - (d) the licensee must establish and maintain a safety management system (including an emergency plan) for the carrying of the explosive under the licence;
 - (e) anyone who handles the explosive or another dangerous substance under the licence must have the appropriate skills

and training, including training in the requirements of the Australian Explosives Code as applied for this part;

- (f) the licensee must ensure that—
 - (i) the security plan for the licence is implemented; and
 - (ii) a copy of the plan is available for inspection in each vehicle used for carrying the explosive under the licence;
- (g) the licensee must ensure that no-one other than a security cleared responsible person named in the licence has unsupervised access to the explosive;
- (h) the licensee must apply to the chief executive to amend the licence if the licensee proposes to—
 - (i) add someone to, or remove someone from, the licence as a security cleared responsible person; or
 - (ii) change the name stated in the licence of a security cleared responsible person;

Note Licence amendments are made under the Act, s 58.

- (i) the licensee must—
 - (i) comply with the obligations imposed on the licensee under this part; and
 - (ii) ensure that this part is complied with in relation to the carrying of the explosive under the licence.

Note 1 A licence is also subject to any conditions included in the licence by the chief executive (see the Act, s 53 (2) (a)).

Note 2 A licensee who fails to comply with a condition of the licence may commit an offence against the Act, s 63 (Failure to comply with conditions of licence).

(2) In this section:

approved vehicle means a vehicle stated in the licence, or in an interstate explosives carrying authority, that meets the requirements of the Australian Explosives Code in relation to the category of load (within the meaning of the code) carried by the vehicle.

106A Carrying licences—review of security plans

The holder of a carrying licence for an explosive must—

- (a) amend the security plan whenever necessary to ensure that it is kept up-to-date; and
- (b) review the security plan (and make any necessary amendments) at least once every 5 years; and
- (c) state on the security plan—
 - (i) the date it was prepared; and
 - (ii) if it has been amended—the last date it was amended; and
 - (iii) if it has been reviewed—the last date it was reviewed.

634 Authority for driving vehicle carrying explosives Section 107 (1) (a) (i)

omit

interstate explosives carrying licence

substitute

interstate explosives carrying authority

635 Section 107 (1) (a) (ii)

omit

interstate explosives driving licence

substitute

interstate explosives driving authority

**636 Explosives driving licence applications—Act, s 50 (2)
Section 111 (a)**

substitute

(a) the name, address and date of birth of, and copies of identification papers for, the applicant;

(aa) the name and address of, and copies of identification papers for, anyone else who is to be a responsible person for the explosives;

637 Section 111

*renumber paragraphs when regulation next republished under the
Legislation Act*

**638 Suitable people to hold explosives driving licences—Act,
s 49 (1) (i)
Section 112 (1), new notes**

insert

Note 1 For working out who is a suitable person to be issued with a licence, see also s 40A.

Note 2 Additional criteria apply to the issue of licences (see Act, pt 4.2).

639 Section 112 (3), note

omit

**640 Production of driving authority on request
Section 114 (4), definition of *required authorisation*,
paragraph (a) (ii)**

omit

interstate carrying authority

substitute

interstate explosives carrying authority

**641 Route and time restrictions
Section 117 (2)**

omit

An determination

substitute

A determination

**642 Authority to store explosives
Section 125 (1)**

omit

A person may store an explosive only if—

substitute

A person must not store an explosive unless—

643 Storage licence applications—Act, s 50 (2)
Section 128 (1) (a)

substitute

- (a) the name and address of, and copies of identification papers for—
 - (i) the applicant; and
 - (ii) anyone who is to be a responsible person for the explosives;
- (aa) if the applicant is a corporation—the corporation’s ACN;
- (ab) the purpose of the storage;

644 Section 128 (1) (n)

substitute

- (n) a security plan prepared in accordance with section 128A (Storage licence applications—security plans);

645 Section 128 (1)

renumber paragraphs when regulation next republished under Legislation Act

646 Sections 129 and 130

substitute

128A Storage licence applications—security plans

- (1) A security plan for carrying an explosive must be based on a security risk assessment.

- (2) The security plan must include the following:
- (a) details of the precautions to be taken to ensure the premises where the explosive is stored are secure;
 - (b) procedures for controlling access to the premises and to the explosive;
 - (c) recording and reconciliation protocols;
 - (d) procedures for reporting any loss, theft or attempted theft of the explosive;
 - (e) any information or documents required by a form for the security plan approved under the Act, section 222.

129 Storage licence conditions—Act, s 53 (2) (b)

The following conditions apply to a storage licence for an explosive:

- (a) the explosive must be an authorised explosive;
- (b) the licensee must store the explosive only for the purpose stated in the licence;
- (c) the licensee must establish and maintain a safety management system, including an emergency plan, for the storage of the explosive under the licence;
- (d) the licensee must ensure that—
 - (i) the security plan for the licence is implemented; and
 - (ii) a copy of the plan is available for inspection at each magazine used for storing the explosive under the licence;
- (e) the licensee must ensure that no-one other than a security cleared responsible person named in the licence has unsupervised access to the explosive;

- (f) the licensee must apply to the chief executive to amend the licence if the licensee proposes to—
- (i) add someone to, or remove someone from, the licence as a security cleared responsible person; or
 - (ii) change the name stated in the licence of a security cleared responsible person;

Note Licence amendments are made under the Act, s 58.

- (g) the licensee must—
- (i) comply with the obligations imposed on the licensee under this part; and
 - (ii) ensure that this part is complied with in relation to the storage of the explosive under the licence.

Note 1 A licence is also subject to any conditions included in the licence by the chief executive (see the Act, s 53 (2) (a)).

Note 2 A licensee who fails to comply with a condition of the licence may commit an offence against the Act, s 63 (Failure to comply with conditions of licence).

129A Storage licences—review of security plans

The holder of a storage licence for an explosive must—

- (a) amend the security plan whenever necessary to ensure that it is kept up-to-date; and
- (b) review the security plan (and make any necessary amendments) at least once every 5 years; and
- (c) state on the security plan—
 - (i) the date it was prepared; and
 - (ii) if it has been amended—the last date it was amended; and

- (iii) if it has been reviewed—the last date it was reviewed.

130 Storage records

- (1) The holder of a storage licence must, for each magazine used for storage of explosives under the licence—
 - (a) make a record of the storage of an explosive in the magazine that complies with subsection (2); and
 - (b) while explosives are stored in the magazine under the licence—maintain an accurate inventory of the contents of the magazine.
- (2) The record must include the following:
 - (a) either—
 - (i) the product name, UN number and classification code; or
 - (ii) the authorisation number;
 - (b) the date of receipt;
 - (c) the name and licence details of the person (if any) from whom the explosive was received;
 - (d) the name and licence details of any person on whose behalf the licensee is storing an explosive;
 - (e) the date the explosive is removed from the magazine;
 - (f) the reason for removal;

Examples of reasons

- 1 use
- 2 supply
- 3 disposal

(g) any information or documents required by a form for the record approved under the Act, section 222.

Note An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

(3) The holder of a storage licence must keep a record made under this section of the storage of an explosive from the day on which it is stored until at least 3 years after the day the explosive is removed from storage, whether or not the licence continues in force.

Maximum penalty: 20 penalty units.

(4) An offence against this section is a strict liability offence.

**647 Separation distance for magazines
Section 135 (3) (c)**

omit

division 2.4.7

substitute

division 2.7.4

**648 Authority to supply explosives
Section 166 (b)**

omit

649 Section 166

renumber paragraphs when Act next republished under Legislation Act

**650 Supply licence applications—Act, s 50 (2)
Section 169 (a) and (b)**

substitute

- (a) the name and address of, and copies of identification papers for—
 - (i) the applicant; and
 - (ii) anyone who is to be a responsible person for the explosives;
- (aa) if the applicant is a corporation—the corporation’s ACN;
- (ab) the purpose of the supply;
- (b) details of any licence authorising the storage of the explosives at the premises from which the explosives are to be supplied;

651 Section 169

*renumber paragraphs when regulation next republished under
Legislation Act*

652 Section 170

substitute

170 Supply licence conditions—Act, s 53 (2) (b)

- (1) The following conditions apply to a supply licence for an explosive:
 - (a) the explosive must be an authorised explosive;
 - (b) the licensee must supply the explosive only from premises where the explosive is authorised to be stored under a licence;
 - (c) the licensee must supply the explosive only for the purpose stated in the licence;

- (d) the licensee must establish and maintain a safety management system for the supply of the explosive under the licence;
- (e) the licensee must provide anyone with a safety data sheet for the explosive on request;
- (f) the licensee must ensure that no-one other than a security cleared responsible person named in the licence has unsupervised access to the explosive;
- (g) the licensee must apply to the chief executive to amend the licence if the licensee proposes to—
 - (i) add someone to, or remove someone from, the licence as a security cleared responsible person; or
 - (ii) change the name stated in the licence of a security cleared responsible person;

Note Licence amendments are made under the Act, s 58.

- (h) the licensee must—
 - (i) comply with the obligations imposed on the licensee under this part; and
 - (ii) ensure that this part is complied with in relation to the supply of the explosive under the licence.

Note 1 A licence is also subject to any conditions included in the licence by the chief executive (see the Act, s 53 (2) (a)).

Note 2 A licensee who fails to comply with a condition of the licence may commit an offence against the Act, s 63 (Failure to comply with conditions of licence).

- (2) Subsection (1) (e) takes effect on 5 April 2006.
- (3) Subsection (2) and this subsection expire on 5 April 2006.

653 Supply only to authorised people
Section 174 (1)

substitute

- (1) An explosive must not be delivered under the authority of a supply licence to a person unless—
- (a) the person shows the supplier a licence authorising the person to possess the explosive, or a certified copy of the licence; or
 - (b) possession of the explosive is otherwise authorised under this regulation; or
 - (c) the person shows the supplier a written authority (however described) under a corresponding law that authorises possession of the explosive, or a certified copy of the authority.

Example of authorised possession for par (b)

exempt storage of explosives

Note An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (1A) However, an explosive for use in a blasting operation must not be delivered to a person under the authority of a supply licence unless—
- (a) subsection (1) (a), (b) or (c) applies; or
 - (b) the person shows the supplier an official order to purchase the explosive (or explosives of the type requested) on behalf of the Commonwealth; or
 - (c) the person shows the supplier a special authority to purchase the explosive under division 2.9.5, or a certified copy of the authority.

654 Section 174

*renumber subsections when regulation next republished under
Legislation Act*

**655 Supply records
Section 176 (1)**

substitute

- (1) The holder of a supply licence must, for each explosive supplied under the licence, make a record of the supply that complies with subsection (1A) in a supply record book.
- (1A) The record must include the following:
 - (a) the date of supply;
 - (b) the name, address and telephone number of the person for whom the explosive is supplied;
 - (c) licence details, or details of any other authority, shown to the supplier for section 174;
 - (d) the name and classification code of the explosive;
 - (e) the quantity of the explosive and how it is packaged;

Examples

- 1 30kg supplied in 3 bags of 10kg
 - 2 30kg supplied in 1 bag of 30kg
 - 3 20L supplied in the customer's own container
- (f) the signature of the person taking delivery of the explosive and, if that person is not the person for whom the explosive is supplied, the name, address and telephone number of the person taking delivery;
 - (g) the proposed use of the explosive;

- (h) any information or documents required by a form for the record approved under the Act, section 222.

Note An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

656 Section 176

renumber subsections when regulation next republished under Legislation Act

657 False or misleading statements about authority to supply explosives
Section 177 (1) (b) (ii)

omit

by any means

substitute

in any way

658 New section 177 (3) and (4)

insert

- (3) Subsection (1) (d) and (e) (i) do not apply if the statement is not false or misleading in a material particular.
- (4) Subsection (1) (d) and (e) (ii) do not apply if the omission does not make the statement misleading in a material particular.

659 Section 182

substitute

182 Use of explosives—responsibilities of person in control

- (1) A person in control of premises must ensure that an explosive is used at the premises only—
- (a) by a person authorised to use the explosive under this part; and
 - (b) in accordance with a blasting permit for the explosive.

Maximum penalty: 10 penalty units.

- (2) This section does not apply to the use of an explosive under the supervision of an inspector or police officer exercising a function under the Act.
- (3) An offence against this section is a strict liability offence.

**660 Shotfirer licence applications—Act, s 50 (2)
Section 185 (a) and (b)**

substitute

- (a) the name and address of, and copies of identification papers for—
 - (i) the applicant; and
 - (ii) anyone who is to be a responsible person for the explosives;
- (b) 2 passport-sized photographs of the applicant;
- (ba) the purpose of the use;
- (bb) where the explosive is to be stored;

661 Section 185

renumber paragraphs when regulation next republished under Legislation Act

662 Section 186 heading

substitute

186 Suitable people to hold shotfirer licences—Act, s 49 (1) (i)

663 Section 186 (1), new notes

insert

Note 1 For working out who is a suitable person to be issued with a licence, see also s 40A.

Note 2 Additional criteria apply to the issue of licences (see Act, pt 4.2).

664 Section 186 (3), note

omit

665 Section 187

substitute

187 Shotfirer licence conditions—Act, s 53 (2) (b)

- (1) The following conditions apply to a shotfirer licence for an explosive:
- (a) the explosive must be an authorised explosive;
 - (b) the licensee must ensure that the explosive is used only for the purpose stated in the licence;
 - (c) the licensee must establish and maintain a safety management system for the use of the explosive under the licence;

- (d) if the licence authorises the manufacture of ANFO for the personal use of the licensee, the licensee must ensure that—
 - (i) no more than 50kg of ANFO is manufactured at any single time; and
 - (ii) the ANFO is only manufactured using the defined components; and
 - (iii) a colouring agent is used to differentiate mixed ANFO from unmixed components;
- (e) the licensee must ensure that no-one other than a security cleared responsible person named in the licence has unsupervised access to the explosive;
- (f) the licensee must apply to the chief executive to amend the licence if the licensee proposes to—
 - (i) add someone to, or remove someone from, the licence as a security cleared responsible person; or
 - (ii) change the name stated in the licence of a security cleared responsible person;

Note Licence amendments are made under the Act, s 58.

- (g) the licensee must—
 - (i) comply with the obligations imposed on the licensee under this part; and
 - (ii) ensure that this part is complied with in relation to the use of the explosive under the licence.

Note 1 A licence is also subject to any conditions included in the licence by the chief executive (see the Act, s 53 (2) (a)).

Note 2 A licensee who fails to comply with a condition of the licence may commit an offence against the Act, s 63 (Failure to comply with conditions of licence).

(2) In this section:

defined components, of ANFO, means—

- (a) ammonium nitrate as the oxidising agent; and
- (b) clean oil, fuel oil or another oil having a flash point of 60.5°C or higher as the fuel component.

187A Use records

- (1) The holder of a shotfirer's licence must, for each explosive used under the licence, make a record of the use that complies with subsection (2).
- (2) The record must include the following:
 - (a) the name and classification code of the explosive;
 - (b) the quantity of the explosive used;
 - (c) the purpose for which the explosive was used;
 - (d) any information or documents required by a form for the record approved under the Act, section 222.
- (2) The holder of a shotfirer's licence must keep a record made under this section of the use of an explosive for at least 3 years after the day of use, whether or not the licence continues in force.
Maximum penalty: 20 penalty units.
- (3) An offence against this section is a strict liability offence.

666 Section 190 heading

substitute

190 Suitable people to hold blasting permits—Act, s 49 (1) (i)

667 Section 190 (1), new notes

insert

Note 1 A blasting permit is a licence under the Act (see s 179, def **blasting permit**). For working out who is a suitable person to be issued with a blasting permit, see also s 40A.

Note 2 Additional criteria apply to the issue of licences (see Act, pt 4.2).

668 Section 191, heading

substitute

191 Blasting permit conditions—Act, s 53 (2) (b)

669 Section 191 (1), note

substitute

Note 1 A blasting permit is a licence under the Act (see s 179, def **blasting permit**). A blasting permit is also subject to any conditions included in the permit by the chief executive (see the Act, s 53 (2) (a)).

Note 2 The holder of a blasting permit who fails to comply with a condition of the permit may commit an offence against the Act, s 63 (Failure to comply with conditions of licence).

**670 Authority to dispose of explosives
Section 252 (1)**

substitute

- (1) A person must not dispose of an explosive unless the person is authorised under a licence to handle the explosives.

671 Section 252 (2) (b)

omit

by any individual

substitute

any individual

**672 Safe disposal of explosives—general rules
Section 256 (a) and (b)**

substitute

- (a) ensure that the method of disposal used provides the greatest degree of safety and security possible; and
- (b) ensure that the method of disposal is appropriate to the kind and condition of the explosive; and

673 Section 258

substitute

258 Disposal records

- (1) The holder of a licence under which an explosive is disposed of must make a record of the disposal that complies with subsection (2).
- (2) The record must include the following:
 - (a) the name and licence details of the owner of the explosive;
 - (b) the name and classification code of the explosive, and the quantity disposed of;
 - (c) the date of disposal;
 - (d) the method of disposal;

- (e) the reason for disposal;
 - (f) any information or documents required by a form for the record approved under the Act, section 222.
- (3) The holder of a licence must keep a record made under this section of the disposal of an explosive for at least 3 years after the day of disposal, whether or not the licence continues in force.
- Maximum penalty: 20 penalty units.
- (4) An offence against this section is a strict liability offence.

674 Consumer fireworks definitions
Section 264, definition of *identification papers*

relocate to dictionary

675 Fireworks display definitions
Section 299, definition of *display operator licence*

omit

under this part

substitute

for this part

676 Section 305 heading

substitute

305 Suitable people to hold display operator licences—
Act, s 49 (1) (i)

677 Section 305 (1), new notes

insert

Note 1 For working out who is a suitable person to be issued with a licence, see also s 40A.

Note 2 Additional criteria apply to the issue of licences (see Act, pt 4.2).

678 Section 305 (4), notes

substitute

Note A notifiable instrument must be notified under the Legislation Act.

**679 Fireworks display permit applications—Act, s 50 (2)
Section 307 (1) (f)**

substitute

(f) details of insurance arrangements in relation to the display;

680 Section 308 heading

substitute

**308 Suitable people to hold fireworks display permits—
Act, s 49 (1) (i)**

681 Section 308 (1), new notes

insert

Note 1 A fireworks display permit is a licence under the Act (see s 299, def *fireworks display permit*). For working out who is a suitable person to be issued with a fireworks display permit, see also s 40A.

Note 2 Additional criteria apply to the issue of licences (see Act, pt 4.2).

**682 Insurance requirements
Section 310**

omit

, including professional indemnity and public liability insurance

**683 Time and place restrictions for outdoor displays
Section 313 (1) (b)**

omit

section 313

substitute

section 314

684 Dictionary, note 3

insert

- Australian Dangerous Goods Code (see s 10 (3))
- Australian Explosives Code (see s 10 (3))

685 Dictionary, new definition of *adverse security assessment*

insert

adverse security assessment—see section 22A (Security definitions).

686 Dictionary, definition of *aerial shell*, note

substitute

Note An aerial shell that is designed to produce a loud report is a *salute shell* (see def).

687 Dictionary, definitions of AS 2187.0, AS 2187.1, AS 2187.2 and AS 2187.4

substitute

AS 2187.0 means Australian Standard 2187.0 *Explosives—Storage, transport and use—Terminology*.

AS 2187.1 means Australian Standard 2187.1 *Explosives—Storage, transport and use—Storage*.

AS 2187.2 means Australian Standard 2187.2 *Explosives—Storage, transport and use—Use of explosives*.

AS 2187.4 means Australian Standard 2187.4 *Explosives—Storage, transport and use—Pyrotechnics—Outdoor displays*.

688 Dictionary, definitions of Australian Dangerous Goods Code and Australian Explosives Code

omit

689 Dictionary, new definition

insert

close associate, of a person—see the Act, section 48.

690 Dictionary, definition of *identification papers*

omit

691 Dictionary, new definitions

insert

licence details, of a person who handles or is to handle an explosive, means details of a licence authorising the person to handle the explosive.

qualified security assessment—see section 22A (Security definitions).

692 Dictionary, definition of *salute shell*

substitute

salute shell means an aerial shell designed to produce a loud report.

Note See def *aerial shell*.

693 Dictionary, new definitions

insert

security cleared responsible person—see section 22A (Security definitions).

security plan, for a licence—see section 22A (Security definitions).

security risk assessment—see section 22A (Security definitions).

694 Dictionary, definition of *supply*, paragraph (b)

omit

section 263

substitute

section 265

695 Dictionary, new definition

insert

unsupervised access—see section 22A (Security definitions).

Schedule 1 Dangerous substances—quantity

(see div 2.1.3)

Table 1.1 Dangerous substances—placard quantities and manifest quantities

column 1 item	column 2 dangerous substances	column 3 packing group	column 4 placard quantity	column 5 manifest quantity
1	class 2			
1.1	class 2.1	not applicable	500L	5 000L
1.2	class 2.2 subsidiary risk 5.1	not applicable	2 000L	10 000L
1.3	class 2.2 other than subsidiary risk 5.1	not applicable	5 000L	10 000L
1.4	class 2.3	not applicable	50L	500L
1.5	aerosols	not applicable	5 000L	10 000L
1.6	cryogenic fluids	not applicable	1 000L	10 000L
2	class 3, 4.1, 4.2,4.3, 5.1, 5.2, 6.1 or 8	I II III	50kg or L 250kg or L 1 000kg or L	500kg or L 2 500kg or L 10 000kg or L

column 1 item	column 2 dangerous substances	column 3 packing group	column 4 placard quantity	column 5 manifest quantity
		mixed packing groups in a single class with the quantity of each packing group below the quantity specified for the packing group	1 000kg or L	10 000kg or L
3	class 9	II	1 000 kg or L	10 000kg or L
		III	5 000 kg or L	10 000kg or L
		mixed packing groups in class 9 with the quantity of each packing group below the quantity specified for the packing group	5 000 kg or L	10 000kg or L

Schedule 1 Dangerous substances—quantity

Section 1.1

column 1 item	column 2 dangerous substances	column 3 packing group	column 4 placard quantity	column 5 manifest quantity
4	mixed classes of dangerous substances	not applicable	if the quantity stated in this schedule for each class present is 2 000kg or L or less— 2 000kg or L if the quantity stated in this schedule for 1 or more classes present is 5 000kg or L—5 000kg or L	10 000kg or L 10 000kg or L
5	goods too dangerous to be transported	not applicable	5 kg or L	50 kg or L
6	combustible liquids handled with fire risk dangerous substances	not applicable	1 000kg or L	10 000kg or L

column 1 item	column 2 dangerous substances	column 3 packing group	column 4 placard quantity	column 5 manifest quantity
7	C1 combustible liquids	not applicable	10 000L in a tank 50 000L packaged 50 000L in tanks and packaged combined if the quantity of C1 in the tanks is not more than 10 000L	100 000L in tanks or packaged

1.1 Quantity—packaged dangerous substances

- (1) For table 1.1, this section provides how to work out quantities of packaged dangerous substances.
- (2) For a non-liquid dangerous substance, other than a class 2 dangerous substance, the quantity must be worked out by the net mass in kilograms of the packaged substance.
- (3) For a liquid dangerous substance, other than a class 2 dangerous substance, the quantity must be worked out by the net capacity of the container in which it is packaged.
- (4) For a class 2 dangerous substance, the quantity must be worked out by the total capacity of the container in which it is packaged.

1.2 Quantity—dangerous substances in tanks

- (1) For table 1.1, this section provides how to work out quantities of dangerous substances that are in tanks.

- (2) For a non-liquid dangerous substance, other than a class 2 dangerous substance, the quantity must be worked out by the design capacity of the tank in kilograms.
- (3) For a liquid dangerous substance, other than a class 2 dangerous substance, the quantity must be worked out by the design capacity of the tank in litres.
- (4) For a class 2 dangerous substance, the quantity must be worked out by the design capacity of the tank.

1.3 Quantity—solid dangerous substances

For table 1.1, the quantity of a non-liquid dangerous substance that is not packaged or in a tank is the undivided mass of the substance in kilograms.

1.4 Quantity—substances that are part of articles

For table 1.1, the quantity of a dangerous substance that is part of a thing is the net quantity of that part of the thing that is a dangerous substance.

Schedule 2 Placards

(see s 257)

Part 2.1 HAZCHEM warning placard

2.1 HAZCHEM outer warning placard

- (1) A HAZCHEM outer warning placard must have—
 - (a) the form shown in figure 2.1; and
 - (b) dimensions not less than those shown in figure 2.1.
- (2) The placard must display the word ‘HAZCHEM’ in red letters not less than 100mm high and in the style shown in figure 1, on a white or silver background.
- (3) In subsection (2):

red means the colour ‘signal red’ in accordance with AS 2700S–1996 (R13) (Colour standards for general purposes—signal red).



Figure 2.1—Form and dimensions of an outer warning placard

Part 2.2 Information placards—tanks

2.2 Tank placards—general requirements

On an information placard for a dangerous substance stored in a tank, the numerals and letters used for showing the proper shipping

name, UN number and hazchem code of a dangerous substance must be—

- (a) black on a white background, unless a letter of the hazchem code is white on a black background; and
- (b) if the proper shipping name requires a single line only—at least 100mm high; and
- (c) if the proper shipping name requires 2 lines—at least 50mm high.

2.3 Tank placards—classifiable dangerous substances

- (1) An information placard for a dangerous substance of class 2, 3, 4, 5, 6.1 or 9 stored in a tank must comply with this section.
- (2) The placard must—
 - (a) comply with the template in figure 2.3; and
 - (b) subject to subsection (4) (b), have dimensions not less than those shown in figure 2.3.
- (3) The placard must contain the following information about the substance in figure 2.3:
 - (a) in space (p)—the proper shipping name;
 - (b) in space (q)—the UN number;
 - (c) in space (r)—the hazchem code;
 - (d) in space (s)—the class label and subsidiary risk label (if any).
- (4) For subsection (3) (d)—
 - (a) the class label and subsidiary risk label (if any) in relation to the substance must have the form and colouring provided by the Australian Dangerous Goods Code for dangerous goods of the same kind; and

- (b) if there are 2 or more subsidiary risk labels—the width of the right hand part of the placard may be extended.

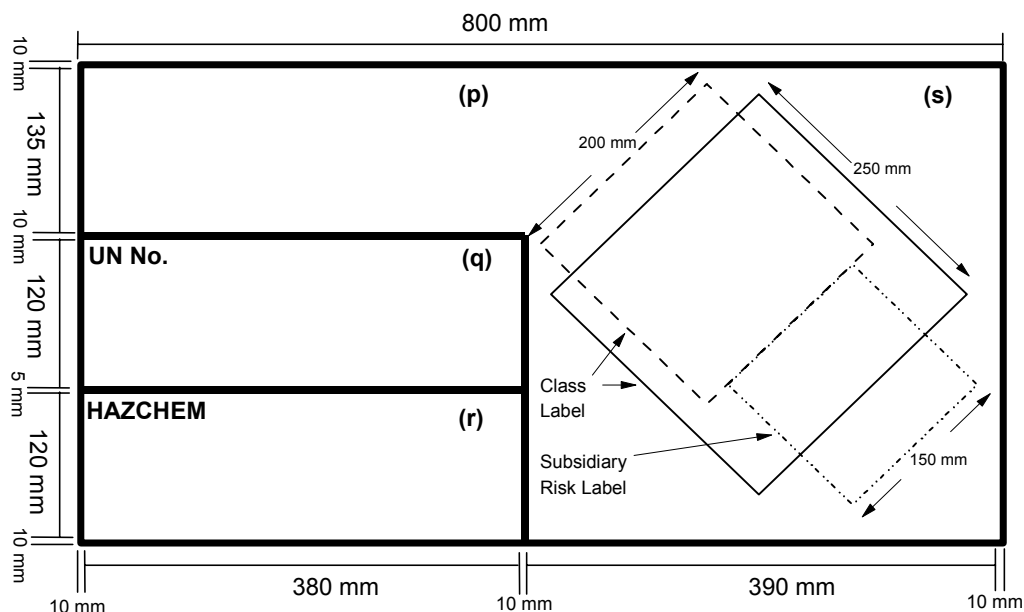


Figure 2.3—Template for an information placard for a dangerous substance in a tank

2.4 Tank placards—goods too dangerous to be transported

- (1) An information placard for a good too dangerous to be transported stored in a tank must comply with this section.
- (2) The placard must—
 - (a) comply with the form shown in figure 2.3; and
 - (b) have dimensions not less than those shown in figure 2.3.
- (3) The placard must comply with the following requirements about the substance in figure 2.3—

- (a) in space (p)—the name mentioned in the Australian Dangerous Goods Code, appendix 5 for the dangerous good of the same kind as the substance must be stated;
- (b) space (q) must be left blank;
- (c) space (r) must be left blank;
- (d) space (s) must include the label in figure 2.4.

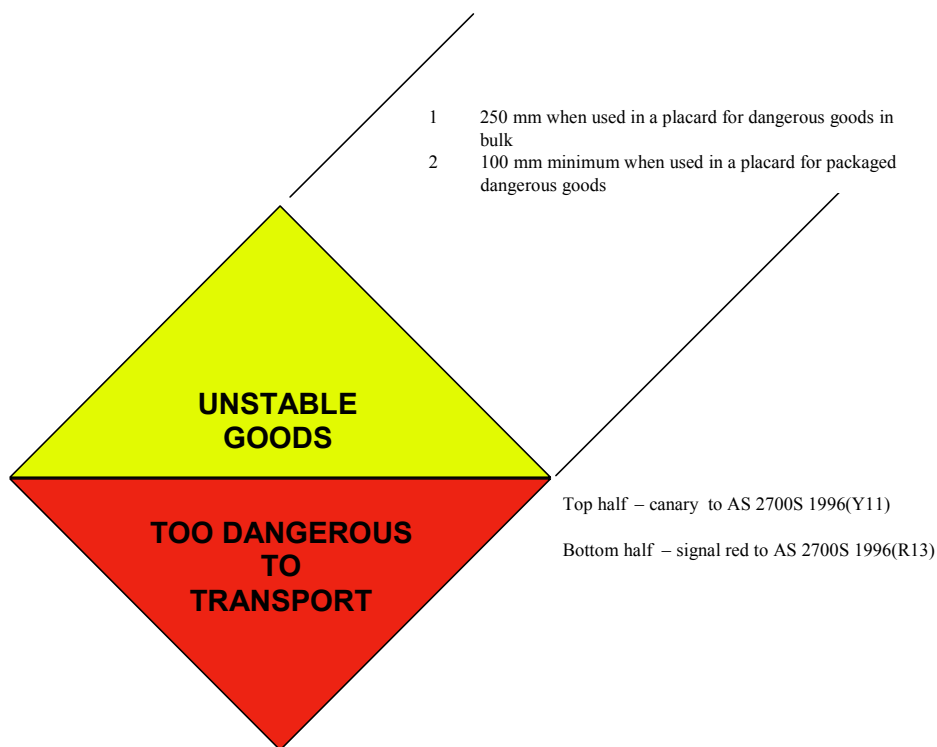


Figure 2.4—Label for goods too dangerous to be transported

Part 2.3 **Information placards—packaged substances**

2.5 **Information placards for packaged dangerous substances**

- (1) An information placard for packaged dangerous substances must comply with this section.
- (2) The placard must—
 - (a) be in the form shown in figure 2.5; and
 - (b) be of sufficient size to accommodate the labels to be displayed on the placard; and
 - (c) have a white or silver background.
- (3) The placard must contain the following information:
 - (a) the class label for each class of dangerous substances present in at least the placard quantity;
 - (b) if mixed classes of dangerous substances are present in at least the placard quantity for schedule 1, table 1.1, item 4—
 - (i) for each class of dangerous substances present in at least 50% of the placard quantity stated for the class in items 1, 2 or 3—the relevant class label; or
 - (ii) if no class of dangerous substances is present in at least 50% of the placard quantity stated for the class in items 1, 2 or 3—a mixed class label; or
 - (c) for C1 combustible liquids and fire risk dangerous substances in a total quantity exceeding 1000L—a class 3 class label; or
 - (d) for a good too dangerous to be transported—the label in figure 2.4.

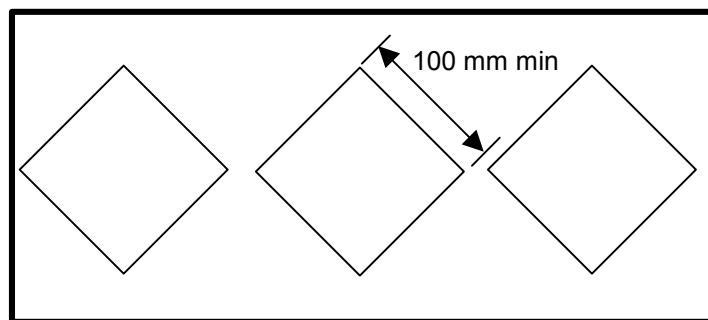


Figure 2.5—Information placard for packaged dangerous substances

Part 2.4 Information placards— combustible liquids

2.6 Information placards for C1 combustible liquids

- (1) An information placard for a container containing a packaged C1 combustible liquid, or a tank containing a C1 combustible liquid, must comply with this section.
- (2) The placard must—
 - (a) be in the form shown in figure 2.6; and
 - (b) have dimensions not less than those shown in figure 2.6; and
 - (c) have black letters on a white or silver background.



Figure 2.6—Placard for C1 combustible liquids

Schedule 3 Manifests

(see s 270)

3.1 Manifests—general information

The manifest must include—

- (a) the name of the person in control of the premises; and
- (b) the address of the premises; and
- (c) the date the manifest was last reviewed or, if it has not been reviewed, the date it was prepared; and
- (d) contact details for at least 2 people who may be contacted if there is a dangerous occurrence at the premises.

3.2 Manifests—dangerous substances in tanks other than IBCs

- (1) For each tank, other than an intermediate bulk container, containing a dangerous substance the manifest must include—
 - (a) a unique identifying number or code for the tank; and
 - (b) the type and capacity of the tank; and
 - (c) details of the tank's contents.
- (2) For subsection (1) (c), the details must include the following:
 - (a) for a dangerous substance other than a good too dangerous to be transported or a combustible liquid—the proper shipping name, UN number, class and packing group of the dangerous substance;
 - (b) for a combustible liquid—the product name and the words 'combustible liquid';

- (c) for a good too dangerous to be transported—the name of the good provided by the Australian Dangerous Goods Code, appendix 5 and the words ‘goods too dangerous to be transported’.

3.3 Manifests—packaged dangerous substances and IBCs

- (1) This section applies to each storage area that—
 - (a) contains, or is likely to contain, a packaged dangerous substance or an intermediate bulk container; and
 - (b) is required to have an information placard under division 2.5.4 (Registrable premises—placards).
- (2) The manifest must include the following:
 - (a) a unique identifying number or code for the storage area;
 - (b) for a dangerous substance of packing group I or class 2.3 that is kept, or likely to be kept, in the area—
 - (i) the proper shipping name and class of the substance; and
 - (ii) the maximum quantity of the substance;
 - (c) for a good too dangerous to be transported that is kept, or likely to be kept, in the area—
 - (i) the name of the good provided by the Australian Dangerous Goods Code, appendix 5; and
 - (ii) the words ‘goods too dangerous to be transported’; and
 - (iii) the maximum quantity of the good;
 - (d) for another dangerous substance (other than a combustible liquid) kept, or likely to be kept, in the area—the class and maximum quantity of the substance;
 - (e) for a combustible liquid kept, or likely to be kept, in the area—the words ‘combustible liquid’ and the maximum quantity of the combustible liquid.

3.4 Manifests—manufacturing dangerous substances

For each area in which a dangerous substance or combustible liquid is manufactured, the manifest must include the following:

- (a) a unique identifying number or code for the area;
- (b) for a dangerous substance other than a good too dangerous to be transported or a combustible liquid—the class and the maximum quantity of each class in manufacture;
- (c) for a good too dangerous to be transported—the words ‘goods too dangerous to be transported’ and the maximum quantity of the good in manufacture;
- (d) for a combustible liquid—the words ‘combustible liquid’ and the maximum quantity of the liquid in manufacture.

3.5 Manifests—dangerous substances in transit

- (1) This section applies to a dangerous substance that is in transit, and for which there are shipping documents that comply with the Australian Dangerous Goods Code for dangerous goods of the same kind.
- (2) The information required by section 3.2 and section 3.3 is taken to be included in the manifest if the shipping documents are attached to the manifest.

3.6 Manifests—plan of premises

- (1) A plan of the premises must be included in the manifest.
- (2) The plan of the premises must—
 - (a) show the location of—
 - (i) tanks of dangerous substances mentioned in section 3.2;
and

- (ii) the storage areas for packaged dangerous substances or intermediate bulk containers mentioned in section 3.3; and
 - (iii) the areas mentioned in section 3.4 where dangerous substances are manufactured; and
 - (iv) the areas where dangerous substances in transit may be located; and
- (b) provide the unique identifying number or code for tanks and areas mentioned in paragraph (a); and
- (c) show the location of—
- (i) the main entrance and the other points of entry to the premises; and
 - (ii) essential site services, including fire services and isolation points for fuel and power; and
 - (iii) drains on the facility or location; and
 - (iv) the manifest; and
- (d) describe the nature of the occupancy of adjoining premises.

Schedule 4 Security sensitive substances

(see s 400, s 421)

Table 4.1

column 1 item	column 2	column 3 authorised purposes	column 4 exempt quantity for carrying
1	security sensitive ammonium nitrate	1.1 mining 1.2 quarrying 1.3 manufacture of explosives and fertilisers 1.4 genuine scientific research in relation to explosives or fertilisers 1.5 sampling the substance for identifying the kind or quantities of ingredients in the substance 1.6 carrying out demonstrations, education or practical training in relation to explosives or fertilisers 1.7 commercial agricultural use by primary producers or distribution service agencies 1.8 services for carrying the substance	20kg

4.1 Meaning of security sensitive ammonium nitrate

- (1) In table 4.1, security sensitive ammonium nitrate means—
 - (a) a substance that has a UN number mentioned in subsection (3);
or
 - (b) either of the following substances, if they do not have a UN number mentioned in subsection (3):
 - (i) an ammonium nitrate emulsion containing greater than 45% ammonium nitrate;
 - (ii) an ammonium nitrate mixture containing greater than 45% ammonium nitrate; or
 - (c) a substance with UN number 3139 (oxidising liquid, other than oxidising liquids with different UN numbers), if the substance is a form of ammonium nitrate.
- (2) However, in table 4.1, *security sensitive ammonium nitrate* does not include—
 - (a) an ammonium nitrate solution; or
 - (b) any form of ammonium nitrate that is an explosive.

Note For the meaning of *explosive*, see the Act, s 73 and the *Dangerous Substances (Explosives) Regulation 2004*, s 7.
- (3) For subsection (1), UN numbers for security sensitive ammonium nitrate are as follows:
 - 1942
 - 2067
 - 2068
 - 2069
 - 2070
 - 2071
 - 2072
 - 3375.

Schedule 5 **Reviewable decisions**

(see s 500)

Part 1.1 **Chief executive—reviewable decisions under Act**

column 1 item	column 2 provision	column 3 decision	column 4 person to be notified of decision
1	52 (3)	refuse to issue licence	applicant
2	53 (1)	issue licence subject to condition included by chief executive	applicant
3	54 (1)	issue licence for less than maximum period allowed	applicant
4	58 (3)	refuse to amend licence	licensee
5	59	impose condition on licence amend or revoke condition included in licence by chief executive	licensee

Schedule 5
Part 1.1

Reviewable decisions
Chief executive—reviewable decisions under Act

column 1 item	column 2 provision	column 3 decision	column 4 person to be notified of decision
6	68 (3)	reprimand licensee require licensee to undertake training amend/suspend/cancel licence period of / event for ending suspension disqualify licensee period of / event for ending disqualification	licensee
7	68 (4)	reprimand former licensee disqualify former licensee period of/complete training/event for ending disqualification	former licensee
8	69 (2)	immediate suspension of licence	licensee
9	124 (1)	refuse to accept safety undertaking	the person who proposed to give the safety undertaking
10	125 (1)	refuse to agree to amendment of enforceable undertaking refuse to agree to withdrawal from enforceable undertaking	relevant person
11	126 (2)	refuse to end enforceable undertaking on application	relevant person

Part 1.2 Inspectors—internally reviewable decisions under Act

column 1 item	column 2 provision	column 3 decision	column 4 person to be notified of decision
1	95 (3)	refuse to revoke compliance agreement	each responsible person
2	100	give improvement notice	each responsible person
3	102 (2)	extend compliance period for improvement notice extend compliance period for improvement notice for less than period asked for refuse to extend compliance period for improvement notice if asked	each responsible person
4	106	revoke improvement notice refuse to revoke improvement notice	each responsible person
5	109	give prohibition notice	each responsible person
6	111 (2)	extend relevant period for prohibition notice extend relevant period for prohibition notice for less than period asked for refuse to extend relevant period for prohibition notice if asked	each responsible person

Schedule 5
Part 1.3

Reviewable decisions
Chief executive—reviewable decisions under this regulation

column 1 item	column 2 provision	column 3 decision	column 4 person to be notified of decision
7	116 (3)	refuse to agree to inspect vehicle or equipment at place other than where it was originally inspected	the relevant responsible person for the vehicle or equipment
8	117	revoke prohibition notice refuse to revoke prohibition notice	each responsible person

Part 1.3

**Chief executive—reviewable
decisions under this regulation**

column 1 item	column 2 provision	column 3 decision	column 4 person to be notified of decision
1	312 (2) or (4)	refuse to give exemption	applicant
2	313 (1)	give exemption subject to condition included by chief executive	applicant
3	318 (3)	refuse to amend exemption	exemption-holder
4	319	cancel exemption	exemption-holder
5	319	impose condition on exemption amend or revoke condition included in exemption by chief executive	exemption-holder

Dictionary

(see s 3)

Note 1 The Legislation Act contains definitions and other provisions relevant to this regulation.

Note 2 For example, the Legislation Act, dict, pt 1, defines the following terms:

- AAT
- adult
- chief executive (see s 163)
- fail
- fire brigade
- Minister (see s 162)
- penalty unit (see s 133)
- rural fire service
- under.

Note 3 Terms used in this regulation have the same meaning that they have in the *Dangerous Substances Act 2004* (see Legislation Act, s 148). For example, the following terms are defined in the *Dangerous Substances Act 2004*, dict:

- Australian Dangerous Goods Code (see s 10 (3))
- Australian Standard 1940
- carry
- compliance agreement (see s 94 (2))
- dangerous substance (see s 10; see also this regulation, s 200)
- dispose
- enforceable undertaking (see s 122)
- handle (see s 11)
- import
- improvement notice (see s 100)
- internally reviewable decision (see s 188 (1))
- licence
- manufacture
- NOHSC approved criteria (see s 10 (3))

- NOHSC List of Designated Hazardous Substances (see s 10 (3))
- non-commercial (see s 12)
- person in control (see s 17)
- plant
- premises (and *at* premises)
- prohibition notice (see s 109)
- reasonable steps (see s 16)
- relevant responsible person
- responsible person (see s 18)
- reviewable decision (see s 186)
- risk (see s 15)
- safety undertaking (see s 123 (2))
- supply
- vehicle.

adverse security assessment, for chapter 4 (Security sensitive substances)—see the *Australian Security Intelligence Organisation Act 1979* (Cwlth), section 35.

asbestos, for chapter 3 (Asbestos and asbestos products)—see section 301.

asbestos product, for chapter 3 (Asbestos and asbestos products)—see section 301.

authorised activity, for asbestos or an asbestos product, for chapter 3 (Asbestos and asbestos products)—see section 302 (1).

authorised activity condition, for an authorised activity in relation to asbestos or an asbestos product, for chapter 3 (Asbestos and asbestos products)—see section 302 (2).

C1 combustible liquid, for chapter 2 (Certain dangerous substances)—see section 203.

C2 combustible liquid, for chapter 2 (Certain dangerous substances)—see section 203.

capacity, of a container, for chapter 2 (Certain dangerous substances)—see section 203.

carrying licence, for chapter 4 (Security sensitive substances)—see section 421.

certified copy, of a licence or authority, means a copy of the licence or authority certified by the holder of the licence or authority to be a true copy.

chrysotile product, for chapter 3 (Asbestos and asbestos products)—see section 301.

class, of a dangerous substance of a particular kind, for chapter 2 (Certain dangerous substances)—see section 203.

class label, for a class of dangerous substances of a particular kind, for chapter 2 (Certain dangerous substances)—see section 203.

close associate, of a person, for chapter 4 (Security sensitive substances)—see the Act, section 48.

combustible liquid, for chapter 2 (Certain dangerous substances)—see section 203.

compatible, for chapter 2 (Certain dangerous substances)—see section 203.

container, for a dangerous substance—see section 203.

dangerous substance, for chapter 2 (Certain dangerous substances), means a dangerous substance to which the chapter applies under section 200.

Note See also the Act, s 10, def **dangerous substance**.

dispose, of a security sensitive substance, for chapter 4 (Security sensitive substances)—see section 456.

emergency plan, for division 2.8.2 (Emergency plans—manifest quantities of dangerous substances)—see section 273.

emergency service, for chapter 2 (Certain dangerous substances)—see the *Emergencies Act 2004*, dictionary.

ensure—see section 6.

exemption, in relation to the use of a chrysotile product, for chapter 3 (Asbestos and asbestos products)—see section 301.

fire risk dangerous substance, for chapter 2 (Certain dangerous substances)—see section 203.

flashpoint, of a liquid, for chapter 2 (Certain dangerous substances)—see section 203.

good too dangerous to be transported, for chapter 2 (Certain dangerous substances)—see section 203.

hazchem code, for a dangerous substance, means the hazchem code under the Australian Dangerous Goods Code for dangerous goods of the same kind as the substance.

Note See the Australian Dangerous Goods Code, appendix 4.

health and safety representative, for chapter 2 (Certain dangerous substances)—see the *Occupational Health and Safety Act 1989*, dictionary.

identification papers, for a person, means a document, or a number of documents taken together, that—

- (a) show the person's age; and
- (b) show a residential address for the person; and
- (c) contain a photograph that could reasonably be taken to be of the person.

Example of identification papers

a proof of age card under the *Liquor Act 1975*, section 175, together with a bank statement showing the cardholder's residential address

Note An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

importer, of a dangerous substance, for chapter 2 (Certain dangerous substances)—see section 203.

Note **Import** is defined in the Act, dict.

import licence, for chapter 4 (Security sensitive substances)—see section 414.

intermediate bulk container, containing a dangerous substance, means a rigid or flexible portable tank, within the meaning of the Australian Dangerous Goods Code, for the transport of dangerous goods of the same kind as the substance.

Note 1 See the Australian Dangerous Goods Code, supplement 2.

Note 2 Intermediate bulk carriers are also known as **IBCs**.

International Air Transport Association Regulations means the *International Air Transport Association Regulations—IATA Regulations*, published by the International Air Transport Association.

International Civil Aviation Organization Standards means the *International Civil Aviation Organization—Technical Instructions for the Safe Transport of Dangerous Goods by Air*, published by the International Civil Aviation Organization.

International Maritime Dangerous Goods Code means the *International Marine Organization—International Maritime Dangerous Goods Code*, published by the International Marine Organization.

interstate security sensitive substances carrying authority, for chapter 4 (Security sensitive substances)—see section 421.

in transit, for chapter 2 (Certain dangerous substances)—see section 203.

licence details, of a person who handles or is to handle a dangerous substance, means details of a licence authorising the person to handle the substance.

manifest quantity, of a dangerous substance, for chapter 2 (Certain dangerous substances)—see section 205.

manifest quantity registrable premises, for chapter 2 (Certain dangerous substances)—see section 209.

manufacturer, of a dangerous substance, for chapter 2 (Certain dangerous substances)—see section 203.

Note ***Manufacture*** is defined in the Act, dict.

manufacturing licence, for chapter 4 (Security sensitive substances)—see section 406.

National Exposure Standards means the *Exposure Standards for Atmospheric Contaminants in the Occupational Environment* [NOHSC:1003 (1995) and Guidance Note NOHSC: 3008 (1995)] published by the National Occupational Health and Safety Commission.

non-registrable premises, for chapter 2 (Certain dangerous substances)—see section 210.

package, of a dangerous substance, for chapter 2 (Certain dangerous substances)—see section 203.

packaged, for a dangerous substance, for chapter 2 (Certain dangerous substances)—see section 203.

packaging, of a dangerous substance, for chapter 2 (Certain dangerous substances)—see section 203.

packing group, for a dangerous substance of a particular kind, for chapter 2 (Certain dangerous substances)—see section 203.

pipework, for chapter 2 (Certain dangerous substances)—see section 203.

placard quantity, of a dangerous substance, for chapter 2 (Certain dangerous substances)—see section 204.

placard quantity notice, for chapter 2 (Certain dangerous substances)—see section 261.

placard quantity register, for chapter 2 (Certain dangerous substances)—see section 260.

proper shipping name, of a dangerous substance of a particular kind, for chapter 2 (Certain dangerous substances)—see the Australian Dangerous Goods Code.

Note See the Australian Dangerous Goods Code, cl 2.2.1.

qualified security assessment, for chapter 4 (Security sensitive substances)—see the *Australian Security Intelligence Organisation Act 1979* (Cwlth), section 35.

registrable premises, for chapter 2 (Certain dangerous substances)—see section 208.

retailer, of a dangerous substance, for chapter 2 (Certain dangerous substances)—see section 203.

risk assessment, for a hazard, for chapter 2 (Certain dangerous substances)—see section 222.

safety data sheet (or **SDS**), for chapter 2 (Certain dangerous substances)—see section 215.

SDS, for chapter 2 (Certain dangerous substances)—see section 215.

security cleared responsible person, for chapter 4 (Security sensitive substances)—see section 402.

security plan, for chapter 4 (Security sensitive substances)—see section 402.

security risk assessment, in relation to the handling of a security sensitive substance, for chapter 4 (Security sensitive substances)—see section 402.

security sensitive substance, for chapter 4 (Security sensitive substances)—see section 400.

storage licence, for chapter 4 (Security sensitive substances)—see section 432.

subsidiary risk, for a dangerous substance of a particular kind, for chapter 2 (Certain dangerous substances)—see section 203.

subsidiary risk label, for a dangerous substance of a particular kind, for chapter 2 (Certain dangerous substances)—see the Australian Dangerous Goods Code.

Note See the Australian Dangerous Goods Code, cl 7.1.1.

supplier, of a dangerous substance, for chapter 2 (Certain dangerous substances)—see section 203.

Note **Supply** is defined in the Act, dict.

supply licence, for chapter 4 (Security sensitive substances)—see section 440.

tank, for chapter 2 (Certain dangerous substances)—see section 203.

total quantity, for chapter 2 (Certain dangerous substances)—see section 206.

transfer, of a dangerous substance, for chapter 2 (Certain dangerous substances)—see section 203.

Note **Transit**—see *in transit*.

UN number, for a dangerous substance of a particular kind, means the identification serial number listed in the Australian Dangerous Goods Code for dangerous goods of the same kind.

Note See the Australian Dangerous Goods Code, s 1.1.3 (def **UN number**), appendix 1 and appendix 2.

unsupervised access, to a security sensitive substance, for chapter 4 (Security sensitive substances)—see section 402.

user licence, for chapter 4 (Security sensitive substances)—see section 448.

Endnotes

1 Notification

Notified under the Legislation Act on 14 December 2004.

2 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

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