

## PART 92 Consignment and carriage of dangerous goods by air

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## Subpart 92.A General

### 92.005 Applicability

- (1) This Part applies in relation to the operation of:
  - (a) all Australian aircraft; and
  - (b) all foreign aircraft (other than state aircraft) operating in Australian territory.
- (2) This Part sets out:
  - (a) for section 23 of the Act — the conditions under which an aircraft may carry dangerous goods and a person may carry dangerous goods, or consign dangerous goods for carriage, on an aircraft; and
  - (b) for section 23A of the Act — the requirements for the statement to be made in respect of cargo consigned for carriage on an aircraft; and
  - (c) for section 23B of the Act — the requirements for training of persons involved in handling cargo carried or consigned for carriage on an aircraft.

### 92.010 Definitions for Part 92

- (1) In this Part:

*accept*, used in relation to a package or consignment, has the same meaning as in the Technical Instructions.

*Australian aircraft operator* means an operator of an Australian aircraft.

*commercial operator* means an operator engaging in commercial air transport operations or commercial aerial work operations.

*dangerous goods accident* means an event involving dangerous goods that occurs in the course of the goods being carried, or consigned for carriage, on an aircraft and results in:

- (a) a fatal or serious injury to a person; or
- (b) serious damage to the aircraft or any cargo carried on the aircraft.

*dangerous goods incident* means an event (other than a dangerous goods accident) involving dangerous goods that occurs in the course of the goods being carried, or consigned for carriage, on an aircraft and that:

- (a) results in:
  - (i) the escape of smoke or flames from the container or package in which the goods are contained; or
  - (ii) breakage of the container or package in which the goods are contained; or
  - (iii) any escape of the goods or part of them from the container or package in which they are contained; or

- (iv) leakage of fluid or radiation from the container or package in which the goods are contained; or
- (b) seriously jeopardises, or is likely to seriously jeopardise, the aircraft or its occupants.

***dangerous goods manual*** means a manual kept by an operator in accordance with regulation 92.045 or 92.050.

***freight forwarder*** means a person who offers the service of arranging the transport of cargo by air.

***ground handling agent*** means a person who performs, on behalf of an operator, the service of accepting, handling, loading, unloading, transferring or otherwise processing cargo, passengers or baggage.

***shipment*** means shipment by air.

***shipper of dangerous goods*** means a person who consigns dangerous goods for carriage on an aircraft.

***Technical Instructions*** means, at a particular time, the edition that is valid at that time of the document entitled *Technical Instructions for the Safe Transport of Dangerous Goods by Air*, issued by the International Civil Aviation Organization.

*Note 1* Each edition of the Technical Instructions states in its Introduction the dates between which it is valid. The edition for 2003–2004 of the Technical Instructions is valid from 1 March 2003 to 31 December 2004 or until the next edition becomes valid. The Technical Instructions are available (as a printed document only) from the ICAO's Document Sales Unit at:

ICAO, Document Sales Unit  
999 University Street, Montreal, Quebec H3C 5H7  
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Telephone: (514) 954-8022  
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*Note 2* General industry practice is to follow the IATA Dangerous Goods Regulations, which are issued more frequently than the Technical Instructions. The requirements of the IATA Regulations are either the same as, or more stringent than, the requirements of the Technical Instructions. If that is so, compliance with the IATA Regulations will automatically result in compliance with the Technical Instructions.

- (2) An expression used in both this Part and the Technical Instructions has, unless the contrary intention appears, the same meaning in this Part as in the Technical Instructions.

## **92.015 What are dangerous goods?**

For the purposes of subparagraph (b)(ii) of the definition of ***dangerous goods*** in subsection 23(3) of the Act, the things specified in the Dangerous Goods List contained in the Technical Instructions are declared to be dangerous goods.

*Note* Explosives are dangerous goods whether or not they are mentioned in the Dangerous Goods List — see the Act, subsection 23(3).

## Subpart 92.B Conditions for carriage etc of dangerous goods

*Note* Subpart 92.D sets out certain exemptions from requirements of this Subpart.

### 92.020 Compliance with Technical Instructions generally

- (1) This regulation makes provision, for the purposes of subsections 23 (1), (2) and (2A) of the Act, about the carriage, and consignment for carriage, of dangerous goods on an aircraft.

*Note* Under subsections 23 (1), (2) and (2A) of the Act, an aircraft must not carry dangerous goods except in accordance with these Regulations.

- (2) Dangerous goods of a kind that, under the Technical Instructions, are forbidden for transport by air must not be consigned for carriage on an aircraft.

*Note* For details of where to obtain copies of the Technical Instructions, see the note following the definition of *Technical Instructions* in regulation 92.010.

- (3) Dangerous goods of a kind that, under the Technical Instructions, are forbidden for transport by air must not be carried on an aircraft.
- (4) Dangerous goods of a kind that, under the Technical Instructions, are forbidden for transport by air on a passenger aircraft must not be consigned for carriage on a passenger aircraft.
- (5) Dangerous goods of a kind that, under the Technical Instructions, are forbidden for transport by air on a passenger aircraft must not be carried on a passenger aircraft.
- (6) Dangerous goods of a kind that, under the Technical Instructions, may be carried by air only in particular circumstances must not be consigned for carriage by air except in those circumstances.
- (7) Dangerous goods of a kind that, under the Technical Instructions, may be carried by air only in particular circumstances must not be carried by air except in those circumstances.

### 92.025 Compliance with Technical Instructions — operators

- (1) This regulation makes provision, for the purposes of subsections 23 (1), (2) and (2A) of the Act, about the carriage of dangerous goods on an aircraft.

*Note* Under subsections 23 (1), (2) and (2A) of the Act, an aircraft must not carry dangerous goods except in accordance with these Regulations.

- (2) It is a condition of the carriage of dangerous goods on an aircraft that the operator of the aircraft complies with:
  - (a) the requirements (if any) of the Technical Instructions limiting the quantity of such goods that may be carried on the aircraft; or
  - (b) the requirements of those Instructions concerning the following matters:
    - (i) the loading of the goods;

- (ii) the separation of the goods from passengers, animals or other cargo on board the aircraft;
- (iii) the replacement of lost, damaged or detached labels;
- (iv) the labelling of unit load devices (such as containers or pallets) that contain the goods;
- (v) segregation of the goods from other dangerous goods;
- (vi) acceptance procedures for the goods;
- (vii) dealing with undeliverable consignments;
- (viii) dealing with damaged packages;
- (ix) inspection of the aircraft or the goods;
- (x) decontamination of the aircraft;
- (xi) giving information to the aircraft's crew;
- (xii) action to be taken by the crew in an emergency;
- (xiii) giving information to an emergency service such as a fire service or police service;
- (xiv) documentation;
- (xv) providing notices and information.

*Note* This regulation creates a defence to the offences created by subsections 23 (2) and (2A) of the Act. A defendant charged with either of those offences bears an evidential burden in relation to the matters set out in this regulation — see subsection 13.3 (3) of the *Criminal Code*.

#### **92.030 Compliance with Technical Instructions — passengers and crew**

- (1) This regulation makes provision, for the purposes of subsections 23 (1), (2) and (2A) of the Act, about the carriage of dangerous goods on an aircraft by a person, whether a passenger or a member of the aircraft's crew.

*Note* Under subsections 23 (1), (2) and (2A) of the Act, dangerous goods must not be carried on an aircraft except in accordance with these Regulations.

- (2) Subject to subregulation (3), it is a condition of the carriage of dangerous goods on an aircraft by a person that the person complies with the requirements (if any) of the Technical Instructions:
- (a) concerning the type of dangerous goods that a person may carry on board an aircraft; or
  - (b) as to whether the dangerous goods may be carried in the person's carry-on baggage or in checked baggage; or
  - (c) limiting the quantity of such goods that may be carried on the aircraft, or in checked or carry-on baggage; or
  - (d) requiring the aircraft operator's approval before the goods are carried.

*Note* The relevant provisions of the Technical Instructions are set out at the end of this regulation.

- (3) A person who is a passenger is taken not to contravene the condition in subregulation (2) if the person carries dangerous goods in contravention of that condition, or carries such goods in a way that would, but for this subregulation, contravene that condition, if:
- (a) the person carries the goods, or carries the goods in that way, in reliance on a statement, made by the operator or an employee of the operator, to the effect that the carriage of the goods, or the carriage of goods in that way, is permissible or does not contravene the Technical Instructions; and
  - (b) it is reasonable for the person to rely on that statement.

*Note 1* This regulation creates a defence to the offences created by subsections 23 (2) and (2A) of the Act. A defendant charged with either of those offences bears an evidential burden in relation to the matters set out in this regulation — see subsection 13.3 (3) of the *Criminal Code*.

*Note 2* Section 1.1 of the Technical Instructions, regarding dangerous goods carried by passengers or crew, is as follows:

#### 1.1 DANGEROUS GOODS CARRIED BY PASSENGERS OR CREW

1.1.1 Except as otherwise provided in 1.1.2 below, dangerous goods must not be carried by passengers or crew members, either as or in carry-on baggage or checked baggage or on their person. Security type equipment such as attaché cases, cash boxes, cash bags, etc. incorporating dangerous goods, for example lithium batteries or pyrotechnic material, are totally forbidden; see entry in Table 3-1.

1.1.2 The provisions of these Instructions do not apply to the following when carried by passengers or crew members or in baggage, transported by the operator, that has been separated from its owner during transit (e.g. lost baggage or improperly routed baggage):

- a) when in retail packagings, alcoholic beverages containing more than 24 per cent but not more than 70 per cent alcohol by volume, in receptacles not exceeding 5 L, with a total net quantity per person of 5 L for such beverages;

*Note.— Alcoholic beverages containing not more than 24 per cent alcohol by volume are not subject to any restrictions.*

- b) non-radioactive medicinal or toilet articles (including aerosols). Also aerosols in Division 2.2, with no subsidiary risk, for sporting or home use in checked baggage only. The total net quantity of all such articles carried by each person must not exceed 2 kg or 2 L and the net quantity of each single article must not exceed 0.5 kg or 0.5 L. The term “medicinal or toilet articles (including aerosols)” is intended to include such items as hair sprays, perfumes, colognes and medicines containing alcohols;
- c) with the approval of the operator(s), small gaseous oxygen or air cylinders required for medical use;
- d) small carbon dioxide gas cylinders worn for the operation of mechanical limbs, also spare cylinders of a similar size if required to ensure an adequate supply for the duration of the journey;
- e) with the approval of the operator(s), as checked baggage only, securely boxed cartridges for sporting purposes, in Division 1.4S, in quantities not exceeding 5 kg gross mass per person for that person’s own use, excluding ammunition with explosive or incendiary projectiles. Allowances for more than one person must not be combined into one or more packages;
- f) dry ice in quantities not exceeding 2 kg per person, when used to pack perishables not subject to these Instructions, provided the package permits the release of carbon dioxide gas:
  - in carry-on baggage; or
  - with the approval of the operator(s), in checked baggage;

- g) safety matches or a lighter intended for use by an individual when carried on the person. However, lighters containing unabsorbed liquid fuel (other than liquefied gas), lighter fuel and lighter refills are not permitted on one's person or in checked or carry-on baggage;

*Note.— "Strike anywhere" matches are forbidden for air transport.*

- h) radioisotopic cardiac pacemakers or other devices, including those powered by lithium batteries, implanted into a person, or radio-pharmaceuticals contained within the body of a person as the result of medical treatment;
- i) with the approval of the operator(s), wheelchairs or other battery-powered mobility aids with non-spillable batteries (see Packing Instruction 806 and Special Provision A67), as checked baggage provided the battery terminals are protected from short circuits and the battery is securely attached to the wheelchair or mobility aid;
- j) with the approval of the operator(s), wheelchairs or other battery-powered mobility aids with spillable batteries as checked baggage, provided that the wheelchair or mobility aid can be loaded, stowed, secured and unloaded always in an upright position and that the battery is disconnected, the battery terminals are protected from short circuits and the battery is securely attached to the wheelchair or mobility aid. If the wheelchair or mobility aid cannot be loaded, stowed, secured and unloaded always in an upright position, the battery must be removed and the wheelchair or mobility aid may then be carried as checked baggage without restriction. The removed battery must be carried in strong, rigid packagings as follows:

these packagings must be leaktight, impervious to battery fluid and be protected against upset by securing to pallets or by securing them in cargo compartments using appropriate means of securement (other than by bracing with freight or baggage) such as by use of restraining straps, brackets or holders;

batteries must be protected against short circuits, secured upright in these packagings and surrounded by compatible absorbent material sufficient to absorb their total liquid contents; and

these packagings must be marked "Battery, wet, with wheelchair" or "Battery, wet, with mobility aid" and be labelled with a "Corrosive" label (Figure 5-21) and with a package orientation label (Figure 5-25).

The pilot-in-command must be informed of the location of a wheelchair or mobility aid with an installed battery or the location of a packed battery.

It is recommended that passengers make advance arrangements with each operator; also unless batteries are non-spillable they should be fitted, where feasible, with spill-resistant vent caps;

- k) hair curlers containing hydrocarbon gas, no more than one per person, provided that the safety cover is securely fitted over the heating element. Gas refills for such curlers must not be carried;
- l) with the approval of the operator(s), as carry-on baggage only, a mercurial barometer or mercurial thermometer carried by a representative of a government weather bureau or similar official agency. The barometer or thermometer must be packed in a strong outer packaging, having a sealed inner liner or a bag of strong leak-proof and puncture-resistant material impervious to mercury, which will prevent the escape of mercury from the package irrespective of its position. The pilot-in-command must be informed of the barometer or thermometer;

- m) with the approval of the operator(s), no more than two small carbon dioxide cylinders of carbon dioxide or another suitable gas in Division 2.2 per person fitted into a self-inflating life-jacket for inflation purposes, plus no more than two spare cartridges;
- n) with the approval of the operator(s), heat producing articles (i.e. battery-operated equipment such as underwater torches and soldering equipment which, if accidentally activated, will generate extreme heat and can cause fire) may be carried in carry-on baggage only. The heat producing component, or the energy source, must be removed so as to prevent unintentional functioning during transport;
- o) one small medical or clinical thermometer which contains mercury, for personal use, when in its protective case;
- p) with the approval of the operator(s), one avalanche rescue backpack per person equipped with a pyrotechnic trigger mechanism containing not more than 200 mg net of Division 1.4S and not more than 250 mg of compressed gas in Division 2.2. The backpack must be packed in such a manner that it cannot be accidentally activated. The airbags within the backpack must be fitted with pressure relief valves; and
- q) consumer electronic devices (watches, calculating machines, cameras, cellular phones, laptop computers, camcorders, etc.) containing lithium or lithium ion cells or batteries when carried by passengers or crew for personal use. Spare batteries must be individually protected so as to prevent short circuits and carried in carry-on baggage only. In addition, each spare battery must not exceed the following quantities:
  - for lithium metal or lithium alloy batteries, a lithium content of not more than 2 grams; or
  - for lithium ion batteries, an aggregate equivalent lithium content of not more than 8 grams.

Lithium ion batteries with an aggregate equivalent lithium content of more than 8 grams but not more than 25 grams may be carried in carry-on baggage if they are individually protected so as to prevent short circuits and are limited to two spare batteries per person.

### **92.035 Compliance with Technical Instructions — persons who consign dangerous goods**

- (1) This regulation makes provision, for the purposes of subsections 23 (1), (2) and (2A) of the Act, about the consignment for carriage of dangerous goods on an aircraft.

*Note* Under subsections 23 (1), (2) and (2A) of the Act, dangerous goods must not be consigned for carriage on an aircraft except in accordance with these Regulations.

- (2) It is a condition of the consignment for carriage of dangerous goods on an aircraft that the consignor of the goods complies with the requirements of the Technical Instructions:
  - (a) concerning the classification of the goods; and
  - (b) limiting the quantity of such goods that may be carried in the one consignment; and
  - (c) concerning:
    - (i) the packing of the goods; and
    - (ii) the marking of the goods; and
    - (iii) the labelling of the goods; and

- (iv) segregation of the goods from other dangerous goods; and
- (v) the documentation for the goods; and
- (vi) the provision of information about the goods; and
- (vii) empty packaging.

*Note* This regulation creates a defence to the offences created by subsections 23 (2) and (2A) of the Act. A defendant charged with either of those offences bears an evidential burden in relation to the matters set out in this regulation — see subsection 13.3 (3) of the *Criminal Code*.

**92.040 Commercial Australian aircraft operators — conditions for carriage of dangerous goods — dangerous goods manual**

- (1) This regulation sets out, for the purposes of subsections 23 (1), (2) and (2A) of the Act, a condition of the carriage of dangerous goods on an aircraft.

*Note* Under subsections 23 (1), (2) and (2A) of the Act, dangerous goods must not be carried on an aircraft except in accordance with these Regulations.

- (2) A commercial Australian aircraft operator may carry dangerous goods (other than dangerous goods to which subregulation (3) applies) on an Australian aircraft operated by the operator, or permit such goods to be carried on such an aircraft, only if the operator:
- (a) has a dangerous goods manual in accordance with regulation [92.045](#); and
  - (b) complies with regulation [92.055](#).

*Note* This regulation creates a defence to the offences created by subsections 23 (2) and (2A) of the Act. A defendant charged with either of those offences bears an evidential burden in relation to the matters set out in this regulation — see subsection 13.3 (3) of the *Criminal Code*.

- (3) This subregulation applies to:
- (a) dangerous goods required to be carried on board the aircraft by a law in force in Australia (including the Civil Aviation Orders); and
  - (b) dangerous goods carried on board the aircraft for use or sale on the aircraft during a flight;
- but does not apply to any of the following kinds of dangerous goods:
- (c) goods of the operator intended as replacements for dangerous goods referred to in paragraph (a) or (b); or
  - (d) the operator's goods, of a kind referred to in paragraph (a) or (b), that have been removed for replacement;
  - (e) dangerous goods permitted, under these Regulations, to be carried in passengers' checked baggage or carry-on baggage;
  - (f) goods intended to be used to provide, during flight:
    - (i) medical aid to a patient; or
    - (ii) veterinary aid or a humane killer for an animal; or
    - (iii) aid in connection with search and rescue operations;
  - (g) goods for dropping in connection with forestry, horticultural, or pollution-control activities.

**92.045 Dangerous goods manual — Australian aircraft operators**

- (1) An Australian aircraft operator's dangerous goods manual must:
  - (a) set out the procedures and instructions for the handling and carriage of dangerous goods on the operator's aircraft; or
  - (b) specify where those procedures and instructions can be found.
- (2) The operator must have, and must use, an appropriate amendment system to keep all the copies of the manual up-to-date.

**92.050 Commercial foreign aircraft operators — conditions to which carriage of dangerous goods is subject**

- (1) This regulation sets out, for the purposes of subsections 23 (1), (2) and (2A) of the Act, a condition of the carriage of dangerous goods on an aircraft.

*Note* Under subsections 23 (1), (2) and (2A) of the Act, dangerous goods must not be carried on an aircraft except in accordance with these Regulations.

- (2) A commercial foreign aircraft operator may carry dangerous goods (other than goods required to be carried on board the aircraft by the law of the Contracting State in which the aircraft is registered, or goods carried on board the aircraft for use or sale during flight) on a foreign aircraft operated by the operator, or permit such goods to be carried on such an aircraft, only if the operator:
  - (a) has a dangerous goods manual in accordance with:
    - (i) the Technical Instructions; or
    - (ii) if the law of the Contracting State in which the aircraft is registered imposes requirements about a dangerous goods manual — that law; and
  - (b) complies with regulation [92.055](#).

*Note* This regulation creates a defence to the offences created by subsections 23 (2) and (2A) of the Act. A defendant charged with either of those offences bears an evidential burden in relation to the matters set out in this regulation — see subsection 13.3 (3) of the *Criminal Code*.

**92.055 Dangerous goods manual — requirements applicable to all operators**

- (1) An operator's dangerous goods manual may be incorporated in the operator's operations manual or any other manual maintained by the operator that deals with the handling or carriage of cargo.
- (2) Subregulations (3), (4) and (5) set out, for the purposes of subsections 23 (1), (2) and (2A) of the Act, conditions of the carriage of dangerous goods on an aircraft.

*Note* Under subsections 23 (1), (2) and (2A) of the Act, dangerous goods must not be carried on an aircraft except in accordance with these Regulations.

- (3) An operator must make a copy of its dangerous goods manual available, in a readily accessible place:
  - (a) in the case of an Australian operator — to each of the operator's employees whose duties and responsibilities are related to the handling or carriage of cargo; or
  - (b) in any other case — to:
    - (i) any of the operator's employees in Australia whose duties and responsibilities are related to the handling or carriage of cargo; and
    - (ii) any employees of its ground handling agent in Australia whose duties and responsibilities are related to the handling or carriage of cargo.
- (4) An operator must take all reasonable steps to ensure that the handling and carriage of dangerous goods is in accordance with the procedures and instructions in, or referred to in, its dangerous goods manual.
- (5) An operator must take all reasonable steps to ensure that each of the operator's employees is made aware of the contents of the operator's dangerous goods manual so far as it is applicable and relevant to the employee's duties before the employee first performs those duties.

**92.060 Directions relating to dangerous goods manuals**

- (1) CASA may issue, to an operator that is required to have a dangerous goods manual, a written direction in relation to the contents, distribution or revision of the manual.
- (2) The operator must comply with the direction.

Maximum penalty: 10 penalty units.

**92.065 Commercial operators — reporting of dangerous goods incidents**

- (1) Subregulation (2) sets out, for the purposes of subsections 23 (1), (2) and (2A) of the Act, a condition of the carriage of dangerous goods on an aircraft.

*Note* Under subsections 23 (1), (2) and (2A) of the Act, dangerous goods must not be carried on an aircraft except in accordance with these Regulations.

- (2) Subject to subregulation (3), the carriage of dangerous goods by an aircraft operated by a commercial operator is subject to the condition that, if a dangerous goods incident occurs, the operator must report the incident to CASA in writing within 2 working days after the incident occurs.

*Note* An accident or serious incident involving dangerous goods carried on an aircraft must also be reported to the Australian Transport Safety Bureau under section 19BA of the *Air Navigation Act 1920*.

- (3) Subregulation (2) does not require an operator to report a dangerous goods incident involving dangerous goods that have not been accepted by the operator for carriage by air.

#### **92.070 Dangerous goods statement (Act s 23A)**

- (1) A person who, in the circumstances specified in subregulation (3), consigns cargo for carriage on board an aircraft (including a freight forwarder that does so in the course of business as a freight forwarder) must make and sign a written statement that:
- (a) is to the effect that the cargo does not contain dangerous goods; or
  - (b) describes the contents of the cargo.

*Note* Consigning cargo without making the required statement is an offence — see the Act, subsection 23A (2). Knowingly making a false or misleading statement is also an offence — see the *Criminal Code*, section 137.1.

- (2) The reference in subregulation (1) to consigning cargo for carriage on board an aircraft includes consigning cargo in circumstances such that there is a possibility that the cargo may, during its journey, be carried on an aircraft.
- (3) For subsection 23A (1) of the Act and subregulation (1), all circumstances other than those mentioned in subregulation (4) are specified.
- (4) The circumstances in which subregulation (1) does not apply are the following:
- (a) the cargo was consigned from a place outside Australia;
  - (b) the cargo is checked baggage that is to be carried on the same aircraft as the person who checked the baggage;
  - (c) the cargo is:
    - (i) a postal article (within the meaning of the *Australian Postal Corporation Act 1989*) that is in the course of carriage by air; or
    - (ii) a document being sent between service centres of a document exchange service (within the meaning given by that Act);
- and:
- (iii) weighs no more than 500 grams; and
  - (iv) is no more than 20 millimetres thick; and
  - (v) is no longer than 360 millimetres; and

- (vi) is no wider than 260 millimetres;
  - (d) the cargo is dangerous goods that have been marked and documented in accordance with this Part;
  - (e) CASA has granted to the person who consigns the cargo an exclusion under regulation 92.080.
- (5) Subregulation (6) sets out, for the purposes of subsections 23 (1), (2) and (2A) of the Act, a condition of the carriage of dangerous goods on an aircraft.
- Note* Under subsections 23 (1), (2) and (2A) of the Act, an aircraft must not carry dangerous goods except in accordance with these Regulations.
- (6) Except in the circumstances mentioned in subregulation (4), the operator of an aircraft must not allow an item of cargo to be placed on board the aircraft unless the operator has been given a statement about the item in accordance with subregulation (1).

#### **92.075 Dangerous goods statement in reliance on statement already made**

- (1) If, in the course of cargo being consigned for carriage on an aircraft, a person delivers the cargo to the Australian Postal Corporation or a freight forwarder and gives to the Corporation or the forwarder a signed written statement that acknowledges that the cargo will or may be carried by air, and:
- (a) is to the effect that the cargo does not contain dangerous goods;
  - or
  - (b) describes the contents of the cargo;
- the Corporation or the forwarder may, in making a statement to the operator of the kind required by regulation 92.070, rely on the person's statement.
- (2) If an aircraft operator hands cargo to another operator for carriage on an aircraft operated by the second operator, and a statement of the kind required by regulation 92.070 was given to the first operator, the first operator may, in making a statement to the second operator of the kind required by that regulation, rely on the statement given to the first operator.

#### **92.080 Exclusions from requirement about dangerous goods statement**

- (1) CASA may, by notice in writing, exclude a person or a class of persons from the obligation to comply with regulation 92.070.
- (2) Before granting an exclusion to a person or class of persons, CASA must take into account any relevant considerations relating to the safe carriage, or consignment for carriage, of dangerous goods on an aircraft.
- (3) An exclusion is subject to the person, or each person in the class, complying with any conditions that CASA specifies in the instrument of exclusion as being necessary in the interests of safety.

- (4) If a person applies for exclusion under subregulation (1), and CASA decides not to grant the exclusion, CASA must, as soon as practicable after making the decision, tell the person, in writing, of the decision and must include in the notice a statement of the reasons for the decision.

## Subpart 92.C Training

### 92.085 Definitions for Subpart 92.C

(1) In this Subpart:

**cargo** does not include carry-on baggage or checked baggage.

**deemed employee** means a person who, although not employed by an aircraft operator, ground handling agent, freight forwarder, screening authority or shipper of dangerous goods, performs for the operator, ground handling agent, freight forwarder, screening authority or shipper any of the following services:

- (a) accepting cargo consigned for transport on an aircraft, or supervising someone whose duties include accepting such cargo at any time after it leaves the custody of the original consignor;
- (b) acting as a member of an aircraft's flight crew or as a load planner;
- (c) acting as a member of an aircraft's cabin crew;
- (d) handling cargo consigned for transport on an aircraft at any time after it leaves the custody of the original consignor, or supervising someone whose duties include handling such cargo;
- (e) handling passengers' checked or carry-on baggage, or supervising someone whose duties include handling such baggage;
- (f) packing dangerous goods, or supervising someone whose duties include packing such goods, in the course of the goods' being consigned for carriage on an aircraft.

**group A employee** means:

- (a) an employee whose duties include accepting, or supervising someone whose duties include accepting, cargo known or believed to contain dangerous goods consigned for transport on an aircraft at any time after it leaves the custody of the original consignor; or
- (b) a deemed employee whose function includes those duties.

**group B employee** means:

- (a) an employee whose duties include accepting, or supervising someone whose duties include accepting, cargo consigned for transport on an aircraft (other than cargo known or believed to contain dangerous goods) at any time after it leaves the custody of the original consignor; or
- (b) a deemed employee whose function includes those duties.

**group C employee** means:

- (a) an employee who is a member of an aircraft's flight crew or a load planner; or
- (b) a deemed employee whose function includes performing the duties of a member of an aircraft's flight crew or a load planner

**group D employee** means:

- (a) an employee who is a member of an aircraft's cabin crew; or

- (b) a deemed employee whose function includes performing the duties of a member of an aircraft's cabin crew.

**group E employee** means:

- (a) any employee of an operator, ground handling agent, freight forwarder or screening authority who is not a group A, B, C or D employee and whose duties involve handling:
  - (i) cargo consigned for transport on an aircraft at any time after it leaves the custody of the original consignor; or
  - (ii) passengers' checked or carry-on baggage; or
- (b) a deemed employee whose function includes those duties.

**group F employee** means:

- (a) an employee of a shipper of goods whose duties include packing dangerous goods, or supervising someone else whose duties include packing dangerous goods, in the course of the goods being consigned for transport on an aircraft; or
- (b) a deemed employee whose function includes those duties.

**load planner**, in relation to dangerous goods, means a person nominated by an operator to be responsible for any 1 or more of the following:

- (a) specifying where dangerous goods may be stowed on an aircraft;
- (b) specifying the necessary segregation of the goods from other dangerous goods, other cargo, or passengers on the aircraft;
- (c) preparing information for the use of the pilot-in-command;
- (d) providing dangerous goods emergency response information for the pilot-in command.

*Note* A person who performs those functions is known by many different titles: for example, *load controller*. Not all the functions are necessarily performed by the same person. Some or all of the functions may be the responsibility of the pilot-in-command or another crew member.

**screening authority** has the same meaning as in the *Air Navigation Act 1920*.

- (2) For the definitions of **deemed employee** and **group F employee** in subregulation (1), a person **packs** dangerous goods if he or she does any of the following in relation to the goods:
  - (a) enclosing the goods in packaging;
  - (b) marking or labelling the package or consignment;
  - (c) preparing a dangerous goods transport document for the consignment.

### **92.090 Extended meaning of every 2 years for this Subpart**

For the purposes of this Subpart, if an employee completes a training course within 3 months before the second anniversary of the day on which he or she last completed, or is taken under a previous application of this regulation to have completed, a similar training course, he or she is taken to have completed the later course on that second anniversary.

*Example*

Suppose John Smith and Mary Jones each complete a course on 1 July 2003. Under the other provisions of this Subpart, each needs to complete the course again on 1 July 2005.

Suppose John completes the course again on 1 May 2005 (that is, less than 3 months before the second anniversary of the last time he did so). He is taken to have done so on 1 July 2005, and needs to complete the course again on 1 July 2007. However, Mary completes the course again on 15 March 2005 (that is, more than 3 months before the second anniversary of the last time she did so). She would need to complete the course yet again on 15 March 2007.

Suppose John completes the course again on 1 May 2007. He is taken to have done so on 1 July 2007, and needs to complete the course again on 1 July 2009. However, if Mary were to complete the course again on 15 January 2007, she would need to complete the course again on 15 March 2009.

### **92.095 Training — certain employees of Australian aircraft operators**

- (1) This regulation applies to a group A, B, C, D or E employee in Australia of an Australian aircraft operator, and to a group C or D employee outside Australia of an Australian operator, but not to such an employee who is engaged only in 1 or more of the following:
  - (a) private operations;
  - (b) agricultural (including horticultural), forestry, or pollution-control operations;
  - (c) search and rescue operations;
  - (d) balloon operations;
  - (e) scenic or joy-flight operations;
  - (f) flying training operations.
- (2) An Australian aircraft operator that has not been granted an exclusion under regulation 92.155 must ensure that each of its employees to whom this regulation applies undertakes training in accordance with regulation 92.110:
  - (a) before the employee first performs the relevant duties; and
  - (b) every 2 years while the employee continues to have those duties.

Maximum penalty: 30 penalty units.

- (3) An offence against subregulation (2) is an offence of strict liability.

*Note* For *strict liability*, see section 6.1 of the *Criminal Code*.

**92.100 Training — certain employees of Australian ground handling agents**

- (1) A ground handling agent that has not been granted an exclusion under regulation 92.155 must ensure that each of its employees in Australia who is a group A, B, C or E employee undertakes training in accordance with regulation 92.110:
  - (a) before the employee first performs the relevant duties; and
  - (b) every 2 years while the employee continues to have those duties.

Maximum penalty: 30 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

*Note* For *strict liability*, see section 6.1 of the *Criminal Code*.

**92.105 Training — certain employees of Australian freight forwarders**

- (1) Subject to subregulation (3), a freight forwarder that has not been granted an exclusion under regulation 92.155 must ensure that each of its employees in Australia who is a group A, B or E employee undertakes training in accordance with regulation 92.110:
  - (a) before the employee first performs the relevant duties; and
  - (b) every 2 years while the employee continues to have those duties.

Maximum penalty: 30 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

*Note* For *strict liability*, see section 6.1 of the *Criminal Code*.

- (3) Subregulation (1) does not apply to a freight forwarder's employee who handles or accepts only cargo of the kind mentioned in paragraph 92.070 (4) (c).

**92.110 Required standard of training for regulations 92.095, 92.100 and 92.105**

The training that an employee to whom regulation 92.095, 92.100 or 92.105 applies must undertake is a training course that meets the relevant requirements of regulation 92.135 and:

- (a) for a group A employee — is approved by CASA as being appropriate for group A employees; and
- (b) for a group B employee — is approved by CASA as being appropriate for group B employees; and
- (c) for a group C employee — is approved by CASA as being appropriate for group C employees; and
- (d) for a group D employee — is approved by CASA as being appropriate for group D employees; and
- (e) for a group E employee — is appropriate for group E employees.

*Note* A training course for group E employees does not require approval by CASA.

**92.115 Training — certain employees of screening authorities**

- (1) This regulation applies to an employee in Australia of a screening authority that has not been granted an exclusion under regulation [92.155](#), if the employee's duties include handling, or supervising anyone who handles, checked baggage or carry-on baggage.
- (2) The screening authority must ensure that each of its employees to whom this regulation applies undertakes training in accordance with subregulation (4):
  - (a) before the employee first performs the relevant duties; and
  - (b) every 2 years while the employee continues to have those duties.

Maximum penalty: 30 penalty units.

- (3) An offence against subregulation (2) is an offence of strict liability.  
*Note* For *strict liability*, see section 6.1 of the *Criminal Code*.
- (4) The training that such an employee must undertake is a training course appropriate for such employees that meets the requirements of regulation [92.135](#).

*Note 1* A training course for employees of screening authorities does not require approval by CASA.

**92.120 Training — certain employees of shippers of dangerous goods**

- (1) Subject to subregulation (2), a person who ships dangerous goods, and has not been granted an exclusion under regulation [92.155](#), must ensure that each of its group F employees undertakes training in accordance with subregulation (4):
  - (a) before the employee first performs the relevant duties; and
  - (b) every 2 years while the employee continues to have those duties.

Maximum penalty: 30 penalty units.

- (2) Subregulation (1) does not apply to an individual who consigns dangerous goods within Australian territory for his or her own private, non-commercial purposes.
- (3) An offence against subregulation (1) is an offence of strict liability.  
*Note* For *strict liability*, see section 6.1 of the *Criminal Code*.
- (4) The training that such an employee must undertake is a training course approved by CASA as being appropriate for group F employees and as meeting the requirements of regulation [92.135](#).

**92.125 Training — certain employees of non-Australian operators**

- (1) This regulation applies to a group A, B, C, D or E employee in Australia of an aircraft operator that is not an Australian operator, and has not been granted an exclusion under regulation [92.155](#).
- (2) The operator must ensure that each of its employees to whom this regulation applies undertakes training in accordance with:
  - (a) the requirements of the law of the place in which the operator's aircraft are registered; or
  - (b) if there are no such requirements, or the operator's aircraft are registered in more than 1 country, the requirements of the Technical Instructions;

before the employee first performs the relevant duties, and as often as that law or the Technical Instructions require while the employee continues to carry out those duties.

Maximum penalty: 30 penalty units.

- (3) The operator must ensure that the records about that training required by that law or the Technical Instructions are kept.

Maximum penalty: 30 penalty units.

- (4) An offence against subregulation (2) or (3) is an offence of strict liability.

*Note* For *strict liability*, see section 6.1 of the *Criminal Code*.

**92.130 Training — Australian operators' employees outside Australia**

- (1) This regulation applies to a group A, B or E employee of an Australian operator who performs duties outside Australia if the operator has not been granted an exclusion under regulation [92.155](#).
- (2) The operator must ensure that each employee to whom this regulation applies undertakes training in accordance with:
  - (a) the requirements of the law of the place in which he or she carries out those duties; or
  - (b) if there are no such requirements, the requirements of the Technical Instructions;

before the employee first performs the relevant duties, and as often as that law or the Technical Instructions require while the employee continues to carry out those duties.

Maximum penalty: 30 penalty units.

- (3) The operator must ensure that the records about that training required by that law or the Technical Instructions are kept.

Maximum penalty: 30 penalty units.

- (4) The operator must also ensure that the training is evaluated at least every second year and the evaluation process is included in the operator's audit program.

Maximum penalty: 10 penalty units.

- (5) The operator must also ensure that if a deemed employee's services are provided to the operator under a contract, the contract contains provisions for the necessary resources, competence, procedures and management systems, to ensure that the service to the operator is a safe one.

Maximum penalty: 10 penalty units.

- (6) An offence against subregulation (2), (3), (4) or (5) is an offence of strict liability.

*Note* For *strict liability*, see section 6.1 of the *Criminal Code*.

### **92.135 Requirements for training course**

- (1) A dangerous goods training course that is required to be approved by CASA must include training in:
- (a) the subject mentioned in item 20 of Table 92.135-1; and
  - (b) each of the other subjects mentioned in that table that is relevant to the employee's duties and responsibilities in relation to the handling, carriage or consignment of cargo on an aircraft.

*Note* Tables 92.135-1 and 92.135-2 follow this regulation.

- (2) A dangerous goods training course that is not required to be so approved must include training in:
- (a) the subject mentioned in item 12 of Table 92.135-2; and
  - (b) each of the other subjects mentioned in that table that is relevant to the employee's duties and responsibilities in relation to the handling, carriage or consignment of cargo on an aircraft.
- (3) A dangerous goods training course must provide for a test of the employee's knowledge of the relevant subjects based on the training.
- (4) A dangerous goods training course must be of a standard that will enable the employee, on completing it satisfactorily, to carry out those duties and responsibilities effectively.
- (5) A dangerous goods training course must provide for the issue, to each person who successfully completes the course, of a certificate stating that he or she has done so.

**Table 92.135-1 Syllabus for training courses requiring approval**

<b>Item</b>	<b>Subject</b>
1	The requirements of the Act and these Regulations relating to consignment and carriage of dangerous goods
2	If the course is to be undertaken by an operator's employee or deemed employee, the purpose, contents and distribution requirements of the operator's dangerous goods manual
3	Parts 7;1.4, 7;5 and 7;6 of the Technical Instructions ( <i>Cargo/passenger acceptance procedures — the kinds of cargo/passenger's baggage that are likely to be, or contain, dangerous goods</i> )
4	Methods used to identify cargo containing dangerous goods
5	The manner in which dangerous goods in each class of dangerous goods mentioned in the Technical Instructions could jeopardise the safety of an aircraft or anyone in it
6	The matters in the Foreword to the Technical Instructions
7	Part 1;2.1 of the Technical Instructions ( <i>Dangerous goods forbidden for transport by air under any circumstance</i> )
8	Parts 1;1.1 and 1;1.2 of the Technical Instructions ( <i>General applicability and General transport requirements</i> )
9	Part 1;2.2 of the Technical Instructions ( <i>Exceptions for dangerous goods of the operator</i> )
10	Part 1;2.3 of the Technical Instructions ( <i>Dangerous goods in air mail</i> )
11	Part 1;2.4 of the Technical Instructions ( <i>Dangerous goods in excepted quantities</i> )
12	Part 3;4 of the Technical Instructions ( <i>Dangerous goods in limited quantities</i> )
13	Part 1;3.1 of the Technical Instructions ( <i>Definitions</i> )
14	Part 2 of the Technical Instructions ( <i>Classification of dangerous goods</i> )
15	Parts 3;1 and 3;2, Table 3-1 and Part 3;3 of the Technical Instructions (respectively <i>General, Arrangement of the Dangerous Goods List, The Dangerous Goods List and Special Provisions</i> )
16	Part 4 of the Technical Instructions ( <i>Packing instructions</i> )
17	Part 5 of the Technical Instructions ( <i>Shipper's responsibilities</i> )
18	Part 7 of the Technical Instructions ( <i>Operator's responsibilities</i> )
19	Part 6 of the Technical Instructions ( <i>Packaging nomenclature, marking requirements and tests</i> )
20	Part 8 of the Technical Instructions ( <i>Provisions concerning passengers and crew</i> )
21	Attachment 1 to the Technical Instructions ( <i>Lists of proper shipping names</i> )
22	Attachment 3 to the Technical Instructions ( <i>Notified variations from the Instructions</i> )

**Table 92.135-2 Syllabus for training courses not requiring approval**

Item	Subject
1	The requirements of the Act and these Regulations relating to consignment and carriage of dangerous goods
2	If the course is to be undertaken by an operator's employee or deemed employee, the purpose, contents and distribution requirements of the operator's dangerous goods manual
3	Parts 7;1.4, 7;5 and 7;6 of the Technical Instructions ( <i>The kinds of cargo/passenger's baggage that are likely to be, or contain, dangerous goods</i> )
4	Methods used to identify cargo containing dangerous goods
5	The manner in which the dangerous goods in each class of dangerous goods mentioned in the Technical Instructions could jeopardise the safety of an aircraft or anyone in it
6	The matters in the Foreword to the Technical Instructions
7	Part 1;2.2 of the Technical Instructions ( <i>Exceptions for dangerous goods of the operator</i> )
8	Part 1;3.1 of the Technical Instructions ( <i>Definitions</i> )
9	Part 2 of the Technical Instructions ( <i>Classification of dangerous goods</i> )
10	Part 5;3 of the Technical Instructions ( <i>Labelling</i> )
11	Part 7;2 of the Technical Instructions ( <i>Storage and loading</i> )
12	Part 8 of the Technical Instructions ( <i>Provisions concerning passengers and crew</i> )
13	Attachment 3 to the Technical Instructions ( <i>Notified variations from the Instructions</i> )

#### **92.140 Who may conduct training**

- (1) In this regulation:
 

***approved training course*** means a training course required under this Part that is required to be approved by CASA.
- (2) A person must not give, or offer to give, instruction that purports to be, or to form part of, a training course that is required to be approved by CASA if the course is not approved.
 

Maximum penalty: 10 penalty units.
- (3) A person must not give instruction that is part of an approved training course if he or she is not approved for that purpose.
 

Maximum penalty: 10 penalty units.
- (4) If an approved training course is conducted by distance education methods (including correspondence, video or computer network) a person must not:
  - (a) prepare material for; or

- (b) supervise;

the course if he or she is not approved for that purpose.

Maximum penalty: 10 penalty units.

- (5) Unless granted an exclusion under regulation [92.155](#), a person must not:

- (a) give instruction that is part of a training course for group E employees, or employees of a screening authority, required under this Part; or
- (b) prepare material for such a training course that is, or is to be, given by a distance education method (including by correspondence, video or computer network); or
- (c) supervise such a training course that is, or is to be, given by such a method;

if the person has not, within the previous 2 years, undertaken an approved training course for group A or B employees.

Maximum penalty: 5 penalty units.

- (6) For paragraph (5) (a), strict liability applies to the circumstance that a training course is required under this Part.
- (7) For this regulation, strict liability applies to the circumstance that a training course is required to be approved under this Part.

#### **92.145 Records about training — Australian operators etc**

- (1) This regulation applies to:
  - (a) an Australian aircraft operator that has not been granted an exclusion under regulation [92.155](#), and that has any group A, B, C, D or E employees in Australia; and
  - (b) an Australian aircraft operator that has not been granted an exclusion under regulation [92.155](#), and that has any group C or D employees outside Australia; and
  - (c) a person in Australia who ships dangerous goods for carriage by aircraft, has not been granted an exclusion under that regulation and has any group F employees in Australia; and
  - (d) a ground handling agent or a freight forwarder that has not been granted an exclusion under that regulation and has any group A, B, C or E employees in Australia; and
  - (e) a screening authority that has not been granted an exclusion under that regulation.
- (2) A person or organisation to whom or to which this regulation applies must maintain an up-to-date record of:
  - (a) the name of each employee who has undertaken dangerous goods training in accordance with this Subpart; and

- (b) for each such employee:
  - (i) the names of the person and the organisation providing the training and the date on which the training was undertaken; and
  - (ii) a reference (for example, by CASA approval number) to the training material used to meet the training requirements.

Maximum penalty: 30 penalty units.

- (3) A person or organisation to whom or to which this regulation applies must:
  - (a) keep a copy of any certificate issued to an employee on the completion of a course of training required by this Part; and
  - (b) give a copy of any such certificate to CASA if CASA so requests.

Maximum penalty: 30 penalty units.

- (4) A reference in this regulation to an employee includes a deemed employee only if the deemed employee:
  - (a) is self-employed; or
  - (b) is employed by an employer that is not required to keep records under this regulation.

#### **92.150 Training undertaken before 1 January 2004**

- (1) A group A or B employee who has undertaken a training course in accordance with subregulation 262P (1) or 262R (1) of CAR on or after 1 January 2002 is taken, for 2 years after undertaking that training, to have undertaken training in accordance with this Subpart.
- (2) A group C employee who is a flight crew member, and who has undertaken a training course in accordance with subregulation 262P (3) of CAR on or after 1 January 2002, is taken, for 2 years after undertaking that training, to have undertaken training in accordance with this Subpart.
- (3) A group C employee (other than a flight crew member) who has undertaken a training course in accordance with subregulation 262P (1) or (3) of CAR on or after 1 January 2002 is taken, for 2 years after undertaking that training, to have undertaken training in accordance with this Subpart.

- (4) A group D employee who is a cabin attendant, and has undertaken a training course in accordance with subregulation 262P (3) or paragraph 262P (4) (a) of CAR on or after 1 January 2002 is taken, for 2 years after undertaking that training, to have undertaken training in accordance with this Subpart.
- (5) A group E employee who has undertaken a training course in accordance with subregulation 262P (2) or 262R (2) of CAR on or after 1 January 2001 is taken, for 3 years after undertaking that training, to have undertaken training in accordance with this Subpart.
- (6) A screening authority employee who has undertaken a training course in accordance with paragraph 262P (4) (b) of CAR on or after 1 January 2002 is taken, for 2 years after undertaking that training, to have undertaken training in accordance with this Subpart.
- (7) A group F employee who has undertaken a training course in accordance with subregulation 262P (1), regulation 262Q or subregulation 262R (1) of CAR on or after 1 July 2002 is taken, for 2 years after undertaking that training, to have undertaken training in accordance with this Subpart.
- (8) This regulation ceases to have effect on 31 December 2006.

#### **92.155 Exclusions from training requirements**

- (1) CASA may, by notice in writing, exclude a person or a class of persons from the obligation to comply with any of regulations [92.095](#), [92.100](#), [92.105](#), [92.115](#), [92.120](#), [92.125](#), [92.130](#) and [92.140](#) that apply to the person or class.
- (2) Before excluding a person or class of persons from that obligation, CASA must take into account any relevant considerations relating to the safe carriage, or consignment for carriage, of dangerous goods on an aircraft.
- (3) An exclusion is subject to the person, or each person in the class, complying with any conditions that CASA specifies in the instrument of exclusion as being necessary in the interests of safety.
- (4) If a person applies for exclusion under subregulation (1), and CASA decides not to grant the exclusion, CASA must, as soon as practicable after making the decision, tell the person, in writing, of the decision and must include in the notice a statement of the reasons for the decision.

## **Subpart 92.D Limitations on application of Subparts 92.B and 92.C**

### **92.160 Aircraft operated by law enforcement authorities**

- (1) Regulations [92.020](#), [92.025](#), [92.030](#) and [92.035](#) do not apply to the carriage of dangerous goods by an Australian aircraft, or by a person on an Australian aircraft, operated by an Australian law enforcement authority if:
  - (a) the aircraft is performing an operation solely for law enforcement purposes within Australian territory; and
  - (b) the goods are not of a kind that is forbidden for transport by air under any circumstances by the Technical Instructions; and
  - (c) the goods are in a proper condition for carriage by air and are stowed and secured safely in the aircraft, and the aircraft's pilot-in-command is told before the flight what the goods are and where they are on board the aircraft; and
  - (d) the authority has a dangerous goods manual that complies with regulation [92.055](#), has established safety and emergency procedures for the goods, and that manual or the authority's operations manual contains detailed instructions in relation to those procedures; and
  - (e) only persons essential to the operation are carried on the aircraft while the goods are on board the aircraft.
- (2) For subregulation (1), the Australian law enforcement authorities are the following:
  - (a) the Australian Federal Police;
  - (b) the Australian Customs Service;
  - (c) the Australian Quarantine and Inspection Service;
  - (d) the police force or police service of a State or the Northern Territory.

*Note* This regulation creates a defence to the offences created by subsections 23 (2) and (2A) of the Act. A defendant charged with either of those offences bears an evidential burden in relation to the matters set out in this regulation — see subsection 13.3 (3) of the *Criminal Code*.

### **92.165 Helicopter-slung loads**

Regulations [92.020](#), [92.025](#), [92.030](#) and [92.035](#) do not apply to the carriage of dangerous goods by an Australian aircraft that is a helicopter if:

- (a) the helicopter is operating in Australian territory; and
- (b) the goods:
  - (i) are carried as a slung load; and
  - (ii) are in a proper condition for carriage by air; and

- (iii) are segregated in accordance with the Technical Instructions, or, if they are likely to react dangerously with one another, are not carried in the same load; and
  - (iv) are not of a kind that the Technical Instructions forbid the transport of by air under any circumstances; and
  - (v) are packed and stowed to prevent leakage or damage during the flight; and
  - (vi) are not fireworks, pyrotechnics or other explosives intended to be activated during the flight; and
- (c) only operating crew and persons associated with the goods are carried on board the helicopter; and
  - (d) the helicopter's pilot-in-command is told before the load is carried what the goods are and the quantity of them in the load; and
  - (e) the helicopter is operated in accordance with section 29.6 of the Civil Aviation Orders.

*Note* This regulation creates a defence to the offences created by subsections 23 (2) and (2A) of the Act. A defendant charged with either of those offences bears an evidential burden in relation to the matters set out in this regulation — see subsection 13.3 (3) of the *Criminal Code*.

## 92.170 Cargo carried in main deck cargo compartments

- (1) In this regulation:

***Class B cargo compartment*** and ***Class C cargo compartment*** have the same respective meanings as in ICAO Document 9481, *Emergency Response Guidance for Aircraft Incidents Involving Dangerous Goods*, as in force on 1 January 2004.

***UN*** followed by a 4-digit number is the number assigned by the United Nations Committee of Experts on the Transport of Dangerous Goods to identify a substance or group of substances.

*Note* The numbers are set out in the UN Classification, which is available as a PDF file from: <http://www.unece.org/trans/danger/publi/unrec/English/part3.pdf>.

***UN Classification*** means Part 3 of the *United Nations Model Regulations on the Transport of Dangerous Goods*, published by the United Nations Economic Commission for Europe, as adapted by the International Civil Aviation Organization and set out in the Technical Instructions.

- (2) Subregulations 92.020 (6) and (7) and subparagraph 92.025 (2) (b) (i) do not apply to the carriage of dangerous goods in the main deck cargo compartment of an aircraft if:
- (a) the aircraft:
    - (i) is operating in Australian territory; and
    - (ii) does not have an underfloor cargo compartment; and
  - (b) in the case of an aircraft engaged in passenger-carrying operations, the compartment is not a class B or class C cargo compartment; and

- (c) the cargo compartment is separated from the passenger cabin by a bulkhead or other barrier that will prevent fire and hazardous quantities of smoke or toxic gases from entering the passenger cabin or crew compartment; and
- (d) the goods meet all of the packing, labelling, marking, documentation, stowage and segregation requirements of the Technical Instructions; and
- (e) the goods do not have a subsidiary risk; and
- (f) either:
  - (i) the proper shipping name for the goods given by the UN Classification does not include the letters 'n.o.s'; or
  - (ii) the labelling rules set out in the UN Classification do not require the technical name of the goods to be used as well as the proper shipping name; and
- (g) the goods are of any of the following kinds:
  - (i) goods classified in Division 1.4 and compatibility group S (certain explosives);
  - (ii) aerosols that contain gases classified in Division 2.1 (flammable gases);
  - (iii) gases classified in Division 2.2 (non-flammable and non-toxic gases) (except UN 2037, UN 2073 and UN 2857);
  - (iv) flammable liquids (Class 3) in Packing Group III in combination packagings (except UN 1112, UN 2047, UN 2059, UN 2332, UN 3054 and UN 3269);
  - (v) flammable solids (Division 4.1) in Packing Group III (except UN 1309, UN 1313, UN 1314, UN 1318, UN 1324, UN 1330, UN 1338, UN 1353, UN 1869, UN 2000, UN 2213, UN 2714, UN 2715, UN 2878, UN 3089 and UN 3241);
  - (vi) oxidizing substances (Division 5.1) in Packing Group III (except UN 1458, UN 1459, UN 1467, UN 1481, UN 1482, UN 1483, UN 2427, UN 2428, UN 2429, UN 2469, UN 2726, UN 2984, UN 3210, UN 3211, UN 3213, UN 3215, UN 3216, UN 3218 and UN 3219);
  - (vii) toxic substances (Division 6.1) in Packing Group III in combination packagings (except UN 1549, UN 1550, UN 1551, UN 1556, UN 1557, UN 1593, UN 1599, UN 1655, UN 1686, UN 1690, UN 1710, UN 1812, UN 1887, UN 1888, UN 1897, UN 1935, UN 2024, UN 2025, UN 2074, UN 2077, UN 2233, UN 2501, UN 2505, UN 2515, UN 2609, UN 2655, UN 2656, UN 2674, UN 2713, UN 2747, UN 2785, UN 2788, UN 2821, UN 2831, UN 2853, UN 2854, UN 2855, UN 2856, UN 2871, UN 2874, UN 3141, UN 3144, UN 3146, UN 3286 and UN 3293);
  - (viii) infectious substances (Division 6.2);

- (ix) diagnostic specimens (UN 3373) packed in accordance with Packing Instruction 650 of the Technical Instructions;
- (x) radioactive material (Class 7) but only excepted packages and packages assigned category I – White only;
- (xi) corrosives (Class 8) in Packing Group III in combination packagings (except UN 1731, UN 1740, UN 1755, UN 1757, UN 1783, UN 1787, UN 1788, UN 1789, UN 1814, UN 1819, UN 1824, UN 1908, UN 2430, UN 2496, UN 2508, UN 2564, UN 2578, UN 2585, UN 2586, UN 2672, UN 2677, UN 2679, UN 2681, UN 2693, UN 2790, UN 2803, UN 2809, UN 2837, UN 2869, UN 3145, UN 3253 and UN 3320);
- (xii) dangerous goods classified in Class 9 (except UN 1931, UN 1941, UN 1990, UN 2211, UN 2590, UN 3268, UN 3314, UN 3316, UN 3363 and UN 8000);
- (xiii) dangerous goods permitted by the Technical Instructions to be carried in excepted quantities.

*Note* This regulation creates a defence to the offences created by subsections 23 (2) and (2A) of the Act. A defendant charged with either of those offences bears an evidential burden in relation to the matters set out in this regulation — see subsection 13.3 (3) of the *Criminal Code*.

- (3) Subregulations 92.020 (6) and (7) and subparagraph 92.025 (2) (b) (i) do not apply in relation to the carriage of UN 1072 (oxygen, compressed) in the main deck cargo compartment of an aircraft if the carriage is in accordance with paragraphs (2) (a) to (d).
- (4) Subregulations 92.020 (6) and (7) and subparagraph 92.025 (2) (b) (i) do not apply in relation to the carriage of UN 1993 (flammable liquid, n.o.s.) in the main deck cargo compartment of an aircraft if the carriage is in accordance with paragraphs (2) (a) to (d).

### **92.175 Goods carried by private operators**

Subparts 92.B and 92.C do not apply to the carriage of dangerous goods by an aircraft operated by an operator engaged in private (non-commercial) operations if:

- (a) the aircraft is operating in Australian territory and:
  - (i) is unpressurised; and
  - (ii) has an approved passenger seat configuration of less than 10 seats; and

- (b) the goods:
  - (i) are in a proper condition for carriage by air; and
  - (ii) are identified by class in accordance with the Technical Instructions; and
  - (iii) are permitted by the Technical Instructions to be carried on a passenger or cargo aircraft; and
  - (iv) are stowed and secured on the aircraft to prevent movement and damage, and segregated in accordance with the requirements of the Technical Instructions if they are likely to react dangerously with one another; and
- (c) the pilot-in-command of the aircraft ensures that every person on board the aircraft knows, before boarding the aircraft, that the dangerous goods are on board.

*Note* This regulation creates a defence to the offences created by subsections 23 (2) and (2A) of the Act. A defendant charged with either of those offences bears an evidential burden in relation to the matters set out in this regulation — see subsection 13.3 (3) of the *Criminal Code*.

#### **92.180 Goods carried for parachute operations**

Regulations [92.020](#), [92.025](#), [92.030](#) and [92.035](#) do not apply to the carriage, on an aircraft, of dangerous goods classified in Division 1.4 if:

- (a) the aircraft is operating in Australian territory; and
- (b) the person carrying the goods intends to jump from the aircraft by parachute, and to use the goods during the parachute descent; and
- (c) the goods are not used until after the person jumps from the aircraft; and
- (d) the pilot-in-command of the aircraft:
  - (i) knows what the goods are; and
  - (ii) before the flight begins, briefs everybody intending to board the aircraft on what to do if any of the goods are activated during the flight; and
- (e) where the flight is being undertaken by a commercial operator — the operator establishes safety and emergency procedures for the operation and sets out those procedures in the operator's dangerous goods manual.

*Note* This regulation creates a defence to the offences created by subsections 23 (2) and (2A) of the Act. A defendant charged with either of those offences bears an evidential burden in relation to the matters set out in this regulation — see subsection 13.3 (3) of the *Criminal Code*.

**92.185 Carriage of fuel in large containers**

Regulations 92.020, 92.025, 92.030 and 92.035 do not apply to the consignment for carriage, or to the carriage, on a cargo aircraft in Australian territory of:

- (a) petrol (whether called petrol, gasoline or motor spirit) (UN 1203) of packing group II; or
- (b) aviation turbine fuel (UN 1863) of packing group II;

if the petrol or aviation turbine fuel:

- (c) is documented, labelled, stowed and segregated on the aircraft in accordance with the Technical Instructions; and
- (d) is contained in 1A1 non-removable-head steel drums or 1B1 non-removable-head aluminium drums with a capacity of no more than 220 litres.

*Note* This regulation creates a defence to the offences created by subsections 23 (2) and (2A) of the Act. A defendant charged with either of those offences bears an evidential burden in relation to the matters set out in this regulation — see subsection 13.3 (3) of the *Criminal Code*.

**92.190 Goods for use in emergency services**

Regulations 92.020, 92.025, 92.030 and 92.035 do not apply to the consignment for carriage, or to the carriage, of dangerous goods on an aircraft if:

- (a) the aircraft:
  - (i) is unpressurised; and
  - (ii) has an approved passenger seat configuration of less than 10 seats; and
  - (iii) is operating in Australian territory; and
  - (iv) is operating for the sole purpose of carrying people engaged in emergency services work and their essential equipment (including the goods) to a place where they intend to undertake emergency service work, or of recovering them from such a place; and
- (b) where the aircraft is a helicopter — any static electric charge that it carries is discharged before the people or their equipment are loaded or unloaded; and
- (c) the goods:
  - (i) are limited to dangerous goods of the following kinds:
    - (A) goods classified in Division 1.4 (certain explosives);
    - (B) gases classified in Division 2.1 or 2.2;
    - (C) flammable liquids (Class 3);
    - (D) goods classified in Division 4.1 (flammable solids);
    - (E) goods classified in Class 9 (miscellaneous dangerous goods);
    - (F) corrosives (Class 8); and

- (ii) are in a proper condition for carriage by air; and
- (iii) are not used on the aircraft; and
- (iv) if classified in Class 3:
  - (A) are packaged in accordance with the Technical Instructions; and
  - (B) are stowed and secured on the aircraft to prevent leakage or damage during the flight; and
- (d) the aircraft's pilot-in-command is told that the goods are on board, and where they are on the aircraft, and consents to them being carried on the aircraft; and
- (e) only the aircraft's crew and persons associated with the goods are carried on board the aircraft; and
- (f) the operator establishes safety and emergency procedures for the carriage of the dangerous goods; and
- (g) where the flight is being conducted by a commercial operator — the operator has a dangerous goods manual that complies with regulation 92.055, has established safety and emergency procedures for the goods, and that manual or the operator's operations manual contains detailed instructions in relation to those procedures.

*Note* This regulation creates a defence to the offences created by subsections 23 (2) and (2A) of the Act. A defendant charged with either of those offences bears an evidential burden in relation to the matters set out in this regulation — see subsection 13.3 (3) of the *Criminal Code*.

### **92.195 Carriage of ammunition by air security officers**

- (1) Regulations 92.020, 92.025 and 92.030 do not apply to the carriage of dangerous goods by an air security officer if:
  - (a) the officer is an officer mentioned in paragraph (a) of the definition of *air security officer*; and
  - (b) the officer is on duty in an aircraft engaged in regular public transport operations; and
  - (c) the dangerous goods:
    - (i) is an amount of ammunition that is reasonably required in the performance of that duty; and
    - (ii) is issued by the Australian Federal Police to the officer; and
    - (iii) is for use by the officer.
- (2) Regulations 92.020, 92.025 and 92.030 do not apply to the carriage of dangerous goods by an air security officer if:
  - (a) the officer is an officer mentioned in paragraph (b) of the definition of *air security officer*; and
  - (b) the officer is on duty in an aircraft engaged in regular public transport operations; and
  - (c) the dangerous goods:
    - (i) is an amount of ammunition that is reasonably required in the performance of that duty; and

- (ii) is issued by a responsible foreign government to the officer; and
  - (iii) is ammunition of the kind agreed to under an arrangement between the responsible foreign government and the Australian Government; and
  - (iv) is for use by the officer.
- (3) For subparagraphs (2) (c) (ii) and (iii):
- responsible foreign government***, in relation to an air security officer mentioned in paragraph (2) (a), means the foreign government referred to in the definition of ***air security officer*** that is a party to an arrangement with the Australian Government in relation to the officer operating.

## **Subpart 92.E Information to passengers**

### **92.200 Information in passenger terminals**

- (1) The owner or operator of an airport terminal must comply with the provisions of the Technical Instructions concerning information that must be given to passengers about the carriage of dangerous goods on aircraft.

Penalty: 10 penalty units.

- (2) The information required by subregulation (1) must at least be given by means of a sufficient number of notices, prominently displayed at each of the places at an airport where tickets are issued, passengers checked in and aircraft boarding areas maintained, and at baggage collection areas.

### **92.205 Information with tickets**

- (1) A person (other than an aircraft operator) who issues a passenger ticket must ensure that the person to whom the ticket is issued is given information about the kinds of dangerous goods that must not be transported on an aircraft.

Penalty: 10 penalty units.

- (2) The information required by subregulation (1) must at least be given by means of information with the ticket and notices, visible to persons to whom tickets are issued, in each place where tickets are issued.