



New South Wales

# Occupational Health and Safety Amendment (Dangerous Goods) Act 2003 No 38

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New South Wales

# **Occupational Health and Safety Amendment (Dangerous Goods) Act 2003 No 38**

Act No 38, 2003

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An Act to amend the *Occupational Health and Safety Act 2000* with respect to dangerous goods; to repeal the *Dangerous Goods Act 1975*; and for other purposes. [Assented to 22 July 2003]

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See also *Explosives Act 2003*.

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**The Legislature of New South Wales enacts:**

**1 Name of Act**

This Act is the *Occupational Health and Safety Amendment (Dangerous Goods) Act 2003*.

**2 Commencement**

This Act commences on a day or days to be appointed by proclamation.

**3 Amendment of Occupational Health and Safety Act 2000 No 40**

The *Occupational Health and Safety Act 2000* is amended as set out in Schedule 1.

**4 Repeal of Dangerous Goods Act 1975 No 68 and associated regulation**

The *Dangerous Goods Act 1975* and the *Dangerous Goods (General) Regulation 1999* are repealed.

**5 Amendment of other Acts and instruments**

The Acts and instruments specified in Schedule 2 are amended as set out in that Schedule.

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## Schedule 1 Amendment of Occupational Health and Safety Act 2000

(Section 3)

### [1] Section 3 Objects

Omit section 3 (h). Insert instead:

- (h) to deal with the impact of particular classes or types of dangerous goods and plant at, and beyond, places of work.

### [2] Section 4 Definitions

Omit paragraph (b) from the definition of *associated occupational health and safety legislation*.

### [3] Section 135A

Insert after section 135:

#### 135A Dangerous goods—extension of Act

- (1) In this section:

*dangerous goods* means:

- (a) substances or articles subject to a national standard declared by the National Occupational Health and Safety Commission under section 38 of the *National Occupational Health and Safety Commission Act 1985* of the Commonwealth, and
- (b) any other substances or articles that are a risk to public safety.

*handling*, in relation to dangerous goods, includes conveying, manufacturing, processing, possessing, using, preparing for use, treating, dispensing, packing, selling, offering for sale, supplying, transferring, loading and unloading, rendering harmless, abandoning, destroying and disposing of dangerous goods.

*storing* includes storing as a bailee or in any other capacity.

- (2) The regulations may declare that specified dangerous goods (whether or not at a place of work) are dangerous goods to which this section applies. Any such declaration may provide that those substances or articles are not dangerous goods to

which this section applies at premises that are not a place of work unless the quantity of those goods at those premises exceeds a minimum quantity prescribed by the regulations.

- (3) The following provisions of this Act extend to dangerous goods to which this section applies even though the goods are not at a place of work or are not for use at work:
  - (a) Division 4 (Ancillary provisions) of Part 2,
  - (b) Part 3 (Regulations) and Part 4 (Industry codes of practice),
  - (c) Divisions 1, 2 and 4 of Part 5 (Investigations) and Part 6 (Investigation, improvement and prohibition notices).
- (4) For the purposes of the application of those provisions:
  - (a) a reference to work includes a reference to storing or handling dangerous goods to which this section applies, and
  - (b) a reference to a place of work includes a reference to the premises at or in which the dangerous goods to which this section applies are stored or handled, and
  - (c) a reference to occupational health and safety (however expressed) includes a reference to public health and safety.
- (5) This section does not affect the application of this Act to dangerous goods apart from the operation of this section.

**[4] Schedule 3 Savings, transitional and other provisions**

Insert at the end of clause 1 (1):

*Occupational Health and Safety Amendment (Dangerous Goods) Act 2003*

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## Schedule 2 Amendment of Acts and instruments

(Section 5)

### 2.1 Clean Waters Regulations 1972

#### Regulation 2 Definitions

Omit the definition of *dangerous goods* in Regulation 2 (1).

Insert instead:

*dangerous goods* has the same meaning as in the *Road and Rail Transport (Dangerous Goods) Act 1997*.

### 2.2 Coal Mines (General) Regulation 1999

#### Clause 39 Identification of pipelines

Omit “*Dangerous Goods Act 1975*”.

Insert instead “*Road and Rail Transport (Dangerous Goods) Act 1997*”.

### 2.3 Commercial Vessels (Certificates of Competency and Safety Manning) Regulation 1986

#### Clause 4 Definitions

Omit the definition of *dangerous goods* in clause 4 (1).

Insert instead:

*dangerous goods* has the same meaning as in the *Road and Rail Transport (Dangerous Goods) Act 1997*.

### 2.4 Dangerous Goods (Gas Installations) Regulation 1998

#### [1] Clause 5 Liquefied petroleum gas and natural gas prescribed as dangerous goods

Omit the clause.

#### [2] Clause 6 Regulation not to apply to certain gas installations

Omit “under the *Gas Supply Act 1996*” from clause 6 (a).

#### [3] Dictionary

Omit “the *Dangerous Goods Act 1975*” from the definition of *the Act*.

Insert instead “the *Gas Supply Act 1996*”.

## **2.5 Fair Trading Act 1987 No 68**

### **[1] Schedule 1 Paramount legislation**

Omit “*Dangerous Goods Act 1975*”.

### **[2] Schedule 1**

Insert in alphabetical order “*Explosives Act 2003*”.

### **[3] Schedule 2 Acts prohibiting or regulating the supply of goods**

Omit “*Dangerous Goods Act 1975*”.

### **[4] Schedule 2**

Insert in alphabetical order “*Explosives Act 2003*”.

## **2.6 Fines Act 1996 No 99**

### **[1] Schedule 1 Statutory provisions under which penalty notices issued**

Omit “*Dangerous Goods Act 1975*, section 43A”.

### **[2] Schedule 1**

Insert in appropriate order “*Explosives Act 2003*, section 34”.

## **2.7 Firearms Act 1996 No 46**

### **Section 4 Definitions**

Omit “*Dangerous Goods Act 1975*” from the definition of *explosive* in section 4 (1).

Insert instead “*Explosives Act 2003*”.

## **2.8 Firearms (General) Regulation 1997**

### **Clause 108 Exemption relating to officers and employees of certain government agencies**

Omit “*Dangerous Goods Act 1975*” from clause 108 (1).

Insert instead “*Explosives Act 2003*”.

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## 2.9 Freedom of Information Regulation 2000

### Schedule 4 Public offices

Omit the matter relating to the Chief Inspector of Dangerous Goods from Part 2.

## 2.10 Gas Supply Act 1996 No 38

### [1] Section 77 Inspectors

Omit “administering section 31 of the *Dangerous Goods Act 1975*” from section 77 (1).

### [2] Section 83 Regulations

Insert after section 83 (2) (g):

- (g1) autogas installations and the carrying out of autogas work,

### [3] Schedule 2 Savings, transitional and other provisions

Insert at the end of the Schedule with appropriate Part and clause numbers:

## **Part Provisions consequent on enactment of Occupational Health and Safety Amendment (Dangerous Goods) Act 2003**

### **Saving of regulation**

- (1) The *Dangerous Goods (Gas Installations) Regulation 1998* is taken to be a regulation made under this Act.
- (2) For the purposes of Part 3 of the *Subordinate Legislation Act 1989*, the *Dangerous Goods (Gas Installations) Regulation 1998* is taken to have been published on the commencement of this clause.

### **Saving of appointment of inspectors**

A person appointed as an inspector under section 77 (1) of this Act and holding office as such immediately before the amendment of that section by the *Occupational Health and Safety Amendment (Dangerous Goods) Act 2003* is taken to



have been appointed to that office under that section as so amended.

**[4] Dictionary**

Insert in appropriate order:

***autogas installation*** means a system of pipes and associated equipment that forms part of a vehicle, vessel or machine and that is designed to convey liquefied petroleum gas or natural gas to an internal combustion engine that is installed in, or forms part of, the vehicle, vessel or machine.

***autogas work*** means work involved in:

- (a) the installation, alteration, extension or repair of an autogas installation, or
- (b) the connection of a gas cylinder to, or the disconnection of a gas cylinder from, an autogas installation.

**2.11 Home Building Act 1989 No 147**

**Section 135 Proceedings for certain offences under other Acts**

Omit section 135 (a).

**2.12 Home Building Regulation 1997**

**Clause 9 “Relevant law” regulating gasfitting or plumbing work**

Omit “*Dangerous Goods Act 1975* (gas cylinders)” and “*Dangerous Goods Regulation 1978*” from clause 9 (a).

**2.13 Law Enforcement (Powers and Responsibilities) Act 2002  
No 103**

**Schedule 2 Search warrants under other Acts**

Omit “*Dangerous Goods Act 1975*, section 42”.

**2.14 Licensing and Registration (Uniform Procedures) Act 2002  
No 28**

**[1] Schedule 1 Licences to which Part 2 of Act applies**

Omit all the matter relating to the *Dangerous Goods Act 1975* and the *Dangerous Goods (General) Regulation 1999*.

**[2] Schedule 1**

Insert in appropriate order:

**Explosives Act 2003**

section 11, explosives licence

**2.15 Maritime Services Act 1935 No 47**

**Section 38 Regulations**

Omit the definition of *dangerous goods* in section 38 (4).

Insert instead:

*dangerous goods* has the same meaning as in the *Road and Rail Transport (Dangerous Goods) Act 1997*.

**2.16 Mines Inspection General Rule 2000**

**[1] Clause 60 Manufacture of explosives**

Omit “*Dangerous Goods Act 1975*” from clause 60 (2).

Insert instead “*Explosives Act 2003*”.

**[2] Clause 61 Storage of explosives**

Omit “licensed under the *Dangerous Goods Act 1975*” from clause 61 (1) (a).

Insert instead “in accordance with a licence under the *Explosives Act 2003*”.

**2.17 National Parks and Wildlife Act 1974 No 80**

**Section 5 Definitions**

Omit “*Dangerous Goods Act 1975*” from the definition of *explosive* in section 5 (1).

Insert instead “*Explosives Act 2003*”.

## **2.18 Pipelines Act 1967 No 90**

### **Section 5 Application of Act**

Omit “the *Dangerous Goods Act 1975*” from section 5 (1) (e).

Insert instead “the *Road and Rail Transport (Dangerous Goods) Act 1997*”.

## **2.19 Road Transport (Safety and Traffic Management) Act 1999 No 20**

### **[1] Section 8 Interpretation**

Omit “the *Dangerous Goods Act 1975* or” from section 8 (3) (g) (i).

### **[2] Section 59 Definitions**

Omit “the *Dangerous Goods Act 1975*, or” from the definition of *prescribed officer* in section 59 (1).

Insert instead “the *Explosives Act 2003* or the *Occupational Health and Safety Act 2000*, or”.

### **[3] Section 60 Application of this Division**

Omit “the *Dangerous Goods Act 1975* or” from section 60 (1) (b).

## **2.20 Road Transport (Safety and Traffic Management) (Road Rules) Regulation 1999**

### **[1] Clause 59 Carriage of dangerous goods**

Omit “the *Dangerous Goods Act 1975* or” from the definition of *dangerous goods* in clause 59 (1).

### **[2] Dictionary**

Omit “the *Dangerous Goods Act 1975* or” from the definition of *dangerous goods* in Part 2.

## **2.21 Road Transport (Vehicle Registration) Regulation 1998**

### **[1] Clause 64 Proprietor’s authorities**

Omit “and a licence under the *Dangerous Goods Act 1975*” from clause 64 (3).

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**[2] Clause 64 (4) (c) and (5)**

Omit “or the *Dangerous Goods Act 1975*” wherever occurring.

**2.22 Search Warrants Act 1985 No 37**

**Section 10 Definitions**

Omit “section 42 of the *Dangerous Goods Act 1975*,” from the definition of *search warrant*.

**2.23 Weapons Prohibition Regulation 1999**

**Schedule 1 Persons exempt from requirement for permit**

Omit “*Dangerous Goods Act 1975*” from clause 1.

Insert instead “*Explosives Act 2003*”.

[Second reading speech made in—  
Legislative Assembly on 17 June 2003  
Legislative Council on 3 July 2003]

BY AUTHORITY