



New South Wales

Dangerous Goods (Road and Rail Transport) Amendment (Model Law) Regulation 2015

under the

Dangerous Goods (Road and Rail Transport) Act 2008

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Dangerous Goods (Road and Rail Transport) Act 2008*.

MARK SPEAKMAN, MP
Minister for the Environment

Explanatory note

The object of this Regulation is to update the *Dangerous Goods (Road and Rail Transport) Regulation 2014* to reflect amendments made to the *Model Subordinate Law on the Transport of Dangerous Goods by Road or Rail 2007*. The amendments relate to duties concerning the placarding of loads, compliance with certain provisions of the *Australian Code for the Transport of Dangerous Goods by Road and Rail* and other minor matters.

This Regulation is made under the *Dangerous Goods (Road and Rail Transport) Act 2008*, including section 13 (the general regulation-making power).

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Dangerous Goods (Road and Rail Transport) Act 2008

1 Name of Regulation

This Regulation is the *Dangerous Goods (Road and Rail Transport) Amendment (Model Law) Regulation 2015*.

2 Commencement

This Regulation commences on 1 January 2016 and is required to be published on the NSW legislation website.

Schedule 1 Amendment of Dangerous Goods (Road and Rail Transport) Regulation 2014

[1] Clause 9 Definitions

Omit the definition of *driver licence* from clause 9 (1). Insert in appropriate order:

driver licence means a licence (other than a provisional or learner licence) issued under a State or Territory law authorising the licensee to drive a road vehicle.

provisional licence means a provisional or probationary licence (but not a learner licence) issued under a State or Territory law authorising a person who is a novice driver to drive a road vehicle.

[2] Clause 16 Meaning of “MEGC”

Omit “and” where firstly occurring in clause 16 (a). Insert instead “or”.

[3] Clause 16 (b)

Omit “or”. Insert instead “and”.

[4] Clause 16 (b)

Omit “and”. Insert instead “or”.

[5] Clause 80 Consignor’s duties

Insert after clause 80 (4):

- (5) A person must not consign a load of dangerous goods (other than a placard load) for transport in or on a cargo transport unit if:
- (a) the load is placarded, and
 - (b) the placarding is false or misleading in a material particular.
- Maximum penalty: 40 penalty units for an individual or 200 penalty units for a corporation.

[6] Clause 81 Loader’s duties

Insert after clause 81 (4):

- (5) A person who loads dangerous goods (other than a placard load) into or on to a cargo transport unit for transport in or on the unit must not placard the load with placarding that the person knows, or reasonably ought to know, is false or misleading in a material particular.
- Maximum penalty: 40 penalty units for an individual or 200 penalty units for a corporation.

[7] Clause 82 Prime contractor’s and rail operator’s duties

Insert after clause 82 (4):

- (5) A prime contractor or rail operator must not transport a load of dangerous goods (other than a placard load) in or on a cargo transport unit if:
- (a) the load is placarded, and
 - (b) the person knows, or reasonably ought to know, that the placarding is false or misleading in a material particular.
- Maximum penalty: 40 penalty units for an individual or 200 penalty units for a corporation.

[8] Clause 83 Driver's duties

Insert after clause 83 (3):

- (4) A person must not drive a road vehicle that is, or that incorporates, a cargo transport unit if:
- (a) the unit is transporting a load of dangerous goods (other than a placard load), and
 - (b) the load is placarded, and
 - (c) the person knows, or reasonably ought to know, that the placarding is false or misleading in a material particular.

Maximum penalty: 20 penalty units.

[9] Clause 118 Transferor's duties

Omit clause 118 (2). Insert instead:

- (2) If:
- (a) a person is engaged in the bulk transfer of goods that are not dangerous goods to a tank (*tank A*), and
 - (b) tank A is on, or part of, a vehicle, and
 - (c) the person knows, or reasonably ought to know, that the vehicle:
 - (i) is carrying dangerous goods in another tank or in another compartment of tank A, or
 - (ii) is likely to carry dangerous goods in another tank, or in another compartment of tank A, before tank A is emptied of the non-dangerous goods,

the person must ensure that the ullage in tank A in respect of the non-dangerous goods complies with section 10.3.1 of the ADG Code as if the goods were dangerous goods.

Maximum penalty: 20 penalty units for an individual or 100 penalty units for a corporation.

[10] Clause 119 Prime contractor's and rail operator's duties

Omit clause 119 (2). Insert instead:

- (2) If:
- (a) a prime contractor or rail operator uses a vehicle to transport a tank (*tank A*) containing goods that are not dangerous goods, and
 - (b) at the same time uses the vehicle to also transport dangerous goods in another tank or in another compartment of tank A,

the prime contractor or rail operator must ensure that the ullage in tank A in respect of the non-dangerous goods complies with section 10.3.1 of the ADG Code as if the goods were dangerous goods.

Maximum penalty: 20 penalty units for an individual or 100 penalty units for a corporation.

[11] Clause 120 Driver's duties

Omit clause 120 (2). Insert instead:

- (2) A person must not drive a road vehicle if:
- (a) the vehicle has a tank (*tank A*) containing goods that are not dangerous goods, and

- (b) the vehicle at the same time contains dangerous goods in another tank or in another compartment of tank A, and
- (c) the person knows, or reasonably ought to know, that ullage in tank A in respect of the non-dangerous goods would not comply with section 10.3.1 of the ADG Code if the goods were dangerous goods.

Maximum penalty: 20 penalty units.

[12] Clause 138 Driver's duties

Insert after clause 138 (2):

- (3) A driver does not commit an offence against subclause (2) with respect to a requirement under Part 13 of the ADG Code concerning the use of warning triangles on a road if the driver uses warning triangles in accordance with the requirements of rule 227 of the *Road Rules 2014* (except rule 227 (1)).

[13] Clause 163A

Insert after clause 163:

163A Reference of determination, exemption or approval to CAP for the purposes of mutual recognition

The Competent Authority may refer to CAP any determination, exemption or approval that has been made by a corresponding authority that the Competent Authority considers to be a determination, exemption or approval that should be given effect in all participating jurisdictions, or participating jurisdictions including this jurisdiction, for the purposes of clauses 160, 161 and 162.

[14] Clause 193 Applications for licences

Insert "if the person holds a driver licence" after "for a dangerous goods driver licence" in clause 193 (1).

[15] Schedule 1 Penalty notice offences

Insert in columns 1, 2 and 3 in appropriate order under the heading **Offences against this Regulation**:

Clause 80 (5)	800	4,000
Clause 81 (5)	800	4,000
Clause 82 (5)	800	4,000
Clause 83 (4)	400	–