



New South Wales

# Dangerous Goods (Road and Rail Transport) Amendment (Model Law) Regulation 2020

under the

Dangerous Goods (Road and Rail Transport) Act 2008

Her 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*.

MATTHEW KEAN, MP  
Minister for Energy and Environment

## Explanatory note

The object of this Regulation is to amend the *Dangerous Goods (Road and Rail Transport) Regulation 2014* as follows—

- (a) to give effect to recent amendments to the *Model Subordinate Instrument on the Transport of Dangerous Goods by Road or Rail* by—
  - (i) making amendments consequent on the replacement of edition 7.6 with edition 7.7 of the *Australian Code for the Transport of Dangerous Goods by Road and Rail*, and
  - (ii) specifying certain offences against this Regulation for which penalty notices may be issued,
- (b) to make other minor and miscellaneous amendments.

This Regulation is made under the *Dangerous Goods (Road and Rail Transport) Act 2008*, including sections 13 (the general regulation-making power), 14 and 15.

## **Dangerous Goods (Road and Rail Transport) Amendment (Model Law) Regulation 2020**

under the

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 2020*.

### **2 Commencement**

This Regulation commences on the day on which it is published on the NSW legislation website.

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

**[1] Clause 9 Definitions**

Omit “*European*” from the definition of *ADR approved* in clause 9(1).

**[2] Clause 9(1)**

Insert in alphabetical order—

*UN number* has the meaning given in section 2.0.2 of the ADG Code.

**[3] Clause 44**

Omit the clause. Insert instead—

**44 Packing of dangerous goods in limited or excepted quantities**

- (1) This Part does not apply to dangerous goods that are—
  - (a) goods packed in limited quantities within the meaning of clause 18, or
  - (b) goods packed in excepted quantities within the meaning of clause 74(6).
- (2) To avoid doubt, this Part, including clause 46 and the offence provisions, applies to dangerous goods that—
  - (a) are purported to be packed in limited quantities but do not comply with the requirements of clause 18, or
  - (b) are purported to be packed in excepted quantities but do not comply with the requirements of clause 74(6).

**Note.** Clauses 18 and 74(6) respectively require compliance with Chapter 3.4 and 3.5 of the ADG Code.

**[4] Clause 46 Suitability of packaging for transport**

Insert at the end of clause 46(1)(f)—

, or

- (g) for goods purported to be packed in limited quantities—the packaging of the goods fails to comply with Chapter 3.4 of the ADG Code, or
- (h) for goods purported to be packed in excepted quantities—the packaging of the goods fails to comply with Chapter 3.5 of the ADG Code.

**[5] Clause 54 Offence to sell or supply non-compliant packaging**

Insert “or 3.5” after “Chapter 3.4” wherever occurring.

**[6] Part 5 Consignment procedures**

Insert after the heading to the Part—

**Note.** Section 5.1.3.3 of the ADG Code provides for unused pre-labelled dangerous goods packagings to be identified in order to avoid inappropriate emergency response.

**[7] Clause 78 When load must be placarded**

Insert “, other than specified goods,” after “250 or more” in clause 78(1)(b).

**[8] Clause 78(1)(e)**

Insert “, other than specified goods,” after “1,000 or more”.

**[9] Clause 78(2)–(4)**

Omit clause 78(2). Insert instead—

- (2) A load that contains dangerous goods must be placarded if the load contains specified goods and—
- (a) the specified goods include an aggregate quantity of 2,000 or more of any one UN number from a single place of consignment, or
  - (b) the total gross mass of the specified goods is 8 tonnes or more.
- Note.** This subclause applies separately and in addition to subclause (1). See Table 5.3 of the ADG Code.
- (3) A load that contains dangerous goods, and that is not otherwise required to be placarded under this clause, must be placarded if the load meets the following conditions—
- (a) the load contains a mixture of specified goods and other dangerous goods,
  - (b) the following combined quantity calculation applies—
    - (i) if the load contains dangerous goods referred to in subclause (1)(b)(i)–(iii)—the aggregate quantity of those goods, plus 10% of the total gross mass of the specified goods, is 250 or more,
    - (ii) otherwise—the aggregate quantity of dangerous goods that are not specified goods, plus 25% of the total gross mass of the specified goods, is 1,000 or more.
- (4) In this clause, *specified goods* means—
- (a) dangerous goods that are packed in limited quantities,
  - (b) any of the following—
    - (i) fireworks that are bon bons, party poppers or sparklers,
    - (ii) domestic smoke detectors containing radioactive material,
    - (iii) lighters or lighter refills containing flammable gas,
    - (iv) fire extinguishers containing compressed or liquefied gas, up to a net mass of 23 kg,
  - (c) a combination of the dangerous goods referred to in paragraphs (a) and (b).

**Note.** See Note 5 to Table 5.3 of the ADG Code.

**[10] Clause 89 Application**

Omit clause 89(2) and (3).

**[11] Clauses 90–93**

Omit “or 7.2” wherever occurring.

**[12] Part 7 Transport operations relating to certain dangerous goods**

Insert after Division 2—

**Division 3 Nominally empty storage vessels**

**97A Application**

This Division applies to tanks or hoppers specified in section 7.2.7.1 of the ADG Code (*nominally empty storage vessels*).

**97B Consignor's duties**

A person must not consign nominally empty storage vessels for transport in a cargo transport unit if the person knows, or reasonably ought to know, that the storage vessels are not loaded or stowed, or cannot be transported or unloaded, in accordance with Chapter 7.2 of the ADG Code.

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

**97C Loader's duties**

A person must not load nominally empty storage vessels for transport by road or rail in a cargo transport unit other than in accordance with Chapter 7.2 of the ADG Code.

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

**97D Prime contractor's and rail operator's duties**

A prime contractor or rail operator must not transport nominally empty storage vessels if the contractor or rail operator knows, or reasonably ought to know, that the transport does not comply with Chapter 7.2 of the ADG Code.

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

**97E Driver's duties**

A person must not drive a road vehicle transporting nominally empty storage vessels if the person knows, or reasonably ought to know, that the storage vessels are not being transported in accordance with Chapter 7.2 of the ADG Code.

Maximum penalty—15 penalty units.

**[13] Part 11 Documentation**

Insert after Division 2—

**Division 3 Dangerous goods packed in limited quantities**

**134A Consignor's duties**

A person must not consign dangerous goods that are packed in limited quantities for transport unless the person has provided the prime contractor with the information required by section 3.4.12.1 of the ADG Code in the form required by the section.

Maximum penalty—15 penalty units for an individual or 75 penalty units for a corporation.

**134B Prime contractor's duties**

A prime contractor who receives information under section 3.4.12.1 of the ADG Code must ensure that the information is readily ascertainable during transport of the dangerous goods.

Maximum penalty—15 penalty units for an individual or 75 penalty units for a corporation.

**134C False or misleading information**

In providing information under section 3.4.12.1 of the ADG Code, a person must not include information 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.

**[14] Part 13, Division 2, heading**

Omit the heading. Insert instead—

**Division 2 General precautions—driver’s duties**

**[15] Part 13 Procedures during transport**

Insert after Division 2—

**Division 3 General precautions—prime contractor’s duties**

**146A Parking**

A prime contractor must not direct or induce the driver of a road vehicle transporting a placard load to park the road vehicle, or leave the road vehicle standing, in a public or private place except in accordance with Part 13 of the ADG Code.

Maximum penalty—15 penalty units for an individual or 75 penalty units for a corporation.

**146B Unloading**

A prime contractor must not direct or induce the driver of a road vehicle transporting a placard load to permit the dangerous goods to be unloaded from the vehicle except in accordance with Part 13 of the ADG Code.

Maximum penalty—40 penalty units for an individual or 200 penalty units for a corporation.

**146C Detaching trailer**

A prime contractor must not direct or induce the driver of a road vehicle that has attached to it a trailer transporting a placard load to detach the trailer or permit it to be detached from the vehicle except in accordance with Part 13 of the ADG Code.

Maximum penalty—40 penalty units for an individual or 200 penalty units for a corporation.

**146D Road tank vehicle equipped with burner**

A prime contractor must not direct or induce the driver of a road vehicle that is transporting a placard load, and that is equipped with a burner to heat the load, to operate the burner or permit it to be operated except in accordance with Part 13 of the ADG Code.

Maximum penalty—40 penalty units for an individual or 200 penalty units for a corporation.

**[16] Clause 193 Applications for licences**

Omit clause 193(2)(d). Insert instead—

- (d) a passport-sized photograph of the applicant's face that was taken not more than 6 months before the day on which the application is made, and

**[17] Clause 198 Applications for renewal of licences**

Omit clause 198(2)(d). Insert instead—

- (d) a passport-sized photograph of the applicant's face that was taken not more than 6 months before the day on which the application is made, and

**[18] Clause 199 Renewal of licences**

Insert "against the Act or this Regulation" after "an offence" in clause 199(2)(a)(i).

**[19] Schedule 1 Penalty notice offences**

Insert in appropriate order under the heading "**Offences against this Regulation**"—

Clause 97B	400	2,000
Clause 97C	400	2,000
Clause 97D	400	2,000
Clause 97E	260	—
Clause 134A	260	1,300
Clause 134B	260	1,300
Clause 134C	800	4,000
Clause 146A	260	1,300
Clause 146B	800	4,000
Clause 146C	800	4,000
Clause 146D	800	4,000