
MINERALS AND PETROLEUM

MP301

Dangerous Goods Safety Act 2004

**Dangerous Goods Safety (Road and Rail
Transport of Non-explosives) Amendment
Regulations 2017**

Made by the Governor in Executive Council.

1. Citation

These regulations are the *Dangerous Goods Safety (Road and Rail Transport of Non-explosives) Amendment Regulations 2017*.

2. Commencement

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day after that day.

3. Regulations amended

These regulations amend the *Dangerous Goods Safety (Road and Rail Transport of Non-explosives) Regulations 2007*.

4. Regulation 4 amended

- (1) In regulation 4 delete the definition of *Standing Council on Transport and Infrastructure*.

- (2) In regulation 4 insert in alphabetical order:

article means a manufactured item, other than a fluid or particle, that —

- (a) is formed into a particular shape or design during manufacture; and
- (b) has hazard properties and a function that are wholly or partly dependent on that shape or design,

and includes batteries, aerosols, gas-filled lighters, seat belt pre-tensioners and refrigerating machines;

Transport and Infrastructure Council means the Ministerial Council called the Transport and Infrastructure Council established with the authority of the Council of Australian Governments;

- (3) In regulation 4 in the definition of **ADG Code**:

- (a) delete “Edition 7.4” and insert:

Edition 7.5

- (b) delete “1 January 2016,” and insert:

1 March 2017,

- (4) In regulation 4 in the definition of **Competent Authorities Panel** paragraph (b) delete “Standing Council on Transport and Infrastructure;” and insert:

Transport and Infrastructure Council;

- (5) In regulation 4 in the definition of **UN approved**:

- (a) delete “United Nations”;
- (b) after “*Dangerous Goods*” insert:

annexed to the *Recommendations on the Transport of Dangerous Goods*

5. Regulation 13 amended

Delete regulation 13(a) and insert:

- (a) that are in a consignment where the aggregate quantity of dangerous goods is less than the quantity set out in the ADG Code section 1.1.1.2(3)(a); or

6. Regulations 13A and 13B inserted

At the end of Part 1 Division 3 insert:

13A. Partial exemption for transport by complying MPU

(1) In this regulation —

complying MPU means an MPU that complies with an approved code of practice (if any) in respect of the following matters —

- (a) packaging of dangerous goods carried by the MPU;
- (b) consignment procedures for dangerous goods carried by the MPU;
- (c) safety standards for vehicles and equipment;
- (d) stowage and constraint of dangerous goods carried by the MPU;
- (e) segregation of dangerous goods carried by the MPU;
- (f) bulk transfer of dangerous goods carried by the MPU;
- (g) documentation of dangerous goods carried by the MPU;
- (h) safety equipment carried by the MPU;
- (i) procedures during transport of dangerous goods by the MPU;

mobile processing unit (MPU) has the meaning given in the *Dangerous Goods Safety (Explosives) Regulations 2007* regulation 3 but does not include a trailer that is towed by a mobile processing unit.

(2) Parts 4, 5, 6, 8, 9, 10, 11, 12 and 13 and regulation 215 do not apply in respect of the transport by a person of the ingredients of an explosive if the transport is by means of a complying MPU.

13B. Special provisions for tools of trade and dangerous goods for private use

(1) This regulation applies to a load if —

- (a) for loads not including dangerous goods of UN Division 2.1 (other than aerosols), UN Division 2.3 or Packing Group 1 — the load includes an aggregate quantity of dangerous goods of less than 500; and

- (b) for loads including dangerous goods of UN Division 2.1 (other than aerosols), UN Division 2.3 or Packing Group 1 —
 - (i) the load includes an aggregate quantity of dangerous goods of less than 250; and
 - (ii) any dangerous goods of UN Division 2.3 or Packing Group 1 together constitute less than 100 of the aggregate quantity;and
 - (c) the goods are not being transported in the course of a business of transporting goods but are being transported —
 - (i) by a person who intends to use them; or
 - (ii) so they can be used for a commercial purpose.
- (2) A person transporting a load to which this regulation applies is exempt from all the obligations imposed by these regulations other than those imposed by this regulation.
- (3) A person must not transport a load to which this regulation applies unless each package in the load —
- (a) complies with the packaging requirements appropriate to the quantity of dangerous goods, as specified in Part 4; and
 - (b) is labelled and marked as specified in Part 5 Division 1; and
 - (c) is loaded, secured, segregated, unloaded and otherwise transported in such a way as to ensure that —
 - (i) its packaging remains fit for purpose; and
 - (ii) the risks to any person, property or the environment are eliminated, or if it is not practicable to eliminate the risks, are minimised to the maximum extent that is practicable.

Penalty for this subregulation: a fine of \$1 500.

- (4) If a load to which this regulation applies contains an aggregate quantity of dangerous goods of UN Class 3, 4, 5 or 6 of more than 250, a person must not transport the load —
- (a) in the passenger compartment of a vehicle; or

- (b) in an enclosed space that is not separated from the passenger compartment of a vehicle.

Penalty for this subregulation: a fine of \$1 500.

- (5) If a load to which this regulation applies contains an aggregate quantity of dangerous goods of UN Division 2.1, UN Division 2.3 or Packing Group 1 of more than 50, a person must not transport the load —
 - (a) in the passenger compartment of a vehicle; or
 - (b) in any other enclosed space in a vehicle unless the space is sufficiently ventilated to prevent an accumulation of vapours or fumes that is likely to cause risk.

Penalty for this subregulation: a fine of \$1 500.

7. Regulation 106 amended

- (1) In regulation 106(3):
 - (a) delete “with —” and insert:

with the ADG Code section 5.1.2.
 - (b) delete paragraphs (a) and (b).
- (2) Delete regulation 106(5).

8. Regulation 110 amended

- (1) In regulation 110(1):
 - (a) in paragraph (a)(i) delete “receptacle” and insert:

receptacle, other than an article,
 - (b) in paragraph (a)(ii) delete “receptacle;” and insert:

receptacle, other than an article;
- (2) Delete regulation 110(2) and insert:
 - (2) However, a load containing an aggregate quantity of dangerous goods of less than 2 000 that consists only of the following dangerous goods is not a load that must be placarded —
 - (a) dangerous goods that are packed in limited quantities;

- (b) dangerous goods that are —
 - (i) fireworks that are bon bons, party poppers or sparklers with a classification code of 1.4S;
 - (ii) domestic smoke detectors containing radioactive material;
 - (iii) lighters or lighter refills containing flammable gas;
 - (iv) fire extinguishers with 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).
- (3) In subregulation (2)(b)(i) —
classification code has the meaning given in the *Dangerous Goods Safety (Explosives) Regulations 2007* regulation 3.

9. Part 7 heading replaced

Delete the heading to Part 7 and insert:

**Part 7 — Transport operations relating to
certain dangerous goods and empty packaging**

10. Regulation 120A inserted

At the beginning of Part 7 insert:

120A. Term used: empty dangerous goods packaging

In this Part —

empty dangerous goods packaging means —

- (a) unused pre-labelled packaging intended for use with dangerous goods; and
- (b) packaging that has been used for dangerous goods and is nominally empty.

11. Regulation 121 amended

(1) In regulation 121 delete “This Part” and insert:

(1) This Part

(2) At the end of regulation 121 insert:

(2) This Part also applies to the transport of empty dangerous goods containers.

12. Regulation 122 amended

(1) In regulation 122 delete “A person” and insert:

(1) A person

(2) In regulation 122 delete the Penalty and insert:

Penalty for this subregulation: a fine of \$5 000.

(3) At the end of regulation 122 insert:

(2) A person must not consign empty dangerous goods packaging for transport if the person knows, or ought reasonably to know, that the goods are not loaded or stowed, or cannot be transported or unloaded, in accordance with the ADG Code Chapter 7.2.

Penalty for this subregulation: a fine of \$5 000.

13. Regulation 123 amended

(1) In regulation 123 delete “A person” and insert:

(1) A person

(2) In regulation 123 delete the Penalty and insert:

Penalty for this subregulation: a fine of \$5 000.

(3) At the end of regulation 123 insert:

(2) A person must not load empty dangerous goods packaging on to a vehicle for transport otherwise than in accordance with the ADG Code Chapter 7.2.

Penalty for this subregulation: a fine of \$5 000.

14. Regulation 124 amended

- (1) In regulation 124 delete “A prime” and insert:

(1) A prime

- (2) In regulation 124 delete the Penalty and insert:

Penalty for this subregulation: a fine of \$5 000.

- (3) At the end of regulation 124 insert:

(2) A prime contractor or rail operator must not transport empty dangerous goods packaging if the prime contractor or rail operator knows, or ought reasonably to know, that the transport does not comply with the ADG Code Chapter 7.2.

Penalty for this subregulation: a fine of \$5 000.

15. Regulation 125 amended

- (1) In regulation 125 delete “A person” and insert:

(1) A person

- (2) In regulation 125 delete the Penalty and insert:

Penalty for this subregulation: a fine of \$3 000.

- (3) At the end of regulation 125 insert:

(2) A person must not drive a road vehicle transporting empty dangerous goods packaging if the person knows, or ought reasonably to know, that the dangerous goods are not being transported in accordance with the ADG Code Chapter 7.2.

Penalty for this subregulation: a fine of \$3 000.

16. Regulation 152 amended

In regulation 152(a) delete “Chapter 1.1” and insert:

Chapter 11.1

17. Regulation 180 amended

In regulation 180(2)(c) delete “Standing Council on Transport and Infrastructure.” and insert:

Transport and Infrastructure Council.

18. Regulation 183 amended

In regulation 183 delete the definition of *approved responder* and insert:

approved responder, in relation to a class of dangerous goods, means a person who is approved by the Chief Officer under regulation 184 in relation to the class of dangerous goods;

19. Regulation 184 amended

- (1) In regulation 184(1) delete “quantity and of a specified description or”.
- (2) In regulation 184(2) delete “quantity and the description or”.

20. Regulation 185 amended

- (1) In regulation 185(2):
 - (a) in paragraph (a) delete “to the total quantity of dangerous goods” and insert:

to all the dangerous goods
 - (b) delete paragraph (b) and insert:

(b) be an approved responder in relation to the dangerous goods that comprise part of the load and have an emergency response contract with another person who is an approved responder in relation to the dangerous goods that comprise the remainder of the load; or
 - (c) in paragraph (c) delete “total quantity of”.
- (2) Delete regulation 185(3).

21. Regulation 186 amended

(1) In regulation 186(3):

- (a) in paragraph (a) delete “to the total quantity of dangerous goods” and insert:

to all the dangerous goods

- (b) in paragraph (b) delete “to part of the quantity of dangerous goods” and insert:

to some of the dangerous goods

- (c) in paragraph (b)(i) delete “that part of the quantity of dangerous goods,” and insert:

those dangerous goods,

- (d) in paragraph (b)(ii) delete “quantity of”;

- (e) in paragraph (b)(ii) delete “that remaining part,” and insert:

those dangerous goods,

- (f) delete paragraph (c) and insert:

- (c) if the prime contractor or rail operator is not an approved responder in relation to any of the dangerous goods that are giving rise to the dangerous situation —

- (i) ensure that an approved responder in relation to the dangerous goods that are giving rise to the dangerous situation deals with the dangerous situation as soon as practicable after it arises; and
- (ii) provide to the approved responder any assistance that is reasonably required for the approved responder to deal with the dangerous situation.

Penalty for this subregulation: a fine of \$10 000.

- (2) Delete regulation 186(4).

22. Regulation 215 amended

- (1) Delete regulation 215(1) and insert:
- (1) In this regulation —
road tank vehicle means a tank vehicle —
- (a) that is a road vehicle; and
 - (b) with a tank or demountable tank with a capacity of more than 500 L that is filled or emptied while attached to the vehicle.
- (2) In regulation 215(2):
- (a) delete “subregulations (4) and (5), a vehicle” and insert:

subregulation (5), a road tank vehicle
 - (b) delete “goods if a tank with a capacity of more than 500 L forms part of the vehicle.” and insert:

goods.
- (3) Delete regulation 215(3) and (4).
- (4) In regulation 215(5):
- (a) after “road” (1st occurrence) insert:

tank
 - (b) delete “permits a road vehicle” and insert:

permits the vehicle

23. Regulation 218 amended

Delete regulation 218(2)(d) and insert:

- (d) 1 recent photograph of the applicant’s face and shoulders;

24. Regulation 221 amended

In regulation 221(c) delete “Fourth Edition 2012, published by Austroads Ltd (ISBN 978-1-921991-01-1).” and insert:

Fifth Edition 2016, published by Austroads Ltd (ISBN 987-1-925451-10-8).

25. Regulation 227 amended

In regulation 227(1)(c) delete “Fourth Edition 2012, published by Austroads Ltd (ISBN 978-1-921991-01-1).” and insert:

Fifth Edition 2016, published by Austroads Ltd (ISBN 987-1-925451-10-8).

26. Regulation 229 amended

- (1) In regulation 229 insert in alphabetical order:

converter dolly has the meaning given in the *Road Traffic (Vehicles) Regulations 2014* regulation 3;

- (2) In regulation 229 in the definition of *vehicle* delete paragraph (b) and insert:

(b) a converter dolly.

Note: The heading to amended regulation 229 is to read:

Terms used**27. Regulation 244 amended**

- (1) In regulation 244(1) delete “authority and returning the licence to that authority.” and insert:

authority.

- (2) After regulation 244(2) insert:

- (3) A person must not produce for inspection a licence that has been surrendered.

Penalty for this subregulation: a fine of \$10 000.

28. Regulation 254 amended

- (1) Delete regulation 254(2)(b) and insert:

(b) if the proposed action is to suspend the licence — states the proposed suspension period (either as a period of time or by reference to a future event); and

(2) Delete regulation 254(3)(b) and insert:

- (b) suspend the licence for not longer than the suspension period stated in the notice; or

29. Part 23 Division 5 inserted

At the end of Part 23 insert:

**Division 5 — Provisions for *Dangerous Goods Safety*
(*Road and Rail Transport of Non-explosives*) Amendment
Regulations 2017**

286. Term used: commencement day

In this Division —

commencement day means the day on which the *Dangerous Goods Safety (Road and Rail Transport of Non-explosives) Amendment Regulations 2017* regulation 3 comes into operation.

287. Assessing fitness to drive

(1) In this regulation —

previous regulation 221(c) means regulation 221(c) as in force immediately before commencement day.

(2) A certificate that complies with previous regulation 221(c) and issued within 1 year after commencement day is taken to be a certificate that complies with regulation 221(c).

288. Transitional provision for offence involving compliance with ADG Code

A person does not commit an offence against these regulations in relation to the transport of dangerous goods by road or rail if —

- (a) the offence relates to non-compliance with the ADG Code; and
- (b) the transport takes place during the period that begins on commencement day and ends on 1 March 2018; and
- (c) the person transports the goods in accordance with the ADG Code as it was defined in regulation 4 immediately before commencement day.

30. Schedule 1 amended

In Schedule 1 in the Table:

(a) delete item 1 and insert:

1.	Regulation 13B(3)	100	500
1A.	Regulation 13B(4)	100	500
1B.	Regulation 20(2)	600	3 000

(b) in item 25 delete “123” and insert:

123(1)

(c) after item 25 insert:

25A.	Regulation 123(2)	300	—
------	-------------------	-----	---

(d) delete items 28 and 64.

(e) after item 71 insert:

71A.	Regulation 244(3)	600	3 000
------	-------------------	-----	-------

R. KENNEDY, Clerk of the Executive Council.