

Dangerous Goods Safety (Road and Rail Transport of Non-explosives) Amendment Regulations (No. 2) 2015

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 (No. 2) 2015*.

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 1 January 2016.

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 ***ADG Code***.
- (2) In regulation 4 insert in alphabetical order:

ADG Code means the *Australian Code for the Transport of Dangerous Goods by Road and Rail* (also called the Australian Dangerous Goods Code) published by the National Transport Commission, Edition 7.4 (ISBN 978-1-921604-69-0), as in effect on 1 January 2016, including (for the avoidance of doubt) its appendices;

driver licensing authority means an Australian driver licensing authority as defined in the *Road Traffic (Authorisation to Drive) Act 2008* section 3(1);

driving licences register means a register kept by the driver licensing authority of a State or Territory that records information about driver licences granted under a law of that State or Territory;

provisional licence has the meaning given in the *Road Traffic (Authorisation to Drive) Act 2008* section 3(1);

5. Regulation 35 amended

In regulation 35:

- (a) in paragraph (a) delete “tubes and bundles” and insert:

tubes or bundles

- (b) in paragraph (b) delete “cylinders and tubes.” and insert:

cylinders or tubes.

6. Regulation 112 amended

- (1) At the end of regulation 112(1) insert:

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

- (2) At the end of regulation 112(2) insert:

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

- (3) At the end of regulation 112(3) insert:

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

- (4) In regulation 112(4) delete the Penalty.

- (5) After regulation 112(4) insert:

- (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.

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

7. Regulation 113 amended

- (1) At the end of regulation 113(1) insert:

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

- (2) At the end of regulation 113(2) insert:

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

- (3) At the end of regulation 113(3) insert:

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

- (4) In regulation 113(4) delete the Penalty.

- (5) After regulation 113(4) insert:

- (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 ought reasonably to know, is false or misleading in a material particular.

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

8. Regulation 114 amended

- (1) At the end of regulation 114(1) insert:

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

- (2) At the end of regulation 114(2) insert:

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

- (3) At the end of regulation 114(3) insert:

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

- (4) In regulation 114(4) delete the Penalty.

- (5) After regulation 114(4) insert:

- (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 ought reasonably to know, that the placarding is false or misleading in a material particular.

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

9. Regulation 115 amended

- (1) At the end of regulation 115(1) insert:

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

- (2) At the end of regulation 115(2) insert:

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

- (3) In regulation 115(3) delete the Penalty and insert:

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

- (4) After regulation 115(3) insert:

- (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 ought reasonably to know, that the placarding is false or misleading in a material particular.

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

10. Regulation 166 amended

- (1) In regulation 166(2) delete “with the ADG Code Part 13.” and insert:

with —

- (a) the ADG Code Part 13; or
- (b) subregulations (3) and (4).

- (2) In regulation 166(2) delete the Penalty and insert:

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

- (3) After regulation 166(2) insert:

- (3) For the purposes of subregulation (2)(b), the driver may alert other road users of the hazard by immediately placing and leaving on the road, in accordance with subregulation (4), 3 portable warning signs that comply with AS 3790-1992 (Portable

Warning Triangles for Motor Vehicles) published by Standards Australia and that are in good order.

- (4) The portable warning signs must be placed as follows —
- (a) one sign must be placed in advance of the vehicle, one to the rear of the vehicle and one beside the vehicle on the side nearer to the centre of the road;
 - (b) wherever practicable, the signs must be placed so that at least one sign is visible to an approaching driver at a distance of not less than 200 m;
 - (c) if the speed limit on the road is lower than 80 km/h, the signs placed in advance and to the rear of the vehicle must be placed at a distance of between 50 m and 150 m from the vehicle and the third sign must be placed at the side of the vehicle in such a position as to give reasonable warning to drivers approaching from either direction;
 - (d) if the speed limit on the road is 80 km/h or higher, the signs placed in advance and to the rear of the vehicle must be placed at a distance of between 200 m and 250 m from the vehicle and the third sign must be placed at the side of the vehicle in such a position as to give reasonable warning to drivers approaching from either direction.

11. Regulation 218 amended

In regulation 218(1) delete “may apply to a licensing authority for a dangerous goods driver licence.” and insert:

may apply to a licensing authority for a dangerous goods driver licence if the person holds a driver licence (other than a provisional licence).

12. Regulation 219 amended

- (1) In regulation 219(1)(a) delete “driver licences register” and insert:

driving licences register

- (2) In regulation 219(3)(a) delete “driver licences register” and insert:

driving licences register kept by the driver licensing authority

13. Regulation 267A inserted

At the end of Part 19 Division 2 insert:

267A. Reference of determination, exemption or approval to CAP for the purposes of mutual recognition

The Chief Officer may refer to CAP any determination, exemption or approval that has been made by a corresponding authority that the Chief Officer considers to be a determination, exemption or approval that should be given effect in all participating jurisdictions, or participating jurisdictions including this State, for the purposes of regulation 263, 264 or 265.

14. Part 23 Division 4 inserted

At the end of Part 23 insert:

Division 4 — Provision for *Dangerous Goods Safety (Road and Rail Transport of Non-explosives) Amendment Regulations (No. 2) 2015*

285. 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 1 January 2016 and ends on 31 December 2016; and
- (c) the person transports the goods in accordance with the ADG Code as it was defined in regulation 4 immediately before the *Dangerous Goods Safety (Road and Rail Transport of Non-explosives) Amendment Regulations (No. 2) 2015* regulation 4 came into operation.

15. Schedule 1 amended

In Schedule 1 in the Table:

- (a) in item 22 delete “112” and insert:

112(1)

(b) after item 22 insert:

23A.	Regulation 112(2)	600	3 000
23B.	Regulation 112(3)	600	3 000
23C.	Regulation 112(5)	600	3 000

N. HAGLEY, Clerk of the Executive Council.
