

DANGEROUS GOODS

THE LAND TRANSPORT RULE: DANGEROUS GOODS 2005, KNOWN AS THE DANGEROUS GOODS RULE ("RULE"), SETS OUT THE REQUIREMENTS FOR THE SAFE TRANSPORT OF DANGEROUS GOODS IN NEW ZEALAND. THE RULE COVERS THE PACKAGING, IDENTIFICATION AND DOCUMENTATION OF DANGEROUS GOODS, THE SEGREGATION OF INCOMPATIBLE GOODS, TRANSPORT PROCEDURES, TRAINING, AND RESPONSIBILITIES OF THOSE INVOLVED IN THE TRANSPORT OF DANGEROUS GOODS.

New Zealand Standard 5433

It is essential for anyone consigning or carrying dangerous goods to have a knowledge and understanding not only of the Rule, but also of the **New Zealand Standard 5433:2012** entitled "Transport of Dangerous Goods on Land". It classifies and lists all the dangerous goods and contains detailed information such as any special provisions that apply to particular dangerous goods.

Who is affected?

The Rule applies to the transport on land of:

- (a) Substances or articles that are classed as dangerous goods, and
- (b) Substances or articles declared to be dangerous goods for transport on land; and
- (c) Empty receptacles that have contained substances or articles that have either been classed or declared to be dangerous goods.

The Rule imposes duties on any person or organisation involved in an activity related to the transport of dangerous goods. They must undertake that activity safely and in compliance with the Rule. This includes the consignor of dangerous goods as well as the loader of the vehicle and the driver or operator.

Duties of the consignor

A consignor includes manufacturers, importers and distributors of dangerous goods. It is a consignor's responsibility to ensure:

1. The dangerous goods are properly packaged.
2. Packages of dangerous goods display the appropriate labels and markings that identify the goods as dangerous goods.
3. The appropriate dangerous goods documentation is supplied and contains the correct information.
4. Emergency response information is provided.
5. The dangerous goods documentation is passed to the next person responsible for the transport or handling of the dangerous goods.

Duties of the loader

A person who loads a vehicle or freight container used to transport dangerous goods must ensure that:

1. The condition of the packaging, labelling and marking is checked for obvious defects.
2. A load plan or Container Packing Certificate or Vehicle Packing Certificate is prepared.
3. Any special loading instructions given in the dangerous goods documentation are complied with.
4. Mixed loads are segregated as required.
5. The vehicle or freight container is placarded as required.
6. The vehicle is securely loaded as required.
7. They have undergone appropriate training for the transport of the dangerous goods.
8. The dangerous goods documentation is passed to the next person responsible for the transport or handling of the dangerous goods.

Duties of drivers or operators

A person who is driving or operating a road vehicle that is transporting dangerous goods must ensure that:

1. The vehicle or load is placarded as required, in particular:
 - (i) The placards are affixed to the vehicle or the load; and
 - (ii) The placards are affixed in the correct positions on the vehicle or load; and
 - (iii) The correct placards are displayed for the classes or divisions of dangerous goods loaded on the vehicle; and
 - (iv) The placards are not displayed when the vehicle is not transporting dangerous goods.
2. Transport procedures are complied with as required, in particular:
 - (i) The vehicle is not continuously parked for more than 18 hours unless it is in a depot; and
 - (ii) The vehicle is securely loaded; and
 - (iii) Emergency response information is carried; and
 - (iv) The vehicle stops at railway level crossings; and
 - (v) Traffic signs indicating prohibition or restrictions on the transport of dangerous goods are complied with.
3. They have undergone appropriate training for the transport of the dangerous goods.
4. They have a valid dangerous goods endorsement on their driver's licence or a current approved handler test certificate showing that they have passed a course on the transport of dangerous goods.

5. Dangerous goods documentation is:
 - (i) Carried as required; and
 - (ii) Secured in the dangerous goods holder; and
 - (iii) Made available to a dangerous goods enforcement officer, a police officer, a HSNO enforcement officer or emergency services personnel immediately on request; and
 - (iv) Passed to the next person responsible for the transport or handling of the dangerous goods.
6. If the dangerous goods are being transported under direct supervision of a person who holds a dangerous goods endorsement on their licence, that the supervisor holds a dangerous goods endorsement on their driver licence.
7. The schedule of quantities is amended to record the delivery or collection of dangerous goods.
8. The load plan is amended to record the delivery or collection of dangerous goods and any other goods from which dangerous goods must be segregated.

Limited Quantities

There is provision in the Rule for dangerous goods in small quantities to be transported under different conditions. These provisions may apply if you are for example a courier driver or if you deliver small quantities of consumer products. If the dangerous goods fall within the limits to be considered "*Dangerous Goods in Limited Quantities and Consumer Commodities*" there are still requirements for carrying them. These include:

- (a) inner packages must be contained in outer packaging;
- (b) the outer packaging must not weigh more than:
 - (i) 20kg, if the outer packaging is a shrink-wrapped or stretch-wrapped tray; or
 - (ii) 30kg, if the outer packaging is any other material.
- (c) fragile inner packaging must not be contained within outer packaging that is a shrink-wrapped or stretch-wrapped tray;
- (d) the packaging must comply with standard packaging requirements for dangerous goods under the Rule;
- (e) the dangerous goods (or consumer com-

- modities) must be correctly identified in accordance with standard requirements for identification of dangerous goods under the Rule;
- (f) the dangerous goods must be transported with the required documentation and the abbreviation "DGLQ" or "LTD QTY" or similar, or the words "Consumer Commodities" as applicable;
- (g) inner packages of dangerous goods that have to be segregated from other dangerous goods or food items must not be contained in the same outer packaging.

The Rule has tables setting out the maximum quantity of each type of dangerous good for it to be considered "*Dangerous Goods in Limited Quantities*" or "*Consumer Commodities*".

Small Packages

There are also provisions in the Rule for dangerous goods in small packages to be transported under different conditions.

This only applies to small packages aggregated to a total quantity of 50 litres, or 50kg, including the weight of the packaging, on a vehicle or vehicle combination. Such small packages can be transported without having to comply with the requirements of the Rule for:

- (a) Dangerous goods documentation;
- (b) Segregation from dangerous goods, other than explosives not specified in the Rule, if the small packages are contained in separate outer packaging or if the small packages are gas cylinders;
- (c) Segregation from food items, if the small packages are contained in separate outer packaging or if the small packages are gas cylinders;
- (d) The display of placards on the vehicle;
- (e) A dangerous goods endorsement on driver licence.

If the aggregate quantity of small packages on a vehicle or vehicle combination exceeds 50 litres, or 50kgs including the weight of the packaging, the relevant requirements of all sections of the Rule applies to the part of the load that exceeds 50 litres or 50kg.

Enforcement

An enforcement officer who has good cause to suspect a breach of the rules relating to the carriage of dangerous goods involving a vehicle may order the driver to stop the vehicle and may also order the vehicle to remain stopped or be moved to a place of safety approved by the officer, until the officer is satisfied that the breach has been rectified. An officer may also, at any reasonable time, go into any premises

where goods are loaded or unloaded if the officer has reason to believe that any of the goods may be dangerous goods, for the purpose of inspection to ensure compliance with the Rule.

The officer may:

1. Take samples of a substance;
2. Open containers or packages, including secured or sealed containers or packages, to inspect the contents;
3. Take measurements and sketches;
4. Inspect any documents or other records relating to the obligations imposed under the rules;
5. Require the production of any documents or information relevant to the purpose of the inspection; and
6. Take copies of the documents or information or extracts from those documents or information;

Defences

It is a defence for the loader, driver or operator of a vehicle that they did not know and could not reasonably be expected to have known that the load carried by the vehicle included dangerous goods.

Penalties

If a driver is convicted of an offence against the Land Transport Act 1998 and the offence relates to safety, the court may disqualify the driver from holding or obtaining a driver's licence. The court may also fine a driver for driving without a driver's licence or endorsement and order the driver to attend an approved dangerous goods driver licence endorsement course.

The penalty for a breach of the Rule may be an infringement fee (an instant fine), or the police may issue a summons and require the person to attend Court. The Land Transport (Offences and Penalties) Regulations 1999 provides the infringement fee and the maximum fine a court may impose on conviction.

This summary is intended only as a guide. It is not a full summary of the law relating to dangerous goods.

If you have specific questions, or need legal advice on a particular issue, please contact Cathy Fisher or Shafraz Khan at Fortune Manning Lawyers.

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The following tables set out various offences for a consignor, a loader and a driver of a vehicle, the maximum fines that can be imposed on conviction for both an individual and a body corporate (such as a company) and the infringement fines which can be issued. It is not a complete list of offences.

Offences for a consignor

Description of offence	Maximum fine on conviction for an individual	Maximum fine on conviction for a body corporate	Infringement fine for an individual	Infringement fine for a body corporate
Failing to ensure dangerous goods properly packaged	\$5,000	\$25,000	\$1,000	\$5,000
Failing to display labels and marks to identify the goods as dangerous goods	\$10,000	\$50,000	\$2,000	\$10,000
Failing to ensure packages of dangerous goods display the correct labels and marks	\$5,000	\$25,000	\$1,000	\$5,000
Failing to provide dangerous goods documentation	\$10,000	\$50,000	\$2,000	\$10,000
Failing to ensure dangerous goods documentation contains the correct information	\$5,000	\$25,000	\$1,000	\$5,000
Failing to ensure that emergency response information is supplied	\$5,000	\$25,000	\$1,000	\$5,000
Failing to ensure dangerous goods documentation is passed to the next person responsible for the transport or handling of the dangerous goods	\$7,500	\$37,500	\$1,500	\$7,500

Offences for the loader of the vehicle

Description of offence	Maximum fine on conviction for an individual	Maximum fine on conviction for a body corporate	Infringement fine for an individual	Infringement fine for a body corporate
Failing to ensure condition of packaging, labelling, and marking is checked for obvious defects	\$2,500	\$10,000	\$250	\$750
Failing to ensure that load plan, or container, or vehicle packing certificate is prepared	\$5,000	\$25,000	\$1,000	\$5,000
Failing to ensure compliance with any special loading instructions in dangerous goods documentation	\$5,000	\$25,000	\$1,000	\$5,000
Failing to ensure mixed loads are segregated as required	\$5,000	\$25,000	\$1,000	\$5,000
Failing to ensure that vehicle or freight container is placarded as required	\$5,000	\$25,000	\$1,000	\$5,000
Failing to ensure vehicle is securely loaded	\$3,500	\$15,000	\$750	\$2,500
Failing to have undergone specific training on the transport of dangerous goods	\$2,500	\$10,000	\$500	\$1,000
Failing to ensure dangerous goods documentation is passed to the next person responsible for the transport or handling of the dangerous goods	\$7,500	\$37,500	\$1,500	\$7,500

Offences for the driver or operator of the vehicle

Description of offence	Maximum fine on conviction for an individual	Maximum fine on conviction for a body corporate	Infringement fine for an individual	Infringement fine for a body corporate
Failing to ensure the vehicle or load is placarded to indicate that it contains dangerous goods	\$7,500	\$37,500	\$1,500	\$7,500
Failing to ensure placards are affixed in the correct position on the vehicle or load	\$3,500	\$15,000	\$750	\$2,500
Failing to ensure the correct placards are displayed for the classes or divisions of goods located on the vehicle	\$5,000	\$25,000	\$1,000	\$5,000
Failing to ensure the vehicle is not parked for more than 18 hours unless it is in a depot	\$2,500	\$10,000	\$500	\$1,000
Failing to ensure the vehicle transporting dangerous goods is securely loaded	\$3,500	\$15,000	\$750	\$2,500
Failing to ensure required emergency response information is carried	\$2,500	\$10,000	\$500	\$1,000
Failing to ensure vehicle carrying dangerous goods stops at railway level crossing	\$2,500	\$10,000	\$500	\$1,000
Failing to ensure traffic signs indicating prohibitions or restrictions on the transport of dangerous goods are complied with	\$2,500	\$10,000	\$500	\$1,000
Failing to have undergone specific training on the transport of dangerous goods	\$2,500	\$10,000	\$500	\$1,000
Failing to ensure that driver has current approved handler test certificate if required	\$1,000	\$1,000	\$400	\$400
Failing to ensure driver is supervised by a person who holds a current dangerous goods endorsement on his or her driver licence	\$1,000	\$1,000	\$400	\$400
Failing to ensure that current approved handler test certificate is carried when driving and is made available to dangerous goods enforcement officer, police officer, or HSNO enforcement officer immediately on request	\$1,000	\$1,000	\$55	\$55
Failing to ensure dangerous goods documentation is carried	\$2,500	\$10,000	\$750	\$1,500
Failing to ensure dangerous goods documentation is secured in dangerous goods holder	\$2,500	\$10,000	\$750	\$1,500
Failing to ensure dangerous goods documentation is made available to dangerous goods enforcement officer or emergency services personnel immediately on request	\$2,500	\$10,000	\$750	\$1,500
Failing to ensure dangerous goods documentation is passed to the next person responsible for the handling or the transport of the dangerous goods	\$7,500	\$37,500	\$1,500	\$7,500
Failing to ensure schedule of quantities is amended to record collection or delivery of dangerous goods	\$2,500	\$10,000	\$250	\$750
Failing to ensure load plan is amended to record collection or delivery of dangerous goods and other goods from which dangerous goods are to be segregated	\$2,500	\$10,000	\$250	\$750