

COMESA-EAC- SADC TRIPARTITE
Transport of Dangerous Goods by Road

MODEL LAW

Version 3 Draft 1

2018-04-07

TRANSPORT OF DANGEROUS GOODS BY ROAD BILL

(As introduced in the [Click here to enter text.](#))

(MINISTER OF [Click here to enter text.](#))

[B Enter bill number. – 2018]

ACT

(Signed by the President)

To provide for the safe transportation of dangerous goods by road in accordance with the United Nations Recommendations on the Transport of Dangerous Goods – Model Regulations; to repeal the [Click here to enter text.](#) (Act [Click here to enter text.](#) of [Click here to enter text.](#)); and to provide for matters connected therewith.

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BE IT ENACTED by the Parliament of Click here to enter text. as follows:

1 Definitions

In this Act, unless the context otherwise indicates-

“consignee” means the person or body of persons who accepts dangerous goods which have been transported in a vehicle;

“consignor” means the person or body of persons who offers dangerous goods for transport in a vehicle, and includes the manufacturer or the product owner or custodian or the party that contracts the operator or their representative duly appointed as such;

“dangerous goods” means goods that can pose a significant risk to health and safety, or to property, or the environment during transport and that are listed in the United Nations Model regulations on the transport of dangerous goods by road and include waste classified in terms of SANS “Transport of Dangerous Goods by Road”.

“dangerous goods inspector” means a person appointed as such under section 10 of this Act

“emergency action response system” means a system designed to enable emergency crews arriving on the scene of an incident to determine, from coded placarding on the vehicle, or failing that, from the transport emergency card or dangerous goods declaration, the identity of the cargo carried, the nature of the hazard presented and the emergency action to be taken to neutralize the danger, and is as prescribed STANS 'Transportation of dangerous goods by road'

“exempt quantities” means those quantities that are exempt in accordance with STANS 'Transportation of dangerous goods by road'

“incident” means an occurrence of any extra-ordinary condition or event during the transport or temporary storage of dangerous goods by road, which includes incidents such as leakage, spillage, fire or other unplanned events that could endanger the public or potentially cause serious pollution of or detriment to the environment whether immediately or delayed, and which results in a reduction in road capacity, or creates a hazard for road users, or if the authorities are involved;

“mixed load” means a compatible load of dangerous goods of different classes or different goods of the same class loaded on a vehicle

“premises” means land or any building or other structure and includes a motor vehicle;

“qualified person” means a person trained to perform any specific task, nominated by the operator, consignor or consignee;

“**Transport emergency card**” means a card which is generated in accordance with STANS ‘Transport of Dangerous Goods by Road’.

2 Application

(1) Subject to subsection (2), this Part applies to all vehicles in or on which dangerous goods are transported on a public road and to such dangerous goods, whether or not that vehicle is registered in [*country*] and wherever those goods originate from.

(2) This Part does not apply in respect of dangerous goods which are transported in quantities which do not exceed the exempt quantities.

3 Other legislation applicable

This Act must be interpreted alongside any other law or standard applicable to the transportation of the dangerous goods, but if a provision of that law conflicts with the provisions of this Act, this Act prevails except where the other law or standard is specific to the dangerous goods in question.

4 Exemptions

(1) The Minister may, after consultation with the competent authority concerned, either generally or subject to such conditions as he or she considers fit, by way of notice in the Gazette, grant exemption in respect of a specific consignment of dangerous goods to be transported by any vehicle, class or description of vehicle, from any of or all the provisions of this Part and may, subject to giving reasonable notice, amend or cancel any exemption so granted.

(2) The transport of dangerous goods listed in STANS xxx is exempt from the provisions of this Act regarding quantity or in its entirety, or the quantities of a multiload as determined by the factor as indicated in that Code of Practice, and for the purpose of this Act, one litre of a substance, is equal to one kilogram of a substance.

5 Duties of operator, driver, consignor and consignee

The operator, driver, consignor and consignee must, subject to any provision to the contrary contained in this Part, comply with the requirements with respect to the transportation of dangerous goods in or on a vehicle on a public road, as determined in the STANS ‘Transport of

Dangerous Goods by Road’.

6 Dangerous goods to be compatible

The consignor shall ensure that a multiload of dangerous goods transported on a vehicle is compatible as prescribed SANS – ‘Transport of Dangerous Goods by Road’

7 Authority for classification and certification of dangerous goods

(1) If there is any doubt as to the appropriate classification of dangerous goods, such dangerous goods must be classified by a person or body of persons approved by the Minister.

(2) Dangerous goods must be presented by the consignor for transportation packed in packaging that has been approved by a person or body of persons approved by the Minister and marked in the manner contemplated in STANS ‘Transportation of Dangerous Goods by Road’.

8 Driver to undergo training

An operator must ensure that the driver of a vehicle of which he or she is the operator, and which is transporting dangerous goods, obtains professional driving permits as contemplated in [*insert reference to domestic law regulating professional driving permit*] and that operator must train that driver in accordance with the syllabus prescribed by the STANS ‘Transportation of Dangerous Goods by Road’.

9 Documents to be held by driver

(1) The driver of a vehicle transporting dangerous goods must ensure that such Transport emergency cards and dangerous goods declarations as required in terms of this Act, and which pertain to the dangerous goods carried on that vehicle are held in the designated space in the cab of that vehicle while those dangerous goods are being transported.

(2) The driver of a vehicle transporting dangerous goods must produce -

- (a) a professional driving permit; and
- (b) the document's referred to in sub section (1),

when he or she is driving vehicle transporting dangerous goods and is required by an authorised

officer to do so.

10 Dangerous goods inspectorate

(1) The Minister must establish a dangerous goods inspectorate who may employ dangerous goods inspectors.

(2) The Minister may in establishing a dangerous goods inspectorate, do so in conjunction with any other country and that inspectorate has jurisdiction over the operators registered in terms of *[insert reference to the domestic law that regulates inter regional transport]*.

(3) The minimum requirements for appointment as a dangerous goods inspector are that the applicant-

- (a) has obtained a qualification as determined by the Minister;
- (b) is, in the opinion of the Minister, a fit and proper person; and
- (c) has undergone training in relation to the laws, policy and operational requirements applicable to the transportation of dangerous goods.

(4) A certificate of appointment must be issued to a dangerous goods inspector appointed under subsection (1).

(5) A dangerous goods inspector must be issued with a *[card or badge or something similar]* that is evidence of his or her appointment as such and that inspector must carry that *[card, badge or something similar]* with him or her in the course of his or her duties.

11 Powers and Duties of Dangerous Goods Inspectorate

(1) The dangerous goods inspectorate must-

- (a) evaluate consignors, consignees, manufacturers and operators to determine their compliance with the provisions of this Act;
- (b) conduct investigations into the procedures followed by a person or body of persons in relation to the requirements for the transportation of dangerous goods;
- (c) keep a database of:
 - (i) every incident in accordance with STANS ‘Transportation of Dangerous Goods by Road’;

- (ii) dangerous goods regulated under this Act and exempt quantities thereof;
 - (iii) routes frequently used for the transportation of dangerous goods;
 - (iv) operators transporting dangerous goods; and
 - (v) offences and violations related to the transportation of dangerous goods;
- (d) advise the Minister on matters related to the transportation of dangerous goods;
 - (e) assist traffic officers in the execution of their powers and duties in respect of the transportation of dangerous goods; and
 - (f) keep abreast with international developments concerning the transportation of dangerous goods.

(2) A dangerous goods inspector employed by the dangerous goods inspectorate may enter any motor vehicle on or in which any substance suspected to be dangerous goods is or is suspected to be transported, or enter any premises on or in which any other operation or activity relating to such transport with or in connection with any such a substance is or is suspected to be carried out, and may, subject to the provisions of the Act-

- (a) inspect or search the vehicle or premises, or examine, or extract, take and remove samples of, or direct a person or body of persons approved by the Minister to examine, extract or remove any substance found in or on that premises, or any packaging, receptacles, unit loads, bulk containers and bulk transportation equipment or other objects so found which is or is suspected to be used, or intended for use, for, in or in connection with the transport of dangerous goods, or for, or in connection with any other operation or activity with or in connection with the transport of dangerous goods, or open or direct a person or body of persons approved by the Minister to open any packaging, receptacles, unit loads, bulk containers and bulk transportation equipment suspected to contain such dangerous goods;
- (b) detain a vehicle which is on reasonable grounds suspected of not complying with this Act, for the purposes of exercising any of the powers of a dangerous goods inspector under this section;

- (c) demand from the driver, operator or any person in charge of the vehicle or premises, to produce any document prescribed under this Act;
 - (d) demand any information regarding any substance or packaging, receptacles, unit loads, bulk containers, bulk transportation equipment or other objects from any person or body of persons in whose possession or charge it is or from the operator or person or body of persons in charge of the vehicle or premises;
 - (e) weigh, count, measure, mark or seal, or direct a person or body of persons approved by the Minister to weigh, count, measure, mark or seal, any substance or packaging, receptacles, unit loads, bulk containers, bulk transportation equipment or other objects or lock, secure, seal or close any door or opening giving access to it;
 - (f) examine or make copies of, or take extracts from, any book, statement or document found in or on the vehicle or premises and which refers or is suspected to refer to the substance, packaging, receptacles, unit loads, bulk containers, bulk transportation equipment or other objects;
 - (g) demand from the operator or any person or body of persons in charge of the vehicle or premises or from any person or body of persons in whose possession or charge a book, statement or document contemplated in paragraph (g), an explanation of any entry therein;
 - (h) inspect any operation or process carried out in or upon the vehicle or premises in connection with any activity referred to in paragraph (a);
 - (i) demand any information regarding the operation or process referred to in paragraph (h) from the operator or person or body of persons in charge of the vehicle or premises or from any person or body of persons carrying out or in charge of the carrying out of that operation or process; and
 - (j) seize any substance, book, statement or document or other packaging, receptacles, unit loads, bulk containers, bulk transportation equipment or other objects which appears to provide proof of a contravention of any provision of this Act.
- (3) If a dangerous goods inspector intends to exercise or perform any power, duty

or function under this Act in the presence of any person or body of persons affected thereby, he or she must, on demand, produce the *[badge, card or something similar]* issued to him or her under section xx.

(4) Notwithstanding the provisions of this section, a dangerous goods inspector or an approved person or body of persons may not open dangerous goods packages, or unload or decant dangerous goods unless-

- (a) the operator was duly notified;
- (b) such unloading, decanting or opening of packages is authorised by the local authority concerned, if any; and
- (c) a qualified person supervises the unloading, decanting or opening of packages;

(5) If the dangerous goods inspectorate finds after an investigation in terms of this Act, that an operator, consignor or consignee committed an offence in terms of this Act or does not comply with this Act, the inspectorate must report that offence or non-compliance to the *[body that administers TRIPS within the country]* for the appropriate action in terms of the Cross-Border Road Transport Act *[Insert country specific Act no.]*.

12 Powers, duties and functions of traffic officers in relation to dangerous goods

(1) A traffic officer may, accompanied by the driver, enter any motor vehicle on or in which any substance suspected to be dangerous goods is or is suspected to be transported, or, accompanied by a qualified person, enter any premises on or in which any other operation or activity relating to such transport with or in connection with any such substance is or is suspected to be carried out, and may, subject to the provisions of the Act-

- (a) demand from the driver, operator or any person or body of persons in charge of the vehicle or premises, to produce any document prescribed under this Act;
- (b) demand any information regarding any substance or packaging, receptacles, unit loads, bulk containers, bulk transportation equipment or other objects from any person or body of persons in whose possession or charge it is or from the operator or person or body of persons in charge of the vehicle or premises;
- (c) examine or make copies of, or take extracts from, any book, statement or document found in or on the vehicle or premises and

which refers or is suspected to refer to the substance, packaging, receptacles, unit loads, bulk containers, bulk transportation equipment or other objects.

(2) Notwithstanding the provisions of this section, a traffic officer or a person or body of persons approved by the Minister may not open dangerous goods packages, unload or decant dangerous goods unless-

- (a) the operator was duly notified;
- (b) a qualified person supervises the unloading, decanting or opening of packages; and
- (c) the dangerous goods inspectorate is notified.

13 Presumption regarding the transportation of dangerous goods and the quantity of such goods

Where in any prosecution for an alleged contravention of any provision of this Act, it is alleged that dangerous goods, as listed in STANS ‘The Transport of Dangerous Goods by Road’, were transported and that those goods were more than the exempt quantity, as stipulated in in that standard-

- (a) any document or a copy or extract out of any document, purporting to have been issued by the consignor of those goods or operator of that vehicle, stating the nature of goods and the quantity thereof; or
- (b) any extract from the packaging of any goods transported, identifying or marking those goods as dangerous goods, and any UN number reflected on that packaging,
- (c) is presumed, in absence of evidence to the contrary, to be prima facie proof that those goods were dangerous goods and the quantity of those goods exceeded the exempt quantity.

14 Short title and commencement

This Act may be called the “Transport of Dangerous Goods by Road Act” and commences on a date determined by the Minister in the *[insert reference to the country’s official gazette]*.

SCHEDULE

Column 1	Column 2	Column 3 amendment
No. and year of law	Title	Extent of repeal or amendment