



**AUSTRALIAN CAPITAL TERRITORY
LEGISLATIVE ASSEMBLY**

DANGEROUS GOODS ACT 1975

DANGEROUS GOODS REGULATION (AMENDMENT)

EXPLANATORY MEMORANDUM

SUBORDINATE LAW NO. 14 of 2001

EXPLANATORY STATEMENT

Purpose of the Act

The *Dangerous Goods Act 1975* (the Act) relates to explosives and other dangerous goods. Section 49 of the Act allows the Executive to repeal or amend any of the provisions of the regulations in their application in the Territory.

Overview of the amendments

The amendments are designed to improve ACT WorkCover's ability to regulate the sale and supply of shopgoods fireworks. In summary the amendments have the following effect:

- ensure that anyone who buys fireworks for use in the ACT or another jurisdiction is properly authorised to receive fireworks;

- ensure that retailers selling fireworks to the holder of an interstate licence or permit is told of their obligations, in particular requiring the seller to inform the buyer that the goods must be exported from the Territory within six hours of receipt;
- require that retailers record details of fireworks permits or licences;
- require that the kinds (including size) and quantities of fireworks that a display permit holder can use in a public displays are properly notified to the Chief Inspector of Dangerous Goods;
- enable the Chief Inspector of Dangerous Goods to place a limit on the kinds (including size) and quantities of fireworks used in a public display;
- restrict the amount of shopgoods fireworks, that can be received under a permit without the requirement for specialised storage to 50kg, and remove the exemption that previously allowed persons to keep up to 1000kg without a license to keep; and
- align the transport of shopgoods fireworks with the general requirements for the transport of dangerous goods.

The regulations will commence on the day they are notified in the Gazette.

Outline of Amendments

Paragraph 21(2)(c) is amended to ensure that the regulation applies to any fireworks not just public display fireworks.

Subclause 41(1) is amended to take into account the new definition of *sell* as recently amended by the *Statute Law Amendment Act 2001*.

Subclause 41(2) is amended to clarify restrictions in relation to the import, manufacture and sale of certain fireworks and to remove some exemptions relating to these fireworks. However, holders of import and manufacturing licences can only sell fireworks to persons specifically authorised to receive these kinds of fireworks.

Subclause 41(7) is amended to make it clear that the defendant must satisfy both paragraphs to succeed in the defence and to restrict the defence to the importation of fireworks.

The definition of model rocket propellant device in subclause 41(8) is omitted and has been included in the new dictionary inserted by schedule 1, amendment 1.57.

Clause 51A is inserted to clarify the rights and responsibilities of selling to holders of interstate licences and permits. The clause sets out the conditions of sale on the buyer and seller. In particular requiring the seller to inform the buyer of the sale conditions, including that the goods must be exported from the Territory within six hours of receipt.

Clause 54 is remade as Clauses 54 to 56 to clarify the provisions relating to the issue of public display fireworks permits, the requirements for conducting a display, including notification requirements. Displays can now only be conducted by the general permit holder or under the permit holders supervision.

The new provisions ensure that the kinds and sizes of fireworks to be used in public displays are properly notified to the Chief Inspector of Dangerous Goods so that the permit holder's competency to use those fireworks can be assessed. Criteria for the applying conditions are included and the authority given by a permit made clear.

New Clause 57 is inserted and incorporates the following:

- Old Clause 65G has become Subclause 57(1);
- Old Paragraph 65J(4) has become Subclause 57(2);
- Old Subclause 65J(3) has become Subclause 57(3);
- Old Clause 65K has become Subclause 57(4); and
- Old Clauses 65D has become Subclause 57(5).

Clause 55 is renumbered as Clause 58.

Clause 59 (previously clause 56) is modernised and revised to take account of new Clause 51A in relation to interstate licences and permits.

Clauses 65A to 65F are revised to make clearer the circumstances in which fireworks may be purchased and used.

Clause 65L is relocated as Clause 41A.

Paragraph 66(1)(d) and Subparagraph 68(1)(b)(ii) are amended to ensure that sellers check the authority of the buyer under an interstate licence or permit to receive the fireworks.

Paragraph 93(2)(b) is amended to ensure that only the quantity of fireworks stated in the display permit or licence or notification to the Chief Inspector, can be stored at the location of the display, as opposed to an unlimited amount.

Paragraph 93(2)(g) is renumbered as Paragraph 93(2)(h).

Subparagraph 93(2)(f)(ii) is amended to restrict the amount of shopgoods fireworks, that can be received under a permit without the requirement for specialised storage to 50kg, and remove the exemption that previously allowed persons to keep up to 1000kg without a license to keep.

Subclause 94(5) is amended to include fireworks.

Clause 185 is amended to revise the quantities of dangerous goods that can be reasonably carried in public passenger vehicles.

Clause 206 is amended to clarify that the division does not apply to the conveyance of dangerous goods of class 1.4, group S (eg party poppers and sparklers).

Paragraphs 374(1)(f) and (g) are renumbered as Subclauses 374(e) and (f).

Clause 374 is revised consequentially on the above amendments.

Consequential and other amendments

Clause 4 (Interpretation) has been replaced by a dictionary at the end of the regulations and by new regulations 4, 5 and 6. The dictionary forms part of the regulations.

The dictionary defines certain words and expressions used in the regulations, and includes references (*signpost definitions*) to other words and expressions defined elsewhere in the regulations. For example, the signpost definition 'AS—see regulation 6 (Australian Standards).' means that the expression 'AS' is defined in that regulation.

The new dictionary removes redundant definitions and relocates definitions in Subclause 4(3) and (4) for ease of reading. Definitions that are used only once have been relocated as part of the relevant provisions, see, for example new Subclauses 125(4) and (5).

Clause 31 is amended. The Act provides that the regulations may impose penalties of not more than 10 penalty units (ie, \$1 000) for offences against the regulations. This amendments brings this provision into line with the Act.

The penalty for new Subclause 43 (8) has been reduced to 10 penalty units.