

NORTHERN TERRITORY OF AUSTRALIA

DANGEROUS GOODS ACT

As in force at 1 July 1996

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 1 July 1996

DANGEROUS GOODS ACT

An Act relating to handling of certain dangerous goods

Part I Preliminary

1 Short title

This Act may be cited as the *Dangerous Goods Act*.

2 Commencement

This Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

3 Repeal

The Ordinances and Acts listed in the Schedule are repealed.

4 Savings

Notwithstanding the repeal effected by section 3, a licence granted under the *Explosives Act* and in force immediately before the date of commencement of this Act continues in force as though it were a licence granted under this Act until the date when, but for this Act, it would have expired, but may be amended, suspended or cancelled as though it had been granted under this Act.

5 Definitions

In this Act, unless the contrary intention appears:

aircraft includes any machine that can derive support in the atmosphere from reactions in the air.

approved means approved by the Chief Inspector.

Chief Inspector means the Chief Inspector appointed under section 8(1)(a) and includes a Deputy Chief Inspector while he is exercising the powers and performing the duties and functions of the Chief Inspector.

container, in relation to dangerous goods, includes any receptacle and any covering.

convey, in relation to dangerous goods, includes transport, transmit and carry the dangerous goods by any means whatsoever.

dangerous goods means substances or things (including chemicals and gases) declared under section 13 to be dangerous goods.

Deputy Chief Inspector means a Deputy Chief Inspector appointed under section 8(1)(b).

disposal site means land declared to be a dangerous goods disposal site under section 27.

explosives means:

- (a) substances or articles manufactured, designed or ordinarily used for the purpose of producing a practical effect by an explosion or a pyrotechnic effect; and
- (b) substances or articles prescribed by the Regulations to be explosives,

and includes fireworks and gunpowder and containers that have contained a substance or article to which either paragraph (a) or (b) applies or fireworks or gunpowder that have not been certified, in accordance with the Regulations, to be free from explosives, but does not include a substance ordinarily used as a fuel unless that substance has been combined with another substance to produce a mixture which is not ordinarily used as a fuel.

fireworks means any article designed to produce a sound or pyrotechnic effect by the means of the explosion or ignition of an explosive and designed only for the purpose of amusement, display or for use as a signal.

government explosives magazine means a government explosives magazine established under section 23(2).

government explosives reserve means land declared under section 23(1) to be a government explosives reserve.

handling, in relation to dangerous goods, means the preparation, packaging, manufacture, conveyance, storage or use of dangerous goods.

inspector means an inspector appointed under section 8(1)(c) and includes the Chief Inspector, a Deputy Chief Inspector and a

member of the Police Force or a member of the Northern Territory Fire and Rescue Service, within the meaning of the *Fire and Emergency Act*, exercising the powers of an inspector under section 12.

licence means a licence granted under this Act and includes a provisional licence, permit, notice of approval, certificate, provisional certificate and a renewal thereof.

licensee means a person to whom a licence under this Act has been granted.

manufacture includes making, remaking, altering, breaking up, reconditioning and any process of manufacture.

premises includes land and buildings and portable structures on the land.

sell includes:

- (a) barter or exchange;
- (b) offer or expose for sale, barter or exchange;
- (c) cause or suffer to be sold, bartered, exchanged or offered or exposed for sale;
- (d) attempt to sell, barter, exchange or offer or expose for sale;
- (e) have in possession for sale, barter or exchange;
- (f) cause or suffer to be sent, forwarded or delivered for sale or for barter or exchange; and
- (g) attempt to forward or deliver for sale or for barter or exchange.

ship means any vessel used in navigation and includes:

- (a) an air-cushioned vehicle;
- (b) an off-shore industry mobile unit; and
- (c) a boat, vessel, barge or lighter or any other craft capable of being used as a means of transportation by water,

but does not include a ship for the time being employed in the defence forces of Australia or in the defence forces of a foreign government.

substance includes gas, liquid, gas mixture and liquid mixture.

vehicle means any vehicle propelled by internal combustion, steam, gas, oil, electricity or any other power and used or intended to be used or adapted or capable of being adapted for use on roads whether or not it is in a fit state for use and includes a trailer or caravan intended or adapted or capable of being adapted for use as an attachment to such a vehicle, any chassis or body with or without wheels appearing to form or have formed part of such a vehicle or trailer or caravan and anything attached to such a vehicle, trailer or caravan.

6 Application

- (1) This Act does not apply to or in relation to:
 - (a) radioactive substances within the meaning of the *Radiation (Safety Control) Act*;
 - (b) radioactive material within the meaning of the *Radioactive Ores and Concentrates (Packaging and Transport) Act*; or
 - (c) a prescribed substance within the meaning of the *Atomic Energy Act 1953* of the Commonwealth.
- (2) This Act does not apply to the handling of dangerous goods where:
 - (a) that handling is on land lawfully occupied for the recovery of minerals; and
 - (b) the dangerous goods are being handled for the purpose of the recovery of minerals.

7 Crown bound

This Act binds the Crown.

Part II Administration

8 Appointments

- (1) The Minister may appoint an employee as defined in the *Public Sector Employment and Management Act*, to be:
 - (a) the Chief Inspector;
 - (b) a Deputy Chief Inspector; or
 - (c) an inspector.

- (2) Where the Chief Inspector is absent from the Territory or otherwise unable to exercise his powers or perform his duties or functions, the Deputy Chief Inspector may exercise those powers and perform those duties and functions.
- (3) The power of the Minister under subsection (1) includes the power to impose, in the instrument of appointment, conditions or restrictions on the exercise of powers or the performance of duties or functions by the person so appointed, and the person is appointed accordingly.

9 Control of officers

- (1) The Chief Inspector is, in the exercise of his powers and the performance of his duties and functions, subject to the direction of the Minister.
- (2) A Deputy Chief Inspector and an inspector are, in the exercise of their powers and the performance of their duties and functions, subject to the direction of the Chief Inspector.

10 Delegation

- (1) The Chief Inspector may, from time to time, by instrument in writing, delegate to a person such of his powers and functions, other than this power of delegation, as are specified in the instrument.
- (2) A delegation referred to in subsection (1) may be made generally or for any particular case or class of cases.
- (3) A power or function delegated under this section may be exercised or performed, in accordance with the terms of the delegation, by the person to whom the delegation is made.
- (4) A delegation under this section is revocable at will and does not prevent the exercise of a power or the performance of a function by the Chief Inspector.

11 Powers of inspectors

- (1) An inspector may:
 - (a) examine, take stock of and take samples of, if necessary by opening any container, without cost, any dangerous goods, or goods which he reasonably suspects to be dangerous goods, on any premises, vehicle, ship or aircraft;

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- (b) enter and inspect premises, vehicle, ship or aircraft specified in a licence, examine any licence or record required to be kept under this Act and, at the Territory's expense, take notes or extracts therefrom;
 - (c) enter and inspect any premises, vehicle, ship or aircraft, which he believes on reasonable grounds is being or has been used for the handling of dangerous goods;
 - (d) direct a person in control of a vehicle, ship or aircraft which he believes on reasonable grounds is being or has been used for the transport of dangerous goods to stop the vehicle, ship or aircraft;
 - (e) detain a vehicle, ship or aircraft which he believes on reasonable grounds is being or has been used for the transport of dangerous goods and inspect the vehicle, ship or aircraft and its load;
 - (f) direct a person in control of any vehicle, ship or aircraft which he believes on reasonable grounds is carrying or has carried dangerous goods to take the vehicle, ship or aircraft or its load to the nearest available weighing or testing facility and direct the driver of the vehicle or person in charge of the ship or aircraft, as the case may be, to carry out, or himself carry out, or cause to be carried out, the weighing or testing of the vehicle, the ship or aircraft or its load;
 - (g) install and use on any premises specified in a licence any equipment or measuring device for sampling, measuring or analysing any substance or material which he believes on reasonable grounds may be, or may contain, dangerous goods;
 - (h) install and use on any premises other than those referred to in paragraph (g), but only with the consent of the owner or occupier of the premises, any equipment or measuring device for sampling, measuring or analysing any substance or material which he believes on reasonable grounds may be, or may contain, dangerous goods;
 - (j) where he believes on reasonable grounds that an offence may have been committed against this Act or the Regulations:
 - (i) seize any dangerous goods, vehicle, ship or aircraft, package, container, document, paper or record relating to or used in connection with the handling of dangerous goods and which he believes on reasonable grounds is related to the alleged offence; and

- (ii) direct a person who the inspector believes on reasonable grounds may have committed the alleged offence to provide his name and such information relating to the handling of the relevant dangerous goods as the inspector thinks fit;
- (k) give a direction not inconsistent with this Act, the Regulations or a licence to a licensee or the owner of dangerous goods with respect to the handling of dangerous goods; and
- (m) if he believes on reasonable grounds that it is necessary in the public interest or for the safety of any person:
 - (i) with the written authority of the owner, his agent or the person in charge of the dangerous goods;
 - (ii) with the consent of the Minister; or
 - (iii) where there is imminent danger to a person or property – without the authority referred to in subparagraph (i) or the consent referred to in subparagraph (ii),

proceed to:

- (iv) destroy, dispose of or render safe any dangerous goods or any equipment, installations or containers used in the handling of dangerous goods;
 - (v) render safe any premises, vehicle, ship or aircraft; or
 - (vi) give directions to any person in respect of the destruction, disposal or rendering safe of those goods, equipment, installations, containers, premises, vehicle, ship or aircraft, as the case may be.
- (2) An inspector may exercise his powers under this Act with such assistance as he requires.
- (3) Subject to subsection (4), a person directed to do or refrain from doing an act under subsection (1)(d), (f), (j)(ii), (k) or (m) shall comply with and not contravene the direction.

Penalty: \$5,000, plus \$100 in respect of each day during which the failure to comply or the contravention continues.

- (4) A person is not required to answer a question under subsection (1)(j)(ii) if the answer thereto would or would tend to incriminate him.

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- (5) An inspector who takes a sample of goods in pursuance of subsection (1)(a) shall:
- (a) divide the sample so taken into 2 parts, put each part in a separate container, seal each container and affix to it a label bearing:
 - (i) the signature of the inspector;
 - (ii) the address of the premises, the registration number of the vehicle or aircraft or the name of the ship, as the case may be, on or from which the sample was taken; and
 - (iii) the date and time when the sample was taken; and
 - (b) deliver one of the containers referred to in paragraph (a):
 - (i) to the person apparently in charge of the premises, vehicle, ship or aircraft, as the case may be; or
 - (ii) at the discretion of the inspector – to a person, nominated by the person apparently in charge of the premises, vehicle, ship or aircraft, who is a legal practitioner or a person eligible to be a corporate member of the Royal Australian Chemical Institute.
- (6) A person shall not obstruct or hinder an inspector or a person assisting an inspector in the exercise of the inspector's powers or the performance of the inspector's duties or functions under this Act.
- Penalty: \$5,000.
- (7) The cost of disposal, destroying or rendering harmless of dangerous goods under subsection (1)(m) is a debt due to the Territory.
- (8) A certificate purporting to be signed by the Chief Inspector specifying the cost of disposal, destroying or rendering harmless of specified dangerous goods under subsection (1)(m) is evidence of that cost.

12 Powers of police and fire brigade members

If it appears to a member of the Police Force or a member, other than a volunteer member, within the meaning of the *Fire and Emergency Act* that this Act is or has been contravened or not complied with in relation to the sale, purchase, possession, storage or use of any dangerous goods, the member has and may exercise

all or any of the powers of an inspector under this Act.

Part III Control of dangerous goods

Division 1 Handling of dangerous goods

13 Declaration, &c., by Minister

- (1) The Minister may, by notice in the *Gazette*:
- (a) declare a substance or thing to be dangerous goods;
 - (b) classify the substances and things declared under paragraph (a); and
 - (c) approve the handling of dangerous goods,
- for the purposes of this Act or the Regulations.
- (2) A declaration, classification or approval under subsection (1) may be made by reference to:
- (a) standards, rules, codes or specifications that have been recommended or adopted by the American Petroleum Institute, the British Standards Institution, the Institute of Petroleum or the Standards Association of Australia; or
 - (b) such other standards, rules, codes or specifications or guides as the Minister thinks fit,
- relating to the dangerous goods, classification of the substances or the handling of them, together with any additions or amendments thereto.
- (3) Where a reference pursuant to subsection (2) is made in a notice under subsection (1), a requirement of the standards, rules, codes, specifications or guides referred to shall be a requirement for the purposes of this Act or the Regulations.

14 Safe handling of dangerous goods

Subject to this Act and the Regulations, a person shall not:

- (a) abandon; or

- (b) negligently or carelessly handle any dangerous goods in such a manner or in such circumstances as:
 - (i) will endanger or is likely to endanger the life of any person;
 - (ii) will damage or is likely to damage any premises; or
 - (iii) will cause or is likely to cause injury to any person.

Penalty: \$5,000 or imprisonment for 12 months.

15 Manufacture of dangerous goods

- (1) This section does not apply to or in relation to:
 - (a) the manufacture at a prescribed laboratory or institution and under the supervision of a person who is:
 - (i) one of the prescribed class of persons; or
 - (ii) approved in writing by the Chief Inspector,

of a quantity of dangerous goods not exceeding an amount reasonably necessary for the purpose of chemical experiment and not intended for practical use or for sale; or
 - (b) the filling, in the prescribed manner, of safety cartridges.
- (2) A person shall not manufacture any dangerous goods:
 - (a) except in accordance with the Regulations; and
 - (b) unless he is exempted by the Regulations – except with and in accordance with the terms and conditions of a licence.

Penalty: \$5,000.

16 Storage of dangerous goods

- (1) Subject to subsection (2), a person shall not store any dangerous goods on any premises:
 - (a) except in accordance with the Regulations; and
 - (b) unless he is exempted by the Regulations – except with and in accordance with the terms and conditions of a licence.

Penalty: \$5,000.

- (2) A person licensed to manufacture dangerous goods on any premises may store on the premises the goods so manufactured.
- (3) It is a defence to a prosecution for an offence against subsection (1) that the quantity of dangerous goods stored did not exceed the prescribed quantity.

17 Conveyance of dangerous goods

- (1) A person shall not convey any dangerous goods:
 - (a) except in accordance with the Regulations; and
 - (b) unless he is exempted by the Regulations – except with and in accordance with the terms and conditions of a licence.

Penalty: \$5,000.

- (2) It is a defence to a prosecution for an offence against subsection (1) that the quantity of dangerous goods conveyed did not exceed the prescribed quantity.

18 Precautions

A person who is conveying dangerous goods shall at all times take such precautions as are reasonably necessary to prevent access to the goods being gained by persons who are not authorized by or under this Act or the Regulations to gain such access.

Penalty: \$5,000.

19 Sale of dangerous goods

- (1) Subject to this Act, a person shall not sell any prescribed dangerous goods:
 - (a) except in accordance with the Regulations; and
 - (b) unless he is exempted by the Regulations – except with and in accordance with the terms and conditions of a licence.

Penalty: \$5,000.

- (2) Subject to this Act, a person shall not purchase any prescribed dangerous goods:
 - (a) except in accordance with the Regulations; and

- (b) unless he is exempted by the Regulations – except with and in accordance with the terms and conditions of a licence.

Penalty: \$5,000.

- (3) A person shall not sell any dangerous goods in a public place within the meaning of the *Summary Offences Act*.

Penalty: \$5,000.

- (4) It is a defence to a prosecution for an offence against this section that the quantity of dangerous goods sold or purchased did not exceed the prescribed quantity.

20 Import or export of dangerous goods

- (1) A person shall not import or export any prescribed dangerous goods into or out of the Territory unless he has given the Chief Inspector the approved notice of his intention to import or export the prescribed dangerous goods and has received the approval of the Chief Inspector for the import or export.

Penalty: \$5,000.

- (1A) The Chief Inspector may approve, with or without conditions, the import or export of prescribed dangerous goods into or out of the Territory.

- (1B) A person shall not import or export any prescribed dangerous goods into or out of the Territory without the prior approval under subsection (1A) of the Chief Inspector.

Penalty: \$5,000.

- (2) A person who is importing dangerous goods into the Territory shall, forthwith upon the arrival in the Territory of the dangerous goods, serve on the Chief Inspector the approved notice of the arrival of the prescribed dangerous goods in the Territory.

Penalty: \$5,000.

- (3) It is a defence to a prosecution for an offence against this section that the quantity of prescribed dangerous goods imported or exported did not exceed the prescribed quantity.

21 Possession of dangerous goods

- (1) A person shall not have any prescribed dangerous goods in his possession:
- (a) except in accordance with the Regulations; and
 - (b) unless he is exempted by the Regulations – except with and in accordance with the terms and conditions of a licence.

Penalty: \$5,000.

- (2) It is a defence to a prosecution for an offence against subsection (1) that the quantity of prescribed dangerous goods in the possession of the person charged did not exceed the prescribed quantity.

22 Authorized explosives

- (1) Notwithstanding anything contained in this Act, the Chief Inspector may, by notice in the *Gazette*, authorize the handling of the explosives or class of explosives specified in the notice in such circumstances and subject to such conditions as are specified in the notice.
- (3) The Chief Inspector may, by instrument in writing, authorize a person to handle a specified explosive and the person may do so subject to such conditions as are specified in the instrument.
- (4) A person shall not handle explosives specified in a notice under subsection (1) or an instrument under subsection (3) except in the circumstances and subject to the conditions specified in the notice or instrument, as the case may be.
- (5) The handling of an explosive that has not been authorized under subsection (1) or (3) is prohibited.

Penalty for an offence against this section: \$5,000.

Division 2 Explosives reserves and government magazines

23 Government explosives reserves and magazines

- (1) The Minister may, by notice in the *Gazette*, declare any Crown land within the meaning of the *Crown Lands Act* to be a government explosives reserve.
- (2) The Chief Inspector may establish government explosives magazines in such places, buildings or other structures as he thinks fit.

24 Magazines

- (1) A person may apply to the Chief Inspector for approval to:
 - (a) keep a magazine on a government explosives reserve; or
 - (b) store explosives in a government explosives magazine.
- (2) An application under subsection (1) shall be accompanied by the prescribed fee.

25 Grant of approval to store explosives

The Chief Inspector shall consider an application made under section 24 and may, in his discretion, grant approval, either conditionally or unconditionally, or refuse to grant approval.

26 Terms of approval to be observed

A person who is keeping a magazine on a government explosives reserve or storing explosives in a government explosives magazine pursuant to approval granted under section 25 shall comply with and not contravene the terms and conditions of that approval.

Penalty: \$5,000.

Division 3 Dangerous goods disposal sites

27 Establishment of disposal sites

- (1) The Minister may, by notice in the *Gazette*, declare any land to be a dangerous goods disposal site, where, subject to this Division, dangerous goods may be disposed of.
- (2) The Chief Inspector may approve a place that is not a disposal site for the disposal of dangerous goods.

28 Directions as to disposal, &c.

- (1) In relation to the disposal of dangerous goods at a disposal site or approved place, the Chief Inspector may give directions as to:
 - (a) the type and quantity of dangerous goods that may be disposed of;
 - (b) the method of disposal, destruction or rendering safe of dangerous goods; and
 - (c) rules of management to be applied to the disposal, destruction or rendering safe of dangerous goods.

- (2) The Chief Inspector may give directions to the owner, occupier or user of a disposal site or approved place as to the measures required to be taken to prevent:

- (a) the escape of dangerous goods from; and
- (b) the spillage of dangerous goods in,
a disposal site or approved place.

- (3) A person who contravenes or fails to comply with a direction of the Chief Inspector under this section is guilty of an offence.

Penalty: \$5,000.

29 Disposal of dangerous goods

- (1) A person shall not dispose of any dangerous goods:

- (a) in a place that is not a disposal site or approved place; or
- (b) in contravention of the Regulations or the directions, if any, of the Chief Inspector under section 28.

Penalty: \$5,000.

- (2) It is a defence to a prosecution for an offence against subsection (1)(a) that the quantity of dangerous goods disposed of did not exceed the prescribed quantity.

Division 4 Trespass in respect of reserves, magazines, licensed premises, &c.

30 Trespass in respect of reserves, magazines, licensed premises, &c.

A person shall not enter or remain without lawful authority in a government explosives reserve, a government magazine, any premises specified in a licence or a vehicle, ship or aircraft conveying dangerous goods.

Penalty: \$5,000.

31 Precautions to be observed

A person on a government explosives reserve, government explosives magazine, a place specified in a licence or a vehicle, ship or aircraft conveying dangerous goods shall not do any act which would tend to cause an explosion or fire or the release or spillage of dangerous goods in or about the reserve, magazine,

place, vehicle, ship or aircraft.

32 Arrest without warning

An inspector, a member of the Police Force, or the owner, occupier, driver or person in charge of any premises, vehicle, ship or aircraft referred to in section 30 or 31, or a person authorized by any of those persons, may arrest without warrant any person found committing an offence against section 30 or 31 in respect of the premises, vehicle, ship or aircraft.

Division 5 Licences

33 Applications

- (1) A person may apply to the Chief Inspector for a licence.
- (2) An application under subsection (1) shall be accompanied by the prescribed fee.

34 False or misleading applications

A person who makes an application under section 33 shall not, in that application, make a statement that is false or misleading in a material particular.

Penalty: \$2,000.

35 Determination of application

- (1) Subject to this Act and the Regulations, the Chief Inspector shall consider an application made under section 33 and may determine it by:
 - (a) granting, subject to subsection (1A), either conditionally or unconditionally, the licence; or
 - (b) refusing to grant the licence.
- (1A) Where the Chief Inspector grants a licence subject to conditions, the conditions shall be as prescribed, or as the Chief Inspector considers necessary in a particular case.
- (2) A licence shall not be granted to a person who has not attained the age of 18 years.

36 Form of licence

A licence issued under this Division shall be in accordance with the approved form and shall specify the premises, vehicle, ship or aircraft in relation to which it is issued.

36A Variation, &c., of conditions of licence

- (1) The Chief Inspector may, at his discretion, serve on a licensee notice that a condition of his licence is added to, varied or revoked.
- (2) The addition, variation or revocation of a condition shall be effective on service of the notice under subsection (1).
- (3) The licensee shall, within 21 days of receipt of a notice under subsection (1), produce his licence to the Chief Inspector for endorsement thereon of the addition, variation or revocation of the condition.
- (4) A licensee may make application to the Chief Inspector for an addition to, variation or revocation of, a condition of his licence.
- (5) An application under subsection (4) shall be in writing specifying the condition in respect of which the addition, variation or revocation, as the case may be, is applied for and shall be accompanied by the licence the subject of the application.
- (6) On receipt of an application under subsection (5), the Chief Inspector may add to, vary or revoke the condition specified in the application, and shall endorse the addition, variation or revocation on the licence.

37 Cancellation or suspension of licence

- (1) The Chief Inspector may, by instrument in writing served on a licensee:
 - (a) cancel; or
 - (b) suspend for a period specified in the instrument,a licence if:
 - (c) the licensee has been found guilty of an offence against this Act;
 - (d) the licensee has contravened or failed to comply with:
 - (i) a condition of the licence; or
 - (ii) the written directions of an inspector; or

- (e) the Chief Inspector is of the opinion that, in the interests of any person, the licence should be cancelled or suspended.
- (2) Where a licence has been cancelled under subsection (1), the licensee shall, within 14 days of notification thereof, return the licence to the Chief Inspector.

Penalty: \$2,000.

38 Appeals

- (1) A person who is dissatisfied with a decision of the Chief Inspector under this Division may, within 28 days after the date upon which he received notice of the decision, appeal to the Local Court against that decision.
- (2) An appeal made under subsection (1) shall be in writing setting out the grounds upon which the appellant makes the appeal and a copy thereof shall be served on the Chief Inspector.
- (3) The Local Court shall conduct a hearing in such manner as it thinks fit into the reasons for the Chief Inspector having made the decision appealed against.
- (4) Subject to and for the purposes of subsection (3), the Local Court hearing an appeal made under subsection (1) has all the powers, duties and functions of the Chief Inspector in relation to the matter the subject of the appeal.
- (5) The Local Court shall determine the appeal by:
 - (a) confirming the decision of the Chief Inspector;
 - (b) varying the decision of the Chief Inspector in such manner as he thinks fit;
 - (c) substituting his own decision for the decision of the Chief Inspector; or
 - (d) disallowing the decision of the Chief Inspector.
- (6) Where a Local Court makes a determination under subsection (5), the determination takes effect on the date specified in the determination or, where no date is so specified, on the date of the determination.

Part IV Miscellaneous**41 Consent to prosecutions**

A person shall not institute proceedings in respect of an offence against this Act without the written consent of the Chief Inspector.

42 Time limits

Proceedings against a person in respect of an offence against this Act or the Regulations shall not be instituted after 12 months from the date of the alleged offence or the discovery of the alleged offence, whichever is the later.

43 Averments

In any proceedings in respect of an alleged offence against this Act or the Regulations, the averment in the information or complaint that:

- (a) a specified person is the Chief Inspector or an inspector;
- (b) a specified person was or was not on a specified day the holder of a licence;
- (c) a specified licence contained specified conditions;
- (d) a specified substance or thing was, at a specified time, dangerous goods;
- (e) a specified container did, on a specified day, contain dangerous goods; or
- (f) specified dangerous goods are dangerous goods of a specified class or kind,

is evidence of the fact so alleged.

44 Employers

- (1) The employer of a person who commits an offence against this Act is also guilty of that offence and proceedings against him may be instituted notwithstanding that the employee has not been charged with the offence.
- (2) Where an employee of a person is found guilty of an offence against this Act, the employer is guilty of a like offence and liable to a like penalty.

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- (3) It is a defence to a prosecution for an offence referred to in this section that the person charged:
- (a) did not authorize or permit the commission of the offence by the employee; and
 - (b) used all due diligence to prevent the commission of the offence.

45 Repeated offences

Where a person is found guilty of the same offence against this Act on 3 or more occasions, the court finding the person guilty on the third or on any subsequent occasion may, in addition to any other penalty for that offence specified in this Act, impose a penalty of imprisonment for a term not exceeding 6 months.

45A Person to restore damage, &c.

- (1) A person shall duly and punctually comply with this Act and the Regulations, and any directions of the Minister or an inspector.
- (2) Where a person:
 - (a) fails to comply with subsection (1); or
 - (b) has been found guilty of an offence against this Act or the Regulations relating to the spillage, escape, disposal or negligent handling of dangerous goods, as a result of which damage has occurred to premises, land or property of any kind,

the Minister may, by notice in writing served on the person, require the person to restore the damaged premises, land or property of any kind in accordance with the directions and within the time specified in the notice.

- (3) A person on whom a notice has been served under subsection (2) shall comply with the direction and within the time specified in the notice.

Penalty: \$5,000.

- (4) Where a person neglects or fails to comply with a notice under subsection (2), the Minister may, by his workmen and agents, enter on the premises or land or remove the property referred to in subsection (2) and carry out such operations to restore the premises or land or repairs to the property as he considers necessary at the expense of the person.

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- (5) Expenses incurred by the Minister acting in pursuance of subsection (4) shall be recovered from the person in a court of competent jurisdiction as a debt due and payable by the person to the Territory.

46 Forfeiture, &c., of dangerous goods

Where a person is found guilty of an offence against this Act, the court may order:

- (a) the dangerous goods in respect of which the offence was committed to be forfeited to the Territory; and
- (b) the person found guilty to pay to the Territory the costs and expenses incurred in the seizure, detention and removal of the dangerous goods or the package, vehicle, ship or aircraft, as the case may be, in which the dangerous goods were contained or kept when seized, detained or removed.

47 Disposal of forfeited goods

- (1) The Minister may dispose of, destroy or render harmless or otherwise deal with dangerous goods forfeited to the Territory under section 46 in such manner as he thinks fit.
- (2) The cost of disposal, destroying or rendering harmless of dangerous goods under subsection (1) is a debt due to the Territory.
- (3) A certificate purporting to be signed by the Chief Inspector specifying the cost of disposal, destroying or rendering harmless of specified dangerous goods under subsection (1) is evidence of that cost.

48 Protection of officers

An act done or omitted to be done by an inspector in good faith in the exercise, or purported exercise, of a power conferred or a duty imposed by this Act does not render the Territory, or the inspector personally, liable with respect to that act or omission.

49 Service

A notice under this Act or the Regulations may be served personally or by post.

50 Variation of regulation requirements

- (1) Where the Chief Inspector is satisfied that:
- (a) compliance with the provisions of the Regulations in relation to the handling of dangerous goods may not, in all the circumstances, be reasonably practicable; and
 - (b) an exemption from, modification or variation of those provisions would not adversely affect the safety, health or welfare of the persons concerned,

the Chief Inspector may, by notice in writing to the occupier of the land on which dangerous goods are or to the owner of dangerous goods, exempt him from, or modify or vary, the provisions of the Regulations in the manner and in accordance with any conditions the Chief Inspector thinks fit, set out in the notice and, while that notice remains in force, non-compliance in the case of an exemption, or compliance with those provisions as so modified or varied shall, for the purposes of this Act, be deemed to be compliance with the Regulations.

- (2) The Chief Inspector may, in his absolute discretion, revoke any notice under subsection (1) and upon that revocation that notice shall cease to have any further force or effect.

51 Regulations

- (1) The Administrator may make Regulations, not inconsistent with this Act, prescribing all matters required or permitted by this Act to be prescribed, or necessary or convenient to be prescribed, for carrying out or giving effect to this Act.
- (2) Without limiting the generality of subsection (1), the Regulations may make provision for or with respect to:
- (a) the sale, handling, disposal, destruction or rendering harmless of dangerous goods and containers which are used in connection with dangerous goods, including the precautions to be observed and the methods to be employed therein;
 - (b) the qualifications of persons:
 - (i) handling dangerous goods; or
 - (ii) installing, repairing or carrying out any work on containers, pipelines or any equipment or things which are used or are intended for use in connection with dangerous goods,

and the registration, certification and licensing of those persons;

- (c) the design, construction, cleanliness, ventilation, venting, marking and maintenance of vehicles, ships, containers, pipelines and any other equipment or things which are used or are intended for use in connection with dangerous goods;
- (d) the siting, design, construction, ventilation, venting, illumination, fittings, fixtures and management of premises which are or are intended for use in connection with dangerous goods and the treatment of premises no longer required for the handling of dangerous goods;
- (e) the provision, maintenance, testing and use of safety and first aid facilities at or on premises, vehicles, ships or aircraft used for any purpose in connection with dangerous goods;
- (f) the inspection, examination and testing of dangerous goods and equipment which is or is intended to be used in connection with dangerous goods and the fees payable in connection therewith;
- (g) the driving of vehicles, and the navigation and mooring of ships, conveying dangerous goods;
- (h) the making, keeping, production and inspection of records relating to dangerous goods and the furnishing of returns and other information relating to dangerous goods;
- (j) the notice to be given of theft from, or accidents by explosion, spillage or fire during the handling of, or in connection with, dangerous goods at premises, or on vehicles, ships or aircraft;
- (k) the holding of inquiries into accidents referred to in paragraph (j);
- (m) the management of and use of magazines and government explosives reserves;
- (n) the sale and use of dangerous goods;
- (p) the conditions subject to which licences may be granted;
- (q) the forms to be used; and
- (r) the fees payable in respect of any act, matter or thing under this Act.

- (3) The Regulations may impose monetary penalties, not exceeding \$5,000, for offences against the Regulations.
- (4) The Regulations may:
 - (a) provide that any act or thing shall be done or be in accordance wholly or partly with the approval or to the satisfaction of a prescribed person or a person of a prescribed class of persons;
 - (b) confer upon a prescribed person, or class of persons, a discretionary authority; and
 - (c) confer on a prescribed person, or class of persons, power to give, in such manner as is prescribed, instructions, orders, directions or requirements.
- (5) The Regulations may adopt wholly or partly or by reference:
 - (a) any of the standards, rules, codes or specifications specified in the Regulations that have been recommended or adopted by the American Petroleum Institute, the British Standards Institution, the Institute of Petroleum or the Standards Association of Australia (whether published before or after the commencement of this section); or
 - (b) any standards, rules, codes or specifications or guides approved by the Minister and notified in the *Gazette* (whether before or after the commencement of this section),

relating to the matter with which the Regulations deal together with any additions or amendments thereto (whether made before or after the commencement of this section) that are so specified, and where the Regulations adopt a standard, rule, code, specification or guide pursuant to this subsection, a requirement made in it shall be a requirement of the Regulations so made.

Schedule Repealed Ordinances and Acts

section 3

Explosives Ordinance 1964 (No. 66 of 1964)*Explosives Ordinance 1968* (No. 4 of 1968)*Explosives Ordinance 1972* (No. 33 of 1972)*Explosives Ordinance 1975* (No. 10 of 1975)*Explosives Ordinance (No. 2) 1975* (No. 30 of 1975)*Explosives Act 1978* (No. 128 of 1978)*Explosives Act 1979* (No. 39 of 1979)

ENDNOTES

1 KEY

Key to abbreviations

| | |
|------------------------------|-------------------------------------|
| amd = amended | od = order |
| app = appendix | om = omitted |
| bl = by-law | pt = Part |
| ch = Chapter | r = regulation/rule |
| cl = clause | rem = remainder |
| div = Division | renum = renumbered |
| exp = expires/expired | rep = repealed |
| f = forms | s = section |
| Gaz = <i>Gazette</i> | sch = Schedule |
| hdg = heading | sdiv = Subdivision |
| ins = inserted | SL = Subordinate Legislation |
| lt = long title | sub = substituted |
| nc = not commenced | |

2 LIST OF LEGISLATION

Dangerous Goods Act 1980 (Act No. 4, 1981)

| | |
|-------------|---|
| Assent date | 9 January 1981 |
| Commenced | 8 March 1985 (<i>Gaz</i> S10, 8 March 1985, p 1) |

Statute Law Revision Act (No. 2) 1981 (Act No. 63, 1981)

| | |
|-------------|--------------|
| Assent date | 20 July 1981 |
| Commenced | 20 July 1981 |

Dangerous Goods Amendment Act 1980 (Act No. 1, 1983)

| | |
|-------------|---------------|
| Assent date | 27 April 1983 |
| Commenced | 27 April 1983 |

Statute Law Revision Act 1984 (Act No. 28, 1984)

| | |
|-------------|--------------|
| Assent date | 20 July 1984 |
| Commenced | 20 July 1984 |

Statute Law Revision Act 1985 (Act No. 49, 1985)

| | |
|-------------|----------------|
| Assent date | 1 October 1985 |
| Commenced | 1 October 1985 |

Local Court (Consequential Amendments) Act 1989 (Act No. 14, 1989)

| | |
|-------------|--|
| Assent date | 5 June 1989 |
| Commenced | 1 January 1991 (s 2, s 2 <i>Local Court Act 1989</i> (Act No. 31, 1990) and <i>Gaz</i> G49, 12 December 1990, p 2) |

Local Court (Consequential Amendments) Act 1989 (Act No. 31, 1990)

| | |
|-------------|--|
| Assent date | 11 June 1990 |
| Commenced | 1 January 1991 (s 2, s 2 <i>Local Court Act 1989</i> (Act No. 31, 1990) and <i>Gaz</i> G49, 12 December 1990, p 2) |

Public Sector Employment and Management (Consequential Amendments) Act 1993 (Act No. 28, 1993)

| | |
|-------------|---|
| Assent date | 30 June 1993 |
| Commenced | 1 July 1993 (s 2, s 2 <i>Public Sector Employment and Management Act 1993</i> (Act No. 11, 1993) and Gaz S53, 29 June 1993) |

Fire and Emergency (Consequential Amendments) Act 1996 (Act No. 15, 1996)

| | |
|-------------|---|
| Assent date | 19 April 1996 |
| Commenced | 1 May 1996 (s 2, s 2 <i>Fire and Emergency Act 1996</i> (Act No. 14, 1996) and Gaz S10, 1 May 1996) |

Sentencing (Consequential Amendments) Act 1996 (Act No. 17, 1996)

| | |
|-------------|--|
| Assent date | 19 April 1996 |
| Commenced | 1 July 1996 (s 2, s 2 <i>Sentencing Act 1995</i> (Act No. 39, 1995) and Gaz S15, 13 June 1996) |

3 LIST OF AMENDMENTS

| | |
|------------|--|
| s 5 | amd No. 1, 1983, s 3; No. 28, 1993, s 3; No. 15, 1996, s 4 |
| s 8 | amd No. 28, 1993, s 3 |
| s 11 | amd No. 1, 1983, ss 4 and 21; No. 28, 1984, s 3; No. 49, 1985, s 4 |
| s 12 | amd No. 15, 1996, s 4 |
| s 13 | sub No. 1, 1983, s 5 |
| s 20 | amd No. 1, 1983, s 6 |
| s 22 | amd No. 1, 1983, s 7 |
| pt 3 | |
| div 3 hdg | sub No. 1, 1983, s 8 |
| ss 27 – 29 | sub No. 1, 1983, s 8 |
| pt 3 | |
| div 4 hdg | sub No. 1, 1983, s 9 |
| s 30 | amd No. 1, 1983, s 10 |
| s 31 | sub No. 1, 1983, s 11 |
| s 32 | amd No. 1, 1983, s 21 |
| s 35 | amd No. 1, 1983, s 12 |
| s 36 | sub No. 1, 1983, s 13 |
| s 36A | ins No. 1, 1983, s 14 |
| s 37 | amd No. 1, 1983, s 15; No. 17, 1996, s 6 |
| s 38 | sub No. 1, 1983, s 16 |
| | amd No. 14, 1989, s 7; No. 31, 1990, s 7 |
| s 39 | rep No. 1, 1983, s 17 |
| s 40 | rep No. 17, 1996, s 6 |
| ss 41 – 42 | amd No. 17, 1996, s 6 |
| s 44 | amd No. 63, 1981, s 2; No. 17, 1996, s 6 |
| s 45 | amd No. 17, 1996, s |
| s 45A | ins No. 1, 1983, s 18 |
| | amd No. 17, 1996, s 6 |
| s 46 | amd No. 1, 1983, s 21; No. 17, 1996, s 6 |
| s 50 | amd No. 1, 1983, s 19 |
| s 51 | amd No. 1, 1983, s 20 |