



NORTHERN TERRITORY OF AUSTRALIA

No. 1 of 1983

AN ACT

To amend the *Dangerous Goods Act*

[Assented to 27 April 1983]

BE it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

1. SHORT TITLE

This Act may be cited as the *Dangerous Goods Amendment Act 1983*.

2. PRINCIPAL ACT

The *Dangerous Goods Act* is in this Act referred to as the Principal Act.

3. DEFINITIONS

Section 5 of the Principal Act is amended -

(a) by inserting after the definition of "aircraft" the following:

"'approved' means approved by the Chief Inspector;";

(b) by omitting the definition of "dump" and substituting the following:

"'disposal site' means land declared to be a dangerous goods disposal site under section 27;";

(c) by omitting the definition of "licence" and substituting the following:

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

Dangerous Goods Amendment

'licensee' means a person to whom a licence under this Act has been granted;";

(d) by omitting the definition of "premises" and substituting the following:

"'premises' includes land and buildings and portable structures on the land;"; and

(e) by omitting the definition of "ship" and substituting the following:

"'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;".

4. POWERS OF INSPECTORS

Section 11 of the Principal Act is amended -

(a) by omitting sub-section (1)(m) and substituting the following:

"(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 sub-paragraph (i) or the consent referred to in sub-paragraph (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;

Dangerous Goods Amendment

- (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."
- (b) by omitting from sub-section (5)(a)(ii) "premises on" and substituting ", the registration number of the vehicle or aircraft or the name of the ship, as the case may be, on or from"; and
- (c) by omitting sub-section (5)(b) and substituting the following:
 - "(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."

5. REPEAL AND SUBSTITUTION

Section 13 of the Principal Act is repealed and the following substituted:

"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 sub-section (1) may be made by reference to -

Dangerous Goods Amendment

- (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 sub-section (2) is made in a notice under sub-section (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."

6. IMPORT OR EXPORT OF DANGEROUS GOODS

Section 20 of the Principal Act is amended -

- (a) by omitting from sub-section (1) "prescribed notice of his intention to import or export the dangerous goods" and substitute "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";
- (b) by inserting after sub-section (1) the following:

"(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 sub-section (1A) of the Chief Inspector.

Penalty: \$5,000.";

- (c) by omitting from sub-section (2) "prescribed notice of the arrival of the dangerous goods" and substituting "approved notice of the arrival of the prescribed dangerous goods"; and
- (d) by omitting from sub-section (3) "dangerous goods" and substituting "prescribed dangerous goods".

Dangerous Goods Amendment

7. AUTHORIZED EXPLOSIVES

Section 22 of the Principal Act is amended -

- (a) by omitting from sub-section (1) -
 - (i) "The Chief Inspector may" and substituting "Notwithstanding anything contained in this Act, the Chief Inspector may"; and
 - (ii) "the use" and substituting "the handling";
- (b) by omitting sub-section (2);
- (c) by omitting from sub-section (3) "use a specified explosive for the purposes of experimentation or research, and" and substituting "handle a specified explosive and the person";
- (d) by omitting from sub-section (4) -
 - (i) "use" and substituting "handle";
 - (ii) "Penalty: \$5,000."; and
- (e) by adding at the end the following:

"(5) The handling of an explosive that has not been authorized under sub-section (1) or (3) is prohibited.

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

8. REPEAL AND SUBSTITUTION OF DIVISION 3 OF PART III

Division 3 of Part III of the Principal Act is repealed and the following substituted:

"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 -

Dangerous Goods Amendment

- (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 sub-section (1)(a) that the quantity of dangerous goods disposed of did not exceed the prescribed quantity."

9. DIVISION 4 OF PART III

The Principal Act is amended by omitting the heading to Division 4 of Part III and substituting the following:

*"Division 4 - Trespass in respect of Reserves,
Magazines, Licensed Premises, &c."*

Dangerous Goods Amendment

10. TRESPASS IN RESPECT OF RESERVES, MAGAZINES LICENSED PREMISES, &c.

Section 30 of the Principal Act is amended by omitting "to store or manufacture dangerous goods or any vehicle or ship conveying dangerous goods" and substituting "or a vehicle, ship or aircraft conveying dangerous goods".

11. REPEAL AND SUBSTITUTION OF SECTION 31

Section 31 of the Principal Act is repealed and the following is substituted:

"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."

12. DETERMINATION OF APPLICATION

Section 35 of the Principal Act is amended -

(a) by inserting in sub-section (1)(a) after "granting" the words ", subject to sub-section (1A)"; and

(b) by inserting after sub-section (1) the following:

"(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."

13. REPEAL AND SUBSTITUTION OF SECTION 36

Section 36 of the Principal Act is repealed and the following substituted:

"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."

Dangerous Goods Amendment

14. NEW SECTION

The Principal Act is amended by inserting after section 36 the following:

"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 sub-section (1).

"(3) The licensee shall, within 21 days of receipt of a notice under sub-section (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 sub-section (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 sub-section (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.

15. CANCELLATION OR SUSPENSION OF LICENCE

Section 37 of the Principal Act is amended -

(a) by omitting "The Chief Inspector" and substituting "(1) The Chief Inspector"; and

(b) by omitting paragraph (d) and substituting the following:

"(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"; and

Dangerous Goods Amendment

(c) by adding the following:

"(2) Where a licence has been cancelled under sub-section (1), the licensee shall, within 14 days of notification thereof, return the licence to the Chief Inspector.

Penalty: \$2,000."

16. REPEAL AND SUBSTITUTION OF SECTION 38

Section 38 of the Principal Act is repealed and the following substituted:

"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 a magistrate against that decision.

"(2) An appeal made under sub-section (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) A magistrate to whom an appeal under sub-section (1) has been made shall conduct a hearing in such manner as he thinks fit into the reasons for the Chief Inspector having made the decision appealed against.

"(4) Subject to and for the purposes of sub-section (3), a magistrate hearing an appeal made under sub-section (1) has all the powers, duties and functions of the Chief Inspector in relation to the matter the subject of the appeal.

"(5) A magistrate to whom an appeal under sub-section (1) has been made 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 magistrate makes a determination under sub-section (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."

Dangerous Goods Amendment

17. REPEAL OF SECTION 39

Section 39 of the Principal Act is repealed.

18. NEW SECTION

The Principal Act is amended by inserting after section 45 the following:

"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 sub-section (1); or

(b) has been convicted 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 sub-section (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 sub-section (2), the Minister may, by his workmen and agents, enter on the premises or land or remove the property referred to in sub-section (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.

"(5) Expenses incurred by the Minister acting in pursuance of sub-section (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."

Dangerous Goods Amendment

19. VARIATION OF REGULATION REQUIREMENTS

Section 50 of the Principal Act is amended -

- (a) by omitting from sub-section (1)(b) "a modification" and substituting "an exemption from, modification"; and
- (b) by omitting from sub-section (1) all words after "the owner" and substituting "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."

20. REGULATIONS

Section 51 of the Principal Act is amended -

- (a) by omitting paragraph (b) from sub-section (2) and substituting the following:
 - "(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;"
- (b) by omitting paragraph (e) from sub-section (2) and substituting the following:
 - "(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;"
- (c) by omitting paragraph (j) from sub-section (2) and substituting the following:

Dangerous Goods Amendment

- "(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;"
 - (d) by omitting from sub-section (2)(m) ", including the fees payable in respect thereof";
 - (e) by omitting paragraphs (p) and (q) from sub-section (2) and substituting the following:
 - "(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."; and
 - (f) by adding at the end the following:
 - "(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),

Dangerous Goods Amendment

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 sub-section, a requirement made in it shall be a requirement of the Regulations so made."

21. FURTHER AMENDMENTS

The Principal Act is further amended as set out in the Schedule.

SCHEDULE

Section 18

Provision	Amendment	
	omit	substitute
Section 11(1)(a)	"premises or vehicle"	"premises, vehicle, ship or aircraft"
Section 11(1)(b) and (c)	"premises"	"premises, vehicle, ship or aircraft"
Section 11(1)(d) and (e)	"vehicle or ship" (twice occurring)	"vehicle, ship or aircraft"
Section 11(1)(f)	"vehicle or ship" (twice occurring)	"vehicle, ship or aircraft"
	"the ship" (twice occurring)	"the ship or aircraft"
Section 11(1)(j)(i)	"ship"	"ship or aircraft"
Section 32	"ship or vehicle" (twice occurring)	"vehicle, ship or aircraft"
Section 46(b)	"vehicle or ship"	"vehicle, ship or aircraft"