

NORTHERN TERRITORY OF AUSTRALIA

DANGEROUS GOODS AMENDMENT (FIREWORKS) REGULATIONS 2012

Subordinate Legislation No. 24 of 2012

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NORTHERN TERRITORY OF AUSTRALIA

Subordinate Legislation No. 24 of 2012*

Dangerous Goods Amendment (Fireworks) Regulations 2012

I, Sally Gordon Thomas, Administrator of the Northern Territory of Australia, acting with the advice of the Executive Council, make the following regulations under the *Dangerous Goods Act*.

Dated 26 June 2012

S. G. THOMAS
Administrator

By Her Honour's Command

P. R. HENDERSON
Chief Minister
acting for
Minister for Justice and Attorney-General

* Notified in the *Northern Territory Government Gazette* on 2 July 2012.

1 Citation

These Regulations may be cited as the *Dangerous Goods Amendment (Fireworks) Regulations 2012*.

2 Regulations amended

These Regulations amend the *Dangerous Goods Regulations*.

3 Regulation 2 amended

Regulation 2(1)

insert (in alphabetical order)

approved period means either of the following:

- (a) a retail purchase approved period;
- (b) an approved possession period.

approved possession period, see regulation 140(1).

authorised explosive, see regulation 70(1).

disqualifying offence, see regulation 2A.

infringement notice, for Part 5, see regulation 211(1).

infringement notice offence, for Part 5, see regulation 210(1).

prescribed amount, for Part 5, see regulation 210(2).

retail purchase approved period, see regulation 139.

shopgoods fireworks, see regulation 70(1).

4 Regulation 2A inserted

After regulation 2, in Part 1, Division 1

insert

2A Disqualifying offences

Each of the following is a **disqualifying offence**:

- (a) an offence against:
 - (i) the Act or these Regulations; or

-
- (ii) a law of the Commonwealth, a State or another Territory that substantially corresponds to the Act or these Regulations;
 - (b) an offence, whether or not committed in the Territory:
 - (i) involving violence or a threat of violence; or
 - (ii) concerning the manufacture, supply, use or misuse of a dangerous drug as defined in section 3(1) of the *Misuse of Drugs Act*; or
 - (iii) involving the use, carriage or discharge of explosives (other than shopgoods fireworks); or
 - (iv) involving firearms or offensive weapons;
 - (c) an offence against a provision of Part VI, VII or VIII of the Criminal Code or against a law of the Commonwealth, a State or another Territory that substantially corresponds to a provision of those Parts;
 - (d) an offence against a provision of the *Domestic and Family Violence Act* or against a law of the Commonwealth, a State or another Territory that substantially corresponds to a provision of that Act, including for a breach of an order under that Act or law;
 - (e) an offence against a provision of the *Firearms Act*, the *Weapons Control Act* or against a law of the Commonwealth, a State or another Territory that substantially corresponds to either of those Acts;
 - (f) an offence, of which a person was found guilty in the previous 12 months, whether or not committed in the Territory, in relation to which it was open to the court to impose a term of imprisonment of more than 2 years.

5 Regulation 5B amended

Regulation 5B(1)

omit

prescribed in regulation 129

insert

(other than safety cartridges, distress signals or propellant for firearms)

6 Regulation 5D amended

- (1) Regulation 5D(1)
- omit*
- prescribed in regulation 131
- insert*
- (other than safety cartridges, distress signals or propellant for firearms)
- (2) Regulation 5D(2)
- omit, insert*
- (2) A person who possesses shopgoods fireworks that are not intended for sale is exempt from subregulation (1) during an approved period.

7 Regulation 5H amended

After regulation 5H(3)

insert

- (4) A licence under this Division to sell shopgoods fireworks, other than by retail to the public during a retail purchase approved period, must not be granted unless the Competent Authority receives a certificate from the Commissioner of Police stating that, in the Commissioner's opinion, the relevant person in relation to the application is an appropriate person to whom the licence may be granted.
- (5) In forming the opinion about the relevant person, the Commissioner must have regard to the following matters:
- (a) whether a criminal history check discloses that the relevant person has been found guilty of a disqualifying offence;
- (b) any other material available to the Commissioner (for example, criminal intelligence about a person associated with the relevant person or the fact the relevant person is on bail in relation to pending charges) that the Commissioner considers appropriate.
- (6) The certificate must be dated not more than 4 months earlier than the date the application is received by the Competent Authority.

(7) In this regulation:

relevant person, in relation to an application, means:

- (a) the individual who is applying for the licence; or
- (b) if the applicant is a body corporate – the individual who is the manager of the business to which the licence would relate if granted.

8 Regulation 5M amended

(1) Regulation 5M(1)

omit

all words from "with" to "appeal"

insert

with:

- (a) a decision of the Competent Authority under this Subdivision;
or
- (b) a decision by the Commissioner of Police not to provide a certificate that an applicant is an appropriate person to whom a licence may be granted;

may appeal

(2) Regulation 5M(3)

omit

Authority.

insert

Authority and, if subregulation (1)(b) applies, the Commissioner of Police.

(3) Regulation 5M(4), (5) and (6)(a) to (d), after "Authority"

insert

(or the Commissioner of Police, as the case may be)

(4) After regulation 5M(7)

insert

- (8) If the appeal is against a decision by the Commissioner of Police not to provide a certificate that an applicant is an appropriate person to whom a licence may be granted, the Local Court must take steps to maintain the confidentiality of classified information provided to it by the Commissioner, including steps to receive evidence and hear argument about the information in the absence of the parties to the proceedings, their representatives and the public, if the Court considers the classified information is criminal intelligence.
- (9) If the Local Court considers classified information is not criminal intelligence, the Court must allow the Commissioner of Police to withdraw the classified information from consideration.
- (10) A person (other than the Commissioner of Police or a person authorised by the Commissioner) must not disclose to any person:
- (a) information the Local Court considers is criminal intelligence; or
 - (b) classified information that is withdrawn under subregulation (9).

Maximum penalty: 40 penalty units.

(11) In this regulation:

classified information means information the Commissioner of Police classifies as criminal intelligence.

criminal intelligence means:

- (a) information relating to actual or suspected criminal activity (whether in the Territory or elsewhere) the disclosure of which could reasonably be expected to:
 - (i) prejudice a criminal investigation; or
 - (ii) enable the discovery of the existence or identity of a confidential source of information relevant to law enforcement; or
 - (iii) endanger a person's life or physical safety; or

(b) information the disclosure of which could reasonably be expected to reveal, and prejudice the effectiveness of, any of the following:

- (i) police information-gathering or surveillance methods;
- (ii) police procedures for preventing, detecting, investigating or dealing with matters arising out of breaches or evasions of the law.

9 Regulation 91 amended

Regulation 91(2)

omit

the approved period under regulation 139 or 140

insert

an approved period

10 Regulation 129 amended

Regulation 129(1)(a)(ii)

omit

the approved period under regulation 139

insert

a retail purchase approved period

11 Regulation 131 amended

Regulation 131(1) and (2)

omit

12 Regulation 139 amended

Regulation 139

omit

all words after "time"

insert

(the **retail purchase approved period**) during which a person, who is not a licensee or the holder of a permit under regulation 141 or 143, may purchase and possess shopgoods fireworks.

Note

Regulation 5D(2) provides that the possession of shopgoods fireworks during an approved period under this regulation is not an offence.

13 Regulation 140 amended

- (1) Regulation 140(1), after "**approved**"

insert

possession

- (2) Regulation 140(1), at the end

insert

Note for subregulation (1)

Regulation 5D(2) provides that the possession of shopgoods fireworks during an approved period under this regulation is not an offence.

- (3) Regulation 140(2) and (3), at the end

insert

Maximum penalty: 40 penalty units.

14 Regulation 140A amended

- (1) Regulation 140A(1)

omit

relevant approved period

insert

approved period to which the approval relates

- (2) Regulation 140A(3), definition **approval**, paragraph (a)

omit

an approved

insert

a retail purchase approved

- (3) Regulation 140A(3), definition **approval**, paragraph (b), after "approved"

insert

possession

- (4) Regulation 140A(3), definition **relevant approved period**

omit

15 Regulation 171 repealed

Regulation 171

repeal

16 Part 5 inserted

After regulation 209

insert

Part 5 Infringement notice offences

210 Infringement notice offence and prescribed amount payable

- (1) An **infringement notice offence** is an offence against a provision specified in Schedule 3.
- (2) The **prescribed amount** for an infringement notice offence is the amount equal to the monetary value of the number of penalty units specified for the offence in Schedule 3.

211 When infringement notice may be given

- (1) If an officer or a police officer reasonably believes a person has committed an infringement notice offence, the officer or police officer may give a notice (an **infringement notice**) to the person.
- (2) Subregulation (3) applies if the infringement notice offence is an offence of possessing shopgoods fireworks other than during an approved period.

-
- (3) The officer or police officer may advise the person that, as an alternative to the officer or police officer giving the person an infringement notice for the offence, the person may elect to surrender the shopgoods fireworks for destruction.
 - (4) If the person elects in accordance with subregulation (3) to surrender the shopgoods fireworks for destruction, the officer or police officer must not give the person an infringement notice in relation to the offence of possessing the fireworks.

212 Contents of infringement notice

- (1) The infringement notice must specify the following:
 - (a) the name and address of the person, if known;
 - (b) the date the infringement notice is given to the person;
 - (c) the date, time and place of the infringement notice offence;
 - (d) a description of the offence;
 - (e) the prescribed amount payable for the offence;
 - (f) the enforcement agency, as defined in the *Fines and Penalties (Recovery) Act*, to whom the prescribed amount is payable.
- (2) The infringement notice must include a statement to the effect of the following:
 - (a) the person may expiate the infringement notice offence and avoid any further action in relation to the offence by paying the prescribed amount to the specified enforcement agency within 28 days after the notice is given;
 - (b) the person may elect under section 21 of the *Fines and Penalties (Recovery) Act* to have the matter dealt with by a court instead of under that Act by completing a statement of election and giving it to the specified enforcement agency;
 - (c) if the person does nothing in response to the notice, enforcement action may be taken under the *Fines and Penalties (Recovery) Act*, including (but not limited to) action for the following:
 - (i) suspending the person's licence to drive;
 - (ii) seizing personal property of the person;
 - (iii) deducting an amount from the person's wages or salary;

-
- (iv) registering a statutory charge on land owned by the person;
 - (v) making a community work order for the person and imprisonment of the person if the person breaches the order.
- (3) Also, the infringement notice must include an appropriate form for making the statement of election mentioned in subregulation (2)(b).

213 Payment by cheque

If the person tenders a cheque in payment of the prescribed amount, the amount is not taken to have been paid unless the cheque is cleared on first presentation.

214 Withdrawal of infringement notice

- (1) The Competent Authority may withdraw the infringement notice by written notice given to the person.
- (2) The notice must be given:
- (a) within 28 days after the infringement notice is given to the person; and
 - (b) before payment of the prescribed amount.

215 Application of Part

- (1) This Part does not prejudice or affect the start or continuation of proceedings for an infringement notice offence for which an infringement notice has been given unless the offence is expiated.
- (2) Also, this Part does not:
- (a) require an infringement notice to be given; or
 - (b) affect the liability of a person to be prosecuted in a court for an offence for which an infringement notice has not been given; or
 - (c) prevent more than one infringement notice for the same offence being given to a person.
- (3) If more than one infringement notice for the same offence has been given to a person, the person may expiate the offence by paying the prescribed amount in accordance with any of the notices.

17 Schedule 3 inserted

After Schedule 2

insert

Schedule 3 Infringement notice offences and prescribed amounts

regulation 210

Provision	Penalty units
regulation 5D(1)	2
regulation 140(2)	2
regulation 140(3)	2

18 Regulations further amended

The Schedule has effect.

Schedule Regulations further amended

regulation 18

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
Part I, heading	whole heading	Part 1 General matters
Part 1, Division 1, heading, at the end		matters
regulation 5M(6)(a) and (b), at the end		or
Part II, heading	II	2
Part 2, Division 1, heading, at the end		matters
regulation 70(1), definition authorized explosive	authorized authorized	authorised authorised
regulation 90, heading	blasting	
Part IV, heading	IV	4
Part 4, Divisions 1 and 6, heading, at the end		matters
Part VI, heading	whole heading	Part 6 Miscellaneous matters
Part VII, heading	VII	7