

NORTHERN TERRITORY OF AUSTRALIA
AMENDMENTS OF DANGEROUS GOODS REGULATIONS

Regulations 2004, No. 26

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SCHEDULE



NORTHERN TERRITORY OF AUSTRALIA

Regulations 2004, No. 26*

Regulations under the *Dangerous Goods Act*

I, EDWARD JOSEPH EGAN, the 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 5 August 2004.

E. J. EGAN
Administrator

By His Honour's Command

CLARE MARTIN
Chief Minister acting for and on behalf of the
Minister for Employment, Education and Training

* Notified in the *Northern Territory Government Gazette* on 18 August 2004.

AMENDMENTS OF DANGEROUS GOODS REGULATIONS

1. Principal Regulations

The Dangerous Goods Regulations are in these Regulations referred to as the Principal Regulations.

2. Interpretation

Regulation 2 of the Principal Regulations is amended –

- (a) by omitting from subregulation (1) the definition of "Chief Inspector of Machinery";
- (b) by omitting from subregulation (1) "Chief Inspector" from the definitions of "laboratory" and "process building" and substituting "Competent Authority";
- (c) by omitting from subregulations (5)(b) and (7) "Chief Inspector" and substituting "Competent Authority";
- (d) by omitting from subregulation (8)(b) "or vehicle" and "or a vehicle, as the case may be,"; and
- (e) by omitting subregulation (8)(e).

3. Repeal and substitution of regulations 3 to 5

Regulations 3, 4 and 5 of the Principal Regulations are repealed and the following substituted:

"Subdivision 1 – Requirement for licences

"3. Manufacture of dangerous goods

"(1) A person must not manufacture dangerous goods except under and in accordance with the terms and conditions of a licence.

Penalty: \$5 000.

"(2) This regulation does not apply in relation to the filling of safety cartridges in the manner prescribed in regulation 81.

"4. Storage of dangerous goods

"(1) A person must not store dangerous goods on premises except under and in accordance with the terms and conditions of a licence.

Penalty: \$5 000.

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"(2) A person licensed to manufacture dangerous goods on premises may store on the premises the goods manufactured under the licence.

"(3) Subregulation (1) does not apply if the person is exempt under regulation 91, 144, 208 or 210.

"5. Conveyance of dangerous goods

"(1) A person must not convey any dangerous goods (other than by road or rail transport) except under and in accordance with the terms and conditions of a licence.

Penalty: \$5 000.

"(2) Subregulation (1) does not apply if the person is exempt under regulation 117.

"5A. Precautions

"A person who is conveying dangerous goods (other than by road or rail transport) must take the precautions that are reasonably necessary to prevent access to the goods being gained by persons who are not authorised by or under these Regulations to gain access to the goods.

Penalty: \$5 000.

"5B. Sale of dangerous goods

"(1) A person must not sell dangerous goods prescribed in regulation 129 except under and in accordance with the terms and conditions of a licence.

Penalty: \$5 000.

"(2) A person must not sell dangerous goods in a public place within the meaning of the *Summary Offences Act*.

Penalty: \$5 000.

"(3) Subregulation (1) does not apply if the person is exempt under regulation 117, 127 or 130.

"5C. Import or export of dangerous goods

"(1) A person must not import or export dangerous goods prescribed in regulation 84 into or out of the Territory unless he or she has given the Competent Authority the approved notice of his or her intention to import or export the dangerous goods and has received the approval of the Competent Authority to import or export the dangerous goods.

Penalty: \$5 000.

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"(2) The Competent Authority may approve, with or without conditions, the import or export of dangerous goods prescribed in regulation 84 into or out of the Territory.

"(3) A person must not import or export dangerous goods prescribed in regulation 84 into or out of the Territory without the prior approval of the Competent Authority.

Penalty: \$5 000.

"(4) A person who is importing dangerous goods prescribed in regulation 84 into the Territory must, immediately after the dangerous goods arrive in the Territory, serve on the Competent Authority the approved notice of their arriving in the Territory.

Penalty: \$5 000.

"(5) Subregulation (1), (3) or (4) does not apply if the person is exempt under regulation 117.

"5D. Possession of dangerous goods

"(1) A person must not have any dangerous goods prescribed in regulation 131 in his or her possession except under and in accordance with the terms and conditions of a licence.

Penalty: \$5 000.

"(2) Subregulation (1) does not apply if the person is exempt under regulation 117 or 131.

"5E. Authorised explosives

"(1) The Competent Authority may, by notice in the *Gazette*, authorise the handling of the explosives or class of explosives specified in the notice in the circumstances and subject to the conditions that are specified in the notice.

"(2) The Competent Authority may, by instrument, authorise a person to handle a specified explosive subject to the conditions specified in the instrument.

"(3) A person must not handle explosives specified under subregulation (1) or (2) except in the circumstances and subject to the conditions specified in the notice or instrument, as the case may be.

Penalty: \$5 000.

"(4) A person must not handle an explosive unless authorised to do so.

Penalty: \$5 000.

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"Subdivision 2 – Applications etc.

"5F. Applications

"(1) A person may apply to the Competent Authority for a licence.

"(2) An application under subregulation (1) must be accompanied by the prescribed fee.

"5G. False or misleading applications

"A person must not make a statement in an application under regulation 5F that is false or misleading in a material particular.

Penalty: \$2 000.

"5H. Determination of application

"(1) Subject to these Regulations, the Competent Authority must consider an application made under regulation 5F and may determine it by –

- (a) granting the licence conditionally or unconditionally; or
- (b) refusing to grant the licence.

"(2) If the Competent Authority grants a licence subject to conditions, the conditions must be as prescribed in regulation 7 or 8 or as the Competent Authority considers necessary in a particular case.

"(3) A licence must not be granted to a person who is under 18 years of age.

"5J. Form of licence

"A licence must be in accordance with the approved form and must specify the premises, ship or aircraft in relation to which it is issued.

"5K. Variation etc. of conditions of licence

"(1) The Competent Authority may serve on a licensee notice that a condition of his or her licence is varied or revoked or that a new condition has been added to his or her licence.

"(2) The variation, revocation or addition of a condition takes effect on service of the notice under subregulation (1).

"(3) The licensee must, within 21 days of receiving a notice under subregulation (1), produce his or her licence to the Competent Authority for the variation, revocation or addition of the condition to be endorsed on it.

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"(4) A licensee may apply to the Competent Authority for a condition of his or licence to be varied or revoked or for a new condition to be added to his or her licence.

"(5) An application under subregulation (4) must –

- (a) be in writing;
- (b) specify details of the condition in respect of which the variation or revocation is applied for or the condition that is to be added to the licence, as the case may be; and
- (c) be accompanied by the licence to which the application relates.

"(6) The Competent Authority, after receiving an application under subregulation (4), may vary, revoke or add the condition as specified in the application and must endorse the licence accordingly.

"5L. Cancellation or suspension of licence

"(1) The Competent Authority may, by instrument 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 the Act or these Regulations;
- (d) the licensee has contravened or failed to comply with –
 - (i) a condition of the licence; or
 - (ii) the written directions of an officer; or
- (e) the Competent Authority is of the opinion that, in the interests of any person, the licence should be cancelled or suspended.

"(2) If a licence is cancelled under subregulation (1), the licensee must return the licence to the Competent Authority within 14 days of being notified that the licence has been cancelled.

Penalty: \$2 000.

"5M. Appeals

"(1) A person who is dissatisfied with a decision of the Competent Authority under this Subdivision may appeal to the Local Court against the decision.

"(2) An appeal under subregulation (1) must –

- (a) be made within 28 days after the date on which the person received notice of the decision; and
- (b) be in writing setting out the grounds on which the person makes the appeal.

"(3) A copy of the application must be served on the Competent Authority.

"(4) The Local Court must conduct a hearing, in the manner it thinks fit, into the reasons for the Competent Authority having made the decision appealed against.

"(5) The Local Court hearing an appeal has all the powers, duties and functions of the Competent Authority in relation to the matter to which the appeal relates.

"(6) The Local Court must determine the appeal by –

- (a) confirming the decision of the Competent Authority;
- (b) varying the decision of the Competent Authority in any manner as it thinks fit;
- (c) substituting the Local Court's own decision for the decision of the Competent Authority; or
- (d) disallowing the decision of the Competent Authority.

"(7) A determination under subregulation (6) takes effect –

- (a) on the date specified in the determination; or
- (b) if no date is specified – on the date of the determination."

4. Conditions that may apply

Regulation 8 of the Principal Regulations is amended –

- (a) by omitting from paragraph (d) "and vehicles"; and

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- (b) by omitting from paragraph (f) ", devices or vehicles" and substituting "or devices".

5. Alteration to premises

Regulation 9 of the Principal Regulations is amended by omitting "or a vehicle".

6. Repeal of regulations 54 to 61

Regulations 54 to 61 (inclusive) of the Principal Regulations are repealed.

7. New Divisions 8A to 8C

Part II of the Principal Regulations is amended by inserting after Division 8 the following:

"Division 8A – Explosives reserves and government magazines

"94A. Government explosives reserves and magazines

"(1) The Minister may, by notice in the *Gazette*, declare Crown land within the meaning of the *Crown Lands Act* to be a government explosives reserve.

"(2) The Competent Authority may establish government explosives magazines in the places, buildings or other structures that the Competent Authority thinks fit.

"94B. Magazines

"(1) A person may apply to the Competent Authority for approval to –

- (a) keep a magazine on a government explosives reserve; or
- (b) store explosives in a government explosives magazine.

"(2) An application must be accompanied by the prescribed fee.

"(3) The Competent Authority must consider the application and may –

- (a) grant the approval, either conditionally or unconditionally; or
- (b) refuse to grant the approval.

"94C. Terms of approval to be observed

"A person who is granted an approval under regulation 94B must comply with and not contravene the terms and conditions of the approval.

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Penalty: \$5 000.

"Division 8B – Dangerous goods disposal sites

"94D. Definitions

"In this Division –

'disposal site' means land declared under regulation 94E(1);

'approved place' means a place approved under regulation 94E(2).

"94E. Establishment of disposal sites

"(1) The Minister may, by notice in the *Gazette*, declare land to be a dangerous goods disposal site for the disposal of dangerous goods.

"(2) The Competent Authority may approve a place that is not a disposal site to be a place for the disposal of dangerous goods.

"94F. Directions as to disposal etc.

"(1) In relation to disposing of dangerous goods at a disposal site or an approved place, the Competent Authority may give directions as to –

- (a) the type and quantity of dangerous goods that may be disposed of;
- (b) the method of disposing, destroying or rendering safe of dangerous goods; and
- (c) rules of management to be applied in disposing, destroying or rendering safe of dangerous goods.

"(2) The Competent Authority 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,

the disposal site or approved place.

"94G. Disposal of dangerous goods

"A person must not dispose of dangerous goods –

- (a) in a place that is not a disposal site or an approved place;
- (b) in contravention of these Regulations; or

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- (c) in contravention of the directions of the Competent Authority under regulation 94F.

Penalty: \$5 000.

"Division 8C – Trespass in respect of reserves, magazines, licensed premises etc.

"94H. Trespass in respect of reserves, magazines, licensed premises etc.

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

Penalty: \$5 000.

"94J. 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 must 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.

"94K. Arrest without warning

"An officer, 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 regulation 94H or 94J, or a person authorised by any of those persons, may arrest without warrant any person found committing an offence against regulation 94H or 94J in respect of the premises, vehicle, ship or aircraft."

8. Repeal of Part II, Division 12

Part II, Division 12 of the Principal Regulations is repealed.

9. New regulation 220A

The Principal Regulations are amended by inserting after regulation 220 the following:

"220A. Variation of regulation requirements

"(1) The Competent Authority may, by notice in writing to the occupier of the land on which dangerous goods are stored or to the owner of dangerous goods –

- (a) exempt him or her from complying with these Regulations; or

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- (b) modify or vary these Regulations in the manner and in accordance with any conditions specified in the notice.

"(2) The Competent Authority must not issue a notice under subregulation (1) unless it is satisfied that –

- (a) it is not practicable for the person to comply with these Regulations; and
- (b) the exemption from, modification or variation of these Regulations will not adversely affect the safety, health or welfare of persons handling the dangerous goods.

"(3) A person who handles dangerous goods in accordance with a notice under subregulation (1) is taken to have complied with these Regulations.".

10. Further amendments

The Principal Regulations are amended as set out in the Schedule.

SCHEDULE

Regulation 0

| Provision | Amendment | |
|---|--|--|
| | omit | substitute |
| Regulation 6(2)(a) and (3) | Chief Inspector | Competent Authority |
| Regulation 7(c) | section 37 of the Act | these Regulations |
| Regulation 10(1) | inspector | officer |
| Regulations 10(2) and 11 | Chief Inspector | Competent Authority |
| Regulation 14(1) | section 11(1)(k) or (m) of the Act an inspector has given a direction or, under section 11(1)(m), takes an action authorized by that paragraph, he may | section 18(1)(k) or (3)(e) of the Act an officer has given a direction or, under section 21, takes an action authorised by that section, he or she may |
| Regulations 14(4) and 24 | inspector (all references) | officer |
| Regulation 26(1) | section 22 of the Act Chief Inspector (all references) inspector (all references) | regulation 5E Competent Authority officer |
| Regulation 26(2) and (2)(h) | Chief Inspector | Competent Authority |
| Regulation 27(1) and (2) | Chief Inspector (all references) inspector | Competent Authority officer |
| Regulations 28(1), (2), (2)(a) and (3) and 29 | Chief Inspector (all references) | Competent Authority |

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|--|--|---------------------------------------|
| Regulation 34(3)(b) | section 16 of the Act | regulation 4 |
| Regulation 41(3)(a) | Chief Inspector | Competent Authority |
| Regulation 42(4)(a) | inspector | officer |
| Regulations 44(1)(a) and (2) and 62(b) | Chief Inspector | Competent Authority |
| Regulation 70(1) | | |
| – definition of "authorized explosive" | section 22 of the Act | regulation 5E |
| Regulation 80(2) | Chief Inspector | Competent Authority |
| Regulation 81(2) | section 15(1)(b) of the Act | regulation 3(1) |
| Regulation 82(1) | Chief Inspector | Competent Authority |
| | section 22 of the Act | regulation 5E |
| Regulation 82(2) and (2)(b) | Chief Inspector | Competent Authority |
| Regulation 84(1) | section 20 of the Act | regulation 5C |
| Regulation 84(2) | Chief Inspector | Competent Authority |
| | section 20 of the Act | regulation 5C |
| Regulation 91 | section 16(1)(b) of the Act of that subsection | regulation 4(1) of that subregulation |
| Regulation 92(6)(m) | inspector | officer |
| Regulation 94(3) | Chief Inspector | Competent Authority |
| Regulation 95 | inspector | officer |
| Regulation 99(3) | Chief Inspector | Competent Authority |

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| | | |
|---|--|--|
| Regulations 101(b) and 103 | inspector | officer |
| Regulation 104(4) and (5) | Chief Inspector | Competent Authority |
| Regulations 105(c)(ii), 106(1) and (2), 107(2) and 109(2) | inspector (all references) | officer |
| Regulations 112(1) and (3) and 114(2) | Chief Inspector | Competent Authority |
| Regulation 127 | section 19(1)(b) of the Act of that subsection | regulation 5B(1)(b) of that subregulation |
| Regulation 130(1) | section 19(1)(b) of the Act Chief Inspector of that subsection | regulation 5B(1) Competent Authority of that subregulation |
| Regulation 130(2) and (3) | Chief Inspector (all references) | Competent Authority |
| Regulation 131(1) and (2) | section 21(1) of the Act | regulation 5B(1) |
| Regulation 131(2) | of that subsection | of that subregulation |
| Regulations 133(1), (3), (3)(d) and 134(1)(c) | Chief Inspector | Competent Authority |
| Regulations 136(2) and 137(1)(e) | inspector | officer |
| Regulation 137(2) | Chief Inspector | Competent Authority |
| Regulation 138(4) | | |
| – paragraph (a) of definition of "authorized person" | inspector | officer |

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| Regulation 141(1), (2) and (4) | Chief Inspector | Competent Authority |
| Regulation 142(d) | inspector | officer |
| Regulation 143(1) and (2) | Chief Inspector | Competent Authority |
| Regulation 144(1) | section 16(1)(b) of the Act of that subsection | regulation 4(1)(b) of that subregulation |
| Regulation 145(5) | Chief Inspector | Competent Authority |
| Regulation 146(2)(a)(i) and (ii) | Chief Inspector of Machinery | Competent Authority |
| Regulation 148(4) | Chief Inspector | Competent Authority |
| Regulation 151(1)(a) and (b) and (4) | inspector | officer |
| Regulations 157(5)(a) and 159(2)(a) | Chief Inspector of Machinery | Competent Authority |
| Regulations 167, 172(2), 173(1), (2), (4), (5), (5)(c) and (6), 174(1), (2), (4), (5) and (6), 175(1)(d), (2) and (3), 176(1)(d) and (2), 178(1) and 179(3)(a) | Chief Inspector | Competent Authority |
| Regulations 179(4) and 184(2) and (3) | inspector (all references) | officer |
| Regulations 186(1) and 187(1) | Chief Inspector | Competent Authority |
| Regulation 188(3)(b) | inspector | officer |

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|---|--|---|
| Regulations 189(2)(a), (4) and (4)(b)(i), 190(4), 191(4), 198(1) and (3), 201(1), (2), (4), (5) and (5)(b), 202(1)(c) and (2), and 203(1)(b)(i) | Chief Inspector (all references) | Competent Authority |
| Regulation 203(2) | inspector | officer |
| Regulation 207(1)(d) | Chief Inspector | Competent Authority |
| Regulations 208 and 210(1) | section 16(1)(b) of the Act | regulation 4(1) |
| Regulations 216(1)(a) and 219(1) | Chief Inspector | Competent Authority |
| Regulation 221 | section 50 of the Act Chief Inspector | regulation 220A Competent Authority |
| Regulation 223(2) and (3) | inspector (all references) | officer |

ALTERATIONS TO REGULATION HEADINGS

On the day on which the Dangerous Goods Regulations are amended by these Regulations, in addition to any alteration to regulation headings indicated in the text of these Regulations, the heading to regulation 14 of the Dangerous Goods Regulations is altered by omitting "**inspector**" and substituting "**officer**" and the heading to regulation 27 of the Dangerous Goods Regulations is altered by omitting "**Chief Inspector or inspector**" and substituting "**Competent authority or officer**".