

2003

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

---

(As presented)

(Mr Steve Pratt)

# **Dangerous Goods Legislation Amendment Bill 2003**

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## **Dangerous Goods Legislation Amendment Bill 2003**

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### **A Bill for**

An Act to amend the *Dangerous Goods Act 1975* and the *Dangerous Goods Regulations 1978*

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The Legislative Assembly for the Australian Capital Territory enacts as follows:

1 **Part 1 Preliminary**

2 **1 Name of Act**

3 This Act is the *Dangerous Goods Legislation Amendment Act 2003*.

4 **2 Commencement**

5 This Act commences on the day after its notification day.

6 *Note* The naming and commencement provisions automatically commence on  
7 the notification day (see Legislation Act, s 75 (1)).

## Part 2 Dangerous Goods Act 1975

### 3 Act amended—pt 2

This part amends the *Dangerous Goods Act 1975*.

### 4 New sections 2A and 2B

*insert*

#### 2A Notes

A note included in this Act is explanatory and is not part of this Act.

*Note* See Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

#### 2B Offences against Act—application of Criminal Code etc

Other legislation applies in relation to offences against this Act.

*Note 1 Criminal Code*

The Criminal Code, ch 2 applies to the following offences against this Act (see Code, pt 2.1):

- s 26B (Unauthorised sale of fireworks and model rocket propellant devices)
- s 26C (Permit required for use of fireworks and model rocket propellant devices)
- s 26D (Use of marine distress fireworks)
- s 26E (Dangerous use of fireworks and model rocket propellant devices)
- s 26F (Authorised person's power to require production of permit)
- s 26G (Authorised person's power to require name and address).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg *conduct*, *intention*, *recklessness* and *strict liability*).

*Note 2*    *Penalty units*

The Legislation Act, s 133 deals with the meaning of offence penalties that are expressed in penalty units.

## **5    New division 4.6**

*insert*

### **Division 4.6                      Sale and use of fireworks and model rocket propellant devices**

#### **26A    Definitions for div 4.6**

In this division:

***authorised person*** means—

- (a) an inspector; or
- (b) a police officer.

***exempt firework*** means a firework prescribed under the regulations as an exempt firework.

***exempt model rocket propellant device*** means a model rocket propellant device prescribed under the regulations as an exempt model rocket propellant device.

***firework*** includes anything that is designed to produce a sound or a visual display or signal by the ignition or explosion of an explosive substance, but does not include an exempt firework.

***model rocket propellant device*** means anything (including a model rocket motor) that is designed to be part of the propulsion system for a model rocket, but does not include an exempt model rocket propellant device.

***public display fireworks permit*** means a public display fireworks permit under the regulations.



1        *use—*

2        (a) for a firework or exempt firework—includes ignite or explode  
3        the firework; and

4        (b) for a model rocket propellant device or exempt model rocket  
5        propellant device—includes ignite or fire the device.

6        **26B    Unauthorised sale of fireworks and model rocket**  
7        **propellant devices**

8        (1) A person (the *seller*) commits an offence if the person sells a  
9        firework or a model rocket propellant device to someone else (the  
10       *buyer*).

11       Maximum penalty: 100 penalty units, imprisonment for 1 year or  
12       both.

13       *Note*       A reference to fireworks or model rocket propellant devices does not  
14       include exempt fireworks or exempt model rocket propellant devices,  
15       see s 26A, def *firework* and def *model rocket propellant device*.

16       (2) This section does not apply to the seller if—

17       (a) the buyer produces to the seller the evidence of the buyer's  
18       authority to receive the firework or model rocket propellant  
19       device required under the regulations; and

20       (b) the seller records the sale of the firework or model rocket  
21       propellant device as required by the regulations.

22       (3) An offence against this section is a strict liability offence.

- 1   **26C   Permit required for use of fireworks and model rocket**  
2   **propellant devices**
- 3   (1) A person commits an offence if the person uses a firework other  
4   than in accordance with a public display fireworks permit.
- 5   Maximum penalty: 100 penalty units, imprisonment for 1 year or  
6   both.
- 7   *Note*     This offence does not apply to the use of exempt fireworks, see s 26A,  
8              def *firework*.
- 9   (2) A person commits an offence if the person uses a model rocket  
10   propellant device other than in accordance with a public display  
11   fireworks permit.
- 12   Maximum penalty: 100 penalty units, imprisonment for 1 year or  
13   both.
- 14   *Note*     This offence does not apply to the use of exempt model rocket  
15              propellant devices, see s 26A, def *model rocket propellant device*.
- 16   (3) An offence against this section is a strict liability offence.
- 17   **26D   Use of marine distress fireworks**
- 18   (1) A person commits an offence if the person uses a marine distress  
19   firework other than in accordance with a public display fireworks  
20   permit.
- 21   Maximum penalty: 100 penalty units, imprisonment for 1 year or  
22   both.
- 23   (2) Subregulation (1) does not apply if the person uses the marine  
24   distress firework in an emergency.
- 25   (3) An offence against this section is a strict liability offence.
- 26   (4) In this regulation:
- 27       *marine distress firework* means a firework that is designed for use  
28       in an emergency on land or at sea.

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**26E Dangerous use of fireworks and model rocket propellant devices**

(1) A person commits an offence if the person uses a firework, or an exempt firework, in a way that is likely to—

(a) endanger the health or safety of, or cause distress or suffering to, a person or animal; or

(b) damage property.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

(2) A person commits an offence if the person uses a model rocket propellant device, or an exempt model rocket propellant device, in a way that is likely to—

(a) endanger the health or safety of, or cause distress or suffering to, a person or animal; or

(b) damage property.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

(3) An offence against this section is a strict liability offence.

**26F Authorised person's power to require production of permit**

(1) An authorised person may require a person to produce for inspection any public display fireworks permit issued to the person if the authorised person has reasonable grounds for suspecting that the person is using, is about to use, or has just used, a firework or model rocket propellant device.

*Note* A reference to fireworks or model rocket propellant devices does not include exempt fireworks or exempt model rocket propellant devices, see s 26A, def **firework** and def **model rocket propellant device**.

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- 1 (2) If an authorised person makes a requirement of a person under  
2 subsection (1), the authorised person must—
- 3 (a) tell the person the reasons for the requirement; and  
4 (b) as soon as practicable, record the reasons.
- 5 (3) A person commits an offence if the person contravenes a  
6 requirement under subsection (1).
- 7 Maximum penalty: 5 penalty units.
- 8 (4) However, a person is not required to comply with a requirement  
9 under subsection (1) if, when asked by the person, the authorised  
10 person does not produce his or her identity card for inspection by  
11 the person.
- 12 (5) Subsection (4) does not apply in relation to an authorised person  
13 who is a police officer in uniform.
- 14 (6) An offence against this section is a strict liability offence.

**26G Authorised person's power to require name and address**

- 16 (1) An authorised person may require a person to state the person's  
17 name and address if the authorised person has reasonable grounds  
18 for suspecting that the person is committing, is about to commit, or  
19 has just committed, an offence against this division.

20 *Note* A reference to a provision of an Act includes a reference to the statutory  
21 instruments made or in force under the provision, including regulations  
22 (see Legislation Act, s 104).

- 23 (2) If an authorised person makes a requirement of a person under  
24 subsection (1), the authorised person must—
- 25 (a) tell the person the reasons for the requirement; and  
26 (b) as soon as practicable, record the reasons.
- 27 (3) A person commits an offence if the person—  
28 (a) contravenes a requirement under subsection (1); or

(b) states a false name or address in purported compliance with a requirement under that subsection.

Maximum penalty: 5 penalty units.

(4) However, a person is not required to comply with a requirement under subsection (1) if, when asked by the person, the authorised person does not produce his or her identity card for inspection by the person.

(5) Subsection (4) does not apply in relation to an authorised person who is a police officer in uniform.

(6) An offence against this section is a strict liability offence.

## **6 Dictionary, new definitions**

*insert*

***authorised person***, for division 4.6 (Sale and use of fireworks and model rocket propellant devices)—see section 26A.

***exempt firework***, for division 4.6 (Sale and use of fireworks and model rocket propellant devices)—see section 26A.

***exempt model rocket propellant device***, for division 4.6 (Sale and use of fireworks and model rocket propellant devices)—see section 26A.

***firework***, for division 4.6 (Sale and use of fireworks and model rocket propellant devices)—see section 26A.

***model rocket propellant device***, for division 4.6 (Sale and use of fireworks and model rocket propellant devices)—see section 26A.

***public display fireworks permit***, for division 4.6 (Sale and use of fireworks and model rocket propellant devices)—see section 26A.

***use***, for a firework, exempt firework, model rocket propellant device or exempt model rocket propellant device, for division 4.6 (Sale and

**Part 2** Dangerous Goods Act 1975

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- 1 use of fireworks and model rocket propellant devices)—see  
2 section 26A.

## Part 3 Dangerous Goods Regulations 1978

### 7 Regulations amended—pt 3

This part amends the *Dangerous Goods Regulations 1978*.

### 8 New regulation 3A

*insert*

### 3A Offences against regulations—application of Criminal Code etc

Other legislation applies in relation to offences against these regulations.

#### Note 1 Criminal Code

The Criminal Code, ch 2 applies to the following offences against these regulations (see Code, pt 2.1):

- reg 41 (Sale etc of fireworks—general restrictions)
- reg 41A (Sale etc of model rocket propellant devices—general restrictions)
- reg 94 (Conditions subject to which certain explosives may be kept)
- reg 95 (Keeping of marine distress fireworks for sale—Act, s 9 (1) (c)).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg *conduct*, *intention*, *recklessness* and *strict liability*).

#### Note 2 Penalty units

The Legislation Act, s 133 deals with the meaning of offence penalties that are expressed in penalty units.

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1 **9 Queen's birthday public holiday—conditions on licences**  
2 **for retail sale of shopgoods fireworks**  
3 **Regulation 10**

4 *omit*

5 **10 New regulation 35A**

6 *insert*

7 **35A Exempt fireworks etc—Act, s 26A, def exempt firework**  
8 **and def exempt model rocket propellant device**

9 (1) Each of the following fireworks is an exempt firework:

- 10 (a) amorces;  
11 (b) confetti bombs;  
12 (c) marine distress fireworks;  
13 (e) snaps for bonbon crackers;  
14 (f) sparklers;  
15 (g) starting pistol caps;  
16 (h) streamer cones.

17 *Note* Each kind of exempt fireworks is defined in the dictionary.

18 (2) A model rocket propellant device is an exempt model rocket  
19 propellant device if—

- 20 (a) the device contains less than 15g of propellant; or  
21 (b) the device produces a maximum force of less than 80N.



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**11 Regulation 36***substitute***36 Exclusion of certain explosives—Act, s 15, def explosive**

(1) In this regulation:

*non-exempt explosive* means the following class 1.4, group S explosives:

- (a) fireworks;
- (b) model rocket propellant devices;
- (c) safety cartridges and cartridge cases containing only primer (UN number 0055).

*Note* The def does not apply to exempt fireworks or exempt model rocket propellant devices, see the Act, s 26A, def *firework* and def *model rocket propellant device*.

(2) Class 1.4, group S explosives, other than non-exempt explosives, are explosives to which the following provisions of the Act do not apply:

- (a) division 4.2 (Import);
- (b) division 4.4 (Sale, supply and receipt);
- (c) division 4.5 (Possession).

(3) Safety cartridges, and cartridge cases containing only primer (UN number 0055), are explosives to which the following provisions of the Act do not apply:

- (a) division 4.2 (Import);
- (b) division 4.5 (Possession).

*Note 1* Safety cartridges, and cartridge cases containing only primer (UN number 0055), are class 1.4, group S explosives (see sch 1).

*Note 2* See the *Firearms Act 1996* for other provisions about safety cartridges.

**12 Regulations 41 and 41A***substitute***41 Sale etc of fireworks—general restrictions**

- (1) A person must not manufacture, import into the ACT or sell any of the following fireworks:
- (a) an exempt firework (other than amorces, a streamer cone or a confetti bomb) containing a composition of a chlorate mixed with sulphur, a sulphide or phosphorus;
  - (b) an exempt firework containing arsenic or a compound of arsenic as an ingredient of its composition;
  - (c) an exempt firework (other than amorces, a snap for a bon-bon cracker, a streamer cone or a confetti bomb) that explodes either completely or in part;
  - (d) exempt fireworks that are liable to explode en masse;
  - (e) a firework from which the firework composition can escape before the firework is ignited;
  - (f) a firework that on ignition is likely to be projected through the air in an erratic or unpredictable flight;
  - (g) a firework that ignites less than 3 seconds, or more than 15 seconds, after its wick or touch paper has been ignited in accordance with the instructions displayed on the firework or attached to it;
  - (h) a firework that does not have printed on or attached to it instructions in the English language about how it is to be ignited and how it is designed to behave (the ***required information***);

- 
- 1 (i) a firework that, after having been set up and ignited in  
2 accordance with the instructions displayed on it or attached to  
3 it, behaves otherwise than in accordance with the instructions.
- 4 Maximum penalty: 10 penalty units.
- 5 (2) Subregulation (1) (h) does not apply in relation to—
- 6 (a) an exempt firework if it is impractical to print the required  
7 information on the firework or attach the information to the  
8 firework if the packet or container in which the firework is sold  
9 has the required information printed on it; or
- 10 (b) a firework sold to the holder of a public display fireworks  
11 permit; or
- 12 (c) a person who imports a firework if the firework is imported in  
13 accordance with a licence held by the person.
- 14 (3) It is a defence to the prosecution of a person who imports a firework  
15 into the ACT in contravention of subregulation (1) if—
- 16 (a) the person proves that—
- 17 (i) the person took reasonable care to avoid the  
18 contravention; and
- 19 (ii) the person acted in reasonable reliance on information  
20 supplied to the person by someone else; or
- 21 (b) the person proves that—
- 22 (i) the person took reasonable care to avoid the  
23 contravention; and
- 24 (ii) the contravention was caused by the act or omission of  
25 someone else or was otherwise beyond the control of the  
26 person.
- 27 (4) An offence against this regulation is a strict liability offence.
-

1 **41A Sale etc of model rocket propellant devices—general**  
2 **restrictions**

3 (1) A person must not manufacture, import into the ACT or sell a model  
4 rocket propellant device or an exempt model rocket propellant  
5 device—

6 (a) that contains a composition of a chlorate mixed with sulphur, a  
7 sulphide or phosphorus; or

8 (b) from which the ignitable substances can escape before it is  
9 ignited; or

10 (c) that may explode either completely or in part.

11 Maximum penalty: 10 penalty units.

12 (2) An offence against this regulation is a strict liability offence.

13 **13 Authority to receive explosives**  
14 **Division 4.3, heading, new note**

15 *after the heading, insert*

16 *Note* Fireworks are explosives, see reg 35 (a). However, no authority under  
17 the Act is required to sell or receive exempt fireworks and exempt  
18 model rocket propellant devices (see reg 36).

19 **14 Issue of public display fireworks permits**  
20 **Regulation 54 (3) (b) and (c) and (4) (b) (i) and (c) (i)**

21 *after*

22 fireworks

23 *insert*

24 and model rocket propellant devices

1	<b>15</b>	<b>Conditions of public display fireworks permits</b>
2		<b>Regulation 55 (1) (b), (c) and (d) and (2) (a)</b>
3		<i>after</i>
4		fireworks
5		<i>insert</i>
6		and model rocket propellant devices
7	<b>16</b>	<b>Authority given by public display fireworks permits</b>
8		<b>Regulation 56 (1) (a) and (2) (a)</b>
9		<i>after</i>
10		to receive fireworks
11		<i>insert</i>
12		and model rocket propellant devices
13	<b>17</b>	<b>Shopgoods fireworks purchasers permits</b>
14		<b>Regulation 57</b>
15		<i>omit</i>
16	<b>18</b>	<b>Production of evidence of authority to receive explosives</b>
17		<b>Regulation 59, table, item 4, column 2</b>
18		<i>substitute</i>
19		regulations 52, 53 or 56
20	<b>19</b>	<b>Regulation 59, table, example</b>
21		<i>omit</i>

- 1 **20 Regulation 59 (3)**
- 2 *omit*
- 3 the licence or permit
- 4 *substitute*
- 5 the licence, permit or authorisation
- 6 **21 Purchase and use of fireworks**
- 7 **Division 4.4**
- 8 *omit*
- 9 **22 Notices and labels to be exhibited at depots**
- 10 **Regulation 90 (3)**
- 11 *omit*
- 12 , for the keeping of shopgoods fireworks,
- 13 **23 Regulation 90, table 1, new item 4A**
- 14 *insert*
- |    |           |      |            |
|----|-----------|------|------------|
| 4A | class 1.4 | 50kg | Explosives |
|----|-----------|------|------------|
- 15 **24 Regulation 90, table 1, item 30**
- 16 *omit*
- 17 **25 Certain explosives not required to be kept in or on**
- 18 **licensed premises**
- 19 **Regulation 93 (2) (b) and (c)**
- 20 *substitute*
- 21 (b) for fireworks and model rocket propellant devices at the place
- 22 of a public fireworks display—
- 23 (i) if the holding of the display is authorised by a general
- 24 public display fireworks permit—the quantity of

fireworks and model rocket propellant devices notified in accordance with regulation 55 (1) (Conditions of public display fireworks permits); or

(ii) if the holding of the display is authorised by a special public display fireworks permit—the quantity of fireworks and model rocket propellant devices stated in the permit;

(c) not more than 10kg of marine distress fireworks;

## **26 Regulation 93 (2) (f), (g) and (h)**

*substitute*

(f) an unlimited quantity of—

(i) safety cartridges kept otherwise than for sale; or

(ii) exempt fireworks (other than marine distress fireworks); or

(iii) explosives received under the authority of a collector's permit;

(g) for explosives classified as dangerous goods of class 1.4, group S that are not mentioned elsewhere in this subregulation—an unlimited quantity.

## **27 Conditions subject to which certain explosives may be kept Regulation 94 (1)**

*substitute*

(1) This regulation applies to explosives kept otherwise than in or on licensed premises in the quantities stated in regulation 93 (2), other than—

(a) not more than 10kg of marine distress fireworks kept for sale; or

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- 1 (b) safety cartridges kept by the holder of a licence under the Act,  
2 section 21 for sale under the authority of the licence.

3 **28 Regulation 94 (7)**

4 *omit*

5 **29 Regulation 94**

6 *renumber subregulations when regulations next republished under*  
7 *Legislation Act*

8 **30 Regulations 95 and 95A**

9 *substitute*

10 **95 Keeping of marine distress fireworks for sale—**  
11 **Act, s 9 (1) (c)**

12 (1) This regulation applies to marine distress fireworks (the *flares*) kept  
13 for sale in a shop if the quantity of the flares is not more than 10kg.

14 (2) The person in charge of the shop must ensure that the requirements  
15 of this regulation are complied with.

16 Maximum penalty: 10 penalty units.

17 (3) The flares—

18 (a) must not be placed in a window display; and

19 (b) must be kept (except with the chief inspector's approval)—

20 (i) if they are in a part of the shop to which the public has  
21 access—in sealed sparkproof packages contained in  
22 closed receptacles; or

23 (ii) if they are in any other part of the shop—in closed  
24 receptacles or in sealed sparkproof packages; and

25 (c) must not be kept in a way that affects the free movement of  
26 people in the shop; and



- 1           (d) must be separated from any other dangerous goods and from  
2           any combustible materials.
- 3       (4) A receptacle in a shop that contains flares—
- 4           (a) must not be used except as a container for flares; and
- 5           (b) must only be opened when flares are being put into or taken  
6           out of the receptacle; and
- 7           (c) must be kept clean and free of dust and grit; and
- 8           (d) must not contain matches (including Bengal matches); and
- 9           (e) must not contain any means of artificial lighting.
- 10       (5) All reasonable precautions must be taken to prevent—
- 11           (a) the happening of accidents through the explosion or ignition of  
12           the flares; and
- 13           (b) the doing, in or on the shop where the flares are kept, of  
14           anything that may cause, or tend to cause, a fire and that is not  
15           reasonably necessary; and
- 16           (c) unauthorised people having access to the flares.
- 17       (6) An offence against this regulation is a strict liability offence.
- 18       (7) In this regulation:
- 19           *package* does not include a container that is made from plastic film  
20           of less than 38µm in thickness.
- 21           *receptacle* means a cupboard, drawer, enclosed shelf, glass  
22           showcase or trunk, or metal or wooden box, that can be closed.

Section 31

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- 1 **31 Restrictions on use of internal magazines**  
2 **Regulation 107 (2) (c) and (d)**
- 3 *substitute*
- 4 (c) not more than 200kg of propellant powder being dangerous  
5 goods of class 1.3.
- 6 **32 Regulation 109 heading**
- 7 *substitute*
- 8 **109 Internal magazines for class 1.3 propellant powder**
- 9 **33 Regulation 109**
- 10 *omit*
- 11 , or of fireworks,
- 12 **34 Separation distances for depots**  
13 **Regulation 109A**
- 14 *omit*
- 15 **35 Repacking of shopgoods fireworks**  
16 **Regulation 109B**
- 17 *omit*
- 18 **36 Review**  
19 **Regulation 374 (1) (h) to (j)**
- 20 *substitute*
- 21 (h) issuing a public display fireworks permit subject to conditions  
22 under regulation 55 (2).

- 1 **37 Dictionary, new definitions of *exempt firework* and**
- 2 ***exempt model rocket propellant device***
- 3 *insert*
- 4 *exempt firework*—see regulation 35A (1).
- 5 *exempt model rocket propellant device*—see regulation 35A (2).
- 6 **38 Dictionary, definition of *firework***
- 7 *substitute*
- 8 *firework*—see the Act, section 26A.
- 9 **39 Dictionary, definition of *magazine***
- 10 *substitute*
- 11 *magazine* means a depot where explosives are kept.
- 12 **40 Dictionary, definition of *marine distress firework***
- 13 *substitute*
- 14 *marine distress firework* means a firework that is designed for use
- 15 in an emergency on land or at sea.
- 16 **41 Dictionary, definition of *model rocket propellant device***
- 17 *substitute*
- 18 *model rocket propellant device*—see the Act, section 26A.
- 19 **42 Dictionary, definitions of *shopgoods fireworks* and**
- 20 ***shopgoods fireworks purchasers permit***
- 21 *omit*

- 1 **43 Dictionary, new definition of *use***
- 2 *insert*
- 3 *use*, for a firework, exempt firework, model rocket propellant device
- 4 or exempt model rocket propellant device—see the Act,
- 5 section 26A.
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## Endnotes

### Republications of amended laws

- 1 For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

### Notification

- 2 Notified under the Legislation Act on 2003.  
(see [www.legislation.act.gov.au](http://www.legislation.act.gov.au))