

**THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

DANGEROUS GOODS (AMENDMENT) BILL 1998

EXPLANATORY MEMORANDUM

**Circulated by authority of
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Minister for Urban Services**

Dangerous Goods (Amendment) Bill 1998

Outline

The ACT is a party to the Heavy Vehicles Agreement of 1991 and the Light Vehicles Agreement of 1992, which provide for the National Road Transport Commission (NRTC) to develop uniform legislation to apply throughout Australia. These agreements provide for the reform of the laws of the States and Territories so far as they relate to road transport. The Agreements provide for uniform legislation to be enacted by the Commonwealth Parliament as a law for the ACT. Once enacted for the Australian Capital Territory the legislation is to be applied in the States and the Northern Territory by application laws of those jurisdictions.

As provided for in the Agreements the Legislative Assembly consented to the Commonwealth Parliament enacting laws for the ACT. The consent that relates to the Heavy Vehicles Agreement was given on 8 August 1991 and that relating to the Light Vehicles Agreement, on 14 May 1992.

In accordance with the Agreements the Commonwealth has enacted the *Road Transport Reform (Dangerous Goods) Act 1995* (Cth) (the National Act) and other Acts that provide for various aspects of road transport reform. Under the National Act the National Road Transport (Dangerous Goods) Regulations have been made (the National Regulations). The National Regulations commenced operation on 31 March 1998 and provide for the road transport of most dangerous goods.

The commencement of the National Regulations raises two matters that are addressed in these amendments. The first is that the National Act and National Regulations displace ACT laws that provide for the road transport of dangerous goods. The second is that the National Act and National Regulations do not make satisfactory provision for the road transport of three classes of dangerous goods.

Displacement

Section 10 of the National Act has the effect that the Act and the National Regulations will, once a phasing in period that is provided for in regulation 24.1 of the Regulations expires on 30 September 1998, displace laws of the ACT that relate to the road transport of dangerous goods. Section 10 however is actually drafted so that the displacement relates not only to those aspects of the ACT law that relate to road transport, but to all provisions of the ACT law even though the national Act at this stage does not have any provisions relating to other modes of transport. The ACT laws that are affected by this are the *Dangerous Goods Act 1975* and *Dangerous Goods Regulation 1978* of the State of New South Wales as applied in the ACT by the *Dangerous Goods Act 1984* (the ACT Dangerous Goods legislation).

This matter is being addressed by declaring in these amendments that the ACT Dangerous Goods legislation does not relate to the road transport of dangerous goods.

This will mean that other provisions of the ACT Dangerous Goods legislation that deal with matters such as the manufacture of dangerous goods are not displaced by the operation of section 10 of the National Act.

Unsatisfactory aspects of the National Act and National Regulations

With respect to some classes of dangerous goods the National Regulations are unsatisfactory. The classes are:

- Class 1 (explosives)
- Class 6.2 (infectious substances)
- Class 7 (radioactive material)
(the three classes of goods)

At present ACT law provides satisfactorily for the road transport and other matters relating to the three classes of goods. The provisions are to be found in the following laws:

- the ACT Dangerous Goods legislation
- the *Clinical Waste Act 1990*
- the *Radiation Act 1983*
(the ACT legislation)

As a short term measure to preserve the operation of the ACT legislation, so far as it relates to the 3 classes of goods, an emergency order (the Order) has been made under section 34 of the National Act. The Order was notified in Special Gazette No S101 on 31 March 1998. The Order has the effect of deleting the three classes of dangerous goods from the National Regulations' definition of dangerous goods. This means that the Regulations do not relate to the 3 classes of goods. Accordingly, section 10 of the National Act does not result in the ACT legislation being displaced.

Clause 8(6) of the Heavy Vehicles Agreement and clause 8(6) of the Light Vehicles Agreement provide that an emergency order may be in force for a period of 6 months. Steps are being taken for the provisions of the Order to be incorporated in the National Regulations. If this has not occurred before the expiry of the Order a further order will be made.

Revenue/Cost Implications

The Bill has no financial implications

Formal Clauses

Clauses 1 (Short title), 2 (Commencement) and 3 (Principal Act) These clauses are formal. They refer to the short title of the Bill; provide that the Bill will commence when it is notified in the Gazette; and provide a definition of "Principal Act".

Application

Clause 4 inserts new subsections (3) and (4) in section 4 of the *Dangerous Goods Act 1984*. The new subsections have the effect that the ACT dangerous goods legislation does not apply to the road transport of dangerous goods that are satisfactorily provided for in the National Act and National Regulations. This will result in the ACT dangerous goods legislation not being displaced by the National Act and National Regulations.

New subsection (3) declares that the ACT dangerous goods legislation does not apply to the transport of dangerous goods by road.

New subsection (4) inserts definitions for the purposes of new subsection (3):

- "dangerous goods" is defined by reference to a provision that is inserted in the NSW Dangerous Goods Regulation 1978
- "transport" is defined so that the term is consistent with the definition that is used in section 6 of the National Act

Consequential amendments

Clause 5 makes consequential amendments, set out in the Schedule, to the *Dangerous Goods Act 1975* and *Dangerous Goods Regulation 1978* of the State of New South Wales as applied in the ACT by the *Dangerous Goods Act 1984*.

Dangerous Goods Act (NSW)

A new section 10A is inserted in the Act to ensure that section 10 of the Act does not require a licence to be held when a small quantity of dangerous goods is being transported or when dangerous goods are being transported for a short distance after import.

Dangerous Goods Regulation (NSW)

A new regulation 16A is inserted for the purposes of subsection 4(4) of the *Dangerous Goods Act 1984*. For the purposes of subsection 4(4) the three classes of goods are declared.