

AUSTRALIAN CAPITAL TERRITORY

DANGEROUS GOODS (AMENDMENT) ORDINANCE 1984

ORDINANCE NO. 69 OF 1984

EXPLANATORY STATEMENT

The Dangerous Goods Ordinance 1984 (the existing Ordinance) applies as laws of the A.C.T. the New South Wales Dangerous Goods Act 1975 and Dangerous Goods Regulation 1978 with modifications set out in Parts 1 and 2 of the Schedule to the Ordinance respectively. The Dangerous Goods (Amendment) Ordinance 1984 amends the Schedule to provide for amendments to the Act and Regulation so applied which were requested by the Senate Standing Committee on Regulations and Ordinances. Details of the Ordinance are set out below:

Section 1 cites the short title of the Ordinance as the Dangerous Goods (Amendment) Ordinance 1984.

Section 2 modifies the New South Wales Act and Regulation as applied by the existing Ordinance to accomplish the amendments requested by the Senate Committee.

The Senate Committee drew attention to the fact that sub-section 24(2) of the Act and sub-clause 46A(2) of the Regulation referred to a defendant adducing evidence 'that he believes on reasonable grounds' that a person to whom explosives or fireworks were supplied was of or above the age of 18 years. The Committee considered that both provisions should read 'that he believed on reasonable grounds'. The Attorney-General's Department confirmed that the use of 'believes' was the result of a misprint and accordingly paragraphs 2(b) and 2(e) of the Ordinance substitute 'believed' in sub-section 24(2) and sub-clause 46A(2) respectively.

The Senate Committee also considered that sub-sections 20(2), 26(2) and 36(2) of the Act, which provide defences in prosecutions for certain offences under the Act, were objectionable in that they imposed on the defendant a persuasive onus of proof in respect of those defences (that is, the defendant would be required to establish the elements of the defence on the balance of probabilities). Paragraphs 2(a), 2(c) and 2(d) amend those sub-sections so as to require the defendant merely to adduce evidence of the relevant defence which is not rebutted by the prosecution.

Ord. No. 61/84