

Hazardous Substances (Fireworks) Regulations 2001

(SR 2001/121)

Pursuant to sections 75(1)(a) and 140(1)(r) of the Hazardous Substances and New Organisms Act 1996, Her Excellency the Governor-General, acting on the advice and with the consent of the Executive Council (given on the recommendation of the Minister for the Environment made in compliance with section 141(1) of that Act), makes the following regulations.

Contents

	Page
1 Title	1
2 Commencement	2
3 Interpretation	2
4 Application	3
5 Exemptions from other regulations	3
6 Display and sale of fireworks	3
7 Circumstances in which Authority may issue approval to sell fireworks at other times	4
8 Form of approval	4
9 Importer or manufacturer must obtain test certificate	5
10 Requirements for issue of test certificates	5
11 Test certificate for fireworks	7

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- 1 Title**
These regulations are the Hazardous Substances (Fireworks) Regulations 2001.

Note

These regulations are administered in the Ministry for the Environment.

2 Commencement

These regulations come into force on 2 July 2001.

3 Interpretation

In these regulations, unless the context otherwise requires,—

Act means the Hazardous Substances and New Organisms Act 1996

firework—

- (a) has the same meaning as in section 2 of the Act; and
- (b) includes any pyrotechnic novelty or noise maker.

firework: this definition was substituted, as from 23 September 2004, by regulation 3 Hazardous Substances (Fireworks) Amendment Regulations 2004 (SR 2004/252).

pyrotechnic substance has the same meaning as in Part 2 of Schedule 1 of the Hazardous Substances (Classification) Regulations 2001

retail fireworks package means any package of fireworks that—

- (a) is offered for retail sale as a single unit; and
- (b) meets the requirements of regulation 10(4) of the Hazardous Substances (Packaging) Regulations 2001; and
- (c) if the package contains sparklers,—
 - (i) contains at least 3 other fireworks (not being sparklers) with a minimum pyrotechnic substance content of 15 g per item; and
 - (ii) contains no more than 50 sparklers, whether contained separately or in packets

retail fireworks package: this definition was inserted, as from 2 August 2007, by regulation 4(1) Hazardous Substances (Fireworks) Amendment Regulations 2007 (SR 2007/186).

retailer means a person engaged in a business that includes the sale of fireworks for any reason other than for resale by the person to whom the fireworks are sold

sparkler means a firework made up of a rigid wire or non-metallic stick that is partially coated at one end with a slow-burning pyrotechnic substance, with or without an ignition tip,

that is designed to be held in the hand and which emits sparks without a report

sparkler: this definition was inserted, as from 2 August 2007, by regulation 4(2) Hazardous Substances (Fireworks) Amendment Regulations 2007 (SR 2007/186).

4 Application

- (1) These regulations apply to fireworks with the hazard classification 1.3G, 1.4G, or 1.4S.
- (2) Despite subclause (1), regulations 6, 7, and 8 do not apply to—
 - (a) those bonbon crackers, snaps, or similar pyrotechnic novelties or noise makers containing less than 1.7 mg of pyrotechnic substance; or
 - (b) those amorces, crackshots, or similar pyrotechnic novelties or noise makers containing less than 5 mg of pyrotechnic substance; or
 - (c) those party poppers, streamer bombs, handblasters, or similar pyrotechnic novelties or noise makers containing less than 20 mg of pyrotechnic substance.
- (3) Nothing in these regulations limits or affects the operation of Part 15 of the Act.

Subclause (2) was amended, as from 28 August 2003, by regulation 3 Hazardous Substances (Fireworks) Amendment Regulations 2003 (SR 2003/179) by substituting the words “regulations 6, 7, and 8” for the words “these regulations”.

5 Exemptions from other regulations

The following regulations do not apply to fireworks with the hazard classification 1.3G, 1.4G, or 1.4S, at any time after sale by a retailer to another person:

- (a) Hazardous Substances (Classes 1 to 5 Controls) Regulations 2001:
- (b) Hazardous Substances (Tracking) Regulations 2001.

6 Display and sale of fireworks

- (1) Fireworks may be displayed for retail sale or sold by a retailer during the period beginning on 2 November and ending at the close of 5 November in each year.
- (2) Fireworks may be sold by a retailer at other times only under a written approval issued by the Authority under regulation 7.

- (3) A retailer must not sell fireworks to a person aged under 18 years.
- (4) A retailer must not sell any fireworks unless a test certificate for those fireworks that complies with regulation 10 has been issued.
- (5) A retailer must not sell a retail fireworks package containing any firework referred to in regulation 4(2).
- (6) A retailer must not sell sparklers unless they are contained in a retail fireworks package.

Subclause (1) was amended, as from 2 August 2007, by regulation 5(1) Hazardous Substances (Fireworks) Amendment Regulations 2007 (SR 2007/186) by substituting “2 November” for “27 October”.

Subclause (3) was amended, as from 2 August 2007, by regulation 5(2) Hazardous Substances (Fireworks) Amendment Regulations 2007 (SR 2007/186) by substituting “18 years” for “14 years”.

Subclause (5) was inserted, as from 23 September 2004, by regulation 4 Hazardous Substances (Fireworks) Amendment Regulations 2004 (SR 2004/252).

Subclause (5) was amended, as from 2 August 2007, by regulation 5(3) Hazardous Substances (Fireworks) Amendment Regulations 2007 (SR 2007/186) by substituting “retail fireworks package” for “package of fireworks”.

Subclause (6) was inserted, as from 2 August 2007, by regulation 5(4) Hazardous Substances (Fireworks) Amendment Regulations 2007 (SR 2007/186).

7 Circumstances in which Authority may issue approval to sell fireworks at other times

The Authority may issue a written approval permitting a retailer to sell fireworks at times outside the period specified in regulation 6(1) if—

- (a) the fireworks are to be sold for use at a gathering of people held for cultural or religious purposes; and
- (b) the use of fireworks is a feature of the cultural or religious traditions of the people at the gathering.

8 Form of approval

A written approval issued under regulation 7 must set out details of—

- (a) the event or gathering or class of event or gathering for which the display and sale of fireworks by the retailer to whom the approval is issued is permitted; and

- (b) the period during which that retailer may sell fireworks; and
- (c) the class or classes of persons to whom that retailer may sell fireworks; and
- (d) any other conditions imposed by the Authority in relation to the approval.

9 Importer or manufacturer must obtain test certificate

- (1) The importer of a consignment of fireworks or a consignment of retail fireworks packages into New Zealand must obtain a test certificate for all fireworks of each type within the consignment.
- (2) The manufacturer of a batch of fireworks or retail fireworks packages in New Zealand must obtain a test certificate for each batch and package.
- (3) An importer or manufacturer to whom subclause (1) or subclause (2) applies—
 - (a) must not supply fireworks or retail fireworks packages to a retailer unless the importer or manufacturer has first obtained the appropriate test certificate for those fireworks under subclause (1) or subclause (2):
 - (b) must make a copy of that certificate available to that retailer on request.

Subclauses (1) and (2) were substituted, as from 2 August 2007, by regulation 6(1) Hazardous Substances (Fireworks) Amendment Regulations 2007 (SR 2007/186).

Subclause (3)(a) was amended, as from 2 August 2007, by regulation 6(2) Hazardous Substances (Fireworks) Amendment Regulations 2007 (SR 2007/186) by inserting “or retail fireworks packages” after “must not supply fireworks”.

10 Requirements for issue of test certificates

- (1) A test certificate may be issued by a test certifier for all fireworks of any one type within an imported consignment or for a batch of fireworks manufactured in New Zealand, if those fireworks comply with regulation 11.
- (1A) A test certificate may be issued by a test certifier for a retail fireworks package.
- (2) For the purposes of subclause (1), a batch of fireworks complies with regulation 11 if—

- (a) not less than 10 fireworks are selected at random from the batch and each of the selected fireworks, when tested, complies with that regulation; or
 - (b) in a case where 1 of the fireworks selected under paragraph (a) does not comply with 1 or more of the requirements of regulation 11(1)(c), (f), (g) or (h), not less than 10 additional fireworks are selected at random from the same batch and each of the selected fireworks, when tested, complies with regulation 11.
- (3) For the purposes of subclause (1), all fireworks of any one type within an imported consignment comply with regulation 11 if—
 - (a) not less than 10 fireworks are selected at random from those fireworks of that type within the consignment, and each of the selected fireworks, when tested, complies with that regulation; or
 - (b) in a case where 1 of the fireworks selected under paragraph (a) does not comply with 1 or more of the requirements of regulation 11(1)(c), (f), (g), or (h), not less than 10 additional fireworks of the same type are selected at random from the same consignment, and each of the selected fireworks, when tested, complies with regulation 11.
- (4) If a batch of fireworks does not satisfy the requirements of subclause (2), it must not be given a test certificate.
- (5) If all fireworks of any one type within an imported consignment do not satisfy the requirements of subclause (3), a test certificate must not be given for those fireworks.
- (6) Despite subclauses (1), (2), and (4), the Authority may waive the requirement that a batch of fireworks be tested for compliance with regulation 11(1)(b), if a batch of fireworks containing the same type or types of fireworks has earlier been tested and found to comply with that regulation.
- (7) Despite subclauses (1), (3), and (5), the Authority may waive the requirement that all fireworks of any one type within an imported consignment be tested for compliance with regulation 11(1)(b), if an imported consignment of fireworks containing the same type of fireworks has earlier been tested and found to comply with that regulation.

Subclause (1A) was inserted, as from 2 August 2007, by regulation 7 Hazardous Substances (Fireworks) Amendment Regulations 2007 (SR 2007/186).

11 Test certificate for fireworks

- (1) A test certificate for fireworks must identify the consignment or batch, certify that the objects in that consignment or batch are fireworks, and certify that the fireworks in that batch or the fireworks within that consignment of a particular type to which the certificate relates—
- (a) do not contain more than 40 g of pyrotechnic substances; and
 - (b) do not include—
 - (i) any chlorate mixed with sulphur, phosphorus, or any sulphide (unless the fireworks are an amorce containing more than 5 mg of pyrotechnic substance);
 - (ii) any toxic substances of classification 6.1A, 6.1B, or 6.1C other than traces of antimony, arsenic, cadmium, chromium, lead, mercury, nickel, selenium, zinc, and their compounds; and
 - (c) are constructed in a manner that does not allow pyrotechnic substances to escape at any time; and
 - (d) do not have their own means of ignition (except if the fireworks are of a kind referred to in regulation 4(2)); and
 - (e) do not, if the fireworks are shaped as hand-held fireworks, discharge fire and burst the casing following ignition; and
 - (ea) are not in the shape of a gun, grenade, or similar device that could suggest the fireworks may be pointed or thrown at a person; and
 - (f) have instructions for use on the outer case, or packet, if there are no outer cases; and
 - (g) when used in accordance with the instructions for the use of the fireworks, do not, on discharge, result in hot or burning material falling to the ground in a manner that creates a hazard; and
 - (h) have a fuse burning time of not less than 3 seconds and not more than 11 seconds; and.

- (i) do not have a tube diameter of more than 22 mm.
- (2) The instructions required by subclause (1)(f) must comply with regulations 34 (comprehensibility) and 35 (clarity) of the Hazardous Substances (Identification) Regulations 2001.
- (3) A copy of the test certificate must be given to the Authority by the test certifier as soon as practicable after the certificate is issued.
- (4) Despite subclause (1), if regulation 10(6) or regulation 10(7) applies, the test certificate must not certify that subclause (1)(b) is complied with, but must certify that the obligation to test for compliance with that subclause has been waived.

Subclause (1)(d) was amended, as from 23 September 2004, by regulation 5(1) Hazardous Substances (Fireworks) Amendment Regulations 2004 (SR 2004/252) by inserting the words “(except if the fireworks are of a kind referred to in regulation 4(2))” after the words “do not have their own means of ignition”.

Subclause (1)(ea) was inserted, as from 23 September 2004, by regulation 5(2) Hazardous Substances (Fireworks) Amendment Regulations 2004 (SR 2004/252).

Subclause (1)(g) was amended, as from 28 August 2003, by regulation 4 Hazardous Substances (Fireworks) Amendment Regulations 2003 (SR 2003/179) by substituting the words “, on discharge, result in hot or burning material falling to the ground in a manner that creates a hazard” for the words “create a hazard by discharging hot or burning material”.

Subclause (1)(h) was amended, as from 23 September 2004, by regulation 5(3) Hazardous Substances (Fireworks) Amendment Regulations 2004 (SR 2004/252) by inserting the expression “; and”.

Subclause (1)(i) was inserted, as from 23 September 2004, by regulation 5(4) Hazardous Substances (Fireworks) Amendment Regulations 2004 (SR 2004/252).

Martin Bell,
for Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on 2 July 2001, regulate the sale of fireworks to the public. The sale of fireworks to the public is permitted during the 10 days before Guy Fawkes night (27 October to 5 November). The sale of fireworks outside this period may be

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**Hazardous Substances (Fireworks)
Regulations 2001**

permitted by the Environmental Risk Management Authority under these regulations if the sale is for use at a gathering held for cultural or religious purposes.

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