



Fire and Emergency New Zealand (Fire Permits) Regulations 2017

Rt Hon Dame Sian Elias, Administrator of the Government

Order in Council

At Wellington this 15th day of May 2017

Present:

Her Excellency the Administrator of the Government in Council

These regulations are made under section 190 of the Fire and Emergency New Zealand Act 2017—

- (a) on the advice and with the consent of the Executive Council; and
- (b) on the recommendation of the Minister of Internal Affairs made in accordance with section 190(3) of that Act.

Contents

| | | Page |
|----|------------------------------------------------------------------------------------------------|------|
| 1 | Title | 2 |
| 2 | Commencement | 2 |
| 3 | Interpretation | 2 |
| 4 | Transitional, savings, and related provisions | 2 |
| 5 | Application for fire permit | 2 |
| 6 | FENZ may grant or renew fire permit only after considering fire risk conditions | 2 |
| 7 | Conditions that apply to fire permits | 3 |
| 8 | FENZ may attach additional conditions | 3 |
| 9 | Fire permit suspended if fires in open air prohibited or prohibited fire season declared | 3 |
| 10 | FENZ may suspend or cancel fire permit due to fire risk conditions or for fire control purpose | 4 |

| | | |
|----|------------------------------------------------------|---|
| 11 | FENZ may cancel fire permit if conditions breached | 4 |
| | Schedule 1 | 4 |
| | Transitional, savings, and related provisions | |

Regulations

1 Title

These regulations are the Fire and Emergency New Zealand (Fire Permits) Regulations 2017.

2 Commencement

These regulations come into force on 1 July 2017.

3 Interpretation

In these regulations, unless the context otherwise requires,—

Act means the Fire and Emergency New Zealand Act 2017

fire permit means a permit for the lighting of a fire in open air.

4 Transitional, savings, and related provisions

The transitional, savings, and related provisions (if any) set out in Schedule 1 have effect according to their terms.

5 Application for fire permit

- (1) A person (the **applicant**) may apply to FENZ for a fire permit or for the renewal of a fire permit.
- (2) The applicant must include the following information with the application:
 - (a) the applicant's name;
 - (b) the applicant's phone number or email address;
 - (c) the location of the proposed fire.
- (3) If the application is made on behalf of another person, the applicant must also include the other person's name and phone number or email address.

6 FENZ may grant or renew fire permit only after considering fire risk conditions

- (1) FENZ may grant or renew a fire permit only after considering the fire risk conditions as those conditions relate to the proposed fire.
- (2) FENZ may refuse to grant or renew a permit if FENZ considers, on reasonable grounds, that refusing is necessary—
 - (a) due to fire risk conditions; or
 - (b) for the purpose of fire control.

- (3) A fire permit granted by FENZ must state—
- (a) the date on which the fire permit takes effect; and
 - (b) the date on which the fire permit expires (which must be less than 5 years after the date on which the fire permit takes effect).

7 Conditions that apply to fire permits

- (1) Every fire permit is granted on the condition that the permit holder must not light a fire in fire risk conditions that make it likely that the fire will spread beyond the limits of the location or property specified in the permit as the location of the fire.
- (2) In addition, every fire permit for a proposed fire,—
- (a) in an area that is in a restricted fire season, is granted on the condition that, immediately before lighting a fire, the permit holder must make reasonable efforts to confirm that, in the location of the fire,—
 - (i) no prohibition on the lighting of fires in open air under section 52(1) of the Act is in place; and
 - (ii) no prohibited fire season under section 56(1) of the Act is in place:
 - (b) in an area in which the lighting of fires in open air has been prohibited under section 52(1) of the Act, is granted on the condition that, immediately before lighting a fire, the permit holder must make reasonable efforts to confirm that no restricted or prohibited fire season under section 56(1) of the Act is in place in the location of the fire.

8 FENZ may attach additional conditions

FENZ may attach to a fire permit any other condition that FENZ considers, on reasonable grounds, is necessary—

- (a) due to fire risk conditions; or
- (b) for the purpose of fire control.

9 Fire permit suspended if fires in open air prohibited or prohibited fire season declared

- (1) A fire permit for a proposed fire in an area that is in a restricted fire season is suspended if FENZ—
- (a) prohibits the lighting of fires in open air in the area; or
 - (b) declares a prohibited fire season in the area.
- (2) The fire permit is suspended,—
- (a) in the case of a prohibition on the lighting of fires in open air, from the earlier of—

- (i) the time at which the prohibition takes effect as described in the public notice under section 52(5)(a) of the Act; and
 - (ii) the time at which notice of the prohibition is given to the permit holder under section 52(5)(b) of the Act:
- (b) in the case of a prohibited fire season, from the start of the prohibited fire season as described in the public notice under section 56(1) of the Act.
- (3) The fire permit remains suspended until the earlier of—
 - (a) the date on which the fire permit expires; and
 - (b) the time at which the prohibition or the prohibited fire season is revoked or otherwise ends.

10 FENZ may suspend or cancel fire permit due to fire risk conditions or for fire control purpose

- (1) FENZ may cancel or suspend a permit if FENZ considers, on reasonable grounds, that cancellation or suspension of the permit is necessary—
 - (a) due to fire risk conditions; or
 - (b) for the purpose of fire control.
- (2) The fire permit is cancelled or suspended when FENZ provides notice of the cancellation or suspension to the permit holder.

11 FENZ may cancel fire permit if conditions breached

- (1) FENZ may cancel a fire permit if—
 - (a) any condition of the fire permit is breached; and
 - (b) FENZ considers, on reasonable grounds, that the breach increases the fire risk conditions.
- (2) The fire permit is cancelled when FENZ provides notice of the cancellation to the permit holder.

Schedule 1
Transitional, savings, and related provisions

r 4

Part 1
Provisions relating to these regulations as made

There are no transitional, savings, or related provisions relating to these regulations as made.

Michael Webster,
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 1 July 2017, are made under section 190 of the Fire and Emergency New Zealand Act 2017 (the **Act**). The regulations provide for Fire and Emergency New Zealand (**FENZ**) to grant permits to allow for the lighting of fires in open air that would otherwise be prohibited under Part 2 of the Act.

Regulation 3 defines some terms that are used in the regulations. Fire permit is defined as a permit for the lighting of a fire in open air. A number of terms that are used in the regulations are defined in the Act (for example, fire in open air, fire control, and fire risk conditions).

Regulation 4 and *Schedule 1* provide for transitional, savings, and related provisions. (There are no such provisions at the time of the making of these regulations but if the regulations are amended in the future, any transitional, savings, and related provisions relating to the amendments will be located in *Schedule 1*.)

Regulation 5 sets out some requirements for applications for fire permits, including the information that must be provided with an application. Under section 190(5) of the Act, FENZ may require a person who has applied for a permit to supply further relevant information before determining whether or not to grant the permit.

Regulation 6(1) provides that FENZ may grant or renew a fire permit only after considering the fire risk conditions as they relate to the proposed fire. *Regulation 6(2)* provides that FENZ may refuse to grant or renew a permit if FENZ considers that refusing is necessary due to fire risk conditions or for the purpose of fire control. If FENZ does grant a fire permit, *regulation 6(3)* requires that the permit state the date on which it takes effect and the date on which it expires.

Regulations 7 and 8 relate to conditions on fire permits. *Regulation 7* sets out the conditions that automatically apply to fire permits. *Regulation 8* empowers FENZ to attach additional conditions that FENZ considers, on reasonable grounds, are necessary due to fire risk conditions or for the purpose of fire control.

Regulations 9, 10, and 11 relate to the suspension or cancellation of fire permits.

Regulation 9 provides for fire permits to be suspended if FENZ prohibits the lighting of fires in open air in the area or declares a prohibited fire season in the area. In either case, the fire permit is suspended for the duration of the prohibition or the prohibited fire season.

Regulation 10 empowers FENZ to cancel or suspend a permit if FENZ considers, on reasonable grounds, that cancellation or suspension of the permit is necessary due to fire risk conditions or for the purpose of fire control.

Regulation 11 provides that FENZ may cancel a fire permit if a condition of the fire permit is breached and FENZ considers, on reasonable grounds, that the breach increases the fire risk conditions.

Regulatory impact statement

The Department of Internal Affairs produced a regulatory impact statement on 3 March 2017 to help inform the decisions taken by the Government relating to the contents of this instrument.

A copy of this regulatory impact statement can be found at—

- https://www.dia.govt.nz/diawebsite.nsf/wpg_URL/Resource-material-Regulatory-Impact-Statements-Index
- <http://www.treasury.govt.nz/publications/informationreleases/ris>

Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*: 18 May 2017.

These regulations are administered by the Department of Internal Affairs.