

DANGEROUS SUBSTANCES LEGISLATION: CONSULTATION ARRANGEMENTS FOR DRAFT EXPLOSIVES AND FIREWORKS REGULATIONS

On 11 December 2003, the Government introduced new dangerous substances legislation into the Legislative Assembly. The new legislation will establish a modern duty-based framework for the regulation of dangerous substances including explosives and fireworks. Among other things, the proposed legislation will implement the Government's commitments to improve fireworks regulation in the ACT.

The Dangerous Substances Bill 2003 establishes a licensing framework for dangerous substances activities, particularly high-risk dangerous substances such as explosives. The Bill also makes provision for disciplinary action in cases where the licensee ceases to be a suitable person or contravenes the Act. The Bill provides for a range of potential penalties, including the imposition of conditions on licences, revocation of licences, seizure of goods, on-the spot fines, fines and imprisonment.

To support the Bill, draft regulations for explosives have been prepared. The draft regulations incorporate the Australian Explosives Code and will regulate all activities associated with the import, manufacture, supply, use, transport and disposal of explosives (including fireworks). Submissions on the draft regulations can be made by close of business **Monday, 2 February 2004**.

Australian Explosives Code

The draft regulations incorporate the Australian Code for the Transport of Explosives by Road and Rail ("the Australian Explosives Code"). The Australian Explosive Code is a nationally agreed document prepared to provide a uniform basis for Commonwealth, State and Territory legislation governing the transport of explosives. It complements the Australian Code for the Transport of Dangerous Goods by Road and Rail. The latter Code is incorporated into the *Road Transport Reform (Dangerous Goods) Act 1995* (Cth) which currently applies to the transport of dangerous goods in the Territory. The draft regulations will bring the ACT into line with generally agreed directions for regulatory reform in relation to explosives.

Proposed Explosives Regulations

The draft regulations regulate the manufacture, storage, packaging, transport, sale, use and disposal of explosives (including fireworks). The draft regulations have been modelled on recently developed Victorian regulatory frameworks for explosives which incorporate the Australian Explosives Code.

Licensing Regime

The draft regulations establish a system of explosives-related licensing. Licences will be required to manufacture, import, transport (drivers and vehicles), store (persons who store and storage facilities), supply, and use (shotfirers and fireworks display operators). In addition, permits will be required to use blasting explosives or fireworks (with the exception of "general use" and "consumer" fireworks).

Fireworks Regulations

The draft regulations set out a new approach to the regulation of fireworks generally. The new regime is not limited to changes to consumer fireworks arrangements. The new regime includes provisions for the authorisation and management of fireworks displays and for the authorisation and use of fireworks for cultural and theatrical events. The new display provisions are focussed on controlling the impact of noise and disturbance on the community (particularly in residential areas), and on better safety controls generally. The new provisions will also prohibit the direct sale, display or storage of fireworks at retail and other premises accessible by the public – with the exception of the one week June long weekend sale period - and will introduce tougher penalties for illegal sales, possession and use of fireworks.

The draft regulations establish a number of categories of fireworks:

- fireworks that are prohibited explosives (e.g. bungers, bangers, and certain very large aerial display fireworks which would be illegal to use at any time with or without a licence);
- general use fireworks (an exempt class of specified novelty fireworks which can be purchased year-round by members of the general public, e.g. party poppers, bon bon snaps and small sparklers);
- consumer fireworks (a class of specified low-hazard fireworks which can be purchased by members of the general public for use on the Queen’s Birthday June weekend);
- display fireworks (fireworks discharged by a licensed fireworks display operator as part of an authorised display);
- theatrical fireworks (fireworks discharged by a licensed fireworks display operator or a licensed special event display operator as part of an authorised display);
- Chinese firecrackers (fireworks discharged by a licensed fireworks display operator or a licensed special event display operator as part of an authorised display).

Consumer Fireworks

The draft regulations set out the maximum amount of pyrotechnic substance that will be permissible for each type of prescribed firework. This will ensure the firework does not make a report or loud bang as one of its main effects.

The firework types (fountains, wheels, ground spinners, snakes, roman candles, and multishot cakes) have been selected because they can be designed for a primarily visual effect (e.g. fountains) for which a very small amount of “flash powder” is required. Flash powder (“concussion powder” or “salute powder”) is used to make an audible “report” or noise and a flash of light.

Storage Facilities

The draft regulations set storage requirements for explosives. Explosives will have to be stored in magazine standard facilities with the exception of small amounts prescribed by type.

Contact: Enquires about the proposed legislation can be made to Ms Shelley Schreiner on 02-6207-6155 or shelley.schreiner@act.gov.au.

Submissions: Submissions should be forwarded to the Director, Office of Industrial Relations, ACT Chief Minister’s Department, GPO 158, Canberra, ACT 2601