

AUSTRALIAN CAPITAL TERRITORY
FIREWORKS (AMENDMENT) ORDINANCE 1983

ORDINANCE NO. 8 OF 1982

EXPLANATORY STATEMENT

The Fireworks Ordinance 1972 (the existing Ordinance) restricts the sale of fireworks by retail in the Territory to the fourteen days preceding the Queen's Birthday Holiday in June each year. It also prohibits the importation into the Territory, or manufacture or sale in the Territory, of certain particularly dangerous types of fireworks except where such fireworks are sold to persons authorized by the Minister to arrange a display of fireworks or are manufactured or imported into the Territory for the purposes of a display arranged by such a person.

The Fireworks (Amendment) Ordinance 1983 (the proposed Ordinance) brings the law relating to the sale, manufacture and use of fireworks in the A.C.T. into line with that applying in New South Wales, in accordance with a recommendation of the A.C.T. House of Assembly. Details of the Ordinance are set out below:

Sections 1 and 2 are interpretation provisions.

Section 3 amends section 2 of the existing Ordinance to remove the definition of 'gunpowder' and add definitions of 'cap', 'confetti bomb', 'firework', 'marine distress firework', 'public display fireworks', 'public place', 'shopgoods fireworks', 'snap for bon-bon crackers', 'sparkler', 'starting pistol cap', and 'streamer cone'.

Section 4 replaces section 3 of the existing Ordinance by a new section 3. New sub-section 3(1) restricts the sale of shopgoods fireworks, otherwise than to a person authorized by the Minister to arrange a display of fireworks, to the fourteen days preceding the Queen's Birthday Holiday in June each year. New sub-section 3(2) prohibits the sale of fireworks (other than caps, confetti bombs, model rocket propellant devices, snaps for bon-bon crackers, sparklers and streamer cones) to persons under the age of 18 years. New sub-section 3(3) creates a defence where a person contravening the preceding provision believed on reasonable grounds that the person to whom he sold the fireworks was over 18.

Section 5 replaces section 4 of the existing Ordinance by a new section 4. New sub-section 4(1) prohibits the importation into the Territory, manufacture, sale or exposure for sale of fireworks (other than shopgoods fireworks, caps, confetti bombs, marine distress fireworks, model rocket propellant devices, snaps for bon-bon crackers, sparklers, starting pistol caps and streamer cones) or fireworks within

the permitted categories which contain certain dangerous substances, are liable to behave in a dangerous manner, or bear false or misleading instructions as to their manner of ignition or behaviour.

New sub-sections 4(2) and (3) require fireworks imported into the Territory or manufactured or sold in the Territory to bear instructions as to the manner in which the firework is to be ignited and the manner in which it is designed to behave. New sub-section 4(5) provides that this requirement does not apply where the firework is of such a kind that it is not reasonably practicable for it to bear such instructions.

New sub-section 4(4) creates an offence where a person sells shopgoods fireworks in a packet or container which does not bear instructions as to the manner in which the fireworks contained in it are to be ignited and the manner in which they are designed to behave.

Section 6 inserts into the existing Ordinance new sections 4A, 4B, 4C and 4D. New sub-section 4A(1) creates an offence where a firework (other than caps, confetti bombs, marine distress fireworks, model rocket propellant devices, snaps for bon-bon crackers, sparklers, starting pistol caps and streamer cones) is knowingly used in a public place except in an authorized display. New sub-section 4A(2) creates an offence where a marine distress firework is used in a public place except in an emergency and new sub-section 4A(3) creates an offence where a person knowingly uses any firework in a manner that is likely to endanger the safety of any other person.

New section 4B creates offences where a person under the age of 18 years knowingly receives or uses - except under the control and supervision of a person who is of or above the age of 18 years - any firework (other than caps, confetti bombs, model rocket propellant devices, snaps for bon-bon crackers, sparklers and streamer cones).

New section 4C requires the proprietor of a shop in which shopgoods fireworks or marine distress fireworks are kept for sale to keep them in a safe manner. New section 4D requires the proprietor of a shop in which shopgoods fireworks are sold to display a sign containing details of the relevant sales period under new sub-section 3(1) and a statement that shopgoods fireworks may not be sold to any person under the age of 18 years.

Section 7 amends section 5 of the existing Ordinance by replacing sub-section 5(1) by a new sub-section and altering sub-section 5(2) so that it refers to new sub-section 4(1) rather than the old section 4. New sub-section 5(1) creates a defence to the offences in new sub-section 4(1) where the person importing, selling or exposing for sale the firework in question can show that -

- he acted in reasonable reliance on information supplied to him by another person; or

- . the contravention was committed due to the act or default of another person or to a cause beyond his control,

and that he took reasonable precautions and exercised due diligence to avoid the contravention.

Sub-section 5(2) as amended preserves the existing defence to offences against new sub-section 4(1) where the fireworks in question are sold to a person authorized to arrange a display of fireworks or are manufactured or imported into the Territory for the purposes of a display arranged by such a person.

Ordinance No. 19/83.