

2007

**THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

**DANGEROUS SUBSTANCES (EXPLOSIVES) AMENDMENT
REGULATION 2007 (No 1)**

EXPLANATORY STATEMENT

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Overview

The Dangerous Substances (Explosives) Amendment Regulation 2007 (No 1) (the amending Regulation) contains amendments to the *Dangerous Substances (Explosives) Regulation 2004* (the Regulation).

The Regulation sets up a registration scheme for consumer fireworks. Regulation 39 provides that a consumer firework must not be registered unless it is an authorised explosive and meets the requirements of Schedule 1 to the Regulation.

Schedule 1 sets out the registration standards that will apply to consumer fireworks including their composition and the testing and sampling requirements that are to be applied. Subclause 3(2) of Schedule 1 of the Regulation specifies that a pyrotechnic substance contained in a consumer firework must be no more than 5% by weight, or less, flash powder. The Regulation's Dictionary defines a pyrotechnic substance as 'a substance or mixture of substances designed to produce an effect by heat, light, sound, gas or smoke, or a combination of these, as the result of a non-detonative self-sustaining exothermic chemical reaction'. Flash powder is defined as a pyrotechnic substance that is intended [emphasis added] to produce a flash of light (whether or not with a report, smoke or sparks).

Requiring both a quantitative analysis of the mix of material, as well as the effect of the mix complicates the registration standard and makes the refusal of an application for consumer fireworks difficult in practice. If the intended consequence is not to produce a flash of light, then the firework cannot be refused on the current criteria even though the content of the oxidizer and metal powder is in excess of 5% of the pyrotechnic substance. This is of concern as it could mean that fireworks with in excess of 5% by weight flash powder may be eligible for registration. This to consumers and members of the community at potential risk of injury.

The amending Regulation will clarify the existing provisions so it is clear that consumer fireworks must not contain more than 5% by weight of a mixture of oxidizer and metal powder regardless of how the firework is intended to operate or what it actually does in practice. This change will enable the refusal of registration of consumer fireworks which expose the community to the potential risk of injury.

The amending Regulation will also change the definition of flash powder. Flash powder appears in a number of sections of the Regulation. Removing intention element from in the definition of flash powder will make it clear that it is the potential to produce a flash of light rather than the intention that the firework produce a flash of light that is the focus of the Regulation, as originally intended.

Clause Notes

1. Name of Regulation

This clause establishes the name of the Regulation as the *Dangerous Substances (Explosives) Amendment Regulation 2007 (No 1)*.

2. Commencement

This is a formal provision specifying when the Regulation will commence. The Regulation commences on the day after its notification day.

3. Legislation amended

This clause provides that the purpose of the Regulation is to amend the *Dangerous Substances (Explosives) Regulation 2004*.

4. Schedule 1, Section 1.3 (2) and (3)

This clause replaces sub-section 1.3 (2) and (3) of Schedule 1.

The clause will establish that the pyrotechnic substance in a firework must not have more than 5% reactive powder.

Reactive powder is defined as a mix of oxidizer and metal powder, regardless of whether or not it contains binding and metal agents. Reactive powder includes material that is in powder or consolidated form.

Metal powder is defined for the purposes of Schedule 1 as metal powder that can pass through a 275-mesh sieve.

Oxidizer is defined as a substance that may cause, or contribute, to the combustion of another substance. It does not necessarily have to be combustible itself.

5. Dictionary, definition of flash powder

The existing definition of 'flash powder' is that of a 'pyrotechnic substance that is intended to produce a flash of light (whether or not with a loud sound, smoke or sparks).' The new definition provides that 'flash powder' means (a) a pyrotechnic substance or part of a pyrotechnic substance that has the potential to produce a flash of light (whether or not with a loud sound, smoke or sparks) and (b) includes photoflash powder; but (c) does not include black powder.

Regulatory Impact Statement

A Regulatory Impact Statement is not necessary as the amendments being made are in line with the original intention of the Regulation.