

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

**DANGEROUS SUBSTANCES (EXPLOSIVES) AMENDMENT REGULATION
2009 (No 1)**

Subordinate Law No SL2009-26

EXPLANATORY STATEMENT

Circulated by the authority of
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Minister for Industrial Relations

Background

The Dangerous Substances (Explosives) Amendment Regulation 2009 (No 1) amends the Dangerous Substances (Explosives) Regulation 2004 to assist in the prosecution of fireworks-related offences by simplifying the definition of “firework” and making it clear that a firework is also a dangerous substance for the purposes of the Act. It also introduces an infringement notice offence for a retailer of consumer fireworks to sell to a consumer a greater weight of fireworks than the consumer may lawfully store.

Notes on Specific Provisions

Clause 1 Name of regulation

This clause provides that name of the Regulation is the Dangerous Substances (Explosives) Amendment Regulation 2009 (No 1).

Clause 2 Commencement

This clause provides for commencement of this Regulation to be on the day after the notification day of this Regulation.

Clause 3 Legislation amended

This clause provides that this Regulation amends the Dangerous Substances (Explosives) Regulation 2004.

Clause 4 Section 7(1), definition of explosive, new paragraph (e)

This clause inserts a new paragraph (e), inserting “firework” into the definition of “explosive”. It makes it clear that a “firework” is an “explosive”.

Clause 5 New section 8(2)

This clause inserts a new subsection (2) stating that a firework is a dangerous substance. The Act has been interpreted by the courts to require that fireworks must be tested in compliance with United Nations standards to be regarded as dangerous substance when prosecutions are brought under the Act. These standards require testing of large quantities of fireworks in their original packaging. Under this clause, if something meets the definition of “firework” it will be a “dangerous substance”.

Clause 6 Division 2.2.2 heading

This amends the heading. It has no effect on the operative provisions.

Clause 7 Division 2.2.3 heading

This amends the heading. It has no effect on the operative provisions.

Clause 8 Division 2.2.4 heading

This amends the heading. It has no effect on the operative provisions.

Clause 9 Section 267(1), note 1

This replaces the present note with a note that reflects these amendments

Clause 10 New section 277A

This makes it an offence for a retailer at the same premises on the same day to sell more than 25kgs of consumer fireworks to a consumer. Table 123 item 9 of the Regulation provides that 25 kgs is the maximum weight of fireworks that a consumer may lawfully store.

Clause 11 Section 294 (2), note 1

This replaces the present note with a note that reflects these amendments.

Clause 12 Dictionary, definition of *firework*, paragraph (a).

This omits from the definition of “firework” that it be designed for use as a form of entertainment. There will be no requirement when prosecuting firework offences for the Director of Public Prosecutions prove the purpose for which the firework was designed.

**Clause 13 Magistrates Court (Dangerous Substances Infringement Notices)
Regulation 2004, schedule 1, part 1.2, new item 56A**

This provides that an infringement notice may be issued for the offence referred to in Clause 10, for selling to a consumer more fireworks than the consumer may lawfully store.