

21-D-00001

s 9(2)(a)

Dear s 9(2)(a)

Thank you for your email of 2 January 2021 requesting the following under the Official Information Act 1982 (the Act):

May I please request all information and advice including and not limited to briefings, memos and reports relating to banning the sale of and release of fireworks in New Zealand? Particularly any information provided to Ministers or other members of the Select Committee that I believe was in August 2020.

The Ministry for the Environment has identified four documents in scope of your request, as listed in the attached document schedule.

Included in these four documents are two briefings provided to the Minister for the Environment relating to the regulation of fireworks in New Zealand and statistics relating to their use. Please note, an error was identified in paragraph 8 of the 2019 briefing regarding the number of fire service call outs in November 2018. The number of fire service call outs in November 2018 was 92, rather than 81.

In addition, included are two documents relating to the Ministry for the Environment's submission to the Governance and Administration Select Committee in 2019. The Ministry for the Environment's submission to the Governance and Administration Select Committee can be found on the New Zealand Parliament website here:

https://www.parliament.nz/en/pb/petitions/document/PET_81101/petition-of-melanie-lindstrom-ban-the-private-sale-of

You have the right to seek an investigation and review by the Office of the Ombudsman of my decision to withhold information relating to this request, in accordance with section 28(3) of the Act. The relevant details can be found on their website at: www.ombudsman.parliament.nz.

Please note that due to the public interest in our work the Ministry for the Environment publishes responses to requests for official information on our [OIA responses page](#) shortly after the response has been sent. If you have any queries about this, please feel free to contact our Ministerial Services team: ministerials@mfe.govt.nz.

Yours sincerely



Glenn Wigley
Director, Waste and Resource Efficiency

Document schedule

Document no.	Document date	Content	Decisions	OIA sections applied
1	1 November 2019	2019-B-06179 Annual update on the use of fireworks in New Zealand 2019	Released in full	
3	18 April 2019	Letter to Ministry for the Environment – Request for written evidence 2019 04 18	Released in full	
4	26 June 2019	Notes for Glenn Wigley for Select Committee hearing	Released in full	
5	28 October 2020	2020-B-06915 Annual update on the regulation of fireworks in New Zealand 2020	Released in full	

Released under the provisions of the Official Information Act 1982



Annual update on the use of fireworks in New Zealand 2019

Date Submitted:		Tracking #: 2019-B-06179	
Security Level	In confidence	MfE Priority:	Non-Urgent

	Action sought:	Response by:
To Hon David Parker, Minister for the Environment	Noting	15 November 2019

Actions for Minister's Office Staff	Return the signed report to MfE.
Number of appendices and attachments Nil	
Note any feedback on the quality of the report	

Ministry for the Environment contacts

Position	Name	Cell phone	1 st contact
Principal Author	Raewyn MacGregor		
Responsible Manager	Amanda Baldwin	022 362 5798	✓
Director	Glenn Wigley	027 491 7806	

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Annual update on the use of fireworks in New Zealand 2019

Key Messages

1. This briefing is to update you on the use of fireworks in New Zealand. The Ministry for the Environment (MfE) provides you with a briefing on fireworks prior to Guy Fawkes each year. The briefing is for your information only and does not require any action.

Regulation of fireworks

2. The use of fireworks is primarily regulated under the Hazardous Substances (Fireworks) Regulations 2001 (the Regulations). The Regulations are under the Hazardous Substances and New Organisms Act 1996 (HSNO Act).
3. Section 35 of the Summary of Offences Act 1981 also covers the use of fireworks, stating that every person is liable to a fine who sets off or throws any fireworks or explosive material in such a manner as to be likely to cause injury to, or alarm, any person.
4. The Regulations restrict:
 - the age at which the public can purchase fireworks
 - the type and nature of fireworks sold to the public
 - the period during which fireworks can be sold.
5. In 2007 the Regulations were amended to:
 - reduce the retail sales period for fireworks to four days each year (between 2 and 5 November)
 - raise the legal age of purchase from 14 to 18 years
 - permit the sale of sparklers only as part of larger retail packs, and limited to a maximum of 50 sparklers per pack
 - reduce the explosive content (and consequent noise levels) of retail fireworks.
6. On 1 December 2017, section 97(1)(da) of the HSNO Act came into force. This means that New Zealand Police is now responsible for the enforcement of the Regulations.

2018 data on the use of fireworks by the public

7. Since 2003, the Ministry for the Environment (MfE) has collated data on fireworks, to monitor trends in the use of fireworks and the effectiveness of the Regulations.
8. 2018 statistics show a decrease in the number of injuries and fire service call outs compared to 2017. Injury numbers decreased from 8 in 2017 to 7 in 2018. Figures from ACC show 321 active claims related to fireworks in 2018 totalling \$473,056 in active costs. Fire service call outs decreased from 130 in 2017 to 81 in 2018.
9. In 2018 Police received 366 fireworks related calls during the retail period of 2 November to 5 November and a further 313 from 6 November to 19 November, totalling 679 calls covering categories such as disorder, wilful damage and breach of the peace.
10. The total volume of fireworks imported into New Zealand for retail and public display purposes was 653,303.3kg. This excludes novelty fireworks such as Christmas crackers.
11. For the whole of 2018 there were 20 ministerial letters received by your office (or forwarded to your office by a colleague) on the topic of fireworks. To date in 2019 there have been four

ministerial letters received by your office on this topic.

12. As noted in the 2018 annual update on fireworks (2018-B-04948), the data we have received from the above agencies suggests that the current level of regulation may be sufficient. However, we note that there are gaps in the data available to be collected and held nationally. Data collection relies on searches of key words in incident reports. This potentially provides an incomplete picture.
13. The level of incidents in terms of injuries to people does not currently suggest that more stringent regulation is warranted. However, there remains public concern about the use of fireworks especially amongst people who own animals such as companion animals or horses.
14. Groups such as the Royal New Zealand Society for the Prevention of Cruelty to Animals (SPCA), the New Zealand Veterinary Association and Fire and Emergency New Zealand (FENZ) have all publicly stated support for a ban on private purchase of fireworks in the past.

Work to introduce infringement notices for illegal sale of fireworks

15. Due to more pressing priorities work is yet to commence on the introduction of infringement notices for minor fireworks offences.

Petitions regarding fireworks since 2018

16. Since November 2018 there have been seven petitions regarding fireworks. Five are now closed for signature with three of those having been presented. Two are currently open for signature.
17. Six of these petitions are asking the Government to ban the sale of fireworks to members of the public. One is to allow the sale of fireworks to the public for both Matariki and Guy Fawkes.
18. The Petition of Chris Eichbaum to cease retail sales of fireworks attracted 17,942 signatures. It is currently under consideration by the Governance and Administration Committee alongside two others that attracted fewer signatures on the New Zealand Parliament website, noting that one had received 28,652 signatures online.
19. The Ministry submitted orally and in writing on these petitions, at the request of the Committee.

Auckland Council and Local Government New Zealand request to ban the private sale of fireworks

20. At present Aucklanders are able to light fireworks on private property any day of the year between the hours of 5pm and 10:30pm and up to 1am on 1 January for New Year. Permits are required on public land including beaches, parks, conservation areas, forests, road surfaces, berm or footpath their street under Auckland's Public Safety and Nuisance Bylaw 2013.
21. In February 2019, Auckland Council's Governing Body agreed to proceed with a request to Government to introduce legislation to ban the private sale and use of fireworks. 89 per cent of 7,997 submissions received by Auckland Council supported such a ban.
22. In July, Auckland Council seconded by Waimakariri District Council put a remit to the Annual General Meeting of Local Government New Zealand (LGNZ) to pursue this request. This passed with a majority of 64 per cent.

Countdown supermarkets' decision to not sell fireworks in 2019

23. In September 2019 Countdown supermarkets announced that due to public sentiment they will no longer be selling fireworks (based on 66 per cent of customers in a survey indicating that they rarely or never buy fireworks for private use).
24. Countdown cites animal welfare concerns as the most common reason for a decline in purchases of fireworks for private use, and other reasons including fire safety, environmental reasons, neighbour disturbance and personal safety.

Consultation and Collaboration

25. MfE has been collecting data on the use of fireworks from a range of agencies since 2003 (with the exception of Fire and Emergency New Zealand, where data collection began in 2006).
26. The agencies that provided data this year are:
 - Fire and Emergency New Zealand (FENZ)
 - The Environmental Protection Authority (EPA)
 - The Injury Prevention Research Unit at the University of Otago
 - Accident Compensation Corporation (ACC)
 - New Zealand Police
27. We gave community groups such as HUHA, New Zealand Veterinary Association, and the SPCA opportunity to provide evidence. However, this was not received in time for this briefing. In 2018, the SPCA noted that they no longer collect data on fireworks injuries to animals.
28. Attached are the data collated in 2018 (summarised above) together with data from previous years, at Appendix 1.

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Recommendations

29. We recommend that you:

- a. **Note** that there has been a decline in the number of fireworks incidents in since 2017
- b. **Agree** that this briefing and appendices will be released proactively on the Ministry for the Environment's website within the next eight weeks.

Yes/No

Signature

Amanda Baldwin
Manager
Environmental Risk and Innovation

Hon David Parker
Minister for the Environment

Date

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Appendix 1: Data collated by MfE

1. Data received from various agencies is provided below.

Fire and Emergency New Zealand

2. Table 1 shows the number of fires where the cause, heat source or object ignited is stated as being 'fireworks' for November 2006-2018. The statistics are based on the classification of incidents as structure fire, vegetation fire, or other (eg, car fire, rubbish fire, etc) and originated from a 111 call from the public.
3. 2018 had the second lowest number of incidents since 2011. This indicates that fire incidences continue to decrease over time.

ACC

4. The cost of claims to ACC for fireworks related injuries , excluding GST , for 2018, is \$473,056. This is an increase since 2017. It is not clear what has contributed to this increase or the drop in costs in 2016 and 2017 compared to 2015.
5. The number of new claims in 2018 rose from 171 in 2017 to 279. There were 42 already active claims. The total number of active claims in 2018 was 321.
6. The data ACC collects about accidents, and the individuals injured in them is largely reliant on claimants providing relevant information on the incident.
7. Data is gathered from required forms filled in by those accessing services from ACC. Only certain fields are required to be filled in on these forms. Information regarding accident attribution is gathered from patient descriptions of what happened. It is gathered via free text search and may not cover all possible variations on the term fireworks. Due to these limitations, it should be considered representative and not a definitive measure of all fireworks-related claims received by ACC.

Table 1: Number of fires where the cause, heat source or object ignited was fireworks

 **Fireworks Incidents - Full Year vs November**

Fires where Cause, Heat Source or Object Ignited were Fireworks:

	Full Year Count											November Count										
	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Structure Fire	7	31	10	35	17	36	30	17	18	9	3	4	19	6	29	12	19	16	12	14	6	0
Vegetation Fire	66	268	114	281	206	216	268	179	173	122	29	42	216	63	236	129	153	177	93	103	78	0
Other Fire	5	41	14	29	33	16	27	25	24	16	6	4	36	5	21	16	16	20	13	13	8	0
Total	78	340	138	345	256	268	325	221	215	147	38	50	271	74	286	157	188	213	118	130	92	0

Additional incidents where Fireworks mentioned in message logs (excludes above):

	Full Year Count											November Count										
	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Structure Fire	2	8	8	6	15	14	12	11	16	12	6	0	3	0	0	7	4	5	7	3	3	0
Vegetation Fire	13	42	11	28	43	40	70	38	71	44	9	7	26	6	18	24	22	40	21	45	32	0
Other Fire	13	65	34	58	122	78	115	73	73	67	18	7	39	12	34	66	49	72	48	34	37	0
Rescue		1				1	2	2	2	2	1		0				0	0	1	0	1	0
Heat/Pressure	2	3	1	3	8	4	3	1	3	3	3	1	2	0	1	2	2	1	1	1	1	0
Medical	1		4	1	1	4	2	3	3	3	3	1		1	0	0	2	1	0	2	1	0
HAZMAT		3		1	1					1			1		0	1						0
Special Service Calls		1	3	4	8	8	9	6	9	6	3		0	2	0	1	2	1	1	3	3	0
Assist Public				2	3		1	3	5	5	3				2	0		1	1	4	2	0
Vehicle Accident		2	4	3	5	8	8	8	20	10	8		1	0	0	0	2	1	0	2	1	0
False Alarm	8	53	30	56	114	64	83	59	67	50	22	5	29	6	36	31	38	37	16	29	23	0
Not Recorded	125		77	13								105		59	0							
Total	164	178	172	175	320	221	305	204	269	200	73	126	101	86	91	132	121	159	96	123	103	0

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Injury Prevention Research Unit

8. The Injury Prevention Research Unit at the University of Otago collects statistics from the Ministry of Health relating to non-fatal hospital admissions for injuries caused by the 'discharge of fireworks' and provided us with the following information.
9. No data regarding fatalities has been collected by this unit since 2016. There were no fatalities found up until 2016.

Table 2: Number injuries caused by 'discharge of fireworks'

Year of Hospital Discharge	Number of injuries caused by 'discharge of fireworks'
2003	15
2004	20
2005	18
2006	21
2007	13
2008	10
2009	20
2010	18
2011	15
2012	7
2013	12
2014	5
2015	13
2016	16
2017	8
2018	7

Animal Welfare

10. The impact of fireworks on animals is a common concern amongst the public. This is represented in many of the letters sent to both the Minister for the Environment, electorate MPs and MfE over the past 15 years.
11. Anecdotal evidence from community groups, such as HUHA and the SPCA, and letters to the Minister express concern that there are no regulations stipulating when fireworks can be set off. Community groups express concern that there is no way of knowing exactly what days of the year fireworks will be set off nearby and thus when to confine their animals indoors or monitor them.
12. SPCA have noted in previous years that distressed behaviour by animals may not be reported to them if there is no injury. Thus statistics provided by SPCA in the past may not have reflected the total impact on animals.
13. Previous injury reports from SPCA have included animals that have injured themselves as a result of taking fright from the sound of fireworks. This has included horses injuring themselves on fences or dogs jumping through glass windows.

Fireworks imports

14. The EPA informed us that 653,303.3kg of fireworks was imported into New Zealand in 2018 including fireworks for displays but excluding novelty fireworks, such as Christmas crackers or party poppers. The figure was 7634 kg higher than in 2017.

Prosecutions

15. There has only been one prosecution since 2004 relating to the making and/or importation of retail fireworks in New Zealand. A fireworks importer was fined in the District Court in September 2013 for supplying fireworks without obtaining the required test certificates.
16. Since 2017 Police, as the enforcement agency for fireworks, have undertaken proactive enforcement. In 2018 this showed no incidences of illegal supply for fireworks where Police approached suppliers.

Ministerials

17. 20 Ministerial letters were dealt with by MfE in 2018. This is an increase from 13 in 2017. In 2019, to date, there have been four ministerial letters. There may be more letters than this received by electorate MPs that MfE does not have knowledge of.



**GOVERNANCE AND ADMINISTRATION COMMITTEE
KOMITI WHAKAHAERENGA**

18 April 2019

Vicky Robertson
Chief Executive
Ministry for the Environment
PO Box 10362
WELLINGTON 6143

Dear Ms Robertson,

Petitions requesting a ban on the retail sale of fireworks

The Governance and Administration Committee is currently considering three petitions relating to the retail sale of fireworks:

- **Petition of Catherine Bindon**, That the House of Representatives pass legislation to ban the sale of fireworks to the public in order to protect animals from direct or indirect harm, and note that 28,652 people have signed an online petition to this effect.
- **Petition of Chris Eichbaum**, That the House of Representatives pass legislation to prohibit the retail sale of fireworks, and institute licensing arrangements for individuals or organisations to responsibly detonate fireworks in public displays approved by the relevant territorial local authority.
- **Petition of Melanie Lindstrom**, That the House of Representatives pass legislation banning the private sale of fireworks and urge the Government to promote Matariki, rather than Guy Fawkes, as a culturally significant occasion for public firework displays.

The committee has requested that the Ministry for the Environment provide written evidence to assist with its consideration of the petitions.

Please send your evidence to the Acting Clerk of Committee, Mary Drakeford, on Mary.Drakeford@parliament.govt.nz by Monday 10 June 2019. Please note evidence is generally released to the public. If you intend to include anything of a sensitive nature, or if you have any questions, please contact Mary on 04 817 9481.

Yours sincerely

Brett Hudson
Chairperson
Governance and Administration Committee

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Notes for Glenn for attendance on Wed 26 June at 10am at Governance and Administration Select Committee regarding fireworks petitions

- Thank you for inviting the Ministry for the Environment to make an oral submission.
- The use of fireworks is regulated primarily under the Hazardous Substances (Fireworks) Regulations 2001. These regulations are made under the Hazardous Substances and New Organisms Act 1996 (which I'll refer to as "the HSNO Act").
- The Ministry for the Environment administers the HSNO Act.
- The Fireworks Regulations restrict:
 - the age at which the public can purchase fireworks;
 - the type and nature of fireworks sold to the public; and
 - the period during which fireworks can be sold.
- In 2007 the Regulations were amended to:
 - reduce the retail sales period for fireworks to four days each year (between 2 and 5 November);
 - raise the legal age of purchase from 14 to 18 years;
 - permit the sale of sparklers only as part of larger retail packs, and limited to a maximum of 50 sparklers per pack; and
 - reduce the explosive content (and consequent noise levels) of retail fireworks.
- Changes to the HSNO Act in 2017 gave the New Zealand Police powers to enforce fireworks offences under the HSNO Act.
- As part of our functions in overseeing the effectiveness of the regulations the Ministry for the Environment provides an annual briefing to the Minister for the Environment compiling data from various sources such as ACC and Fire and Emergency New Zealand regarding fireworks incidents in the previous year. Most incidents relate to the Guy Fawkes' period.
- The data shows a decrease in harm from fireworks following the regulatory changes made in 2007. However, there is year to year fluctuation in what appears to be an overall downward trend. There are caveats. Data collection relies on a search of key words recorded in incident reports, which can vary, making it challenging to know the full extent of harm due to inconsistency of data.
- Changing the existing fireworks regulations is not currently on our work programme agenda.

Possible questions that Select Committee members may ask, and suggested answers

Q: Do you think sales of fireworks to the public should be banned?

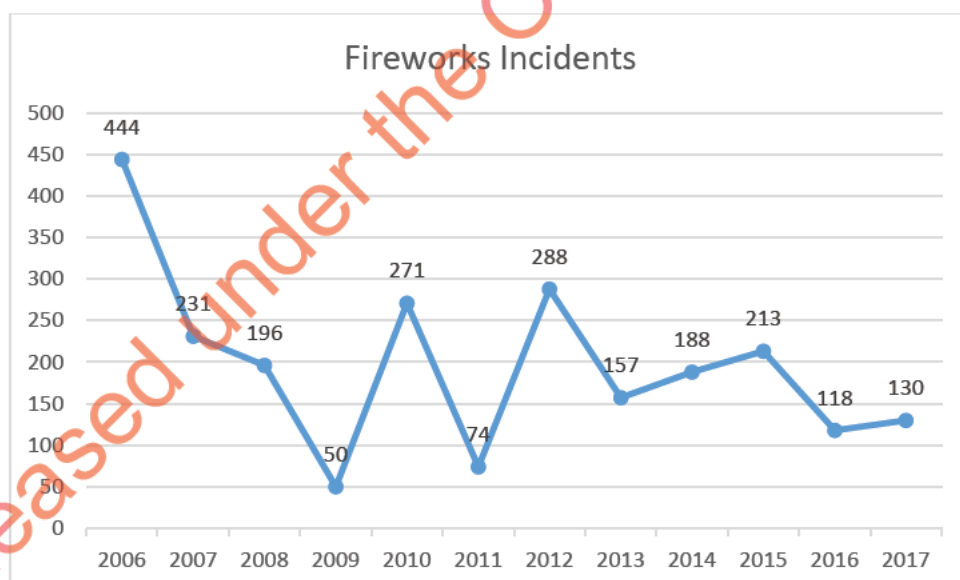
A: The regulations concerning the sale of fireworks were amended 10 years ago to limit misuse and reduce the damage caused by individuals using fireworks for destructive purposes. Since that time fireworks injuries and property damage have noticeably decreased. Changing the existing fireworks regulations is not currently on our work programme agenda.

Q: Would the Ministry for the Environment support Auckland Council's proposed ban on the private use of fireworks?

A: That's an issue for Auckland Council. From our perspective, any changes to the regulations would need to apply across the country and, if we were asked, that would require further careful consideration.

Q: Your advice mentions an infringement regime that would allow the Police to issue fines for fireworks offences under the HSNO Act. Why is this infringement regime not yet in place?

A: The Police currently have the option to enforce the fireworks regulations in any place with a warning or prosecution under the HSNO Act. An infringement regime would provide them with some more flexibility to the powers they already have. The development of the necessary regulations is on our work programme but has, to date, not been prioritised ahead of other more pressing issues.



Background

The Governance and Administration Committee (the Committee) is currently considering three petitions requesting that the Government ban the sale of fireworks to the public.

The Committee requested a written submission from the Ministry for the Environment (MfE), which we provided to them on 10 June 2019.

The Committee has also requested that MfE attend and give an oral submission at the Committee hearing on Wednesday 26 June from 10.10 to 10.30am.

The petitions

There are three petitions that the Committee is considering:

1) Petition of Chris Eichbaum

The petition asks “That the House of Representatives pass legislation to prohibit the retail sale of fireworks, and institute licensing arrangements for individuals or organisations to responsibly detonate fireworks in public displays approved by the relevant territorial local authority.”

The reason for the petition is: “At present fireworks can be lawfully sold to any person over the age of 18 years. Accidents involving fireworks result in injuries to many, and to young people disproportionately. Domestic animals are often traumatised by fireworks and their retail sale is opposed by the NZ Veterinary Association that has repeatedly called for a ban. Legislation should facilitate public fireworks displays that are managed by licensed providers and approved by the relevant territorial local authority.

The petition received 17942 signatures.

Dr Eichbaum is a Reader in Government at Victoria University. His submission of 28 February 2018 in support of his petition is clearly set out and makes a number arguments in favour of a ban on the sale of fireworks to the public. The submission is well-researched and refers to several appendices, including the Cabinet paper seeking approval “for regulatory amendments that will reduce the negative impact of fireworks by improving management of the retail sale of fireworks to the New Zealand public” which led to the 2007 regulatory changes.

Dr Eichbaum argues that these regulatory changes have not achieved their objective. In support of this argument he refers to data, obtained from ACC and other sources, showing that fireworks incidents are not overall declining since 2009 (that is correct but the data which MfE has from Fireworks & Emergency NZ going back to 2006 shows that there was a decline between 2006 and 2008 – this table is in the written submission we gave to the Committee).

Dr Eichbaum argues that for human health and animal welfare reasons that sales of fireworks to the public should be banned.

He notes that there is a lack of data: “we simply don’t have animal welfare data and I have not been able to access data on local authority noise control incidents” (correct) and believes that the situation is getting worse (no statistical data exists on this – the FENZ data does not suggest worsening, although some years in the last decade have had worse outcomes than the previous year, which could be due to whether 5 Nov falls on a weekend, and/ or related to weather conditions).

He considers that “the kinds of injuries to humans and to animals and the damage to property” does not “lend itself to a Cost Benefit analysis”, however he states that “it does appear that the public costs (ie costs associated with public expenditure) must significantly outweigh the income that accrues to government from the GST and other forms of tax revenue generated by retail sales”.

He refers to the fact that the NZ Veterinary Association publicly advocates for a ban on the retail sale of fireworks.

He also refers to the action taken by Auckland Council, which is recommending to the Government that Parliament pass legislation banning the retail sale of fireworks.

Dr Eichbaum notes "my sense is that a reluctance to act is not about evidence, or about competing priorities. It is about politics. ... If I am right and the lack of action is about politics (and the political optics) then the clear solution to this is for the Parliament to act on a cross-Party basis, so that no political/ electoral advantage is sought or exploited from a decision to cease the retail sale of fireworks. A unanimous recommendation from a Select Committee would be an excellent start."

2) Petition of Catherine Bindon:

The petition asks "That the House of Representatives pass legislation to ban the sale of fireworks to the public in order to protect animals from direct or indirect harm, and note that 28,652 people have signed an online petition to this effect."

The petition has 28,652 signatures.

In her submission, Ms Bindon refers to the "Ban the Boom" website (Facebook page) that campaigns against fireworks and "accepts reports of animal death and injury" (the data does not seem to be independently verified though).

She also refers to the strength of public opinion as shown by a number of petitions over the years, opinion polls etc, and by the response to Auckland Council's consultation (89% of responders were in favour of banning the sale of fireworks to the public).

3) Petition of Melanie Lindstrom:

The petition asks "That the House of Representatives pass legislation banning the private sale of fireworks and urge the Government to promote Matariki, rather than Guy Fawkes, as a culturally significant occasion for public firework displays."

The petition reason is "The private sale of fireworks at Guy Fawkes is a commercial enterprise that I believe harms New Zealand. We see distressed pets and wildlife, burn injuries, and multiple fire service callouts. We need to shake off our colonial overcoats and be more culturally responsive to our tangata whenua. Celebrating a failed gunpowder plot from England in 1605 makes no sense in 2018."

This petition has only 59 signatures.

In her submission, Ms Lindstrom refers to fireworks resulting in distressed pets and wildlife. She also refers to the additional burden placed on the fire service and injuries to people. She considers that it is also culturally insensitive to celebrate 5 November as this is in fact the anniversary of Parihaka.

MBIE submission

The Committee requested a written submission from MBIE. MBIE notes that its general approach is that the availability of goods and services should not be restricted unless there is a good reason to do so. It considers that a ban should only be imposed on goods or services if other interventions, such as providing consumers with information or using taxes or levies to discourage use are ineffective.

MBIE states that it has not carried out a quantitative analysis of the implications of a fireworks ban. However, it sets out some costs and benefits that could result from such a ban, eg foregone benefits (ie enjoyment) to fireworks consumers, which it estimates to be at least \$30 million a year.

MBIE's submission concludes by stating "before recommending a ban, we would generally encourage the Committee to consider whether there are less restrictive interventions that would achieve the same, or similar, objectives as a ban".

Auckland Council

Auckland Council notes that local government bylaws are largely an ineffective tool for addressing the issue of harm caused by from fireworks.

The Council consulted Aucklanders on whether to ask the Government to ban the sale of fireworks to the public, and the response was 89% in favour of doing so. Since then, the Council has

2017 changes giving power to Police to enforce fireworks offences under the HSNO Act

On 1 December 2017, section 97(1)(da) of the HSNO Act came into force, this section confers to the Commissioner of Police the duty to ensure that any prohibitions and restrictions relating to the relate sale of fireworks are enforced.

Section 35 of the Summary Offences Act 1981 also covers the use of fireworks. Under this section, a person can be fined if they set off or throw a firework in such a manner as to be likely to cause alarm or injury to any person.

Local authorities may make bylaws relating to public safety and nuisance issues under section 145 of the Local Government Act.

The Police have the option to enforce fireworks regulations in any place with a warning or prosecution under the HSNO Act, or with an infringement fine under the Summary Offences Act, or as enforcement officers a local authority bylaw by prosecution only.

Because an infringement regime has yet to be developed under the HSNO Act, there is as yet no power for Police to issue infringement fines (ie, fines without prosecution), for fireworks offences under the HSNO Act.



Annual update on the regulation of fireworks in New Zealand 2020

Date Submitted:	28/10/2020	Tracking #: 2020-B-06915	
Security Level	In confidence	MfE Priority:	Non-Urgent

	Action sought:	Response by:
To Hon David Parker, Minister for the Environment	Noting	28/10/2020

Actions for Minister's Office Staff	Return the signed report to MfE.
Number of appendices and attachments 4	Titles of appendices and attachments (ie separate attached documents): 1. Number of fires where the cause, heat source or object ignited was fireworks 2. Talking points 3. Fireworks regulations and compliance, monitoring and enforcement 4. Fireworks certifier assessment criteria

Ministry for the Environment contacts

Position	Name	Cell phone	1 st contact
Principal Author	Andy Morgan	027 328 9032	
Responsible Manager	Amanda Baldwin	022 362 5798	✓
Director	Glenn Wigley	027 491 7806	

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Annual update on the regulation of fireworks in New Zealand 2020

Key Messages

1. The adverse effects from fireworks in 2019 were:
 - a. 231 fires
 - b. 777 calls to the police between 2 and 18 November
 - c. 210 ACC claims totalling \$325,819
2. There is increasing opposition in some sectors to the retail sale of fireworks to the public. In 2019, a majority of Local Government New Zealand (LGNZ) members supported Auckland Council’s position calling for a ban to the retail sale of fireworks to the public.
3. In November 2019, the Parliament’s Governance and Administration Select Committee considered three 2018 petitions calling for a ban to the retail sale of fireworks to the public. In August 2020, the Select Committee reported back and chose to make no recommendations for change to the Government.
4. Fire and Emergency New Zealand (FENZ) have noted that in regards to climate change, there is a general trend for an increasing number of days of extreme fire danger per annum. This is likely to increase the risk of fires due to fireworks use.
5. To further reduce harm the Government may need to consider a ban on the retail sale of fireworks to the public.

Signature

Amanda Baldwin
Manager
Hazardous Substances and Biological Technologies Policy

Date

Hon David Parker
Minister for the Environment

Date

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Annual update on the regulation of fireworks in New Zealand 2020

Supporting material

Purpose

1. The purpose of this annual briefing is to provide an update on the regulation and adverse effects of retail fireworks in New Zealand.
2. In addition, this briefing provides suggested talking points on the regulation of retail fireworks, as well as an overview of the regulations. These are included in Appendix B and C, respectively.

Context

3. Each year the Ministry for the Environment (the Ministry) provides the Minister for the Environment with a briefing on the regulation of fireworks prior to the period when fireworks go on sale to the public (2-5 November).
4. In 2007 the Hazardous Substances (Fireworks) Regulations 2001 (the Fireworks Regulations) were amended to:
 - raise the legal age of purchase from 14 to 18 years
 - reduce the retail sales period for fireworks to four days each year (between 2 and 5 November)
 - permit the sale of sparklers only as part of larger retail packs, and limited to a maximum of 50 sparklers per pack
 - reduce the explosive content (and consequent noise levels) of retail fireworks.
5. On 1 December 2017, the NZ Police became responsible for the enforcement of the restrictions and prohibitions relating to the retail sale of fireworks under the Fireworks Regulations.
6. Previous briefings have advised that the regulation of fireworks was working as intended to reduce the negative impacts of fireworks in New Zealand.
7. In November 2019, the Governance and Administration Select Committee (the Select Committee) considered three 2018 petitions calling for a ban on the sale of fireworks to the public. The Select Committee reported back and chose to make no recommendations for change to the Government, but suggested that the House of Parliament take note of the many important issues raised by the submitters.
8. In February 2019, Auckland Council voted in support of a change to the regulations to ban the sale of retail fireworks to the public. 64 per cent of New Zealand's local authorities also supported Auckland Council's position at the 2019 Local Government New Zealand conference.
9. The total volume of fireworks imported into New Zealand in 2019 for both retail and public display purposes was 725,100 kg. This was an increase of 71,797 kg on the previous year. These figures exclude novelty fireworks such as party poppers and Christmas crackers, as they do not require an import certificate.

Advice

10. The use of retail fireworks in New Zealand causes a number of adverse effects, including fires, property damage, injuries, public disturbances, and injuries and distress to animals.
11. Despite the amendment of the fireworks regulations in 2007, the Ministry notes that there is vocal negative public sentiment towards the public use of retail fireworks. This is evidenced by a number of petitions in recent years that have received significant support, regular ministerial letters expressing concern, and support for a ban by a majority of Local Government New Zealand (LGNZ) members.
12. It is the Ministry's view that in order to achieve a significant reduction of the adverse effects from retail fireworks use, the necessary regulatory change would be a ban on the retail sale of fireworks to the public. This would likely require regulatory amendments to the Hazardous Substances (Fireworks) Regulations 2001.
13. The Ministry would need to consider any unintended consequences that may occur from a ban on the retail sale of fireworks. Unintended consequences could include the creation of a black market for fireworks and members of the public constructing their own fireworks.
14. The Ministry would also need to consider the compliance, monitoring and enforcement consequences of a ban to the retail sale of fireworks. However, the New Zealand Customs Service would likely enforce any ban at the border.
15. Retail fireworks do provide a number of benefits to the public through the enjoyment of these fireworks by individuals and groups of people. However, the Ministry does not have a comprehensive understanding of the value of these benefits.
16. The Ministry is currently progressing work on an infringement regime within the hazardous substances regulations which includes infringement notices for minor fireworks offences relating to the retail sale of fireworks. The Ministry recommends the introduction of infringement notices for minor fireworks offences relating to the retail sale of fireworks.

Harms and benefits from retail fireworks use

17. This section discusses harm from the use of retail fireworks in New Zealand. This includes fireworks-related fires, injuries and unlawful behaviour. In addition, this section includes a discussion of the possible benefits of retail fireworks to the New Zealand public.

Fire and Emergency New Zealand (FENZ) – Total fires

18. FENZ collects data on the number of fires caused by fireworks each year and during the month of November. These numbers are based on 111 call-log data and represent the total number of fires that resulted in a call-out.
19. 2019 saw a total of 231 fires where fireworks were the cause. This was 84 more than the previous year, a 35% increase.
20. Figure 1 shows the number of fires where the cause, heat source or object ignited were fireworks between 2000 and 2019. The full call-log dataset provided by Fire and Emergency New Zealand is included in Appendix A.
21. In regards to the upcoming wildfire season, La Nina will likely emerge as the new driver over the wildfire season. This typically produces drought conditions for Otago and South Canterbury. However, areas of Northland and Auckland may continue to be at risk of wildfires due to the residual soil moisture deficit.
22. In regards to climate change, FENZ have noted that the general trend is for an increasing number of days of extreme fire danger per annum and the extension of extreme fire danger into areas which historically haven't seen a large number of extreme fire danger days. It is therefore likely that the risk of fireworks-related fires will gradually increase over time.
23. In their submission to the Select Committee, FENZ said that they have been advocating for a consideration of a ban on the retail sale of fireworks since 2004.

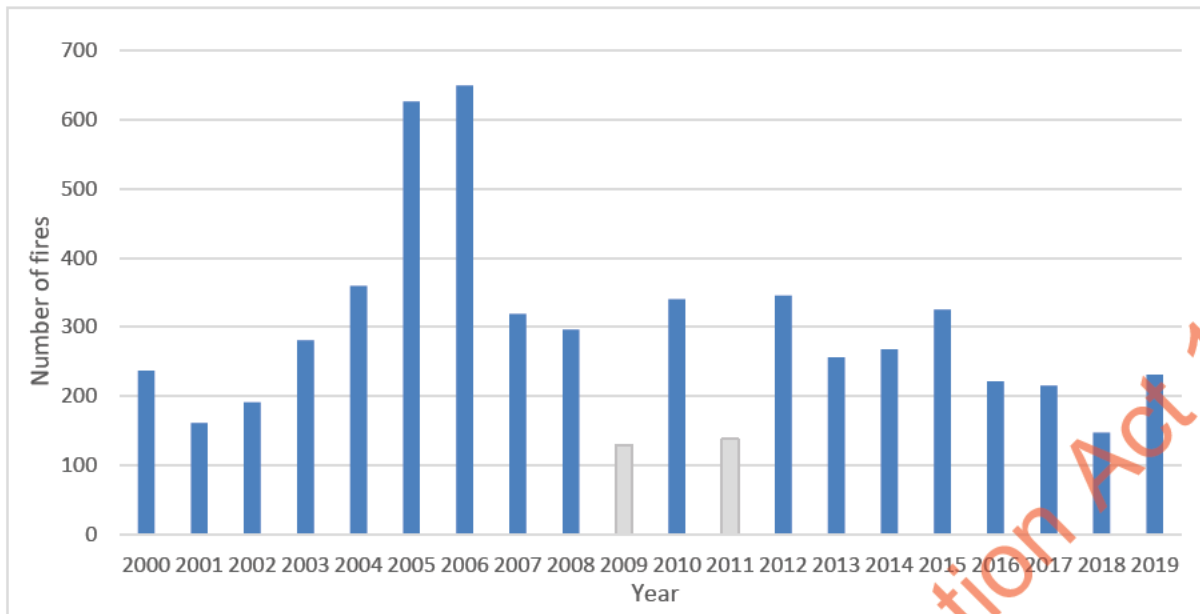


Figure 1: Total number of fires where cause, heat source or object ignited were fireworks between 2000 and 2019. Please note, industrial action took place in 2009 and 2011/2012 resulting in a lower number of call-outs.

University of Otago Injury Prevention Research Unit – Fireworks-related injuries

24. The Injury Prevention Research Unit at the University of Otago collects statistics from the Ministry of Health relating to non-fatal hospital admissions for injuries caused by the 'discharge of fireworks' and provided us with the following information.
25. In 2018 there were seven injuries caused by the 'discharge of fireworks' recorded. This was a decrease of one on the previous year. Data on the number of injuries caused by fireworks in 2019 are not yet available.
26. Figure 2 shows the number of injuries due to fireworks between 2003 and 2018.
27. No data regarding fatalities has been collected by this unit since 2016 and there were no fatalities found up until 2016.



Figure 2: Number of injuries caused by the discharge of fireworks between 2003 and 2018.

Accident Compensation Corporation (ACC) – Fireworks-related injury claims

28. ACC collects data about fireworks-related injuries through information provided by claimants on the incidents.
29. There were 210 new claims for fireworks-related injuries in 2019. This was an increase from the 182 new claims in 2018 but a decrease from the 238 new claims in 2017. The top three most common diagnoses for fireworks-related injuries were burn, soft tissue injury, and laceration / puncture / sting.
30. The active cost of claims to ACC, excluding GST, for fireworks-related injuries for 2019 was \$325,819. This was an increase on the number of active claim costs in 2017 and 2018 which were \$248,619 and \$308,058 respectively.
31. Currently, the number of years of data available from ACC is insufficient to establish a long term trend in the data.
32. In addition, the data ACC collates is based on a free text search and may not cover all possible variations on the term 'fireworks'. Due to these limitations, it should be considered representative and not a definitive measure of all fireworks-related claims received by ACC.

New Zealand Police - Unlawful behaviour

33. The NZ Police received 440 fireworks-related service calls between 2 and 5 November 2019. A further 337 calls were received between 6 and 18 November 2019, bringing the total to 777.
34. The 2019 figures were an increase on the previous year's fireworks period, during which Police received 366 fireworks-related call between 2 and 5 November and a further 313 calls between 6 and 19 November, for a total of 679 calls.
35. The 2019 fireworks-related calls were primarily categorised as:
 - Breach of the peace and disorder (combined 53.5%)
 - Information from public (11.7%)
 - Suspicious activity (5.4%)
 - Wilful damage (5.4%)
36. While the majority of fireworks-related service calls occur during November, service calls occur throughout the year. Data is also collected on the number of fireworks-related offences that come under the Summary Offences Act 1981.
37. In 2019 six offences occurred for setting off fireworks in a public place resulting in one court action and three non-court actions. In 2018 four offences occurred for setting off fireworks in a public place resulting in two court actions and eight non-court actions. The majority of non-court actions were warnings.
38. In their submission to the Select Committee, the NZ Police said that they would support a ban on the retail sale of fireworks because of the community harm from fireworks.

Benefits of retail fireworks

39. The sale of fireworks to the public provides a number of benefits. In its submission to the Select Committee, the Ministry for Business, Innovation and Employment (MBIE) noted that any ban on the sale of fireworks would result in the loss of social enjoyment to those who buy fireworks and those who watch them.
40. Based on its estimates of the proportion of New Zealanders that buy fireworks and the average amount spent per person, MBIE estimated the benefits provided to the public by retail fireworks to be valued at at least \$30 million.
41. Beyond these estimates there is a lack of data on the benefits that retail fireworks provide to the New Zealand public.

Opposition to retail fireworks

42. In 2019 there were 10 ministerial letters received by your office (or forwarded to your office by a colleague) on the topic of fireworks. This is a decrease from 20 in 2018. To date, there have been four ministerial letters received in 2020. There may be more letters than this received by electorate MPs that the Ministry does not have knowledge of.
43. Eight of the 10 ministerial letters received in 2019 expressed concern with the effect of fireworks use on animals. Animal welfare is an area of particular concern for members of the public. Organisations such as the RSPCA, NZ Vet Association, Helping You Help Animals (HUHA) and SAFE have all previously raised concerns about the effect of fireworks use on animals. Public disturbance and fires were also areas of concern frequently raised in ministerial letters.
44. Since November 2019, there has been three petitions regarding fireworks. One is now closed for signature and two are currently open for signature. Two of these petitions were asking the Government to ban the sale of fireworks to members of the public. The petition of Alice Hayward to ban the private sale and use of fireworks in New Zealand attracted 4,398 signatures.
45. In November 2019, the Parliament's Governance and Administration Select Committee considered three 2018 petitions calling for a ban on the sale of fireworks to the public. Representatives from Auckland Council, FENZ, SAFE for Animals, NZ Police, MBIE, and fireworks retailers presented to the Select Committee.
46. In August 2020, the Select Committee reported back and chose to make no recommendations for change to the Government. The Select Committee suggested that the House of Parliament take note of the many important issues raised by the submitters.

Upcoming work

47. Cabinet has previously approved the Ministry to undertake work on an infringement regime for hazardous substances regulations.
48. The Ministry has recently commenced work on this infringement regime, including infringements for minor offences relating to the retail sale of fireworks. Advice on this infringement regime will likely be prepared by the Ministry by June 2021.
49. The absence of an infringement notice for minor offences relating to the retail sale of fireworks means that the NZ Police are limited to issuing a warning or prosecuting through the courts. This lack of an intermediary enforcement measure represents a gap in the regulatory system.
50. The introduction of an infringement notice for minor offences could potentially reduce the illegal sale of fireworks but would not directly affect the misuse of fireworks by members of the public.
51. The Ministry recommends the introduction of infringement notices for minor offences relating to the retail sale of fireworks as the lack of infringement notices impedes the ability for the NZ Police to appropriately enforce the Fireworks Regulations.

Consultation and Collaboration

52. The Ministry has been collecting data related to retail fireworks in New Zealand from a range of agencies since 2003.
53. The agencies that provided data for this briefing were:
 - Fire and Emergency New Zealand (FENZ)

- The Environmental Protection Authority (EPA)
- Accident Compensation Corporation (ACC)
- New Zealand Police
- New Zealand Customs Service (Customs)

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Appendix A: Number of fires where the cause, heat source or object ignited was fireworks

Fireworks Incidents - Full Year																						
Fires where Cause, Heat Source or Object Ignited were Fireworks:																						
	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Structure Fire	38	26	30	25	27	27	45	54	56	37	37	16	31	10	35	17	36	30	17	18	9	14
Vegetation Fire	98	57	161	103	127	208	260	461	463	230	225	103	268	114	281	206	216	268	179	173	122	187
Other Fire	56	34	42	33	3	46	54	111	130	52	34	10	41	14	29	33	16	27	25	24	16	30
Heat/Pressure	2																					
HAZMAT																						
Special Service Calls	1																					
Assist Public		1	2																			
Vehicle Accident																						
False Alarm	4	1	2																			
Total	199	119	237	161	191	281	359	626	649	319	296	129	340	138	345	256	268	325	221	215	147	231
Additional incidents where Fireworks mentioned in message logs (excludes above):																						
	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Structure Fire	6	8	9	10	4	7	3	8	11	11	9	4	8	8	6	15	15	12	11	17	12	17
Vegetation Fire	7	9	21	17	14	16	9	23	23	45	63	19	42	11	28	43	43	71	39	73	44	67
Other Fire	9	20	28	20	21	45	61	68	69	108	97	32	65	34	58	125	81	117	75	78	69	62
Rescue						1				1		1	1				2	2	2	2	2	2
Heat/Pressure		3		2		2	1	2	4	3	4	6	3	1	3	8	5	3	1	3		
Medical		1	2			1				1	1	1	1	4	1	1	4	2	3	3	3	5
HAZMAT					1			1	1	1			3		1	1					1	
Special Service Calls	1		4	3	1	5	2	2	4	1	4	2	1	3	4	8	8	9	6	11	6	4
Assist Public	1	3		2		1			1	1	1				2	3		2	3	5	5	7
Vehicle Accident		3							1	2		2	2	4	3	5	8	8	8	20	10	16
False Alarm	27	43	54	51	61	56	63	59	83	92	65	18	53	30	56	117	67	85	59	69	50	44
Not Recorded				1								125		77	13							1
Total	51	90	118	106	102	134	139	163	196	266	244	210	178	172	175	326	233	311	207	281	202	225
Grand Total	250	209	355	267	293	415	498	789	845	585	540	339	518	310	520	582	501	636	428	496	349	456

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Appendix B: Talking points

1. In 2007 the fireworks regulations were amended to increase restrictions on the sale of retail fireworks.
2. The Ministry for the Environment also continues to monitor the adverse effects of fireworks use to ensure we effectively regulate retail fireworks.
3. There are divided views around this issue and the government is conscious of this. While larger cities are able to have public fireworks displays, these are not an option in rural areas. We do have to govern for all of the country.
4. According to the most recent data, there were 231 fires caused by fireworks in 2019. This was 84 more than the previous year, however, the number of fires do fluctuate year-to-year.
5. Between 2 and 18 November, 777 calls were made to the police relating to the use of fireworks, and \$325,819 worth of claims were made to ACC in 2019.

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Appendix C: Fireworks regulations and compliance, monitoring and enforcement

Hazardous Substances (Fireworks) Regulations 2001

1. Retail fireworks are primarily regulated under the Hazardous Substances (Fireworks) Regulations 2001 (the Fireworks Regulations).
2. Since their introduction in 2001, the Firework Regulations have restricted:
 - the age at which the public can purchase fireworks
 - the type and nature of fireworks sold to the public
 - the period during which fireworks can be sold.
3. In 2007 the Fireworks Regulations were amended to:
 - raise the legal age of purchase from 14 to 18 years
 - reduce the retail sales period for fireworks to four days each year (between 2 and 5 November)
 - permit the sale of sparklers only as part of larger retail packs, and limited to a maximum of 50 sparklers per pack
 - reduce the explosive content (and consequent noise levels) of retail fireworks.
4. These regulatory amendments were made to “reduce the negative impact of fireworks by improving management of the retail sale of fireworks to the New Zealand public.” [CAB (06) 554].
5. Importers of retail fireworks must obtain a certificate under the Fireworks Regulations for all fireworks of each type within a consignment, before the fireworks can be supplied to a retailer. The certification requirements ensure the explosive content and manufacturing requirements of fireworks adheres to the standards set out in the Fireworks Regulations. These standards are intended to reduce the likelihood of an unintended explosion and control the adverse effects likely to be caused by an explosion.

Hazardous Substances (Importers and Manufacturers) Notice 2015

6. In order to import a consignment of retail fireworks packages into New Zealand, importers are required to obtain an Explosives Import Certificate through the Environmental Protection Authority (EPA). This certificate is required before the New Zealand Customs Service (Customs) will release the consignment.

Summary Offences Act 1981

7. The misuse of fireworks is specified as an offence under Section 35(b) of the Summary Offences Act 1981. Any person who uses fireworks in a way that is likely to cause injury or alarm to another person is liable to a fine up to \$200. This offence is limited to fireworks set off / thrown from a public place or causing injury or alarm to persons in a public place.

Compliance, monitoring and enforcement (CME)

8. Fireworks that come into New Zealand undeclared and are identified by Customs are seized and then sent to the New Zealand Defence Force for destruction. According to Customs' records, there were three instances where undeclared fireworks were seized and destroyed in 2019.

9. The Environmental Protection Authority (EPA) delegates its authority to certify retail fireworks to selected certifiers. To be selected, certifiers are assessed against a range of criteria including the applicant's relevant skills and experience, previous compliance issues, and potential conflicts of interest (the full assessment criteria can be found in Appendix D).
10. A delegation to certify fireworks is granted by the EPA for a specified length of time. To date, the longest length of time a delegation has been granted is three years. There are currently three fireworks certifiers in New Zealand.
11. Since late-November 2017, 213 fireworks certificates have been issued. Certificates are issued to consignments, which are made up of a range of fireworks. Of the 213 certificates issued, five certificates (2.3%) had items that failed testing. The available data does not show whether those failed items made up a large or small proportion of the consignments.
12. The reasons given for the failures were: labelling, composition, and instability. No further details were provided, however:
- Labelling likely refers to the absence or incomprehensibility of instructions for use on the outer case or packet,
 - Composition likely refers to the amount of explosive substance or presence of prohibited chemicals in the fireworks, and
 - Instability likely refers to the firework having the potential to fall over thereby discharging in a manner that causes a hazard.
13. On 1 December 2017, the NZ Police became responsible for the enforcement of the restrictions and prohibitions relating to the retail sale of fireworks under the Fireworks Regulations¹.
14. The NZ Police undertakes both a proactive and reactive role in the management of fireworks. The NZ Police responds to fireworks-related calls from the public. Since 2018, during the retail sale period each year (2-5 November), the NZ Police have also undertaken operations to engage, educate, encourage and enforce compliance by those retailers selling fireworks to the public.
15. This proactive work has included checks on retailers by uniformed officers and controlled purchases operations. Controlled purchase operations generally involve plain clothes officers attempting to buy fireworks without a form of identification. In the absence of a national directive, the decision to proactively monitor and enforce the retail sale requirements of the Fireworks Regulations is made each year by individual Police districts.
16. In 2018, over 50 checks were made on fireworks retailers by the NZ Police in districts and areas around the country². In 2019, the number of checks made increased to 80, with physical examinations made of each of those retail premises.
17. There have been no instances since 2018 where a controlled purchase operation has resulted in a compliance breach. Since November 2017 the NZ Police has issued one warning for the sale of fireworks in breach of the regulations.
18. There has been only one prosecution since 2004 relating to the importation of retail fireworks in New Zealand. This prosecution was brought by the Ministry for Business, Innovation and Employment. The fireworks importer was fined in the District Court in September 2013 for supplying fireworks without obtaining the required certificates.

¹ Hazardous Substances and New Organisms (1996) Act, section 97(1)(da).

² Checks were carried out in Waitemata, Auckland City, Counties Manakau, Wanaka, Bay of Plenty, Queenstown, Dunedin, Wairarapa, Wellington, Gisborne and New Plymouth

Appendix D: Fireworks Certifier Assessment Criteria

Fireworks Certifier Assessment Criteria
Is the application on the correct form?
Has the application form been completed correctly and signed?
Has the Fit and Proper Assessment been completed correctly and signed?
Has the applicant demonstrated that they have the relevant skills and experience to undertake this function
Has the applicant demonstrated that their testing processes are appropriate to ensure they can undertake this function to an acceptable standard
Has the applicant demonstrated that they intend to use suitable equipment for testing fireworks, and that they have experience using this equipment?
Has the applicant demonstrated that they have appropriate health and safety measure and practises in place to ensure they can undertake this function in a safe manner?
Has the applicant demonstrated that their record keeping arrangements are appropriate?
Has the applicant had any previous compliance or complaints issues?
Has the applicant identified any Conflicts of Interests in submitting their application?

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