

1995—No. 460

**CLEAN AIR ACT 1961—REGULATION**

(Clean Air (Control of Burning) Regulation 1995)

NEW SOUTH WALES



*[Published in Gazette No. 105 of 1 September 1995]*

HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Clean Air Act 1961, has been pleased to make the Regulation set forth hereunder.

PAM ALLAN, M.P.,  
Minister for the Environment.

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**Citation**

**1.** This Regulation may be cited as the Clean Air (Control of Burning) Regulation 1995.

**Commencement**

**2.** This Regulation commences on 1 September 1995.

**Definitions**

**3. (1)** In this Regulation:

“**the Act**” means the Clean Air Act 1961.

**(2)** In this Regulation, a reference to garbage being collected regularly is a reference to the existence of a generally available garbage service conducted at least once every two weeks.

**Bush fire hazard reduction**

**4.** This Regulation does not limit or affect any right or obligation under the Bush Fires Act 1949. For example, a person is not prohibited by this Regulation from carrying out fire hazard reduction work required, or expressly permitted, by or under that Act.

**Control of burning by open fire**

**5. (1)** A person must not burn anything by open fire in any local government area specified in Schedule 1 (otherwise than in accordance with an approval in force under clause 8) except for the following purposes:

- (a) cooking purposes;
- (b) recreational purposes (including camping, barbecuing, picnicking, scouting and other similar outdoor activities);
- (c) the burning of vegetation in the course of agricultural operations (including the burning of stubble and diseased crops and the clearing of land for agricultural use);
- (d) the giving of instruction in methods of fire fighting.

Maximum penalty: 6 penalty units.

**(2)** It is not an offence:

- (a) to burn readily combustible waste material arising from the normal day to day activities of a single household by open fire in any part of a local government area specified in Part 2 of Schedule 1 in which garbage is not collected regularly; or
- (b) to burn anything by open fire in any part of a local government area specified in Part 3 of Schedule 1 in which garbage is not collected regularly.

**Control of burning in incinerators**

**6. (1)** A person must not burn anything in an incinerator in any local government area specified in Schedule 2 (otherwise than in accordance with an approval in force under clause 8) unless the incinerator:

- (a) is licensed scheduled equipment; or
- (b) is situated on licensed scheduled premises; or
- (c) consists of a device:
  - (i) that includes a primary and secondary furnace; and
  - (ii) that is designed to ensure the maintenance of appropriate temperatures for the complete combustion of anything that the incinerator is designed to burn; and

- (iii) that is equipped with suitable control equipment designed to control air impurities in the exhaust gas (that is, once the incineration process has been completed); or
- (d) is control equipment within the meaning of section 5 of the Act.

Maximum penalty: 6 penalty units.

**(2)** It is not an offence to burn anything in an incinerator in any part of a local government area specified in Part 2 of Schedule 2 in which garbage is not collected regularly.

#### **General obligation to minimise air pollution**

**7.** A person who burns anything by open fire or in an incinerator must do so by such practicable means as are necessary to prevent or minimise air pollution.

Maximum penalty: 6 penalty units.

#### **Approval for certain open fires or incinerators**

**8. (1)** The Minister may grant an approval for the purposes of this Regulation to any class of persons, by means of a notice published in the Gazette.

**(2)** The Authority may grant an approval for the purposes of this Regulation to any person, by means of a written notice given to the person.

**(3)** An approval is subject to such conditions (if any) as are specified in the notice by which the approval is granted.

**(4)** An approval may be amended or revoked by means of a notice given or published in the same way as the original notice granting the approval was given or published.

#### **Repeal**

**9. (1)** The Clean Air (Control of Refuse Burning) Regulation 1988 is repealed.

**(2)** Any act, matter or thing which, immediately before the repeal of the Clean Air (Control of Refuse Burning) Regulation 1988, had effect under that Regulation continues to have effect under this Regulation.

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## SCHEDULE 1—OPEN BURNING

(Cl. 5)

## Part 1—Total prohibition on burning by open fire

Armidale	Liverpool
Ashfield	Manly
Auburn	Marrickville
Bankstown	Mosman
Baulkham Hills	North Sydney
Blacktown	Parramatta
Botany	Penrith
Burwood	Pittwater
Camden	Queanbeyan
Campbelltown	Randwick
Canterbury	Rockdale
Concord	Ryde
Drummoyne	Shellharbour
Fairfield	South Sydney
Gosford	Strathfield
Holroyd	Sutherland
Hornsby	Sydney
Hunters Hill	Warringah
Hurstville	Waverley
Kogarah	Willoughby
Ku-ring-gai	Woollahra
Lane Cove	Wollongong
Leichhardt	Wyong

## Part 2—Prohibition on burning by open fire other than burning of waste material where there is no regular garbage collection

Albury	Lake Macquarie
Bathurst	Maitland
Blue Mountains	Muswellbrook
Cessnock	Newcastle
Dubbo	Orange
Goulburn	Port Stephens
Greater Lithgow	Tamworth
Greater Taree	Wellington
Hawkesbury	Wingecarribee
Kiama	Wollondilly

**Part 3—Prohibition on burning by open fire other than burning where there is no regular garbage collection**

Cootamundra  
Gunnedah

Lismore  
Wagga Wagga

**SCHEDULE 2—BURNING IN INCINERATORS**

(Cl. 6)

**Part 1—Total prohibition on burning by incinerator**

Armidale	Leichhardt
Ashfield	Liverpool
Auburn	Manly
Bankstown	Marrickville
Baulkham Hills	Mosman
Blacktown	North Sydney
Botany	Parramatta
Burwood	Penrith
Camden	Pittwater
Campbelltown	Randwick
Canterbury	Rockdale
Concord	Ryde
Drummoyne	Shellharbour
Dubbo	South Sydney
Fairfield	Strathfield
Gosford	Sutherland
Holroyd	Sydney
Hornsby	Warringah
Hunters Hill	Waverley
Hurstville	Willoughby
Kogarah	Woollahra
Ku-ring-gai	Wollongong
Lane Cove	Wyong

**Part 2—Prohibition on burning by incinerator other than burning where there is no regular garbage collection**

Greater Taree  
Gunnedah  
Hawkesbury  
Lake Macquarie  
Lismore

Newcastle  
Queanbeyan  
Wagga Wagga  
Wellington

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**SCHEDULE 1—OPEN BURNING****SCHEDULE 2—BURNING IN INCINERATORS**

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**EXPLANATORY NOTE**

The object of this Regulation is to repeal and remake certain provisions of the Clean Air (Control of Refuse Burning) Regulation 1988. The new Regulation:

- (a) imposes controls on open burning and on the use of incinerators (clauses 5 and 6); and
- (b) imposes a general obligation to minimise air pollution when burning by open fire or in an incinerator (clause 7); and
- (c) provides for the Minister or the Environment Protection Authority to grant certain approvals for the burning of matter by open fire or in an incinerator (clause 8); and
- (d) contains other provisions of a formal nature (clauses 1–4 and 9).

This Regulation is made under the Clean Air Act 1961, including section 34 (the general regulation making power).

This Regulation is made in connection with the staged repeal of subordinate legislation under the Subordinate Legislation Act 1989.

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