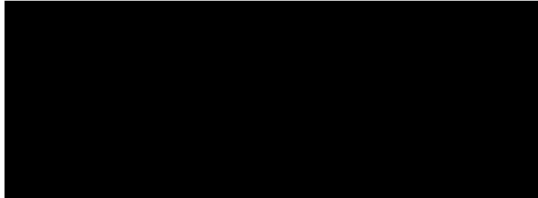




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18 June 2019



Information Request – Restricted/prohibited fire seasons

I refer to your official information request dated 13 May 2019 asking for further information about breaches in fire bans in Auckland and Northland.

On 11 June we advised you of an extension of the time needed to make our decision. Our consultation is now complete and we are able to provide you with the information you requested.

In response to your particular questions:

- 1. I note there were no convictions/fines to those who lit fires during the restricted/prohibited fire seasons. Why were none issued?***

Fire and Emergency New Zealand has focussed efforts on removing barriers to full and sustained compliance and on strengthening education, information and engagement with those who are willing, yet possibly struggling, to comply.

Our experience is that almost all the people we talk to are prepared to change their behaviour once their breaches are highlighted and the risks arising are explained to them.

Fire and Emergency has adopted a Compliance and Enforcement Strategy to help guide the development of our approach and processes in this area. The priorities are:

- promoting voluntary and self-managed compliance, through education and smart systems
- developing a structured, comprehensive, proactive regime for compliance and enforcement
- building strong relationships inside and outside of government to foster a coordinated, proactive approach to compliance and enforcement in the fire and emergency sector.

2. What is the relevant legislation under The FENZ Act 2017 enforceable on those who breach the restricted/prohibited fire bans? (Am I correct in believing it would be section 57.4 (a) and (b)?)

- **Who enforces this? Could you please explain the process from being found to have lit a fire during restricted/prohibited season to conviction? What evidence must be given?**

The relevant provisions for these offences are sections 57(3) (for fires during prohibited fire seasons) and 58(3) (for fires during restricted fire seasons). Sections 57(4) and 58(4) set out the maximum penalties upon conviction for either offence.

Note that fire permits can be issued to authorise fires in either type of fire season, so it is not the case that every fire lit during a season will be a potential offence.

A prosecution for these offences can be commenced by any person. However, in practice it is likely that only the Police or Fire and Emergency would be the agencies that take action. Fire and Emergency can also issue an infringement notice to a person who breaches a restricted fire season, which imposes a monetary penalty but no criminal conviction (this option is not available for breaches of prohibited fire seasons).

In broad terms, the process would involve:

- identifying a suspected offence
- reviewing the evidence available to confirm that all elements of the suspected offence can be proved beyond reasonable doubt (e.g. that a particular person, has knowingly or recklessly, lit or allowed another person to light, a fire in open air, in an area that is in a prohibited or restricted fire season), and
- determining that there is a public interest in prosecuting.

3. What is the main factor that has prevented convictions for the 182 breaches in Auckland and 78 breaches in Northland between 2017-2019?

As noted above, Fire and Emergency's enforcement efforts have been focussed on education and engagement where potential offences have been identified. Regulations necessary to enable lower-level compliance and enforcement options (such as the issue of infringement notices for certain offences) did not come into force until December 2018. Now that regulations have been made we have a wider range of tools to deal with offending in a more graduated way.

4. What changes would FENZ like to see in this process to make it easier for those who disregard restricted/prohibited fire season to face conviction? Does the power to make helpful changes come from higher up (i.e Government, not FENZ) or Police?

As a Crown Entity, Fire and Emergency's role is to implement legislation and regulations, which is a matter for Parliament.

5. Could the dates for the 2017/18 and 2018/19 fire bans please be specified?

The attached tables show the dates the fire for the 2017/18 and 2018/19 fire bans.

You have the right to seek an investigation and review by the Ombudsman of this decision. Information about how to make a complaint is available at www.ombudsman.parliament.nz or freephone 0800 802 602.

Note also that this response (with your personal details removed) may be published on the Fire and Emergency website.

Yours sincerely



Raewyn Bleakley
Deputy Chief Executive, Office of the Chief Executive

encl

2017/18

Rural/Urban	District	Zone			
Rural	Auckland	Zone 1 - Mainland	Open 12/03/2018	Restricted 30/11/2017	Open 29/06/2017
		Zone 2 - Conservation Island Hauraki Gulf	Prohibited 29/06/2017	-	-
		Zone 3 - Populated Islands	Restricted 12/03/2018	Restricted 29/06/2017	-
	Northern	Far North Zone 1	Prohibited 30/11/2017	Restricted 29/06/2017	-
		Far North Zone 2	Open 28/02/2018	Restricted 12/11/2017	Open 29/06/2017
	Kaipara	Kaipara	Open 28/02/2018	Restricted 12/11/2017	Open 24/06/2017
	Whangarei	Whangarei	Open 28/02/2018	Restricted 12/11/2017	Open 29/06/2017
Urban	Auckland	Auckland All Urban	-	-	-
	Far North	Far North All Urban	Restricted 07/12/2017	Open 6/12/2017	-
	Kaipara	Kaipara All Urban	Open 27/02/2018	Restricted 15/12/2017	Open 07/12/2017
	Whangarei	Whangarei All Urban	Open 27/02/2018	Restricted 15/12/2017	Open 07/12/2017

2018/19

Rural/Urban	District	Zone				
Rural	Auckland	Zone 1 - Mainland	Open 15/04/2019	Restricted 18/03/2019	Prohibited 08/02/2019	Restricted 30/11/2018
		Zone 2 - Conservation Island Hauraki Gulf	-	-	-	-
		Zone 3 - Populated Islands	Restricted 15/04/2019	Prohibited 30/11/2018		
	Northern	Far North Zone 1	Restricted 18/03/2019	Prohibited 29/01/2019		
		Far North Zone 2	Open 15/04/2019	Restricted 18/03/2019	Prohibited 29/01/2019	Restricted 30/11/2018
	Kaipara	Kaipara	Open 15/04/2019	Restricted 18/03/2019	Prohibited 29/01/2019	Restricted 30/11/2018
	Whangarei	Whangarei	Open 15/04/2019	Restricted 18/03/2019	Prohibited 29/01/2019	Restricted 30/11/2018
Urban	Auckland	Auckland All Urban	Open 15/04/2019	Restricted 18/03/2019	Prohibited 08/02/2019	Restricted 13/07/2018
	Far North	Far North All Urban	Open 15/04/2019	Restricted 18/03/2019	Prohibited 29/01/2019	-
	Kaipara	Kaipara All Urban	Open 15/04/2019	Restricted 18/03/2019	Prohibited 29/01/2019	Restricted 30/11/2018
	Whangarei	Whangarei All Urban	Open 15/04/2019	Restricted 18/03/2019	Prohibited 29/01/2019	Restricted 30/11/2018

Please note that the prohibited ban for Conservation Island Hauraki Gulf continued through 2018/19.