Implementation of Regulatory Controls on High-power Laser Pointers: Year 8

1 March 2021–28 February 2022

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# Introduction

This report discusses the eighth year of the Ministry of Health’s (the Ministry’s) implementation of regulatory controls on high-power laser pointers (HPLPs).

The Government introduced the controls to manage the risks arising from the public’s easy access, at low cost, to powerful, hand-held, battery-operated laser pointers by limiting supply.

Immediately after the controls came into force on 1 March 2014, the availability of these devices on New Zealand-based auction websites and in shops dropped significantly, but advertising on auction websites has slowly increased over time. Reported incidents of HPLPs being shone at aircraft initially showed a small decrease and then a gradual increase. There was a decrease in the number of HPLPs advertised on auction websites and the number of aircraft strikes in the 2020-21 year, probably attributable to Covid-19 restrictions, but they have both increased in the past year.

Implementation of the controls has not created a significant burden for officials. In the past year, the number of applications for authorisations that were granted has decreased from 18 to 10. The Ministry updates information about the regulations on its website when necessary.[[1]](#footnote-1) In the past year the Ministry reviewed some historical applications and revoked 12 that were no longer needed. Surveillance work planned for the coming year will continue to focus on online sales.

This document reports on the Ministry’s activities in terms of regulating HPLPs in the most recent implementation year. It looks at the numbers of authorisations and the extent of public interest in the regulations for this period, then goes on to report on surveillance and compliance activity by the Ministry, the New Zealand Customs Service and the New Zealand Police respectively. A full description of the legislative background is included as an appendix to this report.

# Authorisations

## Applications

Figure 1 below summarises the outcomes of all applications for authorisation to import, supply or acquire HPLPs (or any combination of those activities) since the regulations came into force.

Most recent applications have been for importing, often by users who already belonged to a pre-approved class of applicant. One application was declined in the past year due to insufficient information on the proposed uses.

In general, the Ministry continues to encounter few problems in its processing of applications. It requests external technical advice if there is doubt over the use proposed for the HPLP or a particular device’s output power. Where the Ministry has imposed conditions on an authorisation, these have generally been to limit the import/supply/acquisition to the types and quantities of HPLPs described in the application, for the uses described and to meet safety measures.

The Ministry’s authorisation letters currently highlight the importance of storing HPLPs safely, and reminds those issued an authorisation that under the Summary Offences Act 1981 it is an offence to be in possession of a high-power laser pointer in a public place without a reasonable excuse.

Figure 1: Number of applications declined, not needed and granted, 2014–2022

\* The figures presented in the first-year implementation report may differ slightly due to small changes in classification of outcomes.

In the past year the Ministry has reviewed 72 authorisations that were granted in the period 2013–2016. Twelve of these were revoked because the applicant had retired, or no longer needed HPLPs, or had used HPLPs in academic settings and were no longer involved in academic activities.

## Public information

Since the regulations came into force, the Ministry has maintained a webpage that provides an overview of the regulations and includes a ‘Questions and answers’ section.[[2]](#footnote-2) Figure 2 presents the numbers of page views for those two pages (not counting repeat visits).

Figure 2: Number of views of the Ministry’s regulations webpages, by year

Figure 3 summarises the queries about the regulations that the Ministry has received by phone or email since the regulations were introduced.

Figure 3: Number of queries about the regulations received by the Ministry, 2014–2022

# Surveillance and compliance

During this annual implementation period, the Ministry’s surveillance and compliance activities have concentrated on online sales rather than shop visits.

## Retailer visits

The Ministry made no formal retailer visits during this implementation period.

## Distributor visits

The Ministry did not undertake any distributor visits during this implementation period.

## Online surveillance

### Trade Me surveillance

Before the introduction of the regulations, HPLPs were readily available at low prices through online auction sites, such as Trade Me. When the regulations came into force, Trade Me placed HPLPs on their ‘Banned and restricted’ list.[[3]](#footnote-3) Initially, Trade Me did not permit international sellers to list HPLPs on Trade Me, but this restriction appears to have been relaxed.

Figure 4 shows the numbers of individual listings for HPLPs considered to fall within the scope of the regulations, obtained through weekly surveillance of Trade Me.[[4]](#footnote-4)

Should the Ministry conclude that a pointer falls within the scope of the regulations it requests Trade Me to remove the listing, and would like to acknowledge the assistance received from Trade Me to this end.

Figure 4: Number of listings for high-power laser pointers on the Trade Me auction website, 2014–2022

Figure 4 shows that, after an initial decrease, the number of listings rose slowly and then began to decline subtly from 2019. Listings in 2020–21 were probably low because of COVID-19 restrictions on air travel and people’s movements.

Because of the continued listings of HPLPs, often from new and/or overseas sellers, the Ministry’s surveillance should continue. As in previous years, the Ministry has found that a few sellers gave false descriptions, claiming untruthfully that their pointers have an output power of less than 1 milliwatt (mW). Others do not mention the power. The Ministry occasionally purchases pointers for testing and uses the test results to inform its actions on the original, and other, listings.

### Other online sales

The Ministry has no control over online sales in other countries.

# New Zealand Customs

The Customs Import Prohibition (High-power Laser Pointers) Order 2019 (CIPO) prohibits the importation of HPLPs.

Table 1 summarises HPLPs seized by New Zealand Customs (Customs) since 2014. (The comments section in this table lists a range of Asian countries; the Ministry notes that HPLPs are unregulated and widely available in South East Asia.)

Table 1: Number of high-power laser pointers seized by Customs, 2014–2021

|  |  |  |
| --- | --- | --- |
| **Year** | **Number of items** | **Comments** |
| 2014/15 | 229 | Comprised mostly small numbers in any one incident; there were three seizures of 20 or more |
| 2015/16 | 699 | Included one large shipment of 600; the rest comprised small or individual numbers |
| 2016/17 | 51 | Included 40 seizures from travellers returning from Bali or Thailand |
| 2017/18 | 67 | Comprised 53 interceptions, mostly from travellers returning from holiday in South East Asia |
| 2018/19 | 62 | Comprised 50 interceptions; just over half were domestic mail interceptions. The passenger interceptions were from travellers returning from holiday, primarily from Thailand, with some from China |
| 2019/20 | 89 | Comprised 77 interceptions |
| 2020/21 | 35 | Comprised 11 interceptions, with 24 pointers seized in one interception |
| 2021/22 | 5 | 5 individual interceptions from incoming travellers (none in the mail stream). The low number seems unusual, but could reflect the low numbers of incoming travellers. |

While Customs does not specifically target HPLPs, it does look for them in the mail stream and asks passengers about them as the passengers arrive at the border. There are no customs codes that allow HPLPs to be readily identified from import paperwork. The Ministry notifies Customs of all authorisations to import HPLPs and potential non-authorised importers.

# Other agencies

## New Zealand Police

Figure 5 records the New Zealand Police’s data on proceedings against offenders for breaches of the Summary Offences Act 1981 by being in possession of a HPLP in a public place without a reasonable excuse (see Appendix: Background to the legislation behind the controls).

Figure 5: Number of proceedings against offenders for possessing high-power laser pointers in a public place, 2015–2022

Academic staff at The University of Auckland test laser pointers at an evidential standard where required for a prosecution.

## Civil Aviation Authority of New Zealand

The Civil Aviation Authority of New Zealand (CAA) reports the following data on laser strikes on aircraft in New Zealand since 2008. The data is for calendar years.

Figure 6: Number of reported laser strikes on aircraft, 2008–2021

The figure shows that the number of incidents levelled off in 2019 and decreased in 2020. The decrease in 2020 can no doubt be attributed to restrictions on people’s movements and the decreased numbers of flights due to the COVID-19 lockdowns. However, the numbers are now increasing again.

# Overseas developments

Some examples of controls introduced overseas were discussed in a previous report on the implementation of HPLP regulations. Health officials are not aware of further legislative controls introduced recently in other countries.

Data on aircraft laser strikes in the United States of America shows that, there were 41 percent more strikes in 2021 than in 2020. The Federal Aviation Administration issued fines totalling US$120,000 in respect of laser strikes over 2021.

Figure 7: Number of reported laser strikes on aircraft in the United States, 2004–2021

# Conclusions

The Ministry’s implementation of the Health (High-power Laser Pointers) Regulations 2013 and the associated CIPO has continued smoothly. The work has not created a large burden for health officials and others involved.

The numbers of applications for authorisations decreased over the past year.

Advertising on Trade Me and the numbers of laser strikes on aircraft increased. Advertising HPLPs of a power greater than that shown on the label, or with no power disclosed, continues to be a problem.

# Appendix: Background to the legislation behind the controls

In December 2013, the New Zealand Government introduced new regulations to manage the health and safety risks from high-power laser pointers (HPLPs). These came into force on 1 March 2014.

* The Customs Import Prohibition (High-power Laser Pointers) Order 2019 (CIPO) restricts the importation of HPLPs to people authorised to import them by the Director-General of Health. The CIPO is made under section 96 of the Customs and Excise Act 2018 and administered by the New Zealand Customs Service.
* The Health (High-power Laser Pointers) Regulations 2013 restrict the sale/supply of HPLPs to authorised suppliers and restrict their acquisition to authorised recipients. They are made under sections 117(1)(a) and (z) and 119(d) of the Health Act 1956 and are administered by the Ministry of Health.

The regulatory controls do not ban laser pointers outright. They impose controls on the supply chain and require people to justify their need for a higher-power device (as opposed to a lower-power one).

The controls only apply to laser pointers with an output power of greater than 1 milliwatt (mW) and to devices that, in the Director-General of Health’s opinion, are commonly known as laser pointers. Using this discretion, the Director-General of Health has determined that some types of device (for example, those used in surveying or those sold with fixtures for mounting on a firearm as a sighting aid) do not come within the scope of the regulations.

The regulations also automatically authorise classes of people who want to use laser pointers for certain purposes, such as members of astronomical societies and people who use laser pointers for industrial and research purposes. However, these people must still be able to provide proof that they belong to the exempt class if required; for example, when they are acquiring an HPLP. People in exempt classes must still obtain authorisation if they wish to import an HPLP.

In July 2014, the Government amended the Summary Offences Act 1981 to make it an offence to be in possession of an HPLP in a public place without a reasonable excuse. This legislation is administered by the Ministry of Justice and enforced by the New Zealand Police.

1. See the Ministry of Health’s webpage Questions and answers: New controls on high-power laser pointers at URL: [www.health.govt.nz/our-work/environmental-health/high-power-laser-pointers/questions-and-answers-new-controls-high-power-laser-pointers](http://www.health.govt.nz/our-work/environmental-health/high-power-laser-pointers/questions-and-answers-new-controls-high-power-laser-pointers). [↑](#footnote-ref-1)
2. Ministry of Health. 2014. High-power laser pointers. URL: [www.health.govt.nz/our-work/environmental-health/high-power-laser-pointers](http://www.health.govt.nz/our-work/environmental-health/high-power-laser-pointers) (accessed 15 June 2022). [↑](#footnote-ref-2)
3. See Trade Me blog. 2014. High powered laser pointers cannot be sold on Trade Me. URL: <https://help.trademe.co.nz/hc/en-us/articles/360010959212-Banned-and-restricted-#lasers> (accessed 3 May 2022). [↑](#footnote-ref-3)
4. Numbers from 1 March 2014 to mid-May 2014 have been estimated, based on the number of listings for the rest of the year. [↑](#footnote-ref-4)