

*These notes refer to the Fireworks Act 2003 (c.22)
which received Royal Assent on 18th September.*

FIREWORKS ACT

EXPLANATORY NOTES

INTRODUCTION

1. These Explanatory Notes relate to the Fireworks Act 2003 which received Royal Assent on 18th September 2003. They have been prepared by the Department of Trade and Industry in order to assist the reader in understanding the Act. They do not form part of the Act and have not been endorsed by Parliament.
2. The Notes need to be read in conjunction with the Act. They are not, and are not meant to be, a comprehensive description of the Act. Where a section or part of a section does not seem to require any explanation or comment, none is given.

SUMMARY

3. The Act makes provision for the Secretary of State to make regulations (“fireworks regulations”) which are intended to regulate the supply and use of fireworks.
4. The existing powers of the Secretary of State to make regulations (“safety regulations”) under section 11 of the Consumer Protection Act 1987 (“the 1987 Act”) are not adequate to deal with fireworks as those powers are limited to the supply (as opposed to the use) of consumer goods. The 1987 Act also contains provisions, such as those in section 10, relating to training courses that are incidental to the supply of fireworks.
5. As a consequence of the provisions of the Act relating to the making of fireworks regulations, certain provisions of the Explosives Act 1875 concerning the sale of gunpowder on highways, the sale of gunpowder to children, the packaging and labelling of gunpowder and the offence of throwing fireworks in a thoroughfare are superseded and therefore repealed by section 15 and the Schedule.

COMMENTARY ON SECTIONS

Section 1: Introduction

6. *Subsection (1)* defines the term “fireworks” used in the Act. The current definition is that of the British Standard Specification (BS 7114) which was published on 30th November 1988. The British Standard Specification, which is set by the British Standards Institute, may change according to circumstances, so this section allows for such a change.

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7. *Subsection (2)* provides for a new definition to be substituted by the Secretary of State by regulations. This may be used in the context of emergency regulations – where the British Standard of Specification may not apply. Regulations made under this subsection are subject to the affirmative resolution procedure i.e. are required to be laid before Parliament.

8. *Subsection (3)* defines the term “supply” in the context of fireworks for the purposes of this Act.

Section 2: Power to make regulations about fireworks

9. *Subsection (1)* provides that the Secretary of State may by fireworks regulations make provision for securing that there is no risk that the use of the fireworks will have the consequences specified in *subsection (2)* (namely death, injury or distress to persons or animals (and also alarm or anxiety to persons) or destruction of, or damage to, property) or that such risk is the minimum that is compatible with fireworks being used.

10. *Subsection (3)* requires the Secretary of State to undertake consultation before making fireworks regulations unless *subsection (5)* concerning an urgent need to protect the public applies.

11. *Subsection (4)* requires the Secretary of State to publish an assessment of the likely costs and benefits of the proposed regulations, and of their likely economic, social and environmental impact, before making fireworks regulations.

12. *Subsections (6)* and *(8)* clarify the power of the Secretary of State to make fireworks regulations, and *subsection (7)* applies section 18 of the 1987 Act (which empowers the Secretary of State to require information to be furnished to her) in relation to fireworks regulations.

Section 3: Prohibition of supply etc. to young persons

13. *Subsection (1)* provides that fireworks regulations may include provision prohibiting the supply of fireworks to persons below a specified age.

14. *Subsection (2)* provides that fireworks regulations may include provision prohibiting the purchase or possession of fireworks by persons below a specified age.

15. *Subsection (3)* provides that an exception or dispensation from prohibitions made under this section may be contained in the fireworks regulations.

Section 4: Prohibition of supply etc. in certain circumstances

16. *Subsection (1)* provides that fireworks regulations may include provision prohibiting the supply, purchase, possession or use of fireworks during specified hours of the day.

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17. *Subsection (2)* provides that fireworks regulations may include provision prohibiting the supply, exposing for supply, purchase, possession or use of fireworks at specified places or in specified circumstances.

18. *Subsection (3)* provides that an exception or dispensation from prohibitions made under this section may be contained in the fireworks regulations.

Section 5: Prohibition of supply etc. of certain fireworks

19. *Subsection (1)* provides that fireworks regulations may include provision prohibiting the supply of fireworks of a specified description or prohibiting such supply to persons of a specified description.

20. *Subsection (2)* provides that fireworks regulations may include provision prohibiting the purchase or possession of fireworks of a specified description or prohibiting such purchase or possession by persons of a specified description.

21. *Subsection (3)* limits *subsections (1)* and *(2)* to categories III and IV fireworks (referred to as “classes” in the Act), which are categories of fireworks specified in British Standard Specification BS 7114. Categories III and IV fireworks are “display” and “professional display” fireworks respectively, and categories I and II fireworks, also specified in BS 7114, are “indoor” and “garden” fireworks respectively.

22. *Subsection (4)* provides that such specified description of persons includes persons who do not satisfy any specified conditions that relate to the matters mentioned in *subsection (5)* as regards training, experience and insurance cover.

23. *Subsection (6)* provides that an exception or dispensation from prohibitions made under this section may be contained in the fireworks regulations.

Section 6: Public fireworks displays

24. *Subsection (1)* provides that fireworks regulations may include provision prohibiting the operation of public fireworks displays unless specified conditions are complied with including the giving of notice and other information and the payment of required fees.

25. *Subsection (2)* provides that fireworks regulations may include provision prohibiting persons from operating public fireworks displays unless specified conditions are complied with including any conditions relating to training.

26. *Subsection (3)* provides that fireworks regulations may include provision prohibiting persons from operating or assisting in the operation of public fireworks displays if they are below a specified age.

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27. *Subsection (4)* provides that an exception or dispensation from prohibitions made under this section may be contained in the fireworks regulations.

28. *Subsection (5)* defines the term “public fireworks display”. These will not include private parties and private club functions from which the public are excluded.

Section 7: Licensing of suppliers

29. *Subsection (1)* provides that fireworks regulations may include provision prohibiting persons from supplying, exposing for supply or possessing for supply fireworks unless they and the premises at which the fireworks are kept are licensed.

30. *Subsection (2)* provides for the licensing arrangements if such a prohibition is imposed.

31. *Subsections (3) and (4)* provide that a person may not be licensed unless specified conditions, including conditions relating to training, are satisfied.

32. *Subsection (5)* provides that an exception or dispensation from prohibitions made under this section may be contained in the fireworks regulations.

Section 8: Information about fireworks

33. *Subsection (1)* provides that fireworks regulations may include provision for securing that appropriate information is given and inappropriate information is not given in relation to fireworks. Such information may by *subsection (2)* include marks, warnings and instructions to be given on or with fireworks.

34. *Subsection (3)* provides that an exception or dispensation from requirements under this section may be contained in the fireworks regulations.

35. *Subsection (4)* provides that if such requirement is imposed, the fireworks regulations may require the keeping of records by any person to whom information is given.

Section 9: Prohibition of importation etc. of fireworks

36. *Subsection (1)* provides that fireworks regulations may include provision prohibiting fireworks from being imported, having their manufacture completed or being placed on the market unless requirements to give information have been satisfied.

37. *Subsection (2)* provides that if the prohibition concerns the completion of manufacture or placing on the market, the fireworks regulations shall specify the circumstances in which a person completes the manufacture of the fireworks or places the fireworks on the market.

38. *Subsection (3)* provides that an exception or dispensation from prohibitions made under this section may be contained in the fireworks regulations.

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39. *Subsection (4)* provides that if such prohibition is imposed, the fireworks regulations may require the keeping of records by any person to whom information is given.

Section 10: Training courses

40. *Subsection (1)* provides that where fireworks regulations specify conditions relating to training, the regulations may also make provision for the creation and provision of training courses to be provided by the Secretary of State, bodies established or recognised by the Secretary of State or by licensed persons.

41. *Subsections (2) to (5)* provide for the licensing arrangements and the running of courses if such training courses are to be provided by licensed persons.

Section 11: Offences

42. The following offences are created by *subsections (1) to (3)*:

- (a) contravening a prohibition imposed by fireworks regulations;
- (b) failing to comply with a requirement imposed in or under fireworks regulations to give or not give information; and,
- (c) knowingly or recklessly making a statement which is false in a material particular when a requirement to give information is imposed by or under fireworks regulations.

43. *Subsection (4)* provides that the maximum penalty is six months' imprisonment or a fine not exceeding level 5 on the standard scale (currently £5,000) or both.

44. *Subsection (5)* provides that fireworks regulations may not provide that any contravention of the regulations are an offence.

45. *Subsection (6)* applies certain provisions of section 11 of the 1987 Act concerning the commencement of proceedings to fireworks regulations as to safety regulations.

46. *Subsection (7)* applies section 39 of the 1987 Act (defence of due diligence) to certain offences under this clause.

47. *Subsection (8)* provides a defence for a contravention of a prohibition under clause 3(1) for a person to show that he had no reason to suspect that the person supplied the fireworks was below the age specified.

48. *Subsection (9)* applies section 40(2) and (3) of the 1987 Act (offences by bodies corporate) to an offence under this clause as to an offence under the 1987 Act.

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Section 12: Enforcement

49. *Subsections (1) and (2)* apply certain provisions of the 1987 Act concerning enforcement to fireworks regulations as to safety regulations.

50. *Subsection (3)* amends Schedules 14 and 15 to the Enterprise Act 2002 for the purpose of restricting the disclosure of information obtained by the Secretary of State in the exercise of any function under the Fireworks Act.

Section 13: Savings for certain privileges

51. This applies the provisions of section 47 of the 1987 Act to the Fireworks Act. That section preserves a person's right to claim privilege in refusing to answer questions or produce documents.

Section 14: Prohibition of supply etc. of other explosives

52. *Subsection (1)* extends the power to make regulations conferred by clause 3 or clause 4(2) so as to cover explosives other than fireworks (as defined in *subsection (2)* and in respect of which a new definition of "explosives" may be substituted by regulations by the Secretary of State under *subsection (3)*).

Section 15: Repeals and revocation

53. *Section 15* brings the Schedule to the Act into effect.

TERRITORIAL APPLICATION: WALES, SCOTLAND & NORTHERN IRELAND

54. The Act extends to England and Wales and Scotland but not to Northern Ireland. The Act will have no effect on the functions of the National Assembly for Wales, as functions relating to fireworks will not be devolved as regards Wales.

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PARLIAMENTARY HISTORY

| Stage | Date | Hansard Ref. |
|-------------------------------------------------------|--------------|-------------------------|
| House of Commons – Presentation/First Reading | 11 Dec 2002 | Vol. 396 Col. 285-286 |
| Second Reading | 28 Feb 2003 | Vol. 400 Col. 475-527 |
| Money Resolution Debate | 13 Mar 2003 | Vol. 401 Col. 448-450 |
| Committee Stage – 1 st Sitting (afternoon) | 30 Apr 2003 | SC - C |
| Report and Third Reading | 13 Jun 2003 | Vol. 406 Col. 929-987 |
| House of Lords - First Reading | 16 Jun 2003 | Vol. 649 Col. 527-528 |
| House of Lords - Second Reading | 4 Jul 2003 | Vol. 650 Col. 1171-1194 |
| House of Lords - Committee | 9 Sept 2003 | Vol. 652 Col. 279 - 285 |
| House of Lords - Third Reading | 15 Sept 2003 | Vol. 652 Col. 665 - 666 |

Royal Assent – 18th September 2003

House of Lords Hansard Vol. 652 Col. 1139

House of Commons Hansard Vol 410 Col 1122

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