



Fireworks Act 1951

1951 CHAPTER 58 14 and 15 Geo 6

5 Marking of fireworks.

- (1) Subject to the provisions of this section, no fireworks shall be consigned from the factory in which they were made unless each firework bears conspicuously the name of the occupier of the factory and the address of the factory.
- (2) The foregoing subsection shall not apply to—
 - (a) fireworks weighing less than one-eighth of an ounce each;
 - (b) fireworks of the kinds set out in the Schedule to this Act;
 - (c) fireworks of such other kinds as the Secretary of State may by regulations contained in a statutory instrument prescribe,but no fireworks of the kinds set out in the foregoing paragraphs shall be consigned from the factory in which they were made unless every container in which they are consigned, including both containers in which they are to be sold to the public and containers for consignment in bulk, bears conspicuously the name of the occupier of the factory and the address of the factory.
- (3) Nothing in either of the foregoing subsections shall apply to fireworks consigned from a factory under a contract for the supply of those fireworks to the Crown.
- (4) If the foregoing provisions of this section are contravened in respect of any fireworks, the occupier of the factory shall on summary conviction be liable to a penalty not exceeding—
 - (a) [F1level 1 on the standard scale]; or
 - (b) an amount equal to [F1level 1 on the standard scale] for every pound weight of fireworks in respect of which he is convicted,whichever is the greater:
Provided that the maximum fine in respect of fireworks consigned on any one day shall be [F1level 3 on the standard scale].
- (5) Without prejudice to the generality of paragraph (9) of section forty of the principal Act (which, as extended by an Order in Council under that Act, requires the import of fireworks to be under licence from the Secretary of State) the Secretary of State may, for the purpose of ensuring that imported fireworks in the possession of the public

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can be traced back to the person who imported them, annex to an importation licence under that paragraph for the importation of fireworks requirements as to the marking, whether before or after importation, of fireworks or their containers similar to the requirements imposed by the foregoing subsections.

The reference in this subsection to the provisions of the principal Act shall include a reference to those provisions as they have effect in Northern Ireland.

- (6) A person against whom proceedings are brought under this section shall, upon information duly laid by him and on giving to the prosecution not less than three clear days' notice of his intention, be entitled to have any person, to whose act or default he alleges that the contravention of the provisions in question was due, brought before the court in the proceedings, and, if after the contravention has been proved the original defendant proves that the contravention was due to the act or default of that other person, that other person may be convicted of the offence, and, if the original defendant further proves that he has used all due diligence to secure that the provisions in question were complied with, he shall be acquitted of the offence.
- (7) Where a defendant seeks to avail himself of the provisions of the last foregoing subsection—
 - (a) the prosecution as well as the person whom the defendant charges with the offence, shall have the right to cross-examine him, if he gives evidence, and any witness called by him in support of his pleas, and to call rebutting evidence;
 - (b) the court may make such order as it thinks fit for the payment of costs by any party to the proceedings to any other party thereto.
- (8) Where it appears to a government inspector for the purposes of the principal Act that an offence has been committed in respect of which proceedings might be taken under this section against the occupier of a factory and the inspector is reasonably satisfied that the offence of which complaint is made was due to an act or default of some other person and that the said occupier could establish a defence under subsection (6) of this section, he may cause proceedings to be taken against that other person without first causing proceedings to be taken against the said occupier.

In any such proceedings the defendant may be charged with and, on proof that the contravention was due to his act or default, be convicted of, the offence with which the said occupier might have been charged.

- (9) In Scotland the three last foregoing subsections shall not apply but—
 - (a) where a contravention of any provision of this section for which any person is liable to a fine under this section was due to an act or default of any other person, then, whether proceedings are or are not taken against the first mentioned person, that other person may be charged with and convicted of the contravention and shall be liable on conviction to the same punishment as might have been inflicted on the first mentioned person if he had been convicted of the contravention; and
 - (b) where a person who is charged with a contravention of any provision of this section proves to the satisfaction of the court that he has used all due diligence to secure that the provision in question was complied with and that the contravention was due to the act or default of some other person, the first mentioned person shall be acquitted of the contravention.

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Textual Amendments

- F1** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **ss. 38**, 46 and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), **ss. 289F**, 289G
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Modifications etc. (not altering text)

- C1** [S. 5\(1\)\(2\)](#) excluded by [Fireworks Act 1964 \(c. 23\)](#), **s. 1**
C2 [S. 5\(3\)](#) extended by [S.I. 1965/1536](#), **Sch. 3**

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