

2004 No. 1836

FIREWORKS

The Fireworks Regulations 2004

<i>Made</i> - - - -	<i>14th July 2004</i>
<i>Laid before Parliament</i>	<i>16th July 2004</i>
<i>Coming into force</i>	
<i>Regulations 9 and 11</i>	<i>1st January 2005</i>
<i>Remainder</i>	<i>7th August 2004</i>

Whereas the Secretary of State considers that there is a risk that the use of fireworks will have the consequences of death of persons or injury, alarm, distress or anxiety to persons; death of animals or injury or distress to animals; or destruction of, or damage to, property;

And whereas the Secretary of State, in accordance with section 2(1)(b) and (2) of the Fireworks Act 2003(a), considers it appropriate to make provision by regulations for securing that the risk that the use of fireworks will have the aforesaid consequences is the minimum compatible with their being used;

And whereas the Secretary of State, in accordance with section 2(3) of that Act, has consulted the Health and Safety Commission, those organisations which appear to her to be representative of interests substantially affected by these Regulations and such other persons whom she considers it appropriate to consult;

And whereas the Secretary of State has issued a full regulatory impact assessment in accordance with section 2(4) of that Act;

And whereas the Commissioners of Customs and Excise, every fire and civil defence authority, every chief officer of police in England and Wales and every chief constable in Scotland have, in accordance with section 27(2)(a) of the Consumer Protection Act 1987(b), agreed to the transfer to them of such enforcement duties as are specified in these Regulations;

Now, therefore, the Secretary of State, in exercise of the powers conferred upon her by sections 2 to 5 and 7 to 9 of the Fireworks Act 2003 and by sections 11(3) and 27(2) of the Consumer Protection Act 1987 (as applied respectively by sections 11(6) and 12(1) of the Fireworks Act 2003), hereby makes the following Regulations:—

(a) 2003 c. 22.
(b) 1987 c. 43.

Citation, commencement and extent

- 1.—(1) These Regulations may be cited as the Fireworks Regulations 2004 and, except for regulations 9 and 11, shall come into force on 7th August 2004.
- (2) Regulations 9 and 11 shall come into force on 1st January 2005.
- (3) These Regulations shall not extend to Northern Ireland.
- (4) Regulation 7 of these Regulations shall not extend to Scotland.

Revocation of the Fireworks Regulations 2003

2. The Fireworks Regulations 2003(a) are revoked.

Interpretation

3. In these Regulations—

“adult firework” means—

- (a) any firework which does not comply with the relevant requirements of Part 2 of BS 7114 when tested in accordance with the appropriate test method (if any) in Part 3 of BS 7114; or
- (b) any firework (except for a cap, cracker snap, novelty match, party popper, serpent, sparkler or throwdown) which does comply with those requirements;

“amorce” means a firework which is a percussion cap designed for use in toys, which comprises a paper envelope containing a dot of impact-sensitive pyrotechnic composition and which forms part of a roll;

“assembly” means an assembly which includes any firework;

“BS 7114” means the British Standard Specification comprising the following parts—

- (a) BS 7114: Part 1: 1988, the British Standard Specification for classification of fireworks published on 30th November 1988(b);
- (b) BS 7114: Part 2: 1988, the British Standard Specification for fireworks published on 30th November 1988(c); and
- (c) BS 7114: Part 3: 1988, the British Standard Specification for methods of test for fireworks published on 30th November 1988(d);

and references to Parts 1, 2 and 3 of BS 7114 shall be construed accordingly;

“BS EN 61672” means the British Standard Specification comprising the following parts—

- (a) BS EN 61672-1:2003, “Electroacoustics. Sound Level Meters. Specifications”, published on 25th March 2003(e); and
- (b) BS EN 61672-2:2003, “Electroacoustics. Sound Level Meters. Pattern Evaluation Tests”, published on 11th July 2003(f);

“cap” means a firework (including an amorce) designed for use in toys which comprises a non-metallic envelope or cup containing a dot of impact-sensitive pyrotechnic composition, and which produces a report when it is hit;

“category 3 firework” means a firework classified as category 3 under Part 1 of BS 7114;

“category 4 firework” means a firework classified as category 4 under Part 1 of BS 7114;

“cracker snap” means a firework—

(a) S.I. 2003/3085.
(b) ISBN 0 580 17026 8.
(c) ISBN 0 580 17027 6.
(d) ISBN 0580 17028 4.
(e) ISBN 0 580 41452 3.
(f) ISBN 0 580 42224 0

(a) which comprises two overlapping strips of card or paper with a friction-sensitive explosive composition in sliding contact with an abrasive surface; and

(b) which produces a report when pulled apart;

“explosives” has the same meaning as in the Explosives Act 1875(a)

“local licensing authority” means in relation to—

(a) the City of London, the Common Council for the City of London;

(b) an area in the rest of London, the London Borough Council for that area;

(c) an area where there is a fire and civil defence authority, that authority;

(d) the Isles of Scilly, the Council of the Isles of Scilly;

(e) an area in the rest of England, the county council for that area or where there is no county council for that area, the district council for that area;

(f) an area in Scotland, the council for the local government area; and

(g) an area in Wales, the county council or the county borough council for that area;

“novelty match” means a firework comprising a match with a dot of pyrotechnic composition which is designed to be held in the hand while functioning and whose functioning involves a report or the production of visual effects, or both;

“party popper” means a firework comprising a device—

(a) which is designed to be held in the hand while functioning;

(b) which is operated by a pull-string with an abrasive surface in sliding contact with a friction-sensitive pyrotechnic composition; and

(c) whose functioning involves a report with the ejection of streamers or confetti, or both;

“pyrotechnic composition” means a substance or a mixture of a substance designed to produce an effect by heat, light, sound, gas or smoke or a combination of these as the result of non-detonative self-sustaining exothermic chemical reactions;

“serpent” means a firework, comprising a pre-formed shape of pyrotechnic composition, with or without support, whose functioning involves the generation of expanded residue;

“sparkler” means a firework, other than a category 3 or category 4 firework, comprising a rigid wire partially coated with slow-burning pyrotechnic composition, whose functioning involves the emission of sparks without a report;

“the 1987 Act” means the Consumer Protection Act 1987(b);

“the 2003 Act” means the Fireworks Act 2003(c);

“the 1997 Regulations” means the Fireworks (Safety) Regulations 1997(d);

“the court” means—

(a) in relation to a decision by a local licensing authority located in England and Wales, a magistrates’ court in whose jurisdiction the local licensing authority is situated; and

(b) in relation to a decision by a local licensing authority located in Scotland, the sheriff in whose jurisdiction the local licensing authority is situated;

“the importation enforcement duty” means the duty imposed by section 27(1) of the 1987 Act, insofar as that duty is, by virtue of section 12(1) of the 2003 Act, exercisable in relation to the enforcement of the prohibition imposed by regulation 11 below;

“the licensing enforcement duty” means the duty imposed by section 27(1) of the 1987 Act, insofar as that duty is, by virtue of section 12(1) of the 2003 Act, exercisable in relation to the enforcement of the prohibition imposed by regulation 9 below;

(a) 1875 c. 17.

(b) 1987 c. 43.

(c) 2003 c. 22.

(d) S.I. 1997/2294.

“the possession enforcement duty” means the duty imposed by section 27(1) of the 1987 Act, insofar as that duty is, by virtue of section 12(1) of the 2003 Act, exercisable in relation to the enforcement of the prohibitions imposed by regulations 4 and 5 below;

“the use enforcement duty” means the duty imposed by section 27(1) of the 1987 Act, insofar as that duty is, by virtue of section 12(1) of the 2003 Act, exercisable in relation to the enforcement of the prohibition imposed by regulation 7 below; and

“throwdown” means a firework comprising impact-sensitive explosive composition and grains of inert material wrapped in paper or foil and which functions to produce a report when thrown onto the ground.

Prohibition of possession of fireworks by persons below the age of eighteen

4.—(1) Subject to regulation 6 below, no person under the age of eighteen years shall possess an adult firework in a public place.

(2) In paragraph (1) above “public place” includes any place to which at the material time the public have or are permitted access, whether on payment or otherwise.

Prohibition of possession of category 4 fireworks

5. Subject to regulation 6 below, no person shall possess a category 4 firework.

Exceptions to regulations 4 and 5

6.—(1) Regulations 4 and 5 above shall not prohibit the possession of any firework by—

- (a) any person who is employed by, or in business as, a professional organiser or operator of firework displays and who possesses the firework in question for the purposes of his employment or business;
- (b) any person who is employed in, or whose trade or business (or part of whose trade or business) is, the manufacture of fireworks or assemblies and who possesses the firework in question for the purposes of his trade, employment or business;
- (c) any person who is employed in, or whose trade or business (or part of whose trade or business) is, the supply of fireworks or assemblies, for the purpose of supplying them in accordance with the provisions of the 1997 Regulations;
- (d) any person who is employed by a local authority and who, in the course of his employment, possesses the firework in question for any of the following purposes—
 - (i) the putting on of a firework display by that local authority; or
 - (ii) the use by that local authority of the firework in question at a national public celebration or a national commemorative event;
- (e) any person for use, in the course of a trade or business of his or in the course of his employment, for special effects purposes in the theatre, on film or on television;
- (f) any person employed by or otherwise acting on behalf of a local authority, enforcement authority or other body, where—
 - (i) the authority or body has enforcement powers, conferred by or under any enactment, applying to the firework in question; and
 - (ii) the person so employed possesses the firework in question for the purposes of the authority or body exercising those enforcement powers;
- (g) any person who is employed by a department of the Government of the United Kingdom and who, in the course of his employment, possesses the firework in question for any of the following purposes—
 - (i) the putting on of a firework display by that department;
 - (ii) the use by that department of the firework in question at a national public celebration or a national commemorative event; or

- (iii) the use by that department of the firework in question for research or investigations;
- (h) any person who—
 - (i) is in business as or employed by a supplier of goods designed and intended for use in conjunction with fireworks or assemblies; and
 - (ii) possesses the firework in question solely for the purposes of testing those goods to ensure that, when used in conjunction with fireworks or assemblies of the same type, they will perform their intended function or comply with any provision made by or under any enactment and relating to the safety of those goods; or
- (i) any person who is employed by an establishment of the naval, military or air forces of the Crown and who, in the course of his employment, possesses the firework in question for any of the following purposes—
 - (i) the putting on of a fireworks display by that establishment; or
 - (ii) the use by that establishment of the firework in question at a national public celebration or a national commemorative event.

(2) Regulation 5 above shall not prohibit the possession of any firework by any person who is employed in, or whose trade or business (or part of whose trade or business) is, the transport of fireworks and who possesses the firework in question for the purposes of his trade, employment or business.

Prohibition of use of certain fireworks at night

- 7.—(1) Subject to paragraph (2) below, no person shall use an adult firework during night hours.
- (2) Paragraph (1) above shall not prohibit the use of a firework—
- (a) during a permitted fireworks night; or
 - (b) by any person who is employed by a local authority and who uses the firework in question—
 - (i) for the purposes of putting on a firework display by that local authority; or
 - (ii) at a national public celebration or a national commemorative event.
- (3) In this regulation, “night hours” means the period beginning at 11 pm and ending at 7 am the following day and a “permitted fireworks night” means a period—
- (a) beginning at 11 pm on the first day of the Chinese New Year and ending at 1 am the following day;
 - (b) beginning at 11 pm on 5th November and ending at 12 am the following day;
 - (c) beginning at 11 pm on the day of Diwali and ending at 1 am the following day; or
 - (d) beginning at 11 pm on 31st December and ending at 1 am the following day.

Prohibition of supply of excessively loud category 3 fireworks

- 8.—(1) No person shall supply, or offer or agree to supply, any category 3 firework which, when used, produces a maximum A-weighted impulse sound pressure level exceeding 120 decibels when measured in accordance with paragraph (2) below.
- (2) For the purposes of paragraph (1) above, the sound pressure level is to be measured—
- (a) at a horizontal distance of fifteen metres from the testing point at a height of one metre above the ground; and
 - (b) using a sound measuring device which conforms to type 1 of BS EN 61672 with a free-field microphone.

Licensing of fireworks suppliers

- 9.—(1) Subject to paragraph (2) below, no person shall supply or expose for supply any adult firework, save in accordance with a licence granted under this regulation.

(2) Paragraph (1) above shall not prohibit the supply or exposing for supply, otherwise than in accordance with a licence, of adult fireworks—

- (a) on the first day of the Chinese New Year and the three days immediately preceding it;
- (b) on the day of Diwali and the three days immediately preceding it;
- (c) during the period beginning on the 15th October and ending on the 10th November; or
- (d) during the period beginning on the 26th December and ending on the 31st December.

(3) An application for a licence under this regulation shall be made to the local licensing authority in whose area the applicant proposes to supply or expose for supply adult fireworks.

(4) A local licensing authority shall not grant a licence unless it is satisfied that the applicant holds either—

- (a) a licence under section 5 of the Explosives Act 1875(a); or
- (b) a registration in accordance with section 21 of that Act.

(5) A local licensing authority may refuse to grant a licence, or may revoke a licence which it has granted, if the applicant has committed—

- (a) an offence under section 11 of the 2003 Act;
- (b) an offence under section 12 of the 1987 Act arising from a contravention of the 1997 Regulations;
- (c) an offence under sections 4, 5 or 32 of the Explosives Act 1875; or
- (d) an offence in relation to the use, storage or keeping of fireworks under the Health and Safety at Work etc. Act 1974(b).

(6) Where a local licensing authority refuses to grant a licence, or revokes a licence, it shall notify the applicant of its decision.

(7) A local licensing authority may charge a fee not exceeding £500 a year in connection with the grant of a licence under this regulation.

(8) A person may appeal to the court against a decision of a local licensing authority to refuse to grant him a licence, or to revoke a licence, and any such appeal shall be made within 28 days of the decision in question being notified to that person.

Information about adult fireworks

10.—(1) No person shall supply or expose for supply any adult firework unless—

- (a) where adult fireworks are supplied or exposed for supply in any premises, he displays in a prominent position in those premises a notice, which measures no less than 400 millimetres by 300 millimetres and whose letters are no less than 16 millimetres high, stating the required information, or
- (b) where adult fireworks are supplied or exposed for supply in circumstances not mentioned in sub-paragraph (a) above, he gives the required information to any person to whom the fireworks are supplied or exposed for supply.

(2) In paragraph (1) above, “the required information” means information that—

- (a) it is illegal to sell adult fireworks to anyone under the age of eighteen; and
- (b) it is illegal for anyone under the age of eighteen to possess adult fireworks in a public place.

(3) No person shall supply any firework unless, if requested to do so by a local licensing authority, he provides that authority with the following information—

- (a) the name and address of the person who supplied the fireworks to him;
- (b) the name and address of the person to whom he is supplying the fireworks;

(a) 1875 c. 17.
(b) 1974 c. 37.

- (c) the date when the fireworks were supplied to him;
- (d) the date when he supplied or proposes to supply the fireworks to another person; and
- (e) the total amount of explosives contained in the fireworks supplied.

(4) Paragraph (3) above shall not apply if, in a single transaction, the total amount of explosives contained in the fireworks supplied is less than or equal to 50 kilograms.

Importation of fireworks

11. No person shall import any firework, unless he has given the following information to the Commissioners of Customs and Excise—

- (a) his name and address;
- (b) the name of the person who is to store the fireworks following their importation; and
- (c) the address of the premises at which the fireworks are to be stored following their importation.

Transfer of enforcement duties

12.—(1) The possession enforcement duty in England and Wales is hereby transferred to the chief officer of police of each police force and shall be the duty of every chief officer of police in relation to the police area for which the force in question is maintained^(a).

(2) The possession enforcement duty in Scotland is hereby transferred to the chief constable of each police force and shall be the duty of every chief constable in relation to the police area for which the force in question is maintained^(b).

(3) The use enforcement duty in England and Wales is hereby transferred to the chief officer of police of each police force and shall be the duty of every chief officer of police in relation to the police area for which the force in question is maintained.

(4) The importation enforcement duty is hereby transferred to the Commissioners of Customs and Excise and shall be the duty of the Commissioners of Customs and Excise.

(5) Every weights and measures authority of Great Britain is hereby relieved of the possession enforcement duty and the importation enforcement duty.

(6) Every weights and measures authority in England and Wales is hereby relieved of the use enforcement duty.

(7) In every area where there is a fire and civil defence authority, the licensing enforcement duty is hereby transferred to that authority and any weights and measures authority for that area is hereby relieved of the licensing enforcement duty.

Proceedings

13. In England and Wales a magistrates' court may try an information in respect of an offence under section 11 of the 2003 Act arising from a contravention of a prohibition imposed by these Regulations if the information is laid within twelve months from the time when the offence was committed, and in Scotland summary proceedings for such an offence may be brought at any time within twelve months from the time when the offence was committed.

Gerry Sutcliffe,
Parliamentary Under Secretary of State for Employment
Relations, Competition and Consumers,
Department of Trade and Industry

14th July 2004

^(a) The expressions “chief officer of police”, “police force” and “police area” are defined, in relation to England and Wales, in Schedule 1 of the Interpretation Act 1978 (c. 30) and section 101 of the Police Act 1996 (c. 16).
^(b) The expressions “chief constable”, “police force” and “police area” are defined, in relation to Scotland, in Schedule 1 of the Interpretation Act 1978 (c. 30) and section 50 of the Police (Scotland) Act 1967 (c. 77).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make certain provisions in relation to fireworks in order to minimise the risk that fireworks will be used with harmful consequences for people, animals or property. The Regulations do not extend to Northern Ireland and regulation 7 of the Regulations does not extend to Scotland. The Regulations replace provisions in the Fireworks Regulations 2003, which are revoked.

Regulation 4 prohibits persons under eighteen from possessing an adult firework (which is defined in regulation 3) in a public place. Regulation 5 prohibits persons of any age from possessing (in a public place or elsewhere) a category 4 firework. A category 4 firework is defined in regulation 3 by reference to the categorisation of fireworks in British Standard 7114. Both the regulation 4 and regulation 5 prohibitions are subject to the exceptions listed in regulation 6(1). The regulation 5 prohibition is additionally subject to the exception in regulation 6(2).

Regulation 7 prohibits persons from using adult fireworks during night hours (namely between 11 pm and 7 am) but exceptions allow such use until 1 am on the nights of the Chinese New Year, Diwali and New Year's Eve and until midnight on 5th November. There is also an exception in the case of local authority employees for the purposes of local authority fireworks displays, national public celebrations or national commemorative events.

Regulation 8 prohibits the supply, purchase or possession of category 3 fireworks whose noise levels exceed 120 decibels and includes provision for measuring these noise levels.

Regulation 9 requires suppliers of adult fireworks to hold a licence, except at certain times of year. Licences are granted by the appropriate local authority, which must refuse a licence unless the applicant complies with relevant statutory requirements concerning the keeping of fireworks and may refuse a licence (or revoke a licence previously granted) if the applicant has committed any of the fireworks related offences listed in paragraph (5) of that regulation.

Regulation 10 requires suppliers of adult fireworks to inform the persons to whom such fireworks are supplied or exposed for supply that it is a criminal offence to supply adult fireworks to those under eighteen and for those under eighteen to possess such fireworks. (Supply of adult fireworks to those under eighteen is an offence under regulation 6 of the Fireworks (Safety) Regulations 1997 and possession of an adult firework by a person under eighteen is an offence under regulation 4 of these Regulations.) Regulation 10 also requires fireworks suppliers to provide, on request, a local licensing authority with information about fireworks in circumstances where the total net explosive content of fireworks supplied in a single transaction exceeds 50 kilograms.

Regulation 11 requires importers of fireworks to give information about themselves, the storage and onward supply of such fireworks to the Customs and Excise Commissioners.

By virtue of section 11 of the Fireworks Act 2003, a contravention of regulations 4, 5 or 7 to 11 is a criminal offence. Although section 12 of the Fireworks Act 2003 and section 27(1) of the Consumer Protection Act 1987 provide that it is the duty of local weights and measures authorities to enforce these Regulations, this duty is transferred in relation to some aspects of these Regulations to other enforcers under regulation 12. The enforcement of regulations 4 and 5 (and, in England and Wales only, of regulation 7) is transferred to the relevant police forces. The enforcement of regulation 11 is transferred to the Customs and Excise Commissioners. The enforcement of regulations 8, 9 and 10 remains the responsibility of the local weights and measures authorities.

Copies of the British Standards 7114, 61672 and the British Standards referred to therein are available from any of the sales outlets operated by the British Standards Institution, by post from BSI at 389, Chiswick High Road, London W4 4AL or from any of the bookshops operated by the Stationery Office Limited.

A Regulatory Impact Assessment is available, copies of which have been placed in the libraries of both Houses of Parliament. Copies are available from the Consumer and Competition Policy Directorate of the Department of Trade and Industry, Room 427, 1, Victoria Street, London SW1H 0ET.

STATUTORY INSTRUMENTS

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