
STATUTORY INSTRUMENTS

2010 No. 1554

The Pyrotechnic Articles (Safety) Regulations 2010

PART 2

Category 1, 2 and 3 fireworks

Scope of Part 2

5. This Part does not apply to category 4 fireworks, theatrical pyrotechnic articles or other pyrotechnic articles.

Safety obligations of manufacturers

6.—(1) No manufacturer or, where regulation 7(1)(b) applies, no importer shall supply a category 1, 2 or 3 firework unless the firework—

- (a) complies with the essential safety requirements set out in paragraphs 1 and 2 of Schedule 2;
- (b) has been submitted to a notified body or is otherwise subject to a conformity assessment procedure;
- (c) has passed a conformity assessment procedure in accordance with regulation 11 carried out by a notified body;
- (d) has affixed to it a CE marking in accordance with regulation 12; and
- (e) complies with the labelling requirements set out in regulation 14.

(2) A firework built by a manufacturer for its own use which complies with the law applicable to such a firework (excluding these Regulations) need not comply with this regulation.

Safety obligations of importers

7.—(1) Where a manufacturer of a category 1, 2 or 3 firework is not established within the EU, the importer of the firework shall—

- (a) ensure the manufacturer has complied with the obligations under Part 2 which would apply to the firework if the manufacturer were established within the EU, or
- (b) comply with the obligations under Part 2 which would apply to the firework if the importer were a manufacturer established within the EU.

(2) An importer shall be liable for any contravention of paragraph (1)(a) or (b), including a contravention caused by an action, omission or default of the manufacturer.

Safety obligations of distributors

8.—(1) A distributor shall act with due care in relation to a category 1, 2 or 3 firework.

(2) The duty of a distributor referred to in paragraph (1) shall, in particular, include a requirement to check that a category 1, 2 or 3 firework—

- (a) bears the CE marking, and
- (b) is accompanied by any separate safety warnings or instructions provided by the manufacturer or, where article 7(1)(b) applies, the importer.

Harmonised standards for category 1, 2 or 3 fireworks

9.—(1) Subject to paragraph (2), a category 1, 2 or 3 firework which complies with a standard of a Member State which implements a harmonised standard adopted for the purposes of Article 8 of the Directive (harmonised standards) is in conformity with the essential safety requirements set out in Schedule 2 to these Regulations.

(2) Paragraph (1) does not apply to the extent that the committee referred to in Article 8(4) of the Directive finds that the harmonised standard does not satisfy the essential safety requirements set out in paragraphs 1 and 2 of Schedule 2.

Free movement

10.—(1) Subject to paragraph (2), a category 1, 2 or 3 firework which complies with all legally binding measures of a Member State, other than the United Kingdom, which fully implement the Directive is in conformity with Part 2.

(2) Paragraph (1) does not affect—

- (a) the duty of a distributor under regulation 8;
- (b) the labelling requirements in regulation 14(2) and (7);
- (c) the prohibitions on supply of category 1, 2 or 3 fireworks in regulation 15;
- (d) the exercise by enforcement authorities or the Secretary of State of powers referred to in, or conferred by, regulations 18 and 19 (market surveillance and enforcement actions), the Act or the General Product Safety Regulations 2005(1); and
- (e) the prohibitions on the supply of certain category 2 or 3 fireworks in regulation 21.

Conformity assessment procedures

11.—(1) For the assessment of conformity of category 1, 2 or 3 fireworks the manufacturer or, where regulation 7(1)(b) applies, the importer shall follow, and comply with the obligations of, one of the following procedures—

- (a) the EC type-examination (Module B) procedure referred to in Annex II, Section 1 and, at the choice of the manufacturer, either—
 - (i) the conformity to type (Module C) procedure referred to in Annex II, Section 2;
 - (ii) the production quality assurance (Module D) procedure referred to in Annex II, Section 3; or
 - (iii) the product quality assurance (Module E) procedure referred to in Annex II, Section 4;
- (b) the unit verification (Module G) procedure referred to in Annex II, paragraph 5.

(2) References in paragraph (1) to the expression “Annex II” refer to Annex II to the Directive, as amended from time to time.

Obligation to affix the CE marking

12.—(1) After successful completion of a conformity assessment using one of the procedures prescribed by regulation 11, manufacturers or, where regulation 7(1)(b) applies, importers shall visibly, legibly and indelibly affix the CE marking to category 1, 2 and 3 fireworks.

(2) Where it is not possible to comply with paragraph (1), the CE marking shall be affixed to an identification label attached to the firework or to the packaging.

(3) An identification label must be designed to make its reuse impossible.

(4) The CE marking must take the form set out in Annex IV to the Directive (conformity marking).

(5) Other markings may be affixed to a category 1, 2 or 3 firework, only if the visibility and legibility of the CE marking is not impaired as a result.

(6) The application of the CE marking to a category 1, 2 or 3 firework in accordance with these Regulations indicates that the firework is presumed (which presumption shall be rebuttable) to conform to other EU legislation that applies to category 1, 2 or 3 fireworks and requires the affixing of a CE marking.

Prohibition on improper use of the CE marking

13.—(1) No person shall affix a CE marking to a category 1, 2 or 3 firework that does not conform to the requirements of these Regulations.

(2) No person shall affix to a category 1, 2 or 3 firework a marking or inscription which may confuse a third person as to the meaning of the CE marking.

(3) Where it comes to the knowledge of an enforcement authority that a person has affixed a CE marking to a category 1, 2 or 3 firework which does not conform to the requirements of these Regulations the enforcement authority shall inform the Secretary of State.

(4) The Secretary of State shall inform the European Commission where paragraph (3) applies.

Labelling requirement

14.—(1) No manufacturer or, where regulation 7(1)(b) applies, no importer shall supply a category 1, 2 or 3 firework unless it is visibly, legibly and indelibly labelled in accordance with this regulation in the official language of the Member State in which the firework is supplied to the consumer.

(2) A category 1, 2 or 3 firework for supply to a consumer in the United Kingdom must be labelled in English.

(3) The labelling of a category 1, 2 or 3 firework shall include, at least—

- (a) the name and address of the manufacturer;
- (b) where the manufacturer is not established in the EU, the name of the manufacturer and the name and address of the importer;
- (c) the name, type and category of the firework;
- (d) the minimum age limits, in accordance with regulation 15 or the limits of the Member State in which the firework is supplied to the consumer;
- (e) instructions for use;
- (f) the net explosive quantity of active explosive material; and
- (g) where appropriate, a minimum safety distance.

(4) In addition, the labelling of a category 1 firework shall include, where appropriate, at least—

- (a) the statement “for outdoor use only”; and

- (b) a minimum safety distance.
- (5) In addition, the labelling of a category 2 firework shall include at least—
 - (a) the statement “for outdoor use only”; and
 - (b) where appropriate, a minimum safety distance.
- (6) In addition, the labelling of a category 3 firework shall include at least—
 - (a) the statement “for outdoor use only”;
 - (b) a minimum safety distance; and
 - (c) the year of production.
- (7) The labelling of the packet in which a sparkler is contained shall include the words “Warning: not to be given to children under 5 years of age”.
- (8) If a category 1, 2 or 3 firework does not provide sufficient space for the labelling requirements in paragraphs (3) to (6), the information shall be provided on the retail packaging of the firework.
- (9) Paragraph (8) shall not prevent information being provided on other packaging of the firework.
- (10) This regulation does not apply to a firework falling within regulation 16 or 17 (exceptions for trade fairs, etc and research and development).
- (11) In this regulation, “sparkler” means a rigid wire article partially coated along one end with slow-burning pyrotechnic composition, with or without an ignition head and designed to be held in the hand, the principal effect of which is to emit sparks, with or without aural effects (other than a report).

Prohibition on supply of category 1, 2 or 3 fireworks

- 15.—(1) No person shall supply a category 2 or 3 firework to any person under the age of eighteen years.
- (2) No person shall supply a category 1 firework to any person under the age of sixteen years.

Exception for trade fairs, exhibitions and demonstrations

- 16.—(1) Where paragraph (2) is complied with, nothing in these Regulations prevents the showing and using at trade fairs, exhibitions and demonstrations for the marketing of pyrotechnic articles of a firework which does not comply with Part 2.
- (2) While a firework within paragraph (1) is being shown or used a clear and visible sign must indicate—
 - (a) the name and date of the trade fair, exhibition or demonstration;
 - (b) that the firework does not conform with Part 2; and
 - (c) that the firework is not for sale, until brought into conformity with the Regulations.

Exception for research and development

- 17.—(1) Where paragraph (2) is complied with, nothing in these Regulations prevents the use or free movement of a firework which does not comply with Part 2 which was manufactured for the purpose of research, development and testing.
- (2) In relation to a firework within paragraph (1) a clear and visible sign must indicate that—
 - (a) the firework does not conform with Part 2; and
 - (b) it is not available other than for purposes of research, development and testing.

Market surveillance and enforcement

18.—(1) It shall be the duty of an enforcement authority to enforce regulation 4(1) and Part 2 within its area.

(2) In addition, the Secretary of State may enforce regulation 4(1) and Part 2.

(3) Enforcement authorities shall carry out regular inspections in relation to category 1, 2 or 3 fireworks following entry into the EU and at storage sites.

(4) The Health and Safety Executive shall carry out regular inspections in relation to category 1, 2 and 3 fireworks at manufacturing sites within Great Britain and the Secretary of State shall carry out the same duty within Northern Ireland.

(5) Where as a result of an inspection under paragraph (4) a contravention of regulation 4(1) or of Part 2 is suspected the Health and Safety Executive within Great Britain may take action in accordance with regulations 36(6), 37(1), (5), (6), (8) and (9) and 38 and Schedule 4.

(6) Schedule 4 applies for the purposes of an inspection under paragraph (4).

(7) For the purposes of paragraphs (5) and (6), regulations 36(6), 37(1), (5), (6), (8) and (9), 38 and Schedule 4 shall be read as if any reference to—

- (a) Part 3 were a reference to Part 2;
- (b) a pyrotechnic article were, as the case may be, a reference to a category 1, 2 or 3 firework;
- (c) a reference to regulation 4(3) were a reference to regulation 4(1);
- (d) a reference to a provision in Part 3 were a reference to the corresponding provision in Part 2.

(8) A weights and measures authority in England or Wales shall have the power to investigate and prosecute for an alleged contravention of these Regulations which was committed outside its area in any part of England or Wales.

(9) A district council in Northern Ireland shall have the power to investigate and prosecute for an alleged contravention of these Regulations which was committed outside its area in any part of Northern Ireland.

(10) Any action of an enforcement authority or the Secretary of State under this regulation or regulation 19 shall take due account of the presumption (which presumption shall be rebuttable) that category 1, 2 or 3 fireworks marked with a CE marking are in conformity with the essential safety requirements set out in paragraphs 1 and 2 of Schedule 2.

(11) The Secretary of State may appoint a person to act on behalf of the Secretary of State for the purposes of paragraph (2) or (4).

Enforcement actions

19.—(1) An enforcement authority under the duty referred to in regulation 18 (market surveillance and enforcement), and the Secretary of State under the power referred to in that regulation, may use any provisions of the Act relating to enforcement to enforce regulation 4(1) and Part 2.

(2) Where an enforcement authority or, where appropriate, the Secretary of State becomes aware that a category 1, 2 or 3 firework, used in accordance with its intended purpose, is liable to endanger the health and safety of persons the enforcement authority shall take, and the Secretary of State may take, such of the following actions as is most appropriate in the circumstances against the manufacturer, importer or distributor as the case may be.

(3) The actions include—

- (a) in relation to the Secretary of State, serving a prohibition notice (within the meaning of section 13(1)(a) of the Act);

- (b) in relation to the Secretary of State, serving a notice to warn (within the meaning of section 13(1)(b) of the Act);
 - (c) serving a suspension notice (within the meaning of section 14 of the Act); or
 - (d) serving a withdrawal notice (within the meaning of regulation 14 of the General Product Safety Regulations 2005(2)).
- (4) For the purposes of taking the action referred to in paragraph (3)(d), regulations 14, 16, and 17 of the General Product Safety Regulations 2005 shall be applied.
- (5) Where a withdrawal notice is served under paragraph 3(d), the conditions for serving the notice that would otherwise apply under the General Product Safety Regulations 2005 are satisfied by complying with these Regulations.
- (6) For the purpose of applying the provisions referred to in paragraph (4), a “producer” referred to in those provisions is a “manufacturer” or an “importer” and a “distributor” referred to in those provisions has the meaning specified in regulation 2.
- (7) Where an enforcement authority takes any action under paragraph (2) it shall notify the Secretary of State as soon as practicable, specifying its reasons for taking the action.
- (8) Where an enforcement authority has notified the Secretary of State under paragraph (7), it shall notify the Secretary of State of any modification or lifting of any such action.
- (9) Where the Secretary of State is notified under paragraph (7) or (8) in relation to a category 1, 2 or 3 firework which bears a CE marking and is accompanied by an EC declaration of conformity, the Secretary of State shall inform the European Commission and other relevant Member States of the action.
- (10) This paragraph applies where the Secretary of State has sufficient reason to believe that a category 1, 2 or 3 firework presents a serious risk to the health or safety of persons in the EU.
- (11) Where paragraph (10) applies the Secretary of State shall—
- (a) inform the European Commission and other Member States of that risk;
 - (b) perform an appropriate evaluation; and
 - (c) inform the European Commission and other Member States of the background for and the results of the evaluation.
- (12) This Regulation does not prevent an enforcement authority or the Secretary of State taking other enforcement action under the General Product Safety Regulations 2005.

Requirements regarding prohibitions, restrictions and withdrawals

- 20.**—(1) Any measure taken by an enforcement authority or the Secretary of State under these Regulations which has the effect of prohibiting or restricting the supply or withdrawal from the market of a category 1, 2 or 3 firework must comply with the requirements in paragraph (2).
- (2) The requirements are—
- (a) the measure must state the exact grounds on which it is based;
 - (b) the party concerned must be informed, without delay, of—
 - (i) the measure,
 - (ii) the remedies available to that party, and
 - (iii) the time limits to which the remedies are subject; and
 - (c) subject to paragraph (3), the party concerned must have an opportunity to put forward its views in advance.

(3) The requirement in paragraph (2)(c) does not apply if consultation is not possible because of the urgency of the measure to be taken, as justified in particular by public health or safety requirements.

Prohibitions on supply of certain category 2 or 3 fireworks

21.—(1) No person shall supply a category 2 or 3 firework of the following description—

- (a) an aerial wheel;
- (b) a banger, flash banger or double banger;
- (c) a jumping cracker;
- (d) a jumping ground spinner;
- (e) a spinner;
- (f) a mini rocket;
- (g) a shot tube—
 - (i) which produces a report as its principal effect, previously known as an air bomb; or
 - (ii) the inside diameter of which is greater than 30mm, previously known as a shell-in-mortar;
- (h) a battery containing bangers, flash bangers or double bangers;
- (i) a combination (other than a wheel) which includes one or more bangers, flash bangers or double bangers.

(2) Paragraph (1)(b) does not prohibit the supply of a category 2 or 3 firework as part of a wheel.

(3) Paragraph (1) does not prohibit the supply of a category 2 or 3 firework to a person with specialist knowledge.

(4) No person who carries on a business involving, to whatever extent, the supply of fireworks by retail shall supply a category 2 or 3 firework which has been removed, caused to be removed, or that person knows to have been removed from a selection pack or primary pack of fireworks, intended for retail sale as a single unit, made up of the same or different types of fireworks.

(5) For the purposes of this regulation, the definitions of fireworks and packs of fireworks are set out in Schedule 3.