STATUTORY INSTRUMENTS

2010 No. 1554

The Pyrotechnic Articles (Safety) Regulations 2010

PART 5

Proceedings, transition and revocations, etc.

Proceedings

- **45.**—(1) In England and Wales a magistrates' court may try an information in respect of an offence under section 12 of the Act arising from a contravention of these Regulations if the information is laid within twelve months from the time when the offence was committed.
- (2) In Scotland summary proceedings for an offence under section 12 of the Act arising from a contravention of these Regulations may be brought at any time within twelve months from the time when the offence was committed.
- (3) In Northern Ireland a magistrates' court may try a complaint in respect of an offence under section 12 of the Act arising from a contravention of these Regulations if the complaint is made within twelve months from the time when the offence was committed.

Transitional provisions in relation to category 1, 2 or 3 fireworks

- **46.**—(1) Subject to paragraphs (2), (3) and (4), nothing in regulation 4(1), (2) or Part 2 of these Regulations prevents the supply in a part of the United Kingdom of a category 1, 2 or 3 firework that it is lawful to supply in that part of the United Kingdom immediately before 4th July 2010.
 - (2) Paragraph (1) does not apply to regulations 15 and 21 (prohibitions on supply of fireworks).
 - (3) Paragraph (1) applies until 3rd July 2017.
- (4) No person shall supply a category 1, 2 or 3 firework falling within paragraph (1) for use in the territory of a Member State outside the United Kingdom.
- (5) A category 1, 2 or 3 firework that falls within paragraph (1) benefits from that provision whether it is classified for the purposes of, as the case may be, the Classification and Labelling of Explosives Regulations 1983(1) or the Classification and Labelling of Explosives Regulations (Northern Ireland) 1991(2), before or after 4th July 2010.

Transitional provisions in relation to category 4 fireworks, theatrical pyrotechnic articles and other pyrotechnic articles

- 47.—(1) Subject to paragraphs (2), (3) and (4), nothing in regulation 4(1), (2) or Part 3 of these Regulations prevents the supply in a part of the United Kingdom of a category 4 firework, a theatrical pyrotechnic article and an other pyrotechnic article that it was lawful to supply in that part of the United Kingdom immediately before 4th July 2013.
 - (2) Paragraph (1) does not apply to regulation 33 (prohibition on supply of pyrotechnic articles).

 $[\]textbf{(1)} \quad \text{S.I. } 1983/1140; \text{ as amended by S.I. } 2004/568, 2007/1573, \text{ there are other amendments which are not relevant.}$

⁽²⁾ S.R. (N.I.) 1991 No 516; as amended by S.R. (N.I.) 2006 No 182 and 2006 No 425.

- (3) Paragraph (1) applies until 3rd July 2017.
- (4) No person shall supply a category 4 firework, a theatrical pyrotechnic article or an other pyrotechnic article, falling within paragraph (1) for use in the territory of a Member State outside the United Kingdom.
- (5) A theatrical pyrotechnic article or an other pyrotechnic article or a category 4 firework that falls within paragraph (1) benefits from that provision whether it is classified for the purposes, as the case may be, of the Classification and Labelling of Explosives Regulations 1983 or the Classification and Labelling of Explosives Regulations (Northern Ireland) 1991, before or after 4th July 2013.

Contravention of the Regulations

48. Subject to regulation 36(2), notwithstanding that they are made partly or wholly in exercise of powers other than those conferred by section 11 of the Act, these Regulations (except for regulations 39, 40 and 41) shall be regarded as safety regulations as defined in the Act for purposes relating to enforcement by an enforcement authority or the Secretary of State (whether by criminal proceedings, notices or otherwise), and any provision of these Regulations made under those other powers shall be regarded for those purposes as a safety provision as defined in the Act.

Repeals, revocations, amendments and savings

- **49.**—(1) In section 31 of the Explosives Act 1875(3)(penalty for sale of gunpowder to children), which becomes subsection (1) of that section, at the end insert—
 - "(2) On and after 4 July 2010, subsection (1) does not apply to—
 - (a) category 1, 2 or 3 fireworks; or
 - (b) percussion caps.
 - (3) On and after 4 July 2013, subsection (1) does not apply to—
 - (a) category 4 fireworks,
 - (b) category T1 or T2 theatrical pyrotechnic articles, or
 - (c) category P1 or P2 other pyrotechnic articles.
 - (4) The references to categories of fireworks, theatrical and other pyrotechnic articles are to be construed in accordance with Directive 2007/23/EC of the European Parliament and of the Council of 23 May 2007 on the placing on the market of pyrotechnic articles.
 - (5) The reference to percussion caps is a reference to percussion caps intended specifically for toys falling within the scope of Council Directive 88/378/EEC of 3 May 1988 on the approximation of the laws of the Member States concerning the safety of toys."
- (2) Subject to paragraph (13), sections 5 and 6 of, and the Schedule to, the Fireworks Act 1951(4) (marking of fireworks, etc.) are repealed.
- (3) Subject to paragraph (13), the Fireworks Act 1964(5) (exemption of fireworks for export from marking requirements) is repealed.
- (4) Subject to paragraph (13), in regulation 3 of the Classification and Labelling of Explosives Regulations 1983 after paragraph (3) insert—
 - "(4) Pyrotechnic articles which comply with the labelling requirements of the Pyrotechnic Articles (Safety) Regulations 2010 satisfy the labelling requirements for inner packaging imposed by these Regulations.

^{(3) 1875} c.17.

^{(4) 1951} c.58.

^{(5) 1964} c.23.

- (5) For the purposes of paragraph (4) the expression "pyrotechnic article" has the meaning given in regulation 2 of the Pyrotechnic Articles (Safety) Regulations 2010.".
- (5) Subject to paragraph (13), in regulation 3 of the Classification and Labelling of Explosives Regulations (Northern Ireland) 1991 after paragraph (3) insert—
 - "(4) Pyrotechnic articles which comply with the labelling requirements of the Pyrotechnic Articles (Safety) Regulations 2010 satisfy the labelling requirements for inner packaging imposed by these Regulations.
 - (5) For the purposes of paragraph (4) the expression "pyrotechnic article" has the meaning given in regulation 2 of the Pyrotechnic Articles (Safety) Regulations 2010.".
 - (6) Subject to paragraphs (12) and (13), the Fireworks (Safety) Regulations 1997(6) are revoked.
- (7) Subject to paragraphs (12) and (13), the Fireworks (Safety)(Amendment) Regulations 2004(7) are revoked.
- (8) Subject to paragraph (13), in the Enterprise Act 2002 (Part 8 Domestic Infringements) Order 2003(8), in Part 1 of the Schedule—
 - (a) omit the entry referring to the Explosives Act 1875,
 - (b) omit the entry referring to the Fireworks (Safety) Regulations 1997, and
 - (c) in the appropriate place, insert in the first column "Pyrotechnic Articles (Safety) Regulations 2010" and opposite it in the second column, insert "Regulation 15 (prohibition on supply of category 1 fireworks to persons under 16 years and category 2 or 3 fireworks to persons under 18 years)."
- (9) Subject to paragraph (13), in the Enterprise Act 2002 (Part 8 Notice to OFT of Intended Prosecution Specified Enactments, Revocation and Transitional Provision) Order 2003(9) in the Schedule—
 - (a) for the entry referring to the Consumer Protection Act 1987 in the second column for "Fireworks (Safety) Regulations 1997" substitute "Pyrotechnic Articles (Safety) Regulations 2010";
 - (b) omit the entry referring to the Fireworks (Safety) Regulations 1997;
 - (c) in the appropriate place, insert in the first column "Pyrotechnic Articles (Safety) Regulations 2010" and opposite it in the second column insert "Regulation 15 (prohibition on supply of category 1 fireworks to persons under 16 years and category 2 or 3 fireworks to persons under 18 years)".
 - (10) Subject to paragraph (13), in the Fireworks Regulations 2004(10)—
 - (a) for the definition of "the 1997 Regulations" substitute ""the 2010 Regulations" means the Pyrotechnic Articles (Safety) Regulations 2010""; and
 - (b) in paragraph (1)(c) of regulation 6 and paragraphs (2A)(a) and (5)(b) of regulation 9 for "1997 Regulations" substitute "2010 Regulations"; and
 - (c) omit regulation 8 (prohibition of supply of excessively loud category 3 fireworks).
- (11) Subject to paragraph (12) and (13), the provisions of the Explosives (Fireworks) Regulations (Northern Ireland) 2002(11) set out in Schedule 5 are, as the case may be, amended or revoked.

⁽⁶⁾ S.I. 1997/2294; as amended by S.I. 2004/1372.

⁽⁷⁾ S.I. 2004/1372.

⁽⁸⁾ S.I. 2003/1593; as amended by S.I. 2008/1277.

⁽⁹⁾ S.I. 2003/1376; as amended by S.I. 2004/2095, 2008/1277 and 2008/2095.

⁽¹⁰⁾ S.I. 2004/1836, as amended by S.I. 2004/3262.

⁽¹¹⁾ S.R. (N.I.) 2002 No 147.

- (12) The regulations referred to in paragraphs (6), (7) and (11) continue to apply to category 4 fireworks as they did immediately before their amendment or revocation, as the case may be, for all purposes until 4th July 2013.
- (13) The provisions referred to in paragraphs (2) to (11) (save for regulations 4, 5 and 6 of the Fireworks (Safety) Regulations 1997 and regulation 11 of the Explosives (Fireworks) Regulations (Northern Ireland) 2002) continue to apply as they did immediately before their repeal, revocation or amendment for all purposes in relation to fireworks falling within regulation 46 or category 4 fireworks falling within regulation 47(1).
- (14) Paragraph (13) applies to a theatrical pyrotechnic article or an other pyrotechnic article falling within regulation 47 that amounts to a firework.