
STATUTORY INSTRUMENTS

2015 No. 1553

The Pyrotechnic Articles (Safety) Regulations 2015

PART 2

Obligations of economic operators

Chapter 1

Manufacturers

Categorisation

6. Before placing a pyrotechnic article on the market, a manufacturer must—
- (a) categorise it using the categories set out in Schedule 1 (categories of pyrotechnic article), according to its—
 - (i) type of use; or
 - (ii) purpose and level of hazard, including its noise level; and
 - (b) ensure that a notified body has confirmed that categorisation as part of a relevant conformity assessment procedure.

Design and manufacture in accordance with essential safety requirements

7. Before placing a pyrotechnic article on the market, a manufacturer must ensure that it has been designed and manufactured in accordance with the essential safety requirements.

Technical documentation and conformity assessment

8. Before placing a pyrotechnic article on the market, a manufacturer must—
- (a) have a relevant conformity assessment procedure carried out; and
 - (b) draw up the technical documentation referred to—
 - (i) for a pyrotechnic article in respect of which the conformity assessment procedure in regulation 40(a) is being carried out, in point 3(c) of Module B of Annex II to the Directive (as amended from time to time);
 - (ii) for a pyrotechnic article in respect of which the conformity assessment procedure in regulation 40(b) is being carried out, in point 2 of Module G of Annex II to the Directive (as amended from time to time);
 - (iii) for pyrotechnic article in respect of which the conformity assessment procedure in regulation 40(c) is being carried out, in point 3.1(b) of Module H of Annex II to the Directive (as amended from time to time).

EU declaration of conformity and CE marking

9.—(1) Where the conformity of a pyrotechnic article with the essential safety requirements has been demonstrated by a relevant conformity assessment procedure, the manufacturer must, before placing the pyrotechnic article on the market—

- (a) draw up a declaration of conformity in accordance with regulation 41 (EU declaration of conformity); and
- (b) affix the CE marking in accordance with regulation 42 (CE marking).

(2) The manufacturer must keep the EU declaration of conformity up-to-date.

(3) Where a pyrotechnic article is subject to more than one EU instrument requiring a declaration of conformity to be drawn up, the manufacturer must draw up a single declaration of conformity, which—

- (a) identifies the EU instruments; and
- (b) includes references to the publication of those EU instruments in the Official Journal of the European Union.

Retention of technical documentation and EU declaration of conformity

10. A manufacturer must keep the technical documentation and the EU declaration of conformity drawn up in respect of a pyrotechnic article for a period of 10 years beginning on the day on which the pyrotechnic article is placed on the market.

Labelling of pyrotechnic articles other than pyrotechnic articles for vehicles

11.—(1) Before placing a pyrotechnic article on the market, a manufacturer must ensure that it is labelled —

- (a) visibly, legibly and indelibly;
- (b) clearly and understandably; and
- (c) subject to paragraphs (3) and (4), in the official language of the member State in which the pyrotechnic article is to be made available to the end-user.

(2) The manufacturer must ensure that the labelling of the pyrotechnic article includes, as a minimum, the information specified in Schedule 3 (labelling: required information).

(3) The information specified in paragraph 1(a) and (b) of Schedule 3 must be provided in a language which can be easily understood by the end-users and the competent national authority in the member State in which the pyrotechnic article is to be made available to such end-users.

(4) The information specified in paragraph 1(f) of Schedule 3 must be provided in a language which can be easily understood by consumers and other end-users in the member State in which the pyrotechnic article is to be made available to such consumers and other end-users.

(5) Where the pyrotechnic article is to be made available to end-users in the United Kingdom the language which can be easily understood by consumers and other end-users is English.

(6) Where it is not possible for information specified in paragraph 1(a) and (b) of Schedule 3 to be indicated on the pyrotechnic article (including where this is as a result of other labelling requirements referred to in Schedule 3 having taken up the available space on the pyrotechnic article), the manufacturer must ensure that that information is indicated on its packaging or in a document accompanying the pyrotechnic article.

(7) Where the pyrotechnic article does not provide sufficient space for the other labelling requirements specified in Schedule 3 (including where this is as a result of the information specified in paragraph 1(a) and (b) of Schedule 3 having taken up the available space on the pyrotechnic

article), the manufacturer must ensure that the information is provided on the smallest piece of packaging.

(8) This regulation does not apply to pyrotechnic articles for vehicles.

Labelling of pyrotechnic articles for vehicles

12.—(1) Before placing a pyrotechnic article for a vehicle on the market, a manufacturer must ensure that it is labelled with—

- (a) the information about the manufacturer specified in paragraph 1(a) and (b) of Schedule 3;
- (b) the name and type of the pyrotechnic article;
- (c) the registration number of the pyrotechnic article;
- (d) the product, batch or serial number of the pyrotechnic article; and
- (e) safety instructions (where necessary).

(2) If the pyrotechnic article for a vehicle does not provide sufficient space for the labelling requirements specified in paragraph (1), the manufacturer must ensure that the information is provided on the packaging.

(3) Before placing a pyrotechnic article for a vehicle on the market, the manufacturer must draw up a safety data sheet.

(4) In paragraph (3), “safety data sheet” means a document—

- (a) compiled in accordance with Annex II to Regulation (EC) 1907/2006 of the European Parliament and of the Council concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals, establishing a European Chemicals Agency⁽¹⁾ (as amended from time to time); and
- (b) which takes account of the specific needs of professional users.

Compliance procedures for series production

13.—(1) A manufacturer of pyrotechnic articles which are manufactured by series production must ensure that, before placing such a pyrotechnic article on the market, procedures are in place to ensure that any pyrotechnic article so manufactured will be in conformity with Part 2.

(2) In doing so, the manufacturer must take adequate account of—

- (a) any change in pyrotechnic article design or characteristics; and
- (b) any change in a harmonised standard or in another technical specification by reference to which the EU declaration of conformity was drawn up.

Chapter 2

Importers

Prohibition on placing on the market pyrotechnic articles which are not in conformity

14. An importer must not place a pyrotechnic article on the market unless it is in conformity with the essential safety requirements.

Requirements which must be satisfied before an importer places a pyrotechnic article on the market

15.—(1) Before placing a pyrotechnic article on the market, an importer must ensure that—

(1) OJ L 396, 30.12.2006, p. 1.

- (a) a relevant conformity assessment procedure has been carried out by the manufacturer;
 - (b) the manufacturer has drawn up the technical documentation;
 - (c) the pyrotechnic article—
 - (i) bears the CE marking; and
 - (ii) is accompanied by the required documents; and
 - (d) the manufacturer has complied with the requirements set out in regulations 11 (labelling of pyrotechnic articles other than pyrotechnic articles for vehicles) and 12 (labelling of pyrotechnic articles for vehicles).
- (2) In paragraph (1)(c)(ii), “required documents” means any documents that are required to be provided with the pyrotechnic article pursuant to—
- (a) regulation 11(6); and
 - (b) regulation 35 (supply of safety data sheet).

Prohibition on placing on the market pyrotechnic articles considered not to be in conformity with the essential safety requirements

16.—(1) Where an importer considers, or has reason to believe, that a pyrotechnic article is not in conformity with the essential safety requirements, the importer must not place the pyrotechnic article on the market.

(2) Where the pyrotechnic article presents a risk, the importer must inform the manufacturer and the market surveillance authority of that risk.

Information identifying importer

17.—(1) Before placing a pyrotechnic article on the market, an importer must indicate on the pyrotechnic article—

- (a) the name, registered trade name or registered trade mark of the importer; and
- (b) a postal address at which the importer can be contacted.

(2) The information specified in paragraph (1) must be in a language which can be easily understood by end-users and the competent national authority in the member State in which it is to be made available to such end-users.

(3) Where it is not possible to indicate the information specified in paragraph (1) on the pyrotechnic article, the importer must indicate that information—

- (a) on the packaging; or
- (b) in a document accompanying the pyrotechnic article.

Instructions and safety information

18.—(1) When placing a pyrotechnic article on the market, an importer must ensure that it is accompanied by instructions and safety information in a language which can be easily understood by consumers and other end-users in the member State in which the pyrotechnic article is to be made available to such consumers and other end-users.

(2) When the pyrotechnic article is being made available to consumers and other end-users in the United Kingdom, the language which can be easily understood by consumers and other end-users is English.

Retention of technical documentation and EU declaration of conformity

19. An importer must, for a period of 10 years beginning on the day on which the pyrotechnic article is placed on the market—

- (a) keep a copy of the EU declaration of conformity at the disposal of enforcing authorities; and
- (b) ensure that the technical documentation can be made available to enforcing authorities, upon request.

Chapter 3

Manufacturers and importers

Traceability

20.—(1) Where a manufacturer or importer places a pyrotechnic article on the market before 17th October 2016, the manufacturer or importer must—

- (a) maintain a record of the registration number of the pyrotechnic article for a period of at least 10 years beginning on the day on which it is placed on the market; and
- (b) upon request, make this information available to an enforcing authority.

(2) Where a manufacturer or importer places a pyrotechnic article on the market after 16th October 2016, the manufacturer or importer must—

- (a) keep a record of the required information for the pyrotechnic article for a period of at least 10 years beginning on the day on which it is placed on the market;
- (b) transfer the record referred to in sub-paragraph (a) to the Secretary of State if the manufacturer or importer is ceasing to trade; and
- (c) upon a reasoned request, provide an enforcing authority with the required information.

(3) The Secretary of State may appoint a person to receive, hold and manage the record referred to in paragraph (2) on the Secretary of State's behalf.

(4) In this regulation, “required information” means the following information about a pyrotechnic article—

- (a) the registration number;
- (b) the trade name;
- (c) the generic type and sub-type (where applicable); and
- (d) the site of manufacture.

Monitoring

21.—(1) When an enforcing authority deems it appropriate, with regard to the risks to the health and safety of consumers presented by a pyrotechnic article, a manufacturer or importer must, upon a duly justified request of the authority and within such period as the authority may specify—

- (a) carry out sample testing of pyrotechnic articles made available on the market;
- (b) investigate complaints that pyrotechnic articles are not in conformity with Part 2; and
- (c) keep distributors informed of any monitoring carried out under sub-paragraphs (a) and (b).

(2) A manufacturer or importer must keep a register and must promptly make entries in that register of any—

- (a) complaints that pyrotechnic articles are not in conformity with Part 2;
- (b) pyrotechnic articles which are found not to be in conformity with Part 2; and

(c) pyrotechnic article recalls.

(3) A manufacturer or importer must keep an entry made in the register for a period of at least 10 years beginning on the day on which the obligation to make the entry arose.

Duty to take action in respect of pyrotechnic articles placed on the market which are considered not to be in conformity

22.—(1) A manufacturer or importer who considers, or has reason to believe, that a pyrotechnic article which they have placed on the market is not in conformity with Part 2 must immediately take the corrective measures necessary to—

- (a) bring the pyrotechnic article into conformity;
- (b) withdraw the pyrotechnic article; or
- (c) recall the pyrotechnic article.

(2) Where the pyrotechnic article presents a risk, the manufacturer or importer must immediately inform the market surveillance authority, and the competent national authorities of any other member State in which the manufacturer or importer made the pyrotechnic article available on the market, of the risk, giving details of—

- (a) the respect in which the pyrotechnic article is considered not to be in conformity with Part 2; and
- (b) any corrective measures taken.

Provision of information and cooperation

23.—(1) A manufacturer or importer must, further to a reasoned request from an enforcing authority and within such period as the enforcing authority may specify, provide the authority with the information and documentation necessary to demonstrate that the pyrotechnic article is in conformity with Part 2—

- (a) in paper or electronic form; and
- (b) in a language which can be easily understood by the enforcing authority.

(2) A manufacturer or importer must, at the request of the enforcing authority, cooperate with the authority on any action taken to—

- (a) evaluate a pyrotechnic article in accordance with regulation 56 (evaluation of pyrotechnic articles presenting a risk); or
- (b) eliminate the risks posed by a pyrotechnic article which the manufacturer or importer has placed on the market.

Chapter 4

Distributors

Duty to act with due care

24. When making a pyrotechnic article available on the market, a distributor must act with due care to ensure that it is in conformity with Part 2.

Requirements which must be satisfied before a distributor makes a pyrotechnic article available on the market

25.—(1) Before making a pyrotechnic article available on the market, the distributor must verify that—

- (a) the pyrotechnic article—
 - (i) bears the CE marking;
 - (ii) is accompanied by the required documents;
 - (iii) is accompanied by instructions and safety information in a language which can be easily understood by consumers and other end-users in the member State in which the pyrotechnic article is to be made available on the market;
- (b) the manufacturer has complied with the requirements set out in regulation 11 (labelling of pyrotechnic articles other than pyrotechnic articles for vehicles) and 12 (labelling of pyrotechnic articles for vehicles); and
- (c) the importer has complied with the requirements set out in regulation 17 (information identifying importer).

(2) In paragraph (1)(a)(ii), “required documents” means the documents that are required to be provided with the pyrotechnic article pursuant to—

- (a) regulation 11(6);
- (b) regulation 17(3)(b); and
- (c) regulation 35 (supply of safety data sheet).

Prohibition on making available on the market where pyrotechnic article not considered to be in conformity with the essential safety requirements

26.—(1) Where a distributor considers, or has reason to believe, that a pyrotechnic article is not in conformity with the essential safety requirements, the distributor must not make the pyrotechnic article available on the market.

(2) Where the pyrotechnic article presents a risk, the distributor must inform the following persons of the risk—

- (a) the manufacturer or the importer; and
- (b) the market surveillance authority.

Duty to take action in respect of pyrotechnic articles made available on the market which are not in conformity

27.—(1) A distributor who considers, or has reason to believe, that a pyrotechnic article which the distributor has made available on the market is not in conformity with Part 2 must make sure that the necessary corrective measures are taken to—

- (a) bring that pyrotechnic article into conformity;
- (b) withdraw the pyrotechnic article; or
- (c) recall the pyrotechnic article.

(2) Where the pyrotechnic article presents a risk, the distributor must immediately inform the market surveillance authority, and the competent national authorities of the other member States in which the distributor has made the pyrotechnic article available on the market, of that risk, giving details of—

- (a) the respect in which the pyrotechnic article is considered not to be in conformity with Part 2; and
- (b) any corrective measures taken.

Provision of information and cooperation

28.—(1) A distributor must, further to a reasoned request from an enforcing authority and within such period as the authority may specify, provide the authority with the information and documentation, in paper or electronic form, necessary to demonstrate that the pyrotechnic article is in conformity with Part 2.

(2) A distributor must, at the request of the enforcing authority, cooperate with the authority on any action taken to—

- (a) evaluate a pyrotechnic article in accordance with regulation 56 (evaluation of pyrotechnic articles presenting a risk); and
- (b) eliminate the risks posed by a pyrotechnic article which the distributor has made available on the market.

Chapter 5**Importers and distributors****Storage and transport**

29. Each importer and distributor must ensure that, while a pyrotechnic article is under their responsibility, its storage or transport conditions do not jeopardise its conformity with the essential safety requirements.

Cases in which obligations of manufacturers apply to importers and distributors

30. An economic operator who would, but for this regulation, be considered an importer or distributor (“A”), is to be considered a manufacturer for the purposes of these Regulations and is subject to the obligations of a manufacturer under this Part, where A—

- (a) places a pyrotechnic article on the market under A’s own name or trademark; or
- (b) modifies a pyrotechnic article already placed on the market in such a way that it may affect whether the pyrotechnic article is in conformity with Part 2.

Chapter 6**All economic operators****Prohibition on making available to persons younger than the minimum age limit**

31. An economic operator must not make a pyrotechnic article available on the market in the United Kingdom to a person younger than the following minimum age limits—

- (a) for a Christmas cracker, 12 years;
- (b) for a category F1 firework other than a Christmas cracker, 16 years;
- (c) for a category F2 firework or a category F3 firework, 18 years;
- (d) for a category T1 theatrical pyrotechnic article, 18 years;
- (e) for a category P1 other pyrotechnic article, 18 years.

Prohibition on making available to persons without specialist knowledge

32. An economic operator must not make available on the market the following pyrotechnic articles, except to a person with specialist knowledge—

- (a) a category F4 firework;
- (b) a category T2 theatrical pyrotechnic article; or

- (c) a category P2 other pyrotechnic article.

Prohibitions on making available certain category F2 and F3 fireworks

33.—(1) An economic operator must not make available on the market in the United Kingdom a category F2 firework or a category F3 firework of any of the following descriptions—

- (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; or
 - (ii) the inside diameter of which is greater than 30mm;
- (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 making available on the market of a category F2 firework or category F3 firework as part of a wheel.

(3) Paragraph (1) does not prohibit the making available on the market of a category F2 firework or category F3 firework to a person with specialist knowledge.

(4) No person who carries on a business involving the making available of fireworks on the market by retail may supply a category F2 firework or category F3 firework which that person—

- (a) has removed or caused to be removed from a selection pack or primary pack; or
- (b) knows to have been removed from a selection pack or primary pack.

Prohibition on making pyrotechnic articles for vehicles available to members of the general public

34. An economic operator must not make a category P1 pyrotechnic article, which is also a pyrotechnic article for a vehicle (including an airbag or seat belt pre-tensioner system), available to a member of the general public unless the article has been incorporated in a vehicle or a detachable vehicle part.

Supply of safety data sheet

35. When making a pyrotechnic article for a vehicle available on the market to a professional user, an economic operator must supply to the professional user the safety data sheet referred to in regulation 12(3) (labelling of pyrotechnic articles for vehicles)—

- (a) in the language requested by that professional user; and
- (b) on paper or in electronic form, provided that the format chosen is accessible to the professional user.

Translation of declaration of conformity

36.—(1) Before making a pyrotechnic article available on the market, an economic operator must ensure that the EU declaration of conformity is prepared in, or translated into, the language required by the member State in which it is to be made available on the market.

(2) Where the pyrotechnic articles is to be made available on the market in the United Kingdom, the language required is English.

Identification of economic operators

37.—(1) An economic operator (“E”), who receives a request from the market surveillance authority before the end of the relevant period, must, within such period as the authority may specify, identify to the authority—

- (a) any economic operator who has supplied E with a pyrotechnic article; and
- (b) any economic operator to whom E has supplied a pyrotechnic article.

(2) The relevant period is—

- (a) for information under paragraph (1)(a), a period of 10 years beginning on the day on which E was supplied with the pyrotechnic article;
- (b) for information under paragraph (1)(b), a period of 10 years beginning on the day on which E supplied the pyrotechnic article.

Prohibition on improper use of CE marking

38.—(1) An economic operator must not affix the CE marking to a pyrotechnic article unless—

- (a) that economic operator is the manufacturer; and
- (b) the conformity of the pyrotechnic article with the essential safety requirements has been demonstrated by a relevant conformity assessment procedure.

(2) An economic operator must not affix to a pyrotechnic article a marking (other than the CE marking) which purports to attest that the pyrotechnic article is in conformity with the essential safety requirements.

(3) An economic operator must not affix to a pyrotechnic article a marking, sign or inscription which is likely to mislead any other person as to the meaning or form of the CE marking.

(4) An economic operator must not affix to a pyrotechnic article any other marking if the visibility, legibility and meaning of the CE marking would be impaired as a result.