
STATUTORY INSTRUMENTS

2015 No. 1553

The Pyrotechnic Articles (Safety) Regulations 2015

PART 5

Market surveillance and enforcement

Enforcement action in respect of pyrotechnic articles which are not in conformity and which present a risk

57.—(1) Where, in the course of the evaluation referred to in regulation 56, an enforcing authority finds that the pyrotechnic article is not in conformity with Part 2, it must, without delay, require a relevant economic operator to—

- (a) take appropriate corrective actions to bring the pyrotechnic article into conformity with those requirements within a prescribed period;
- (b) withdraw the pyrotechnic article within a prescribed period; or
- (c) recall the pyrotechnic article within a prescribed period.

(2) The enforcing authority must inform the notified body which carried out the conformity assessment procedure in respect of the pyrotechnic article of—

- (a) the respect in which the pyrotechnic article is not in conformity with Part 2; and
- (b) the actions which the enforcing authority is requiring the relevant economic operator to take.

(3) Where the enforcing authority is not the Secretary of State and it considers that the lack of conformity referred to in paragraph (1) is not restricted to the United Kingdom, it must notify the Secretary of State of—

- (a) the results of the evaluation; and
- (b) the actions which it has required the economic operator to take.

(4) Where the Secretary of State receives a notice under paragraph (3), or otherwise considers that the lack of conformity referred to in paragraph (1) is not restricted to the United Kingdom, the Secretary of State must inform the European Commission and the other member States of—

- (a) the results of the evaluation; and
- (b) the actions which the enforcing authority has required the economic operator to take.

(5) Where the relevant economic operator does not take adequate corrective action within the prescribed period, the enforcing authority must take appropriate measures to—

- (a) prohibit or restrict the pyrotechnic article being made available on the market in the United Kingdom;
- (b) withdraw the pyrotechnic article from the United Kingdom market; or
- (c) recall the pyrotechnic article.

(6) Where the enforcing authority is not the Secretary of State and it takes measures under paragraph (5), it must notify the Secretary of State of those measures without delay.

(7) Where the Secretary of State receives a notice under paragraph (6), or takes measures under paragraph (5), the Secretary of State must notify the European Commission and the other member States of those measures without delay.

(8) The notices in paragraphs (6) and (7) must include details about the pyrotechnic article and, in particular—

- (a) the data necessary for the identification of the pyrotechnic article which is not in conformity with Part 2;
- (b) the origin of the pyrotechnic article;
- (c) the nature of the lack of conformity alleged and the risk involved;
- (d) the nature and duration of the measures taken;
- (e) the arguments put forward by the relevant economic operator; and
- (f) whether the lack of conformity is due to either of the following—
 - (i) failure of the pyrotechnic article to meet requirements relating to a risk;
 - (ii) shortcomings in the harmonised standards referred to in regulation 39 (presumption of conformity) conferring a presumption of conformity.

(9) In this regulation, “prescribed period” means a period which is—

- (a) prescribed by the enforcing authority; and
- (b) reasonable and commensurate with the nature of the risk presented by the pyrotechnic article.