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SCOTTISH STATUTORY INSTRUMENTS

2021 No. 79

FIREWORKS

**The Fireworks (Scotland) Miscellaneous
Amendments Regulations 2021**

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| <i>Made</i> | - - - - | <i>17th February 2021</i> |
| <i>Laid before the Scottish Parliament</i> | - - - - | <i>19th February 2021</i> |
| <i>Coming into force</i> | | |
| <i>for the purpose of regulations 1 and 3</i> | | <i>22nd March 2021</i> |
| <i>for the purpose of regulation 2</i> | | <i>30th June 2021</i> |

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 2 and 4 of the Fireworks Act 2003⁽¹⁾ and all other powers enabling them to do so.

The Scottish Ministers have in accordance with section 2(3) of the Fireworks Act 2003, consulted the Health and Safety Executive, those organisations which appear to them to be representative of interests substantially affected by these Regulations and other persons whom they consider it appropriate to consult.

The Scottish Ministers have in accordance with section 2(4) of that Act issued a full regulatory impact assessment.

Citation and commencement

1.—(1) These Regulations may be cited as the Fireworks (Scotland) Miscellaneous Amendments Regulations 2021.

(2) These Regulations come into force on 22 March 2021, except for regulation 2 which comes into force on 30 June 2021.

(1) 2003 c.22 (“the Act”), section 2(3) was relevantly amended by S.I. 2008/960, substituting reference to the “Health and Safety Commission” with reference to the “Health and Safety Executive”. By virtue of article 4 and the schedule of the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2004 (S.I. 2004/2030), the Scottish Ministers exercise certain functions concurrently with the Secretary of State, being functions conferred by sections 4 and 6 of the Act and section 2 of the Act as it relates to those sections.

Amendment of the Fireworks (Scotland) Regulations 2004

2.—(1) The Fireworks (Scotland) Regulations 2004⁽²⁾ are amended in accordance with paragraphs (2) to (4).

(2) In regulation 2 (interpretation) after the definition of “local authority” insert—

““public fireworks display” means a fireworks display at which the public, or any section of the public, are present (whether or not they have paid to be),”.

(3) In regulation 3 (prohibition of use of certain fireworks at night)—

(a) in the heading, for “at night” substitute “outside permitted hours”,

(b) in paragraph (1), for “during night hours” substitute “outside permitted hours”,

(c) in paragraph (2)—

(i) after sub-paragraph (b), omit “or”,

(ii) after sub-paragraph (c), insert—

“or

(d) from 07.00 until 18.00, provided it is by a person—

(i) who is employed by, or in business as, a professional organiser or operator of firework displays, and who uses the firework in question—

(aa) for the purposes of putting on a firework display for their employer or in the course of their business (as the case may be); or

(bb) at a national public celebration or a national commemorative event;

(ii) who is employed by a business engaged in, or whose trade or business (or part of whose trade or business) is, the supply of fireworks in accordance with the provisions of the Pyrotechnic Articles (Safety) Regulations 2015⁽³⁾, and who uses the firework in question for purposes which are necessary in connection with that trade or business;

(iii) who is the organiser of a public fireworks display (or who is assisting such an organiser), and who uses the firework in question for the purposes of putting on a public fireworks display on behalf of a charitable, religious, youth, recreational, community, political or similar organisation; or

(iv) who is employed by, or acting under the direction of, a regulatory authority, and who uses the firework in question in the exercise of that authority’s powers or duties in connection with the regulation, or use, of fireworks.”,

(d) for paragraph (3), substitute—

“(3) In this regulation:

(a) “permitted fireworks night” means a period—

(i) beginning at 23.00 on the first day of the Chinese New Year and ending at 01.00 the following day;

(2) S.S.I. 2004/393, as amended by S.S.I. 2005/245 and S.S.I. 2016/18.

(3) S.I. 2015/1553, as amended by S.I. 2019/696.

- (ii) beginning at 23.00 on 5th November and ending at 24.00 on 5th November;
 - (iii) beginning at 23.00 on the day of Diwali and ending at 01.00 the following day; or
 - (iv) beginning at 23.00 on 31st December and ending at 01.00 the following day;
 - (b) “permitted hours” means the period beginning at 18.00 and ending at 23.00;
 - (c) “a regulatory authority” means—
 - (i) the Chief Constable of the Police Service of Scotland;
 - (ii) the Health and Safety Executive;
 - (iii) a local authority;
 - (iv) a weights and measures authority.”
- (4) After regulation 3 insert—

“Prohibition of supply of certain fireworks outside permitted hours

3A.—(1) Subject to paragraph (3) no person shall supply an adult firework outside permitted hours.

(2) In this regulation “permitted hours” means the period beginning at 07.00 and ending at 18.00.

(3) Paragraph (1) shall not prohibit the supply of fireworks outside permitted hours to any person—

- (a) who is employed by, or in business as, a professional organiser or operator of fireworks displays,
- (b) who is employed by a business engaged in, or whose trade or business (or part of whose trade or business) is, the supply of fireworks in accordance with the provisions of the Pyrotechnic Articles (Safety) Regulations 2015,
- (c) who is employed by a local authority and the fireworks in question are to be used—
 - (i) for the purposes of putting on a fireworks display by that local authority, or
 - (ii) at a national public celebration or commemorative event,
- (d) who is the organiser of a public fireworks display and the fireworks in question are to be used for the purposes of putting on a public fireworks display on behalf of a charitable, religious, youth, recreational, community, political or similar organisation, or
- (e) who is outside Scotland.

Prohibition of supply of certain fireworks in specified circumstances: supply in excess of the permitted quantity

3B.—(1) Subject to paragraph (3) no person shall supply more than the permitted quantity of adult fireworks at any one time.

(2) In this regulation “permitted quantity” means fireworks with a total net mass of explosive substance of 5 kilograms.

(3) Paragraph (1) shall not prohibit the supply of more than the permitted quantity of adult fireworks to any person—

- (a) who is employed by, or in business as, a professional organiser or operator of firework displays,
- (b) who is employed by a business engaged in, or whose trade or business (or part of whose trade or business) is, the supply of fireworks in accordance with the provisions of the Pyrotechnic Articles (Safety) Regulations 2015,
- (c) who is employed by a local authority and the fireworks in question are to be used—
 - (i) for the purposes of putting on a firework display by that local authority, or
 - (ii) at a national public celebration or commemorative event,
- (d) who is the organiser of a public fireworks display and the fireworks in question are to be used for the purposes of putting on a public fireworks display on behalf of a charitable, religious, youth, recreational, community, political or similar organisation, or
- (e) who is outside Scotland.”.

Revocation of the Fireworks (Scotland) Amendment Regulations 2021

- 3.** The Fireworks (Scotland) Amendment Regulations 2021(4) are revoked.

St Andrew’s House,
Edinburgh
17th February 2021

ASH DENHAM
Authorised to sign by the Scottish Ministers

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke the Fireworks (Scotland) Amendment Regulations 2021 on 22 March 2021 and amend the Fireworks (Scotland) Regulations 2004 (“the 2004 Regulations”) on 30 June 2021.

Regulation 2(2) inserts a definition of “public fireworks display” into the 2004 Regulations meaning a fireworks display at which the public, or any section of the public, are present, whether or not they have paid to be.

Regulation 2(3) amends regulation 3 of the 2004 Regulations to the effect that it is prohibited to use fireworks outside of permitted hours. The permitted hours for this regulation are between 18.00 and 23.00. The exceptions to this prohibition set out in regulation 3(2) of the 2004 Regulations are also amended to the effect that fireworks may be used between 07.00 and 18.00 but only by particular persons for particular purposes. The times of day that fireworks can be used on a “permitted fireworks night” set out in regulation 3(3) of the 2004 Regulations remain unchanged.

Regulation 2(4) inserts new regulations 3A and 3B into the 2004 Regulations. Regulation 3A prohibits the supply of adult fireworks outside permitted hours, the permitted hours for this regulation are between 07.00 and 18.00. This is subject to the exceptions set out in regulation 3A(3).

New regulation 3B(1) prohibits the supply of more than the permitted quantity of fireworks at any one time. Regulation 3B(2) sets out that the “permitted quantity” means fireworks with a total net mass of explosive substance of 5 kilograms. This is subject to the exceptions set out in regulation 3B(3).

Regulation 3 revokes the Fireworks (Scotland) Amendment Regulations 2021.

A Business and Regulatory Impact Assessment covering these regulations is available on the Scottish Government website: www.gov.scot. Copies have been placed in the Scottish Parliament Information Centre.