
STATUTORY INSTRUMENTS

2015 No. 1553

The Pyrotechnic Articles (Safety) Regulations 2015

PART 5

Market surveillance and enforcement

Designation of market surveillance authority

52.—(1) In Great Britain, the market surveillance authority is—

- (a) within its area, the weights and measures authority for—
 - (i) category F1 fireworks;
 - (ii) category F2 fireworks; and
 - (iii) category F3 fireworks;
- (b) the Health and Safety Executive for—
 - (i) category F4 fireworks;
 - (ii) category T1 theatrical pyrotechnic articles;
 - (iii) category T2 theatrical pyrotechnic articles;
 - (iv) category P1 other pyrotechnic articles; and
 - (v) category P2 other pyrotechnic articles.

(2) In Northern Ireland, the market surveillance authority is—

- (a) within its area, the district council for—
 - (i) category F1 fireworks;
 - (ii) category F2 fireworks; and
 - (iii) category F3 fireworks;
- (b) the Secretary of State for—
 - (i) category F4 fireworks;
 - (ii) category T1 theatrical pyrotechnic articles;
 - (iii) category T2 theatrical pyrotechnic articles;
 - (iv) category P1 other pyrotechnic articles; and
 - (v) category P2 other pyrotechnic articles.

Enforcement

53.—(1) The market surveillance authority must enforce these Regulations, and RAMS in its application to pyrotechnic articles, or ensure that they are enforced.

(2) In Great Britain, a GB enforcer other than the market surveillance authority may enforce these Regulations and RAMS in its application to pyrotechnic articles.

(3) In Northern Ireland, a NI enforcer other than the market surveillance authority may enforce these Regulations and RAMS in its application to pyrotechnic articles.

(4) Before taking action under paragraphs (2) or (3) a GB enforcer or NI enforcer must notify the market surveillance authority of the proposed action.

(5) The Secretary of State may appoint a person to act on behalf of the Secretary of State for the purposes of enforcing these Regulations and RAMS in its application to pyrotechnic articles.

(6) In Scotland, only the Lord Advocate may prosecute an offence under these Regulations.

(7) In this regulation—

“GB enforcer” means—

- (a) a weights and measures authority;
- (b) the Health and Safety Executive; or
- (c) the Secretary of State;

“NI enforcer” means—

- (a) a district council; or
- (b) the Secretary of State.

Enforcement powers

54.—(1) Schedule 7 (enforcement powers of weights and measures authorities, district councils and the Secretary of State under the 1987 Act) is to have effect where the enforcing authority is—

- (a) a weights and measures authority;
- (b) a district council; or
- (c) the Secretary of State.

(2) Schedule 8 (enforcement powers of the Health and Safety Executive under the 1974 Act) is to have effect where the enforcing authority is the Health and Safety Executive.

(3) In addition to the powers available to an enforcing authority under paragraph (1) or (2), the authority may use the powers set out in Schedule 9 (compliance, withdrawal and recall notices).

Exercise of enforcement powers

55. When enforcing these Regulations, the enforcing authority must exercise its powers in a manner which is consistent with—

- (a) regulation 56 (evaluation of pyrotechnic articles presenting a risk);
- (b) regulation 57 (enforcement action in respect of pyrotechnic articles which are not in conformity and which present a risk);
- (c) [F1regulation 58 (EU safeguard procedure);]
- (d) regulation 59 (enforcement action in respect of pyrotechnic articles which are in conformity, but present a risk);
- (e) regulation 60 (enforcement action in respect of formal non-compliance); and
- (f) regulation 61 (restrictive measures).

Textual Amendments

F1 Reg. 55(c) omitted (E.W.S.) (31.12.2020) by virtue of The Product Safety and Metrology etc. (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/696), reg. 1, Sch. 19 para. 28 (with Sch. 19 para. 36) (as amended by S.I. 2020/676, regs. 1(1), 2); 2020 c. 1, Sch. 5 para. 1(1)

Evaluation of pyrotechnic articles presenting a risk

56.—(1) Where the market surveillance authority has sufficient reason to believe that a pyrotechnic article presents a risk, the market surveillance authority must carry out an evaluation in relation to the pyrotechnic article covering the relevant requirements of Part 2 applying in respect of that pyrotechnic article.

(2) Where an enforcing authority other than the market surveillance authority has sufficient reason to believe that a pyrotechnic article presents a risk, that enforcing authority may carry out an evaluation in relation to the pyrotechnic article covering the relevant requirements of Part 2 applying in respect of that pyrotechnic article.

Enforcement action in respect of pyrotechnic articles which are not in conformity and which present a risk **E+W+S**

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 [^{F2}approved] 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.

^{F3}(4)

(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.

^{F4}(7)

(8) The [^{F5}notice in paragraph (6)] 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 [^{F6}designated] 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.

Extent Information

- E1** This version of this provision extends to England and Wales and Scotland only; a separate version has been created for Northern Ireland only

Textual Amendments

- F2** Word in [reg. 57\(2\)](#) substituted (E.W.S.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/696), reg. 1, [Sch. 19 para. 29\(a\)](#) (with [Sch. 19 para. 36](#)) (as amended by [S.I. 2020/676](#), regs. 1(1), 2); 2020 c. 1, Sch. 5 para. 1(1)
- F3** [Reg. 57\(4\)](#) omitted (E.W.S.) (31.12.2020) by virtue of [The Product Safety and Metrology etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/696), reg. 1, [Sch. 19 para. 29\(b\)](#) (with [Sch. 19 para. 36](#)) (as amended by [S.I. 2020/676](#), regs. 1(1), 2); 2020 c. 1, Sch. 5 para. 1(1)
- F4** [Reg. 57\(7\)](#) omitted (E.W.S.) (31.12.2020) by virtue of [The Product Safety and Metrology etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/696), reg. 1, [Sch. 19 para. 29\(b\)](#) (with [Sch. 19 para. 36](#)) (as amended by [S.I. 2020/676](#), regs. 1(1), 2); 2020 c. 1, Sch. 5 para. 1(1)
- F5** Words in [reg. 57\(8\)](#) substituted (E.W.S.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/696), reg. 1, [Sch. 19 para. 29\(c\)\(i\)](#) (with [Sch. 19 para. 36](#)) (as amended by [S.I. 2020/676](#), regs. 1(1), 2); 2020 c. 1, Sch. 5 para. 1(1)
- F6** Word in [reg. 57\(8\)\(f\)\(ii\)](#) substituted (E.W.S.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/696), reg. 1, [Sch. 19 para. 29\(c\)\(ii\)](#) (with [Sch. 19 para. 36](#)) (as amended by [S.I. 2020/676](#), regs. 1(1), 2); 2020 c. 1, Sch. 5 para. 1(1)

Enforcement action in respect of pyrotechnic articles which are not in conformity and which present a risk **N.I.**

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 [^{F35}Northern Ireland], 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) [^{F36}Subject to paragraph (4A),] 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 [^{F37}Northern Ireland], the Secretary of State must inform the European Commission and the other [^{F38}relevant states] of—
- (a) the results of the evaluation; and
 - (b) the actions which the enforcing authority has required the economic operator to take.
- [^{F39}(4A) Paragraph (4) does not require the Secretary of State to inform the Commission or the other relevant states where the lack of conformity extends only to any of England or Wales or Scotland.]
- (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 [^{F40}Northern Ireland];
 - (b) withdraw the pyrotechnic article from the [^{F41}market in Northern Ireland]; 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 [^{F42}relevant 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.

Extent Information

- E5** This version of this provision extends to Northern Ireland only; a separate version has been created for England and Wales and Scotland only

Textual Amendments

- F35** Words in [reg. 57\(3\)](#) substituted (N.I.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1112\)](#), [reg. 1\(b\)](#), [Sch. 7 para. 5\(1\)\(a\)](#)
- F36** Words in [reg. 57\(4\)](#) inserted (N.I.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1112\)](#), [reg. 1\(b\)](#), [Sch. 7 para. 5\(1\)\(b\)\(i\)](#)
- F37** Words in [reg. 57\(4\)](#) substituted (N.I.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1112\)](#), [reg. 1\(b\)](#), [Sch. 7 para. 5\(1\)\(a\)](#)
- F38** Words in [reg. 57\(4\)](#) substituted (N.I.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1112\)](#), [reg. 1\(b\)](#), [Sch. 7 para. 5\(1\)\(b\)\(ii\)](#)
- F39** [Reg. 57\(4A\)](#) inserted (N.I.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1112\)](#), [reg. 1\(b\)](#), [Sch. 7 para. 5\(1\)\(c\)](#)
- F40** Words in [reg. 57\(5\)\(a\)](#) substituted (N.I.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1112\)](#), [reg. 1\(b\)](#), [Sch. 7 para. 5\(1\)\(a\)](#)
- F41** Words in [reg. 57\(5\)\(b\)](#) substituted (N.I.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1112\)](#), [reg. 1\(b\)](#), [Sch. 7 para. 5\(1\)\(d\)](#)
- F42** Words in [reg. 57\(7\)](#) substituted (N.I.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1112\)](#), [reg. 1\(b\)](#), [Sch. 7 para. 5\(1\)\(e\)](#)

EU safeguard procedure

^{F7}58.—(1) Where another [^{F8}relevant state] has initiated the procedure under Article 39 of the Directive (as amended from time to time), each enforcing authority (other than the Secretary of State) must, without delay, inform the Secretary of State of—

- (a) any measures taken by the enforcing authority in respect of the pyrotechnic article; and
- (b) any additional information which the enforcing authority has at its disposal relating to the lack of conformity of the pyrotechnic article.

(2) Where another [^{F9}relevant state] has initiated the procedure under Article 39 of the Directive (as amended from time to time), the Secretary of State must, without delay, inform the European Commission and the other [^{F10}relevant states] of—

- (a) any measures taken by an enforcing authority in respect of the pyrotechnic article;
- (b) any additional information which an enforcing authority has at its disposal relating to the lack of conformity of the pyrotechnic [F11 article.]

F12(c)

(3) Where a measure taken by another [F13 relevant state] in respect of a pyrotechnic article is considered justified under Article 39(7) of the Directive (as amended from time to time), the market surveillance authority must ensure that appropriate measures, such as withdrawal, are taken [F14 in Northern Ireland] in respect of the pyrotechnic article without delay.

(4) Where a measure taken by another [F15 relevant state] in respect of a pyrotechnic article is considered justified by the European Commission under Article 40(1) of the Directive (as amended from time to time), the market surveillance authority must take the necessary measures to ensure that the pyrotechnic article is withdrawn from the [F16 market in Northern Ireland].

(5) Where the market surveillance authority is not the Secretary of State and it has taken action under paragraph (3) or (4), it must inform the Secretary of State.

(6) Where the Secretary of State receives a notice under paragraph (5) or has taken action under paragraphs (3) or (4), the Secretary of State must inform the European Commission of the action taken [F17 in respect of Northern Ireland].

(7) If a measure taken by an enforcing authority pursuant to regulation 57 is considered unjustified by the European Commission under Article 40(1) of the Directive (as amended from time to time), the enforcing authority must withdraw that measure [F18 in respect of Northern Ireland].

Textual Amendments

- F7** Reg. 58 omitted (E.W.S.) (31.12.2020) by virtue of [The Product Safety and Metrology etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/696), reg. 1, **Sch. 19 para. 30** (with Sch. 19 para. 36) (as amended by S.I. 2020/676, regs. 1(1), 2); 2020 c. 1, Sch. 5 para. 1(1)
- F8** Words in reg. 58(1) substituted (N.I.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2020](#) (S.I. 2020/1112), reg. 1(b), **Sch. 7 para. 5(2)(a)**
- F9** Words in reg. 58(2) substituted (N.I.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2020](#) (S.I. 2020/1112), reg. 1(b), **Sch. 7 para. 5(2)(b)(i)**
- F10** Words in reg. 58(2) substituted (N.I.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2020](#) (S.I. 2020/1112), reg. 1(b), **Sch. 7 para. 5(2)(b)(ii)**
- F11** Word in reg. 58(2)(b) substituted (N.I.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2020](#) (S.I. 2020/1112), reg. 1(b), **Sch. 7 para. 5(2)(b)(iii)**
- F12** Reg. 58(2)(c) omitted (N.I.) (31.12.2020) by virtue of [The Product Safety and Metrology etc. \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2020](#) (S.I. 2020/1112), reg. 1(b), **Sch. 7 para. 5(2)(b)(iv)**
- F13** Words in reg. 58(3) substituted (N.I.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2020](#) (S.I. 2020/1112), reg. 1(b), **Sch. 7 para. 5(2)(c)(i)**
- F14** Words in reg. 58(3) inserted (N.I.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2020](#) (S.I. 2020/1112), reg. 1(b), **Sch. 7 para. 5(2)(c)(ii)**

- F15** Words in reg. 58(4) substituted (N.I.) (31.12.2020) by The Product Safety and Metrology etc. (Amendment) (Northern Ireland) (EU Exit) Regulations 2020 (S.I. 2020/1112), reg. 1(b), **Sch. 7 para. 5(2)(d)(i)**
- F16** Words in reg. 58(4) substituted (N.I.) (31.12.2020) by The Product Safety and Metrology etc. (Amendment) (Northern Ireland) (EU Exit) Regulations 2020 (S.I. 2020/1112), reg. 1(b), **Sch. 7 para. 5(2)(d)(ii)**
- F17** Words in reg. 58(6) inserted (N.I.) (31.12.2020) by The Product Safety and Metrology etc. (Amendment) (Northern Ireland) (EU Exit) Regulations 2020 (S.I. 2020/1112), reg. 1(b), **Sch. 7 para. 5(2)(e)**
- F18** Words in reg. 58(7) inserted (N.I.) (31.12.2020) by The Product Safety and Metrology etc. (Amendment) (Northern Ireland) (EU Exit) Regulations 2020 (S.I. 2020/1112), reg. 1(b), **Sch. 7 para. 5(2)(e)**

Enforcement action in respect of pyrotechnic articles which are in conformity, but present a risk **E+W+S**

59.—(1) Where, having carried out an evaluation under regulation 56, an enforcing authority finds that although a pyrotechnic article is in conformity with Part 2, it presents a risk, the enforcing authority must require a relevant economic operator to take appropriate measures to—

- (a) ensure that the pyrotechnic article concerned, when placed on the market, no longer presents a risk;
- (b) withdraw the pyrotechnic article within a prescribed period; or
- (c) recall the pyrotechnic article within a prescribed period.

(2) Where an enforcing authority is not the Secretary of State and it takes measures under paragraph (1), it must notify the Secretary of State immediately.

^{F19}(3)

(4) The [^{F20}notice referred to in paragraph (2)] must include details about the pyrotechnic article and, in particular—

- (a) the data necessary for the identification of the pyrotechnic article concerned;
- (b) the origin and the supply chain of the pyrotechnic article;
- (c) the nature of the risk involved; and
- (d) the nature and duration of the measures taken by the enforcing authority.

(5) 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.

Extent Information

E2 This version of this provision extends to England and Wales and Scotland only; a separate version has been created for Northern Ireland only

Textual Amendments

F19 Reg. 59(3) omitted (E.W.S.) (31.12.2020) by virtue of The Product Safety and Metrology etc. (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/696), reg. 1, **Sch. 19 para. 31(a)** (with Sch. 19 para. 36) (as amended by S.I. 2020/676, regs. 1(1), 2); 2020 c. 1, Sch. 5 para. 1(1)

F20 Words in reg. 59(4) substituted (E.W.S.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/696\)](#), reg. 1, **Sch. 19 para. 31(b)** (with Sch. 19 para. 36) (as amended by S.I. 2020/676, regs. 1(1), 2); 2020 c. 1, Sch. 5 para. 1(1)

Enforcement action in respect of pyrotechnic articles which are in conformity, but present a risk **N.I.**

59.—(1) Where, having carried out an evaluation under regulation 56, an enforcing authority finds that although a pyrotechnic article is in conformity with Part 2, it presents a risk, the enforcing authority must require a relevant economic operator to take appropriate measures to—

- (a) ensure that the pyrotechnic article concerned, when placed on the market, no longer presents a risk;
- (b) withdraw the pyrotechnic article within a prescribed period; or
- (c) recall the pyrotechnic article within a prescribed period.

(2) Where an enforcing authority is not the Secretary of State and it takes measures under paragraph (1), it must notify the Secretary of State immediately.

(3) [^{F43}Subject to paragraph (3A),] where the Secretary of State receives a notice under paragraph (2) or takes measures under paragraph (1), the Secretary of State must notify the European Commission and the other [^{F44}relevant states] immediately.

[^{F45}(3A) Paragraph (3) only applies to measures taken in Northern Ireland.]

(4) The notices referred to in paragraphs (2) and (3) must include details about the pyrotechnic article and, in particular—

- (a) the data necessary for the identification of the pyrotechnic article concerned;
- (b) the origin and the supply chain of the pyrotechnic article;
- (c) the nature of the risk involved; and
- (d) the nature and duration of the measures taken by the enforcing authority.

(5) 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.

Extent Information

E6 This version of this provision extends to Northern Ireland only; a separate version has been created for England and Wales and Scotland only

Textual Amendments

F43 Words in reg. 59(3) inserted (N.I.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1112\)](#), reg. 1(b), **Sch. 7 para. 5(3)(a)(i)**

F44 Words in reg. 59(3) substituted (N.I.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1112\)](#), reg. 1(b), **Sch. 7 para. 5(3)(a)(ii)**

F45 Reg. 59(3A) inserted (N.I.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1112\)](#), reg. 1(b), **Sch. 7 para. 5(3)(b)**

Enforcement action in respect of formal non-compliance **E+W+S**

60.—(1) Where an enforcing authority makes one of the following findings relating to a pyrotechnic article, it must require a relevant economic operator to put an end to the non-compliance concerned within a specified period—

- (a) the [^{F21}UK] marking—
 - (i) has not been affixed; or
 - (ii) has been affixed otherwise than in accordance with regulations 38 (prohibition on improper use of [^{F21}UK] marking) and 42 ([^{F21}UK] marking);
- (b) where [^{F22}an approved body] is involved in the production control phase for the pyrotechnic article, the identification number of [^{F23}the approved body]—
 - (i) has not been affixed; or
 - (ii) has been affixed otherwise than in accordance with regulation 42;
- (c) the ^{F24}... declaration of conformity—
 - (i) has not been drawn up; or
 - (ii) has been drawn up otherwise than in accordance with regulations 9 (^{F24}... declaration of conformity and [^{F25}UK] marking) and 41 (^{F24}... declaration of conformity);
- (d) the technical documentation is either not available or not complete;
- (e) the following information that is required to be included in the labelling of the pyrotechnic article is absent, false or incomplete—
 - (i) the information specified in paragraph 1(a) and (b) of Schedule 3 (labelling: required information); or
 - (ii) the information specified in regulation 17(1) (information identifying importer); or
- (f) any other administrative requirement imposed on the manufacturer or importer under Part 2 has not been fulfilled.

(2) Until the specified period has elapsed, the enforcing authority must not commence proceedings under these Regulations, or take any other enforcement action under these Regulations, against the relevant economic operator in respect of the non-compliance concerned.

(3) Where the non-compliance referred to in paragraph (1) persists, the enforcing authority must take appropriate measures to—

- (a) restrict or prohibit the pyrotechnic article being made available on the market;
- (b) ensure that the pyrotechnic article is withdrawn; or
- (c) ensure that the pyrotechnic article is recalled.

(4) This regulation does not apply where a pyrotechnic article presents a risk.

Extent Information

E3 This version of this provision extends to England and Wales and Scotland only; a separate version has been created for Northern Ireland only

Textual Amendments

F21 Word in reg. 60(1)(a) substituted (E.W.S.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/696\)](#), reg. 1, **Sch. 19 para. 32(a)** (with Sch. 19 para. 36) (as amended by [S.I. 2020/676](#), regs. 1(1), 2); 2020 c. 1, Sch. 5 para. 1(1)

- F22** Words in reg. 60(1)(b) substituted (E.W.S.) (31.12.2020) by The Product Safety and Metrology etc. (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/696), reg. 1, **Sch. 19 para. 32(b)(i)** (with Sch. 19 para. 36) (as amended by S.I. 2020/676, regs. 1(1), 2); 2020 c. 1, Sch. 5 para. 1(1)
- F23** Words in reg. 60(1)(b) substituted (E.W.S.) (31.12.2020) by The Product Safety and Metrology etc. (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/696), reg. 1, **Sch. 19 para. 32(b)(ii)** (with Sch. 19 para. 36) (as amended by S.I. 2020/676, regs. 1(1), 2); 2020 c. 1, Sch. 5 para. 1(1)
- F24** Word in reg. 60(1)(c) omitted (E.W.S.) (31.12.2020) by virtue of The Product Safety and Metrology etc. (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/696), reg. 1, **Sch. 19 para. 32(c)(i)** (with Sch. 19 para. 36) (as amended by S.I. 2020/676, regs. 1(1), 2); 2020 c. 1, Sch. 5 para. 1(1)
- F25** Word in reg. 60(1)(c) substituted (E.W.S.) (31.12.2020) by The Product Safety and Metrology etc. (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/696), reg. 1, **Sch. 19 para. 32(c)(ii)** (with Sch. 19 para. 36) (as amended by S.I. 2020/676, regs. 1(1), 2); 2020 c. 1, Sch. 5 para. 1(1)

Enforcement action in respect of formal non-compliance **N.I.**

60.—(1) Where an enforcing authority makes one of the following findings relating to a pyrotechnic article, it must require a relevant economic operator to put an end to the non-compliance concerned within a specified period—

- (a) the CE marking—
- (i) has not been affixed; or
 - (ii) has been affixed otherwise than in accordance with regulations 38 (prohibition on improper use of CE marking) and 42 (CE marking);
- [^{F46}(aa) the UK(NI) indication—
- (i) has not been affixed, in contravention of regulation 42A; or
 - (ii) has been affixed other than in accordance with regulation 42A;]
- (b) where a notified body is involved in the production control phase for the pyrotechnic article, the identification number of the notified body—
- (i) has not been affixed; or
 - (ii) has been affixed otherwise than in accordance with regulation 42;
- (c) the EU declaration of conformity—
- (i) has not been drawn up; or
 - (ii) has been drawn up otherwise than in accordance with regulations 9 (EU declaration of conformity and CE marking) and 41 (EU declaration of conformity);
- (d) the technical documentation is either not available or not complete;
- (e) the following information that is required to be included in the labelling of the pyrotechnic article is absent, false or incomplete—
- (i) the information specified in paragraph 1(a) and (b) of Schedule 3 (labelling: required information); or
 - (ii) the information specified in regulation 17(1) (information identifying importer); or
- (f) any other administrative requirement imposed on the manufacturer or importer under Part 2 has not been fulfilled.

(2) Until the specified period has elapsed, the enforcing authority must not commence proceedings under these Regulations, or take any other enforcement action under these Regulations, against the relevant economic operator in respect of the non-compliance concerned.

(3) Where the non-compliance referred to in paragraph (1) persists, the enforcing authority must take appropriate measures to—

- (a) restrict or prohibit the pyrotechnic article being made available on the market;
 - (b) ensure that the pyrotechnic article is withdrawn; or
 - (c) ensure that the pyrotechnic article is recalled.
- (4) This regulation does not apply where a pyrotechnic article presents a risk.

Extent Information

E7 This version of this provision extends to Northern Ireland only; a separate version has been created for England and Wales and Scotland only

Textual Amendments

F46 Reg. 60(1)(aa) inserted (N.I.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment etc.\) \(UK\(NI\) Indication\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1460\)](#), reg. 1(2), **Sch. 2 para. 6(4)**

Restrictive measures

61. When enforcing these Regulations, an enforcing authority must comply with the requirements of Article 21 of RAMS [^{F26}(as amended from time to time)] in relation to any measure to—

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

Textual Amendments

F26 Words in [reg. 61](#) omitted (E.W.S.) (31.12.2020) by virtue of [The Product Safety and Metrology etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/696\)](#), reg. 1, **Sch. 19 para. 33** (with [Sch. 19 para. 36](#)) (as amended by [S.I. 2020/676](#), regs. 1(1), 2); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

Offences **E+W+S**

62.—(1) It is an offence for a manufacturer to contravene or fail to comply with any requirement of—

- (a) regulation 6 (categorisation);
- (b) regulation 7 (design and manufacture in accordance with essential safety requirements);
- (c) regulation 8 (technical documentation and conformity assessment);
- (d) regulation 9 (^{F27}... declaration of conformity and [^{F28}UK marking]);
- (e) regulation 10 (retention of technical documentation and ^{F29}... declaration of conformity);
- (f) regulation 11 (labelling of pyrotechnic articles other than pyrotechnic articles for vehicles);
- (g) regulation 12 (labelling of pyrotechnic articles for vehicles);
- (h) regulation 13 (compliance procedures for series production);
- (i) regulation 20 (traceability);
- (j) regulation 21 (monitoring);
- (k) regulation 22 (duty to take action in respect of pyrotechnic articles placed on the market which are considered not to be in conformity);
- (l) regulation 23 (provision of information and cooperation);

- (m) regulation 31 (prohibition on making available to persons younger than the minimum age limit);
 - (n) regulation 32 (prohibition on making available to persons without specialist knowledge);
 - (o) regulation 33 (prohibitions on making available certain category F2 and F3 fireworks);
 - (p) regulation 34 (prohibition on making pyrotechnic articles for vehicles available to members of the general public);
 - (q) regulation 35 (supply of [^{F30}UK] safety data sheet);
 - (r) regulation 36 (translation of ^{F31}... declaration of conformity);
 - (s) regulation 37 (identification of economic operators);
 - (t) regulation 38 (prohibition on improper use of [^{F32}UK marking]).
- (2) It is an offence for an importer to contravene or fail to comply with any requirement of—
- (a) regulation 14 (prohibition on placing on the market pyrotechnic articles which are not in conformity);
 - (b) regulation 15 (requirements which must be satisfied before an importer places a pyrotechnic article on the market);
 - (c) regulation 16 (prohibition on placing on the market pyrotechnic articles considered not to be in conformity with the essential safety requirements);
 - (d) regulation 17 (information identifying importer);
 - (e) regulation 18 (instructions and safety information);
 - (f) regulation 19 (retention of technical documentation and ^{F33}... declaration of conformity);
 - (g) regulation 20;
 - (h) regulation 21;
 - (i) regulation 22;
 - (j) regulation 23;
 - (k) regulation 29 (storage and transport);
 - (l) regulation 31;
 - (m) regulation 32;
 - (n) regulation 33;
 - (o) regulation 34;
 - (p) regulation 35;
 - (q) regulation 36;
 - (r) regulation 37;
 - (s) regulation 38.
- (3) It is an offence for a distributor to contravene or fail to comply with any requirement of—
- (a) regulation 24 (duty to act with due care);
 - (b) regulation 25 (requirements which must be satisfied before a distributor makes a pyrotechnic article available on the market);
 - (c) regulation 26 (prohibition on making available on the market where pyrotechnic article not considered to be in conformity with the essential safety requirements);
 - (d) regulation 27 (duty to take action in respect of pyrotechnic articles made available on the market which are not in conformity);

- (e) regulation 28 (provision of information and cooperation);
- (f) regulation 29;
- (g) regulation 31;
- (h) regulation 32;
- (i) regulation 33;
- (j) regulation 34;
- (k) regulation 35;
- (l) regulation 36;
- (m) regulation 37;
- (n) regulation 38.

(4) It is an offence for a conformity assessment body to fail to comply with regulation 49(5) (changes to notifications).

(5) It is an offence for any person to contravene or fail to comply with any requirement of a notice, other than a compliance notice, served on that person by an enforcing authority under these Regulations.

(6) It is an offence for any person—

(a) intentionally to obstruct—

- (i) an enforcing authority (or officer of such authority) acting in pursuance of its powers and duties under these Regulations or Article 19 of RAMS ^{F34} ...;
- (ii) a customs officer facilitating the action of an enforcing authority under these Regulations; or

(b) knowingly or recklessly to provide any statement, information, document or record which is false or misleading in a material respect in purported compliance with any requirement of these Regulations or Article 19 of RAMS ^{F34}

(7) It is an offence for a person who is not authorised to act on behalf of an enforcing authority to purport to exercise any of the powers of the enforcing authority under these Regulations or RAMS.

Textual Amendments

- F27** Word in reg. 62(1)(d) omitted (E.W.S.) (31.12.2020) by virtue of [The Product Safety and Metrology etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/696), reg. 1, **Sch. 19 para. 34(a)(ii)** (with Sch. 19 para. 36) (as amended by S.I. 2020/676, regs. 1(1), 2); 2020 c. 1, Sch. 5 para. 1(1)
- F28** Words in reg. 62(1)(d) substituted (E.W.S.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/696), reg. 1, **Sch. 19 para. 34(a)(i)** (with Sch. 19 para. 36) (as amended by S.I. 2020/676, regs. 1(1), 2); 2020 c. 1, Sch. 5 para. 1(1)
- F29** Word in reg. 62(1)(e) omitted (E.W.S.) (31.12.2020) by virtue of [The Product Safety and Metrology etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/696), reg. 1, **Sch. 19 para. 34(a)(ii)** (with Sch. 19 para. 36) (as amended by S.I. 2020/676, regs. 1(1), 2); 2020 c. 1, Sch. 5 para. 1(1)
- F30** Word in reg. 62(1)(q) inserted (E.W.S.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/696), reg. 1, **Sch. 19 para. 34(a)(iii)** (with Sch. 19 para. 36) (as amended by S.I. 2020/676, regs. 1(1), 2); 2020 c. 1, Sch. 5 para. 1(1)
- F31** Word in reg. 62(1)(r) omitted (E.W.S.) (31.12.2020) by virtue of [The Product Safety and Metrology etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/696), reg. 1, **Sch. 19 para. 34(a)(ii)** (with Sch. 19 para. 36) (as amended by S.I. 2020/676, regs. 1(1), 2); 2020 c. 1, Sch. 5 para. 1(1)
- F32** Words in reg. 62(1)(t) substituted (E.W.S.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/696), reg. 1, **Sch. 19 para. 34(a)(i)** (with Sch. 19 para. 36) (as amended by S.I. 2020/676, regs. 1(1), 2); 2020 c. 1, Sch. 5 para. 1(1)

- F33** Word in reg. 62(2)(f) omitted (E.W.S.) (31.12.2020) by virtue of The Product Safety and Metrology etc. (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/696), reg. 1, Sch. 19 para. 34(b) (with Sch. 19 para. 36) (as amended by S.I. 2020/676, regs. 1(1), 2); 2020 c. 1, Sch. 5 para. 1(1)
- F34** Words in reg. 62(6) omitted (E.W.S.) (31.12.2020) by virtue of The Product Safety and Metrology etc. (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/696), reg. 1, Sch. 19 para. 34(c) (with Sch. 19 para. 36) (as amended by S.I. 2020/676, regs. 1(1), 2); 2020 c. 1, Sch. 5 para. 1(1)

Offences **N.I.**

62.—(1) It is an offence for a manufacturer to contravene or fail to comply with any requirement of—

- (a) regulation 6 (categorisation);
 - (b) regulation 7 (design and manufacture in accordance with essential safety requirements);
 - (c) regulation 8 (technical documentation and conformity assessment);
 - (d) regulation 9 (EU declaration of conformity and CE marking);
 - (e) regulation 10 (retention of technical documentation and EU declaration of conformity);
 - (f) regulation 11 (labelling of pyrotechnic articles other than pyrotechnic articles for vehicles);
 - (g) regulation 12 (labelling of pyrotechnic articles for vehicles);
 - (h) regulation 13 (compliance procedures for series production);
 - (i) regulation 20 (traceability);
 - (j) regulation 21 (monitoring);
 - (k) regulation 22 (duty to take action in respect of pyrotechnic articles placed on the market which are considered not to be in conformity);
 - (l) regulation 23 (provision of information and cooperation);
 - (m) regulation 31 (prohibition on making available to persons younger than the minimum age limit);
 - (n) regulation 32 (prohibition on making available to persons without specialist knowledge);
 - (o) regulation 33 (prohibitions on making available certain category F2 and F3 fireworks);
 - (p) regulation 34 (prohibition on making pyrotechnic articles for vehicles available to members of the general public);
 - (q) regulation 35 (supply of safety data sheet);
 - (r) regulation 36 (translation of EU declaration of conformity);
 - (s) regulation 37 (identification of economic operators);
 - (t) regulation 38 (prohibition on improper use of CE marking).
- (2) It is an offence for an importer to contravene or fail to comply with any requirement of—
- (a) regulation 14 (prohibition on placing on the market pyrotechnic articles which are not in conformity);
 - (b) regulation 15 (requirements which must be satisfied before an importer places a pyrotechnic article on the market);
 - (c) regulation 16 (prohibition on placing on the market pyrotechnic articles considered not to be in conformity with the essential safety requirements);
 - (d) regulation 17 (information identifying importer);
 - (e) regulation 18 (instructions and safety information);

- (f) regulation 19 (retention of technical documentation and EU declaration of conformity);
 - (g) regulation 20;
 - (h) regulation 21;
 - (i) regulation 22;
 - (j) regulation 23;
 - (k) regulation 29 (storage and transport);
 - (l) regulation 31;
 - (m) regulation 32;
 - (n) regulation 33;
 - (o) regulation 34;
 - (p) regulation 35;
 - (q) regulation 36;
 - (r) regulation 37;
 - (s) regulation 38.
- (3) It is an offence for a distributor to contravene or fail to comply with any requirement of—
- (a) regulation 24 (duty to act with due care);
 - (b) regulation 25 (requirements which must be satisfied before a distributor makes a pyrotechnic article available on the market);
 - (c) regulation 26 (prohibition on making available on the market where pyrotechnic article not considered to be in conformity with the essential safety requirements);
 - (d) regulation 27 (duty to take action in respect of pyrotechnic articles made available on the market which are not in conformity);
 - (e) regulation 28 (provision of information and cooperation);
 - (f) regulation 29;
 - (g) regulation 31;
 - (h) regulation 32;
 - (i) regulation 33;
 - (j) regulation 34;
 - (k) regulation 35;
 - (l) regulation 36;
 - (m) regulation 37;
 - (n) regulation 38.
- (4) It is an offence for a conformity assessment body to fail to comply with regulation 49(5) (changes to notifications).
- (5) It is an offence for any person to contravene or fail to comply with any requirement of a notice, other than a compliance notice, served on that person by an enforcing authority under these Regulations.
- (6) It is an offence for any person—
- (a) intentionally to obstruct—
 - (i) an enforcing authority (or officer of such authority) acting in pursuance of its powers and duties under these Regulations or Article 19 of RAMS (as amended from time to time);

- (ii) a customs officer facilitating the action of an enforcing authority under these Regulations; or
 - (b) knowingly or recklessly to provide any statement, information, document or record which is false or misleading in a material respect in purported compliance with any requirement of these Regulations or Article 19 of RAMS (as amended from time to time).
- (7) It is an offence for a person who is not authorised to act on behalf of an enforcing authority to purport to exercise any of the powers of the enforcing authority under these Regulations or RAMS.

Penalties **E+W+S**

- 63.**—(1) A person guilty of an offence under regulation 62 in respect of a category F1 firework, a category F2 firework, or a category F3 firework is liable on summary conviction—
- (a) in England and Wales, to a fine or imprisonment for a term not exceeding 3 months or to both;
 - (b) in Scotland or Northern Ireland, to a fine not exceeding level 5 on the standard scale or imprisonment for a term not exceeding 3 months or to both.
- (2) A person guilty of an offence under regulation 62 in respect of a pyrotechnic article to which paragraph (1) does not apply is liable—
- (a) on summary conviction—
 - (i) in England and Wales, to a fine or imprisonment for a term not exceeding 3 months or to both;
 - (ii) in Scotland or Northern Ireland, to a fine not exceeding the statutory maximum or imprisonment for a term not exceeding 3 months or to both;
 - (b) on conviction on indictment, to a fine or imprisonment for a term not exceeding 2 years or to both.

Extent Information

- E4** This version of this provision extends to England and Wales and Scotland only; a separate version has been created for Northern Ireland only

Penalties **N.I.**

- 63.**—(1) A person guilty of an offence under regulation 62 in respect of a category F1 firework, a category F2 firework, or a category F3 firework is liable on summary conviction—
- (a) in England and Wales, to a fine or imprisonment for a term not exceeding 3 months or to both;
 - (b) in Scotland or Northern Ireland, to a fine not exceeding level 5 on the standard scale or imprisonment for a term not exceeding 3 months or to both.
- (2) [^{F47}Except as provided in paragraph (3),] a person guilty of an offence under regulation 62 in respect of a pyrotechnic article to which paragraph (1) does not apply is liable—
- (a) on summary conviction—
 - (i) in England and Wales, to a fine or imprisonment for a term not exceeding 3 months or to both;
 - (ii) in Scotland or Northern Ireland, to a fine not exceeding the statutory maximum or imprisonment for a term not exceeding 3 months or to both;

- (b) on conviction on indictment, to a fine or imprisonment for a term not exceeding 2 years or to both.

[^{F48}(3) A person guilty of an offence under regulation 62(5) insofar as the requirement relates to a UK(NI) indication is liable on summary conviction to a fine not exceeding level 5 on the standard scale.]

Extent Information

- E8** This version of this provision extends to Northern Ireland only; a separate version has been created for England and Wales and Scotland only

Textual Amendments

- F47** Words in [reg. 63\(2\)](#) inserted (N.I.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment etc.\) \(UK\(NI\) Indication\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1460\)](#), [reg. 1\(2\)](#), [Sch. 2 para. 6\(5\)\(a\)](#)
- F48** [Reg. 63\(3\)](#) inserted (N.I.) (31.12.2020) by [The Product Safety and Metrology etc. \(Amendment etc.\) \(UK\(NI\) Indication\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1460\)](#), [reg. 1\(2\)](#), [Sch. 2 para. 6\(5\)\(b\)](#)

Defence of due diligence

64.—(1) Subject to paragraph (2), (4) and (6), in proceedings for an offence under regulation 62, it is a defence for a person (“P”) to show that P took all reasonable steps and exercised all due diligence to avoid committing the offence.

(2) P may not rely on a defence under paragraph (1) which involves a third party allegation unless P has—

- (a) served a notice in accordance with paragraph (3); or
(b) obtained the leave of the court.

(3) The notice must—

- (a) give any information in P's possession which identifies or assists in identifying the person who—
(i) committed the act or default; or
(ii) supplied the information on which P relied.
- (b) be served on the person bringing the proceedings not less than 7 clear days before—
(i) in England, Wales and Northern Ireland, the hearing of the proceedings;
(ii) in Scotland, the trial diet.

(4) P may not rely on a defence under paragraph (1) which involves an allegation that the commission of the offence was due to reliance on information supplied by another person unless it was reasonable for P to have relied upon the information, having regard in particular—

- (a) to the steps that P took, and those which might reasonably have been taken, for the purpose of verifying the information; and
(b) to whether P had any reason to disbelieve the information.

(5) In this regulation, “third party allegation” means an allegation that the commission of the offence was due—

- (a) to the act or default of another person; or
(b) to reliance on information supplied by another person.

(6) This regulation does not apply in respect of proceedings for offences under regulation 62(6).

Liability of persons other than principal offender

65.—(1) Where the commission of an offence by one person (“A”) under regulation 62 is due to anything which another person (“B”) did or failed to do in the course of business, B is guilty of the offence and may be proceeded against and punished, whether or not proceedings are taken against A.

(2) Where a body corporate commits an offence, a relevant person is also guilty of the offence where the body corporate's offence was committed—

- (a) with the consent or connivance of the relevant person; or
 - (b) as a result of the negligence of the relevant person.
- (3) In paragraph (2), “relevant person” means—
- (a) a director, manager, secretary or other similar officer of the body corporate;
 - (b) in relation to a body corporate managed by its members, a member of that body corporate performing managerial functions;
 - (c) in relation to a Scottish partnership, a partner; or
 - (d) a person purporting to act as a person described in sub-paragraphs (a), (b) or (c).

Time limit for prosecution of offences

66.—(1) Subject to paragraph (4), in England and Wales, an information relating to an offence under regulation 62 that is triable by a magistrates' court may be so tried if it is laid within 12 months after the date on which evidence sufficient in the opinion of the prosecutor to justify the proceedings comes to the knowledge of the prosecutor.

(2) Subject to paragraph (4), in Scotland—

- (a) summary proceedings for an offence under regulation 62 may be commenced before the end of 12 months after the date on which evidence sufficient in the Lord Advocate's opinion to justify the proceedings came to the Lord Advocate's knowledge; and
- (b) section 136(3) of the Criminal Procedure (Scotland) Act 1995 (time limit for certain offences) applies for the purpose of this paragraph as it applies for the purpose of that section.

(3) Subject to paragraph (4), in Northern Ireland summary proceedings for an offence under regulation 62 may be instituted within 12 months after the date on which evidence sufficient in the opinion of the prosecutor to justify proceedings comes to the knowledge of the prosecutor.

(4) No proceedings may be brought more than 3 years after the commission of the offence.

(5) For the purposes of this regulation a certificate of the prosecutor (or in Scotland, the Lord Advocate) as to the date on which the evidence referred to paragraphs (1), (2) or (3) came to light, is conclusive evidence.

(6) This regulation has effect subject to paragraphs 1(o) and 2(n) of Schedule 8 (enforcement powers of the Health and Safety Executive under the 1974 Act).

Service of documents

67.—(1) Any document required or authorised by these Regulations to be served on a person may be served by—

- (a) delivering it to that person in person;
- (b) leaving it at that person's proper address; or
- (c) sending it by post or electronic means to that person's proper address.

(2) In the case of a body corporate, a document may be served on a director of that body.

(3) In the case of a partnership, a document may be served on a partner or a person having control or management of the partnership business.

(4) For the purposes of this regulation, “proper address” means—

- (a) in the case of a body corporate or its director—
 - (i) the registered or principal office of that body; or
 - (ii) the email address of the secretary or clerk of that body;
- (b) in the case of a partnership, a partner or person having control or management of the partnership business—
 - (i) the principal office of the partnership; or
 - (ii) the email address of a partner or person having that control or management;
- (c) in any other case, a person's last known address, which includes an email address.

(5) If a person to be served with a document has specified an address in the United Kingdom (other than that person's proper address) at which that person or someone on that person's behalf will accept service, that address must also be treated as that person's proper address.

(6) In this regulation, “partnership” includes a Scottish partnership.

Recovery of expenses of enforcement

68.—(1) This regulation applies where a person commits an offence under regulation 62.

(2) The court may (in addition to any other order it may make as to costs or expenses) order the person to reimburse the enforcing authority for any expenditure which the enforcing authority has incurred in investigating the offence.

Action by enforcing authority

69.—(1) An enforcing authority may itself take action which an economic operator could have been required to take by a notice served under these Regulations where the conditions for serving such a notice are met and either—

- (a) the enforcing authority has been unable to identify any economic operator on whom to serve such a notice; or
- (b) the economic operator on whom such a notice has been served has failed to comply with it.

(2) If the enforcing authority has taken action as a result of the condition in paragraph (1)(b) being met, the authority may recover from the economic operator, as a civil debt, any costs or expenses reasonably incurred by the enforcing authority in taking the action.

(3) A civil debt recoverable under paragraph (2) may be recovered summarily—

- (a) in England and Wales by way of a complaint pursuant to section 58 of the Magistrates' Courts Act 1980;
- (b) in Northern Ireland in proceedings under article 62 of the Magistrates' Court (Northern Ireland) Order 1981.

Appeals against notices

70.—(1) An application for an order to vary or set aside the terms of a notice served under these Regulations may be made—

- (a) by the economic operator on whom the notice has been served; and
- (b) in the case of a notice other than a recall notice, by a person having an interest in the pyrotechnic article in respect of which the notice has been served.

(2) An application must be made before the end of the period of 21 days beginning with the day on which the notice was served.

(3) The appropriate court may only make an order setting aside a notice served under these Regulations if satisfied—

- (a) that the pyrotechnic article to which the notice relates is in conformity with Part 2 and does not present a risk; or
- (b) that the enforcing authority failed to comply with regulation 55 (exercise of enforcement powers) when serving the notice.

(4) On an application to vary the terms of a notice served under these Regulations, the appropriate court may vary the terms of the notice as it considers appropriate.

(5) In this regulation—

- (a) the “appropriate court” is to be determined in accordance with regulation 71 (appropriate court for appeals against notices); and
- (b) “notice” means any of the following—
 - (i) a prohibition notice served in accordance with Schedule 7 (enforcement powers of weights and measures authorities, district councils and the Secretary of State under the 1987 Act);
 - (ii) a notice to warn served in accordance with Schedule 7;
 - (iii) a suspension notice served in accordance with Schedule 7;
 - (iv) a compliance notice served in accordance with Schedule 9 (compliance, withdrawal and recall notices);
 - (v) a withdrawal notice served in accordance with Schedule 9;
 - (vi) a recall notice served in accordance with Schedule 9.

Appropriate court for appeals against notices

71.—(1) In England and Wales or Northern Ireland, the appropriate court for the purposes of regulation 70 is—

- (a) the court in which proceedings have been brought in relation to the pyrotechnic article for an offence under regulation 62 (offences);
- (b) an employment tribunal seized of appeal proceedings against a notice which relates to the pyrotechnic article and which has been served under or by virtue of paragraph 1 of Schedule 8 (enforcement powers of the Health and Safety Executive under the 1974 Act); or
- (c) in any other case, a magistrates' court.

(2) In Scotland, the appropriate court for the purposes of regulation 70 is—

- (a) the sheriff of a sheriffdom in which the person making the appeal resides or has a registered or principal office; or
- (b) an employment tribunal seized of appeal proceedings against a notice which relates to the pyrotechnic article and which has been served under or by virtue of paragraph 1 of Schedule 8.

(3) A person aggrieved by an order made by a magistrates' court in England and Wales or Northern Ireland pursuant to an application under regulation 70, or by a decision of such a court not to make such an order, may appeal against that order or decision—

- (a) in England and Wales, to the Crown Court;
- (b) in Northern Ireland, to the county court.

Compensation

72.—(1) Where an enforcing authority serves a relevant notice in respect of a pyrotechnic article, the enforcing authority is liable to pay compensation to a person having an interest in the pyrotechnic article for any loss or damage suffered by reason of the notice if both of the conditions in paragraph (2) are met.

- (2) The conditions are that—
- (a) the pyrotechnic article in respect of which the relevant notice was served neither—
 - (i) presents a risk; nor
 - (ii) contravenes any requirement of these Regulations; and
 - (b) the exercise of the power to serve the relevant notice was not attributable to neglect or default by a relevant economic operator.
- (3) In this regulation, “relevant notice” means—
- (a) in respect of the Health and Safety Executive, a withdrawal notice served in accordance with paragraph 2 of Schedule 9;
 - (b) in respect of any other enforcing authority—
 - (i) a suspension notice served in accordance with Schedule 7;
 - (ii) a withdrawal notice served in accordance with paragraph 2 of Schedule 9; or
 - (iii) a recall notice served in accordance with paragraph 3 of Schedule 9.

Changes to legislation:

There are currently no known outstanding effects for the The Pyrotechnic Articles (Safety) Regulations 2015, PART 5.