

Directive 2013/29/EU of the European Parliament and of the Council of 12 June 2013 on the harmonisation of the laws of the Member States relating to the making available on the market of pyrotechnic articles (recast) (Text with EEA relevance)

CHAPTER 1

**GENERAL PROVISIONS**

*Article 1*

**Subject matter**

1 This Directive establishes rules designed to achieve the free movement of pyrotechnic articles in the internal market while ensuring a high level of protection of human health and public security and the protection and safety of consumers and taking into account the relevant aspects related to environmental protection.

2 This Directive establishes the essential safety requirements which pyrotechnic articles are to fulfil with a view to their being made available on the market. Those requirements are set out in Annex I.

*Article 2*

**Scope**

1 This Directive shall apply to pyrotechnic articles.

2 This Directive shall not apply to:

- a pyrotechnic articles intended for non-commercial use, in accordance with national law, by the armed forces, the police or fire departments;
- b equipment falling within the scope of Directive 96/98/EC;
- c pyrotechnic articles intended for use in the aerospace industry;
- d percussion caps intended specifically for toys falling within the scope of Directive 2009/48/EC;
- e explosives falling within the scope of Directive 93/15/EEC;
- f ammunition;
- g fireworks which are built by a manufacturer for his own use and approved for use exclusively on its territory by the Member State in which the manufacturer is established, and which remain on the territory of that Member State.

*Article 3*

**Definitions**

For the purposes of this Directive, the following definitions shall apply:

- (1) ‘pyrotechnic article’ means any article containing explosive substances or an explosive mixture of substances designed to produce heat, light, sound, gas or smoke or a combination of such effects through self-sustained exothermic chemical reactions;

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- (2) 'firework' means a pyrotechnic article intended for entertainment purposes;
- (3) 'theatrical pyrotechnic articles' means pyrotechnic articles designed for indoor or outdoor stage use, including film and television productions or similar use;
- (4) 'pyrotechnic articles for vehicles' means components of safety devices in vehicles which contain pyrotechnic substances used to activate these or other devices;
- (5) 'ammunition' means projectiles and propelling charges and blank ammunition used in portable firearms, other guns and artillery;
- (6) 'person with specialist knowledge' means a person authorised by a Member State to handle and/or use on its territory category F4 fireworks, category T2 theatrical pyrotechnic articles and/or category P2 other pyrotechnic articles;
- (7) 'making available on the market' means any supply of a pyrotechnic article for distribution, consumption or use on the Union market in the course of a commercial activity, whether in return for payment or free of charge;
- (8) 'placing on the market' means the first making available of a pyrotechnic article on the Union market;
- (9) 'manufacturer' means a natural or legal person who manufactures a pyrotechnic article, or has such an article designed or manufactured, and markets that pyrotechnic article under his name or trademark;
- (10) 'importer' means any natural or legal person established within the Union who places a pyrotechnic article from a third country on the Union market;
- (11) 'distributor' means any natural or legal person in the supply chain, other than the manufacturer or the importer, who makes a pyrotechnic article available on the market;
- (12) 'economic operators' means the manufacturer, the importer and the distributor;
- (13) 'technical specification' means a document that prescribes technical requirements to be fulfilled by a pyrotechnic article;
- (14) 'harmonised standard' means harmonised standard as defined in point (c) of point 1 of Article 2 of Regulation (EU) No 1025/2012;
- (15) 'accreditation' means accreditation as defined in point 10 of Article 2 of Regulation (EC) No 765/2008;
- (16) 'national accreditation body' means national accreditation body as defined in point 11 of Article 2 of Regulation (EC) No 765/2008;
- (17) 'conformity assessment' means the process demonstrating whether the essential safety requirements of this Directive relating to a pyrotechnic article have been fulfilled;
- (18) 'conformity assessment body' means a body that performs conformity assessment activities including calibration, testing, certification and inspection;
- (19) 'recall' means any measure aimed at achieving the return of a pyrotechnic article that has already been made available to the end-user;
- (20) 'withdrawal' means any measure aimed at preventing a pyrotechnic article in the supply chain from being made available on the market;

- (21) ‘Union harmonisation legislation’ means any Union legislation harmonising the conditions for the marketing of products;
- (22) ‘CE marking’ means a marking by which the manufacturer indicates that the pyrotechnic article is in conformity with the applicable requirements set out in Union harmonisation legislation providing for its affixing.

#### *Article 4*

### **Free movement**

1 Member States shall not prohibit, restrict or hinder the making available on the market of pyrotechnic articles which satisfy the requirements of this Directive.

2 This Directive shall not preclude measures taken by a Member State to prohibit or restrict the possession, use and/or the sale to the general public of category F2 and F3 fireworks, theatrical pyrotechnic articles and other pyrotechnic articles, which are justified on grounds of public order, security, health and safety, or environmental protection.

3 At trade fairs, exhibitions and demonstrations for the marketing of pyrotechnic articles, Member States shall not prevent the showing and use of pyrotechnic articles not in conformity with this Directive, provided that a visible sign clearly indicates the name and date of the trade fair, exhibition or demonstration in question and the non-conformity and non-availability for sale of the pyrotechnic articles until brought into conformity. During such events, appropriate safety measures shall be taken in accordance with any requirements laid down by the competent authority of the Member State concerned.

4 Member States shall not prevent the free movement and use of pyrotechnic articles manufactured for the purpose of research, development and testing and which are not in conformity with this Directive, provided that a visible sign clearly indicates their non-conformity and non-availability for purposes other than research, development and testing.

#### *Article 5*

### **Making available on the market**

Member States shall take all appropriate measures to ensure that pyrotechnic articles may be made available on the market only if they satisfy the requirements of this Directive.

#### *Article 6*

### **Categories of pyrotechnic articles**

1 Pyrotechnic articles shall be categorised by the manufacturer according to their type of use, or their purpose and level of hazard, including their noise level. The notified bodies referred to in Article 21 shall confirm the categorisation as part of the conformity assessment procedures referred to in Article 17.

Categorisation shall be as follows:

- a Fireworks:

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- (i) category F1: fireworks which present a very low hazard and negligible noise level and which are intended for use in confined areas, including fireworks which are intended for use inside domestic buildings;
  - (ii) category F2: fireworks which present a low hazard and low noise level and which are intended for outdoor use in confined areas;
  - (iii) category F3: fireworks which present a medium hazard, which are intended for outdoor use in large open areas and whose noise level is not harmful to human health;
  - (iv) category F4: fireworks which present a high hazard, which are intended for use only by persons with specialist knowledge (commonly known as fireworks for professional use) and whose noise level is not harmful to human health.
- b Theatrical pyrotechnic articles:
- (i) category T1: pyrotechnic articles for stage use which present a low hazard;
  - (ii) category T2: pyrotechnic articles for stage use which are intended for use only by persons with specialist knowledge.
- c Other pyrotechnic articles:
- (i) category P1: pyrotechnic articles, other than fireworks and theatrical pyrotechnic articles, which present a low hazard;
  - (ii) category P2: pyrotechnic articles, other than fireworks and theatrical pyrotechnic articles, which are intended for handling or use only by persons with specialist knowledge.
- 2 Member States shall inform the Commission of the procedures whereby they identify and authorise persons with specialist knowledge.

### *Article 7*

#### **Age limits and other limitations**

- 1 Pyrotechnic articles shall not be made available on the market to persons below the following age limits:
- a fireworks:
    - (i) category F1: 12 years;
    - (ii) category F2: 16 years;
    - (iii) category F3: 18 years;
  - b theatrical pyrotechnic articles of category T1 and other pyrotechnic articles of category P1: 18 years.
- 2 Member States may increase the age limits set out in paragraph 1 where justified on grounds of public order, security or health and safety. Member States may also lower the age limits for persons vocationally trained or undergoing such training.
- 3 Manufacturers, importers and distributors shall not make available on the market the following pyrotechnic articles except to persons with specialist knowledge:
- a fireworks of category F4;

- b theatrical pyrotechnic articles of category T2 and other pyrotechnic articles of category P2.

4 Other pyrotechnic articles of category P1 for vehicles, including airbag and seat belt pre-tensioner systems, shall not be made available to members of the general public unless those pyrotechnic articles for vehicles have been incorporated in a vehicle or a detachable vehicle part.

## CHAPTER 2

### OBLIGATIONS OF ECONOMIC OPERATORS

#### *Article 8*

#### **Obligations of the manufacturers**

1 When placing their pyrotechnic articles on the market, manufacturers shall ensure that they have been designed and manufactured in accordance with the essential safety requirements set out in Annex I.

2 Manufacturers shall draw up the technical documentation referred to in Annex II and have the relevant conformity assessment procedure referred to in Article 17 carried out.

Where compliance of a pyrotechnic article with the applicable requirements has been demonstrated by that procedure, manufacturers shall draw up an EU declaration of conformity and affix the CE marking.

3 Manufacturers shall keep the technical documentation and the EU declaration of conformity for 10 years after the pyrotechnic article has been placed on the market.

4 Manufacturers shall ensure that procedures are in place for series production to remain in conformity with this Directive. Changes in pyrotechnic article design or characteristics and changes in the harmonised standards or in other technical specifications by reference to which conformity of a pyrotechnic article is declared shall be adequately taken into account.

When deemed appropriate with regard to the risks presented by a pyrotechnic article, manufacturers shall, to protect the health and safety of consumers, upon a duly justified request of the competent authorities, carry out sample testing of pyrotechnic articles made available on the market, investigate, and, if necessary, keep a register of complaints, of non-conforming pyrotechnic articles and pyrotechnic article recalls, and shall keep distributors informed of any such monitoring.

5 Manufacturers shall ensure that pyrotechnic articles which they have placed on the market are labelled in accordance with Article 10 or Article 11.

6 Manufacturers shall indicate on the pyrotechnic article their name, registered trade name or registered trade mark and the postal address at which they can be contacted or, where that is not possible, on its packaging or in a document accompanying the pyrotechnic article. The address shall indicate a single point at which the manufacturer can be contacted. The contact details shall be in a language easily understood by end-users and market surveillance authorities.

7 Manufacturers shall ensure that the pyrotechnic article is accompanied by instructions and safety information in a language which can be easily understood by consumers and other end-users, as determined by the Member State concerned. Such instructions and safety information, as well as any labelling, shall be clear, understandable and intelligible.

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8 Manufacturers who consider or have reason to believe that a pyrotechnic article which they have placed on the market is not in conformity with this Directive shall immediately take the corrective measures necessary to bring that pyrotechnic article into conformity, to withdraw it or recall it, if appropriate. Furthermore, where the pyrotechnic article presents a risk, manufacturers shall immediately inform the competent national authorities of the Member States in which they made the pyrotechnic article available on the market to that effect, giving details, in particular, of the non-compliance and of any corrective measures taken.

9 Manufacturers shall, further to a reasoned request from a competent national authority, provide it with all the information and documentation in paper or electronic form necessary to demonstrate the conformity of the pyrotechnic article with this Directive, in a language which can be easily understood by that authority. They shall cooperate with that authority, at its request, on any action taken to eliminate the risks posed by pyrotechnic articles which they have placed on the market.

#### *Article 9*

### **Traceability**

1 In order to facilitate the traceability of pyrotechnic articles, manufacturers shall label them with a registration number assigned by the notified body carrying out the conformity assessment pursuant to Article 17. The numbering shall be done in accordance with a uniform system determined by the Commission.

2 Manufacturers and importers shall maintain records of the registration numbers of the pyrotechnic articles they make available on the market and shall make this information available to the relevant authorities upon request.

#### *Article 10*

### **Labelling of pyrotechnic articles other than pyrotechnic articles for vehicles**

1 Manufacturers shall ensure that pyrotechnic articles other than pyrotechnic articles for vehicles are labelled visibly, legibly and indelibly in the official language(s) of the Member State in which the pyrotechnic article is made available to the consumer. Such labelling shall be clear, understandable and intelligible.

2 The labelling of pyrotechnic articles shall include as a minimum the information about the manufacturer set out in Article 8(6) and, where the manufacturer is not established in the Union, the information about the manufacturer and the importer set out in Article 8(6) and Article 12(3) respectively, the name and type of the pyrotechnic article, its registration number and its product, batch or serial number, the minimum age limits set out in Article 7(1) and (2), the relevant category and instructions for use, the year of production for category F3 and F4 fireworks and, where appropriate, a minimum safety distance. The labelling shall include the net explosive content (NEC).

3 Fireworks shall also display the following minimum information:

- a category F1: where appropriate: ‘for outdoor use only’ and a minimum safety distance;
- b category F2: ‘for outdoor use only’ and, where appropriate, minimum safety distance(s);
- c category F3: ‘for outdoor use only’ and minimum safety distance(s);
- d category F4: ‘for use only by persons with specialist knowledge’ and minimum safety distance(s).

- 4 Theatrical pyrotechnic articles shall also display the following minimum information:
- a category T1: where appropriate: ‘for outdoor use only’ and minimum safety distance(s);
  - b category T2: ‘for use only by persons with specialist knowledge’ and minimum safety distance(s).
- 5 If the pyrotechnic article does not provide sufficient space for the labelling requirements referred to in paragraphs 2, 3 and 4, the information shall be provided on the smallest piece of packaging.

### *Article 11*

#### **Labelling of pyrotechnic articles for vehicles**

- 1 The labelling of pyrotechnic articles for vehicles shall include the information about the manufacturer set out in Article 8(6), the name and type of the pyrotechnic article, its registration number and its product, batch or serial number and, where necessary, the safety instructions.
- 2 If the pyrotechnic article for vehicles does not provide sufficient space for the labelling requirements referred to in paragraph 1, the information shall be provided on the packaging.
- 3 A safety data sheet for the pyrotechnic article for vehicles, compiled in accordance with Annex II to Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency<sup>(1)</sup> and which takes into account the specific needs of professional users, shall be supplied to those users in the language requested by them.

The safety data sheet may be supplied on paper or electronically, provided that the professional user has the necessary means of accessing it.

### *Article 12*

#### **Obligations of importers**

- 1 Importers shall place only compliant pyrotechnic articles on the market.
- 2 Before placing a pyrotechnic article on the market importers shall ensure that the appropriate conformity assessment procedure referred to in Article 17 has been carried out by the manufacturer. They shall ensure that the manufacturer has drawn up the technical documentation, that the pyrotechnic article bears the CE marking and is accompanied by the required documents, and that the manufacturer has complied with the requirements set out in Article 8(5) and (6).

Where an importer considers or has reason to believe that a pyrotechnic article is not in conformity with the essential safety requirements set out in Annex I, he shall not place the pyrotechnic article on the market until it has been brought into conformity. Furthermore, where the pyrotechnic article presents a risk, the importer shall inform the manufacturer and the market surveillance authorities to that effect.

- 3 Importers shall indicate on the pyrotechnic article their name, registered trade name or registered trade mark and the postal address at which they can be contacted or, where that is not possible, on its packaging or in a document accompanying the pyrotechnic article. The contact details shall be in a language easily understood by end-users and market surveillance authorities.

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4 Importers shall ensure that the pyrotechnic article is accompanied by instructions and safety information in a language which can be easily understood by consumers and other end-users, as determined by the Member State concerned.

5 Importers shall ensure that, while a pyrotechnic article is under their responsibility, its storage or transport conditions do not jeopardise its compliance with the essential safety requirements set out in Annex I.

6 When deemed appropriate with regard to the risks presented by a pyrotechnic article, importers shall, to protect the health and safety of consumers, upon a duly justified request of the competent authorities, carry out sample testing of pyrotechnic articles made available on the market, investigate, and, if necessary, keep a register of complaints, of non-conforming pyrotechnic articles and pyrotechnic articles recalls, and shall keep distributors informed of any such monitoring.

7 Importers who consider or have reason to believe that a pyrotechnic article which they have placed on the market is not in conformity with this Directive shall immediately take the corrective measures necessary to bring that pyrotechnic article into conformity, to withdraw it or recall it, if appropriate. Furthermore, where the pyrotechnic article presents a risk, importers shall immediately inform the competent national authorities of the Member States in which they made the pyrotechnic article available on the market to that effect, giving details, in particular, of the non-compliance and of any corrective measures taken.

8 Importers shall, for 10 years after the pyrotechnic article has been placed on the market, keep a copy of the EU declaration of conformity at the disposal of the market surveillance authorities and ensure that the technical documentation can be made available to those authorities, upon request.

9 Importers shall, further to a reasoned request from a competent national authority, provide it with all the information and documentation in paper or electronic form necessary to demonstrate the conformity of a pyrotechnic article in a language which can be easily understood by that authority. They shall cooperate with that authority, at its request, on any action taken to eliminate the risks posed by pyrotechnic articles which they have placed on the market.

### *Article 13*

#### **Obligations of distributors**

1 When making a pyrotechnic article available on the market distributors shall act with due care in relation to the requirements of this Directive.

2 Before making a pyrotechnic article available on the market distributors shall verify that the pyrotechnic article bears the CE marking, that it is accompanied by the required documents, and 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, and that the manufacturer and the importer have complied with the requirements set out in Article 8(5) and (6) and Article 12(3) respectively.

Where a distributor considers or has reason to believe that a pyrotechnic article is not in conformity with the essential safety requirements set out in Annex I, he shall not make the pyrotechnic article available on the market until it has been brought into conformity. Furthermore, where the pyrotechnic article presents a risk, the distributor shall inform the manufacturer or the importer to that effect as well as the market surveillance authorities.



3 Distributors shall ensure that, while a pyrotechnic article is under their responsibility, its storage or transport conditions do not jeopardise its compliance with the essential safety requirements set out in Annex I.

4 Distributors who consider or have reason to believe that a pyrotechnic article which they have made available on the market is not in conformity with this Directive shall make sure that the corrective measures necessary to bring that pyrotechnic article into conformity, to withdraw it or recall it, if appropriate, are taken. Furthermore, where the pyrotechnic article presents a risk, distributors shall immediately inform the competent national authorities of the Member States in which they made the pyrotechnic article available on the market to that effect, giving details, in particular, of the non-compliance and of any corrective measures taken.

5 Distributors shall, further to a reasoned request from a competent national authority, provide it with all the information and documentation in paper or electronic form necessary to demonstrate the conformity of a pyrotechnic article. They shall cooperate with that authority, at its request, on any action taken to eliminate the risks posed by pyrotechnic articles which they have made available on the market.

#### *Article 14*

#### **Cases in which obligations of manufacturers apply to importers and distributors**

An importer or distributor shall be considered a manufacturer for the purposes of this Directive and he shall be subject to the obligations of the manufacturer under Article 8, where he places a pyrotechnic article on the market under his name or trademark or modifies a pyrotechnic article already placed on the market in such a way that compliance with the requirements of this Directive may be affected.

#### *Article 15*

#### **Identification of economic operators**

Economic operators shall, on request, identify the following to the market surveillance authorities:

- (a) any economic operator who has supplied them with a pyrotechnic article;
- (b) any economic operator to whom they have supplied a pyrotechnic article.

Economic operators shall be able to present the information referred to in the first paragraph for a period of 10 years after they have been supplied with the pyrotechnic article and for a period of 10 years after they have supplied the pyrotechnic article.

## CHAPTER 3

### CONFORMITY OF THE PYROTECHNIC ARTICLE

#### *Article 16*

#### **Presumption of conformity of pyrotechnic articles**

Pyrotechnic articles which are in conformity with harmonised standards or parts thereof the references of which have been published in the *Official Journal of the European Union* shall be presumed to be in conformity with the essential safety requirements set out in Annex I covered by those standards or parts thereof.

#### *Article 17*

#### **Conformity assessment procedures**

For the assessment of conformity of pyrotechnic articles the manufacturer shall follow one of the following procedures referred to in Annex II:

- (a) EU-type examination (Module B), and, at the choice of the manufacturer, one of the following procedures:
  - (i) conformity to type based on internal production control plus supervised product checks at random intervals (Module C2);
  - (ii) conformity to type based on quality assurance of the production process (Module D);
  - (iii) conformity to type based on product quality assurance (Module E);
- (b) conformity based on unit verification (Module G);
- (c) conformity based on full quality assurance (Module H), insofar as it concerns fireworks of category F4.

#### *Article 18*

#### **EU declaration of conformity**

1 The EU declaration of conformity shall state that the fulfilment of the essential safety requirements set out in Annex I has been demonstrated.

2 The EU declaration of conformity shall have the model structure set out in Annex III, shall contain the elements specified in the relevant modules set out in Annex II and shall be continuously updated. It shall be translated into the language or languages required by the Member State in which the pyrotechnic article is placed or made available on the market.

3 Where a pyrotechnic article is subject to more than one Union act requiring an EU declaration of conformity, a single EU declaration of conformity shall be drawn up in respect of all such Union acts. That declaration shall contain the identification of the Union acts concerned including their publication references.

4 By drawing up the EU declaration of conformity, the manufacturer shall assume responsibility for the compliance of the pyrotechnic article with the requirements laid down in this Directive.

#### *Article 19*

### **General principles of the CE marking**

The CE marking shall be subject to the general principles set out in Article 30 of Regulation (EC) No 765/2008.

#### *Article 20*

### **Rules and conditions for affixing the CE marking and other markings**

1 The CE marking shall be affixed visibly, legibly and indelibly to the pyrotechnic articles. Where that is not possible or not warranted on account of the nature of the pyrotechnic article, it shall be affixed to the packaging and to the accompanying documents.

2 The CE marking shall be affixed before the pyrotechnic article is placed on the market.

3 The CE marking shall be followed by the identification number of the notified body, where that body is involved in the production control phase.

The identification number of the notified body shall be affixed by the body itself or, under its instructions, by the manufacturer.

4 The CE marking and, where applicable, the identification number of the notified body may be followed by any other mark indicating a special risk or use.

5 Member States shall build upon existing mechanisms to ensure correct application of the regime governing the CE marking and shall take appropriate action in the event of improper use of that marking.

## CHAPTER 4

### **NOTIFICATION OF CONFORMITY ASSESSMENT BODIES**

#### *Article 21*

### **Notification**

Member States shall notify the Commission and the other Member States of bodies authorised to carry out third-party conformity assessment tasks under this Directive.

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## Article 22

### **Notifying authorities**

1 Member States shall designate a notifying authority that shall be responsible for setting up and carrying out the necessary procedures for the assessment and notification of conformity assessment bodies and the monitoring of notified bodies, including compliance with Article 27.

2 Member States may decide that the assessment and monitoring referred to in paragraph 1 shall be carried out by a national accreditation body within the meaning of and in accordance with Regulation (EC) No 765/2008.

## Article 23

### **Requirements relating to notifying authorities**

1 A notifying authority shall be established in such a way that no conflict of interest with conformity assessment bodies occurs.

2 A notifying authority shall be organised and operated so as to safeguard the objectivity and impartiality of its activities.

3 A notifying authority shall be organised in such a way that each decision relating to notification of a conformity assessment body is taken by competent persons different from those who carried out the assessment.

4 A notifying authority shall not offer or provide any activities that conformity assessment bodies perform or consultancy services on a commercial or competitive basis.

5 A notifying authority shall safeguard the confidentiality of the information it obtains.

6 A notifying authority shall have a sufficient number of competent personnel at its disposal for the proper performance of its tasks.

## Article 24

### **Information obligation on notifying authorities**

Member States shall inform the Commission of their procedures for the assessment and notification of conformity assessment bodies and the monitoring of notified bodies, and of any changes thereto.

The Commission shall make that information publicly available.

## Article 25

### **Requirements relating to notified bodies**

1 For the purposes of notification, a conformity assessment body shall meet the requirements laid down in paragraphs 2 to 11.

2 A conformity assessment body shall be established under national law of a Member State and have legal personality.

3 A conformity assessment body shall be a third-party body independent of the organisation or the pyrotechnic article it assesses.

4 A conformity assessment body, its top level management and the personnel responsible for carrying out the conformity assessment tasks shall not be the designer, manufacturer, supplier, installer, purchaser, owner, user or maintainer of pyrotechnic articles and/or explosive substances nor the representative of any of those parties. This shall not preclude the use of pyrotechnic articles and/or explosive substances that are necessary for the operations of the conformity assessment body or the use of pyrotechnic articles for personal purposes.

A conformity assessment body, its top level management and the personnel responsible for carrying out the conformity assessment tasks shall not be directly involved in the design, manufacture or construction, the marketing, installation, use or maintenance of pyrotechnic articles and/or explosive substances, or represent the parties engaged in those activities. They shall not engage in any activity that may conflict with their independence of judgement or integrity in relation to conformity assessment activities for which they are notified. This shall in particular apply to consultancy services.

Conformity assessment bodies shall ensure that the activities of their subsidiaries or subcontractors do not affect the confidentiality, objectivity or impartiality of their conformity assessment activities.

5 Conformity assessment bodies and their personnel shall carry out the conformity assessment activities with the highest degree of professional integrity and the requisite technical competence in the specific field and shall be free from all pressures and inducements, particularly financial, which might influence their judgement or the results of their conformity assessment activities, especially as regards persons or groups of persons with an interest in the results of those activities.

6 A conformity assessment body shall be capable of carrying out all the conformity assessment tasks assigned to it by Annex II and in relation to which it has been notified, whether those tasks are carried out by the conformity assessment body itself or on its behalf and under its responsibility.

At all times and for each conformity assessment procedure and each kind or category of pyrotechnic articles in relation to which it has been notified, a conformity assessment body shall have at its disposal the necessary:

- a personnel with technical knowledge and sufficient and appropriate experience to perform the conformity assessment tasks;
- b descriptions of procedures in accordance with which conformity assessment is carried out, ensuring the transparency and the ability of reproduction of those procedures. It shall have appropriate policies and procedures in place that distinguish between tasks it carries out as a notified body and other activities;
- c procedures for the performance of activities which take due account of the size of an undertaking, the sector in which it operates, its structure, the degree of complexity of the product technology in question and the mass or serial nature of the production process.

A conformity assessment body shall have the means necessary to perform the technical and administrative tasks connected with the conformity assessment activities in an appropriate manner and shall have access to all necessary equipment or facilities.

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7 The personnel responsible for carrying out conformity assessment tasks shall have the following:

- a sound technical and vocational training covering all the conformity assessment activities in relation to which the conformity assessment body has been notified;
- b satisfactory knowledge of the requirements of the assessments they carry out and adequate authority to carry out those assessments;
- c appropriate knowledge and understanding of the essential safety requirements set out in Annex I, of the applicable harmonised standards and of the relevant provisions of Union harmonisation legislation and of national legislation;
- d the ability to draw up certificates, records and reports demonstrating that assessments have been carried out.

8 The impartiality of the conformity assessment bodies, their top level management and of the personnel responsible for carrying out the conformity assessment tasks shall be guaranteed.

The remuneration of the top level management and personnel responsible for carrying out the conformity assessment tasks of a conformity assessment body shall not depend on the number of assessments carried out or on the results of those assessments.

9 Conformity assessment bodies shall take out liability insurance unless liability is assumed by the State in accordance with national law, or the Member State itself is directly responsible for the conformity assessment.

10 The personnel of a conformity assessment body shall observe professional secrecy with regard to all information obtained in carrying out their tasks under Annex II or any provision of national law giving effect to it, except in relation to the competent authorities of the Member State in which its activities are carried out. Proprietary rights shall be protected.

11 Conformity assessment bodies shall participate in, or ensure that their personnel responsible for carrying out the conformity assessment tasks are informed of, the relevant standardisation activities and the activities of the notified body coordination group established under the relevant Union harmonisation legislation and shall apply as general guidance the administrative decisions and documents produced as a result of the work of that group.

#### *Article 26*

### **Presumption of conformity of notified bodies**

Where a conformity assessment body demonstrates its conformity with the criteria laid down in the relevant harmonised standards or parts thereof the references of which have been published in the *Official Journal of the European Union* it shall be presumed to comply with the requirements set out in Article 25 in so far as the applicable harmonised standards cover those requirements.

#### *Article 27*

### **Subsidiaries of and subcontracting by notified bodies**

1 Where a notified body subcontracts specific tasks connected with conformity assessment or has recourse to a subsidiary, it shall ensure that the subcontractor or the subsidiary meets the requirements set out in Article 25 and shall inform the notifying authority accordingly.

2 Notified bodies shall take full responsibility for the tasks performed by subcontractors or subsidiaries wherever these are established.

3 Activities may be subcontracted or carried out by a subsidiary only with the agreement of the client.

4 Notified bodies shall keep at the disposal of the notifying authority the relevant documents concerning the assessment of the qualifications of the subcontractor or the subsidiary and the work carried out by them under Annex II.

#### *Article 28*

### **Application for notification**

1 A conformity assessment body shall submit an application for notification to the notifying authority of the Member State in which it is established.

2 The application for notification shall be accompanied by a description of the conformity assessment activities, the conformity assessment module or modules and the pyrotechnic article or articles for which that body claims to be competent, as well as by an accreditation certificate, where one exists, issued by a national accreditation body attesting that the conformity assessment body fulfils the requirements laid down in Article 25.

3 Where the conformity assessment body concerned cannot provide an accreditation certificate, it shall provide the notifying authority with all the documentary evidence necessary for the verification, recognition and regular monitoring of its compliance with the requirements laid down in Article 25.

#### *Article 29*

### **Notification procedure**

1 Notifying authorities may notify only conformity assessment bodies which have satisfied the requirements laid down in Article 25.

2 They shall notify the Commission and the other Member States using the electronic notification tool developed and managed by the Commission.

3 The notification shall include full details of the conformity assessment activities, the conformity assessment module or modules and pyrotechnic article or articles concerned and the relevant attestation of competence.

4 Where a notification is not based on an accreditation certificate as referred to in Article 28(2), the notifying authority shall provide the Commission and the other Member States with documentary evidence which attests to the conformity assessment body's competence and the arrangements in place to ensure that that body will be monitored regularly and will continue to satisfy the requirements laid down in Article 25.

5 The body concerned may perform the activities of a notified body only where no objections are raised by the Commission or the other Member States within two weeks of a notification where an accreditation certificate is used or within two months of a notification where accreditation is not used.

Only such a body shall be considered a notified body for the purposes of this Directive.

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6 The notifying authority shall notify the Commission and the other Member States of any subsequent relevant changes to the notification.

#### *Article 30*

### **Identification numbers and lists of notified bodies**

1 The Commission shall assign an identification number to a notified body.

It shall assign a single such number even where the body is notified under several Union acts.

2 The Commission shall make publicly available the list of the bodies notified under this Directive, including the identification numbers that have been assigned to them and the activities for which they have been notified.

The Commission shall ensure that the list is kept up to date.

#### *Article 31*

### **Changes to notifications**

1 Where a notifying authority has ascertained or has been informed that a notified body no longer meets the requirements laid down in Article 25 or that it is failing to fulfil its obligations, the notifying authority shall restrict, suspend or withdraw notification as appropriate, depending on the seriousness of the failure to meet those requirements or fulfil those obligations. It shall immediately inform the Commission and the other Member States accordingly.

2 In the event of restriction, suspension or withdrawal of notification, or where the notified body has ceased its activity, the notifying Member State shall take appropriate steps to ensure that the files of that body are either processed by another notified body or kept available for the responsible notifying and market surveillance authorities at their request.

#### *Article 32*

### **Challenge of the competence of notified bodies**

1 The Commission shall investigate all cases where it doubts, or doubt is brought to its attention regarding, the competence of a notified body or the continued fulfilment by a notified body of the requirements and responsibilities to which it is subject.

2 The notifying Member State shall provide the Commission, on request, with all information relating to the basis for the notification or the maintenance of the competence of the notified body concerned.

3 The Commission shall ensure that all sensitive information obtained in the course of its investigations is treated confidentially.

4 Where the Commission ascertains that a notified body does not meet or no longer meets the requirements for its notification, it shall adopt an implementing act requesting the notifying Member State to take the necessary corrective measures, including withdrawal of notification if necessary.



That implementing act shall be adopted in accordance with the advisory procedure referred to in Article 44(2).

### *Article 33*

#### **Operational obligations of notified bodies**

1 Notified bodies shall carry out conformity assessments in accordance with the conformity assessment procedures provided for in Annex II.

2 Conformity assessments shall be carried out in a proportionate manner, avoiding unnecessary burdens for economic operators. Conformity assessment bodies shall perform their activities taking due account of the size of an undertaking, the sector in which it operates, its structure, the degree of complexity of the product technology in question and the mass or serial nature of the production process.

In so doing they shall nevertheless respect the degree of rigour and the level of protection required for the compliance of the pyrotechnic article with the requirements of this Directive.

3 Notified bodies carrying out conformity assessments shall assign registration numbers, identifying pyrotechnic articles which have been subject to a conformity assessment and their manufacturers, and shall maintain a register with the registration numbers of pyrotechnic articles for which they have issued certificates.

4 Where a notified body finds that essential safety requirements set out in Annex I or corresponding harmonised standards or other technical specifications have not been met by a manufacturer, it shall require that manufacturer to take appropriate corrective measures and shall not issue a certificate of conformity.

5 Where, in the course of the monitoring of conformity following the issue of a certificate, a notified body finds that a pyrotechnic article no longer complies, it shall require the manufacturer to take appropriate corrective measures and shall suspend or withdraw the certificate if necessary.

6 Where corrective measures are not taken or do not have the required effect, the notified body shall restrict, suspend or withdraw any certificates, as appropriate.

### *Article 34*

#### **Appeal against decisions of notified bodies**

Member States shall ensure that an appeal procedure against decisions of the notified bodies is available.

### *Article 35*

#### **Information obligation on notified bodies**

- 1 Notified bodies shall inform the notifying authority of the following:
- a any refusal, restriction, suspension or withdrawal of a certificate;
  - b any circumstances affecting the scope of or conditions for notification;

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- c any request for information which they have received from market surveillance authorities regarding conformity assessment activities;
- d on request, conformity assessment activities performed within the scope of their notification and any other activity performed, including cross-border activities and subcontracting.

2 Notified bodies shall provide the other bodies notified under this Directive carrying out similar conformity assessment activities covering the same pyrotechnic articles with relevant information on issues relating to negative and, on request, positive conformity assessment results.

#### *Article 36*

### **Exchange of experience**

The Commission shall provide for the organisation of exchange of experience between the Member States' national authorities responsible for notification policy.

#### *Article 37*

### **Coordination of notified bodies**

The Commission shall ensure that appropriate coordination and cooperation between bodies notified under this Directive are put in place and properly operated in the form of a forum of notified bodies.

Member States shall ensure that the bodies notified by them participate in the work of that forum, directly or by means of designated representatives.

## CHAPTER 5

### **UNION MARKET SURVEILLANCE, CONTROL OF PYROTECHNIC ARTICLES ENTERING THE UNION MARKET AND UNION SAFEGUARD PROCEDURE**

#### *Article 38*

### **Union market surveillance and control of pyrotechnic articles entering the Union market**

1 Member States shall take all appropriate measures to ensure that pyrotechnic articles may be placed on the market only if, when properly stored and used for their intended purpose, they do not endanger the health and safety of persons.

2 Article 15(3) and Articles 16 to 29 of Regulation (EC) No 765/2008 shall apply to pyrotechnic articles.

3 Member States shall inform the Commission annually about their market surveillance activities.

### Article 39

#### **Procedure for dealing with pyrotechnic articles presenting a risk at national level**

1 Where the market surveillance authorities of one Member State have sufficient reasons to believe that a pyrotechnic article presents a risk to the health or safety of persons or to other aspects of public interest protection covered by this Directive, they shall carry out an evaluation in relation to the pyrotechnic article concerned covering all relevant requirements laid down in this Directive. The relevant economic operators shall cooperate as necessary with the market surveillance authorities for that purpose.

Where, in the course of the evaluation referred to in the first subparagraph, the market surveillance authorities find that the pyrotechnic article does not comply with the requirements laid down in this Directive, they shall without delay require the relevant economic operator to take all appropriate corrective actions to bring the pyrotechnic article into compliance with those requirements, to withdraw the pyrotechnic article from the market, or to recall it within a reasonable period, commensurate with the nature of the risk, as they may prescribe.

The market surveillance authorities shall inform the relevant notified body accordingly.

Article 21 of Regulation (EC) No 765/2008 shall apply to the measures referred to in the second subparagraph of this paragraph.

2 Where the market surveillance authorities consider that non-compliance is not restricted to their national territory, they shall inform the Commission and the other Member States of the results of the evaluation and of the actions which they have required the economic operator to take.

3 The economic operator shall ensure that all appropriate corrective action is taken in respect of all the pyrotechnic articles concerned that it has made available on the market throughout the Union.

4 Where the relevant economic operator does not take adequate corrective action within the period referred to in the second subparagraph of paragraph 1, the market surveillance authorities shall take all appropriate provisional measures to prohibit or restrict the pyrotechnic articles being made available on their national market, to withdraw the pyrotechnic article from that market or to recall it.

The market surveillance authorities shall inform the Commission and the other Member States, without delay, of those measures.

5 The information referred to in the second subparagraph of paragraph 4 shall include all available details, in particular the data necessary for the identification of the non-compliant pyrotechnic article, the origin of the pyrotechnic article, the nature of the non-compliance alleged and the risk involved, the nature and duration of the national measures taken and the arguments put forward by the relevant economic operator. In particular, the market surveillance authorities shall indicate whether the non-compliance is due to either of the following:

- a failure of the pyrotechnic article to meet requirements relating to the health or safety of persons or to other aspects of public interest protection laid down in this Directive; or
- b shortcomings in the harmonised standards referred to in Article 16 conferring a presumption of conformity.

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6 Member States other than the Member State initiating the procedure under this Article shall without delay inform the Commission and the other Member States of any measures adopted and of any additional information at their disposal relating to the non-compliance of the pyrotechnic article concerned, and, in the event of disagreement with the adopted national measure, of their objections.

7 Where, within three months of receipt of the information referred to in the second subparagraph of paragraph 4, no objection has been raised by either a Member State or the Commission in respect of a provisional measure taken by a Member State, that measure shall be deemed justified.

8 Member States shall ensure that appropriate restrictive measures, such as withdrawal of the pyrotechnic article from the market, are taken in respect of the pyrotechnic article concerned without delay.

#### *Article 40*

### **Union safeguard procedure**

1 Where on completion of the procedure set out in Article 39(3) and (4), objections are raised against measures taken by a Member State, or where the Commission considers that such measures are contrary to Union legislation, the Commission shall without delay enter into consultation with the Member States and the relevant economic operator or operators and shall evaluate the national measure. On the basis of the results of that evaluation, the Commission shall adopt an implementing act determining whether the national measure is justified or not.

The Commission shall address its decision to all Member States and shall immediately communicate it to them and the relevant economic operator or operators.

2 If the national measure is considered justified, all Member States shall take the necessary measures to ensure that the non-compliant pyrotechnic article is withdrawn from their national market and shall inform the Commission accordingly. If the national measure is considered unjustified, the Member State concerned shall withdraw that measure.

3 Where the national measure is considered justified and the non-compliance of the pyrotechnic article is attributed to a shortcoming in the harmonised standards referred to in point (b) of Article 39(5) of this Directive, the Commission shall apply the procedure provided for in Article 11 of Regulation (EU) No 1025/2012.

#### *Article 41*

### **Compliant pyrotechnic articles which present a risk to health or safety**

1 Where, having carried out an evaluation under Article 39(1), a Member State finds that although a pyrotechnic article is in compliance with this Directive, it presents a risk to the health or safety of persons or to other aspects of public interest protection, it shall require the relevant economic operator to take all appropriate measures to ensure that the pyrotechnic article concerned, when placed on the market, no longer presents that risk, to withdraw the pyrotechnic article from the market or to recall it within a reasonable period, commensurate with the nature of the risk, as it may prescribe.

2 The economic operator shall ensure that corrective action is taken in respect of all the pyrotechnic articles concerned that he has made available on the market throughout the Union.

3 The Member State shall immediately inform the Commission and the other Member States. That information shall include all available details, in particular the data necessary for the identification of the pyrotechnic article concerned, the origin and the supply chain of the pyrotechnic article, the nature of the risk involved and the nature and duration of the national measures taken.

4 The Commission shall without delay enter into consultation with the Member States and the relevant economic operator or operators and shall evaluate the national measures taken. On the basis of the results of that evaluation, the Commission shall decide by means of implementing acts whether the national measure is justified or not, and where necessary, propose appropriate measures.

The implementing acts referred to in the first subparagraph shall be adopted in accordance with the examination procedure referred to in Article 44(3).

On duly justified imperative grounds of urgency relating to the protection of health and safety of persons, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 44(4).

5 The Commission shall address its decision to all Member States and shall immediately communicate it to them and the relevant economic operator or operators.

#### *Article 42*

### **Formal non-compliance**

1 Without prejudice to Article 39, where a Member State makes one of the following findings, it shall require the relevant economic operator to put an end to the non-compliance concerned:

- a the CE marking has been affixed in violation of Article 30 of Regulation (EC) No 765/2008 or of Article 20 of this Directive;
- b the CE marking has not been affixed;
- c the identification number of the notified body, where that body is involved in the production control phase, has been affixed in violation of Article 20 or has not been affixed;
- d the EU declaration of conformity has not been drawn up;
- e the EU declaration of conformity has not been drawn up correctly;
- f technical documentation is either not available or not complete;
- g the information referred to in Article 8(6) or Article 12(3) is absent, false or incomplete;
- h any other administrative requirement provided for in Article 8 or Article 12 is not fulfilled.

2 Where the non-compliance referred to in paragraph 1 persists, the Member State concerned shall take all appropriate measures to restrict or prohibit the pyrotechnic article being made available on the market or ensure that it is recalled or withdrawn from the market.

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## CHAPTER 6

### IMPLEMENTING POWERS

#### *Article 43*

##### **Implementing acts**

The Commission shall, by means of implementing acts, determine:

- (a) the uniform numbering system referred to in Article 9(1) and the practical arrangements for the register referred to in Article 33(3);
- (b) the practical arrangements for the regular collection and updating of data on accidents related to pyrotechnic articles.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 44(3).

#### *Article 44*

##### **Committee procedure**

1 The Commission shall be assisted by the Committee on Pyrotechnic Articles. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2 Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.

3 Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

4 Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 thereof, shall apply.

5 The committee shall be consulted by the Commission on any matter for which consultation of sectoral experts is required by Regulation (EU) No 1025/2012 or by any other Union legislation.

The committee may furthermore examine any other matter concerning the application of this Directive raised either by its chair or by a representative of a Member State in accordance with its rules of procedure.

## CHAPTER 7

### TRANSITIONAL AND FINAL PROVISIONS

#### *Article 45*

##### **Penalties**

Member States shall lay down rules on penalties applicable to infringements by economic operators of the provisions of national law adopted pursuant to this Directive

and shall take all the measures necessary to ensure that they are enforced. Such rules may include criminal penalties for serious infringements.

The penalties provided for shall be effective, proportionate and dissuasive.

#### *Article 46*

### **Transitional provisions**

1 Member States shall not impede the making available on the market of pyrotechnic articles which are in conformity with Directive 2007/23/EC and which were placed on the market before 1 July 2015.

2 National authorisations for fireworks of categories F1, F2 and F3 granted before 4 July 2010 shall continue to be valid on the territory of the Member State having granted the authorisation until their expiry date or until 4 July 2017, whichever is earlier.

3 National authorisations for other pyrotechnic articles, for fireworks of category F4 and for theatrical pyrotechnic articles granted before 4 July 2013 shall continue to be valid on the territory of the Member State having granted the authorisation until their expiry date or until 4 July 2017, whichever is earlier.

4 By way of derogation from paragraph 3, national authorisations for pyrotechnic articles for vehicles, including as spare parts, granted before 4 July 2013 shall continue to be valid until their expiry.

5 Certificates issued under Directive 2007/23/EC shall be valid under this Directive.

#### *Article 47*

### **Transposition**

1 Member States shall adopt and publish, by 30 June 2015, the laws, regulations and administrative provisions necessary to comply with points 7, 12, 13 and 15 to 22 of Article 3, Article 4(1), Article 5, Article 7(4), Article 8(2) to (9), Article 9, Article 10(2), Article 11(1) and (3), Articles 12 to 16, Articles 18 to 29, Articles 31 to 35, Article 37, Article 38(1) and (2), Articles 39 to 42, Article 45, Article 46 and Annexes I, II and III. They shall forthwith communicate the text of those measures to the Commission.

They shall apply those measures from 1 July 2015.

2 By way of derogation from paragraph 1, Member States shall adopt and publish by 3 October 2013 the laws, regulations and administrative provisions necessary to comply with point 4 of Annex I. They shall forthwith communicate the text of those measures to the Commission. They shall apply those measures from 4 July 2013.

3 When Member States adopt the measures referred to in paragraphs 1 and 2, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. They shall also include a statement that references in existing laws, regulations and administrative provisions to the Directive repealed by this Directive shall be construed as references to this Directive. Member States shall determine how such reference is to be made and how that statement is formulated.

4 Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

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## Article 48

### Repeal

Directive 2007/23/EC, as amended by the act listed in Annex IV, Part A, is repealed with effect from 1 July 2015, without prejudice to the obligations of the Member States relating to the time-limits for transposition into national law and the dates of application of the Directive set out in Annex IV, Part B.

By way of derogation from the first paragraph of this Article, point 4 of Annex I to Directive 2007/23/EC is repealed with effect from 4 July 2013.

References to the repealed Directive shall be construed as references to this Directive and shall be read in accordance with the correlation table in Annex V.

## Article 49

### Entry into force and application

This Directive shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

Article 1, Article 2, points 1 to 6, 8 to 11 and 14 of Article 3, Article 4(2), (3) and (4), Article 6, Article 7(1), (2) and (3), Article 8(1), Article 10(1), (3) and (4), Article 11(2), Articles 17, 30 and 36, Article 38(3), Articles 43 and 44 and Annexes IV and V shall apply from 1 July 2015.

## Article 50

### Addressees

This Directive is addressed to the Member States.

Done at Strasbourg, 12 June 2013.

*For the European Parliament*

*The President*

M. SCHULZ

*For the Council*

*The President*

L. CREIGHTON



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(1) [OJ L 396, 30.12.2006, p. 1.](#)