

**2004 No. 393**

**FIREWORKS**

**The Fireworks (Scotland) Regulations 2004**

*Made* - - - - *13th September 2004*

*Laid before the Scottish Parliament* *15th September 2004*

*Coming into force* - - *7th October 2004*

The Scottish Ministers, in exercise of the powers conferred by sections 2, 4, 11(6) and 12(1) of the Fireworks Act 2003(a) and by sections 11(3) and 27(2) of the Consumer Protection Act 1987(b) (as applied respectively by sections 11(6) and 12(1) of the Fireworks Act 2003)(c), and having consulted the Health and Safety Commission those organisations which appear to them to be representative of interests substantially affected by these Regulations and such other persons whom they consider it appropriate to consult, and whereas a full regulatory impact assessment has been issued before making these regulations in accordance with section 2(4) of the Fireworks Act 2003, and whereas every chief constable in Scotland has, in accordance with section 27(2)(a) of the Consumer Protection Act 1987, agreed to the transfer of such enforcement duties as are specified in these Regulations, hereby make the following Regulations:

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Fireworks (Scotland) Regulations 2004 and shall come into force on 7th October 2004.

(2) These Regulations shall extend to Scotland only.

**Interpretation**

2. In these Regulations—

“adult firework” means

- (a) any firework which does not comply with the relevant requirements of Part 2 of BS 7114 when tested in accordance with the appropriate test method (if any) in Part 3 of BS 7114; or
- (b) any firework (except for a cap, cracker snap, novelty match, party popper, serpent, sparkler or throwdown) which does comply with those requirements;

“amorçe” means a firework which is a percussion cap designed for use in toys, which comprises a paper envelope containing a dot of impact-sensitive pyrotechnic composition and which forms part of a roll;

“BS 7114” means the British Standard Specification comprising the following parts—

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(a) 2003 c.22.

(b) 1987 c.43.

(c) By virtue of article 4 and the schedule to The Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2004 (S.I. 2004/2030), the Scottish Ministers exercise the functions concurrently with the Secretary of State for Trade and Industry, being functions conferred by sections 2, 4, 11(6) and 12(1) of the Fireworks Act 2003, and sections 11(3), 18 and 27(2) of the Consumer Protection Act 1987.

- (a) BS 7114: Part 1: 1988, the British Standard Specification for classification of fireworks published on 30th November 1988(a);
- (b) BS 7114: Part 2: 1988, the British Standard Specification for fireworks published on 30th November 1988(b); and
- (c) BS 7114: Part 3: 1988, the British Standard Specification for methods of test for fireworks published on 30th November 1988(c);

and references to Parts 1, 2 or 3 of BS 7114 shall be construed accordingly;

“cap” means a firework (including an amorce) designed for use in toys which comprises a non-metallic envelope or cup containing a dot of impact-sensitive pyrotechnic composition, and which produces a report when it is hit;

“category 3 firework” means a firework classified as category 3 under Part 1 of BS 7114;

“category 4 firework” means a firework classified as category 4 under Part 1 of BS 7114;

“cracker snap” means a firework—

- (a) which comprises two overlapping strips of card or paper with a friction-sensitive explosive composition in sliding contact with an abrasive surface; and
- (b) which produces a report when pulled apart;

“local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994(d);

“novelty match” means a firework comprising a match with a dot of pyrotechnic composition which is designed to be held in the hand while functioning and whose functioning involves a report or the production of visual effects, or both;

“party popper” means a firework comprising a device—

- (a) which is designed to be held in the hand while functioning;
- (b) which is operated by a pull-string with an abrasive surface in sliding contact with a friction-sensitive pyrotechnic composition; and
- (c) whose functioning involves a report with the ejection of streamers or confetti, or both;

“pyrotechnic composition” means a substance or a mixture of a substance designed to produce an effect by heat, light, sound, gas or smoke or a combination of these as the result of non-detonative self-sustaining exothermic chemical reactions;

“serpent” means a firework, comprising a pre-formed shape of pyrotechnic composition, with or without support, whose functioning involves the generation of expanded residue;

“sparkler” means a firework, other than a category 3 or category 4 firework, comprising a rigid wire partially coated with slow-burning pyrotechnic composition, whose functioning involves the emission of sparks without a report;

“the enforcement duty” means the duty imposed by section 27(1) of the Consumer Protection Act 1987(e), insofar as that duty is, by virtue of section 12(1) of the Fireworks Act 2003(f) exercisable in relation to the enforcement of the prohibition imposed by regulation 3 of these Regulations; and

“throwdown” means a firework comprising impact-sensitive explosive composition and grains of inert material wrapped in paper or foil and which functions to produce a report when thrown onto the ground.

### **Prohibition of use of certain fireworks at night**

3.—(1) Subject to paragraph (2) below, no person shall use an adult firework during night hours.

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(a) ISBN 0 580 17026 8.  
 (b) ISBN 0 580 17027 6.  
 (c) ISBN 0 580 17028 4.  
 (d) 1994 c. 39.  
 (e) 1987 c.43.  
 (f) 2003 c.22.

- (2) Paragraph (1) above shall not prohibit the use of a firework—
- (a) during a permitted fireworks night;
  - (b) by any person who is employed by a local authority and who uses the firework in question—
    - (i) for the purposes of putting on a firework display by that local authority; or
    - (ii) at a national public celebration or a national commemorative event; or
  - (c) in accordance with a dispensation granted under regulation 4 below.
- (3) In this regulation, “night hours” means the period beginning at 23.00 and ending at 07.00 the following day and a “permitted fireworks night” means a period—
- (a) beginning at 23.00 on the first day of the Chinese New Year and ending at 01.00 the following day;
  - (b) beginning at 23.00 on 5th November and ending at 24.00 on 5th November;
  - (c) beginning at 23.00 on the day of Diwali and ending at 01.00 the following day; or
  - (d) beginning at 23.00 on 31st December and ending at 01.00 the following day.

### **Dispensation from the prohibition imposed by regulation 3**

**4.—**(1) Subject to paragraphs (3) to (9), a local authority may grant a dispensation from the prohibition imposed by regulation 3(1) to any of the persons mentioned in paragraph (2) to enable that person to use fireworks—

- (a) for the purposes of putting on a firework display for their employer or in the course of their business (as the case may be); or
- (b) at a national public celebration or a national commemorative event.

(2) The persons mentioned for the purposes of paragraph (1) are—

- (a) any person who is employed by, or in business as, a professional organiser or operator of firework displays;
- (b) any person who is employed by a department of the Government of the United Kingdom or by the Scottish Executive or an agency of the Scottish Executive; or
- (c) any person who is employed by an establishment of the naval, military or air forces of the Crown.

(3) A local authority may not grant a dispensation under this regulation, unless it is satisfied either—

- (a) that there is no risk that use of fireworks in accordance with the dispensation will have any of the consequences mentioned in section 2(2) of the Fireworks Act 2003<sup>(a)</sup>; or
- (b) that the risk that use of fireworks in accordance with the dispensation will have any such consequences is the minimum that is compatible with their being used.

(4) When a local authority grants a dispensation under this regulation, it shall at the same time as it informs the applicant, inform the chief constable or chief constables of the police force maintained in relation to the police area or areas where the fireworks are to be used in accordance with the dispensation, of the information provided with the application as detailed in subsection (7).

(5) An application for a dispensation under this regulation shall be made to the local authority in whose area the applicant proposes to put on a fireworks display, or to use fireworks at a national public celebration or national commemorative event.

(6) An application for a dispensation under this regulation shall be received by the local authority not later than 6 weeks prior to the proposed fireworks display, national public celebration or national commemorative event.

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(a) 2003 c.22.

(7) An application for a dispensation under this regulation shall be made in writing and shall include—

- (a) the name and address of the applicant;
- (b) a description of the proposed fireworks display, national public celebration or national commemorative event;
- (c) details of the fireworks proposed to be used at the event;
- (d) the proposed location of the event; and
- (e) the proposed date or dates and hours during which fireworks shall be used at the event.

(8) Following the grant of a dispensation under this regulation, the applicant for such dispensation shall be prohibited from using fireworks in terms of the dispensation, unless in accordance with paragraph (9), they shall cause a public notice to be given of the proposed use of fireworks in accordance with the dispensation, no later than 7 days prior to the commencement of the event.

(9) Public notice of a proposed use of fireworks shall be given for the purposes of paragraph (8) by publication of a notice in a newspaper or newspapers circulating in the area of the local authority, and stating the particulars required under paragraph (7)(a), (b), (d) and (e) above to be specified in the application.

### **Transfer of enforcement duty**

**5.**—(1) The enforcement duty in Scotland is hereby transferred to the chief constable of each police force and shall be the duty of every chief constable in relation to the police area for which the force in question is maintained(a).

(2) Every weights and measures authority having the enforcement duty in relation to any area in Scotland is hereby relieved of the enforcement duty.

### **Proceedings**

**6.** Summary proceedings for an offence under section 11 of the Fireworks Act 2003 arising from a contravention of a prohibition imposed by these Regulations may be commenced at any time within twelve months from the time when the offence was committed.

*ANDREW P KERR*

A member of the Scottish Executive

St Andrew's House,  
Edinburgh  
13th September 2004

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(a) The expressions "chief constable", "police force" and "police area" are defined, in relation to Scotland, in Schedule 1 of the Interpretation Act 1978 (c.30) and section 50 of the Police (Scotland) Act 1967 (c.77).

## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations make certain provisions in relation to fireworks, in order to minimise the risk that fireworks will be used with harmful consequences for people, animals or property.

Regulation 3 prohibits persons from using adult fireworks during night hours (namely between 23.00 and 07.00) but exceptions allow such use until 01.00 on the nights of Chinese New Year, Diwali and New Year's Eve, and until 24.00 on 5th November. There is an exception in the case of local authority employees for the purpose of local authority fireworks displays, national public celebrations or national commemorative events.

Regulation 4 provides, subject to certain conditions, for a local authority to grant dispensations from the prohibition. The regulation also specifies the procedure for applications for dispensations.

By virtue of section 11 of the Fireworks Act 2003, a contravention of regulation 3 is a criminal offence. Section 12 of the Fireworks Act 2003 and section 27(1) of the Consumer Protection Act 1987 provide that it is the duty of local weights and measures authorities to enforce regulations under the Fireworks Act. Regulation 5 provides that this duty in Scotland is transferred, in relation to these Regulations, to the chief constable of each police force.

Regulation 6 provides for the time limit for summary proceedings arising from a contravention of a prohibition imposed by these Regulations.

Copies of the British Standard 7114, and the British Standards referred to therein, are available from any of the sales outlets operated by the British Standards Institution, by post from BSI at 389 Chiswick High Road, London W4 4AL, or from any of the bookshops operated by the Stationery Office Limited.

A Regulatory Impact Assessment covering both these regulations and The Fireworks Regulations 2004 is available from Enterprise and Industry Division, Scottish Executive Enterprise, Transport and Lifelong Learning Department, Meridian Court, 5 Cadogan Street, Glasgow G2 6AT. Tel 0141 242 5547. Copies have been placed in the Scottish Parliament Information Centre.





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