

**EXPLANATORY MEMORANDUM TO THE
THE FIREWORKS (AMENDMENT) REGULATIONS 2004**

2004 No. 3262

1. This explanatory memorandum has been prepared by the Department of Trade and Industry and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 The Fireworks (Amendment) Regulations 2004 will amend the existing Fireworks Regulations 2004¹ (“the principal Regulations”) and are made under sections 2, 4, 7 and 8 of the Fireworks Act 2003 and under section 27 of the Consumer Protection Act 1987. The amendments to the principal Regulations, and the reasons for such amendments, are as follows.

Regulation 2 amends regulation 7(3)(b)

2.2 Regulation 2 amends regulation 7(3)(b) of the principal Regulations to make clear that, notwithstanding the prohibition on the use of fireworks after 11 pm, fireworks may be used until midnight on the night of 5th November. This amendment responds to a point raised by the Joint Committee on Statutory Instruments in its thirtieth report of the 2003/04 session and similar concerns expressed by enforcers.

Regulation 3 amends regulation 9

2.3 Regulation 3 amends regulation 9 of the principal Regulations to provide that (subject to the exceptions in that regulation) the supply of fireworks is prohibited unless:

- (a) persons at premises are licensed to supply or expose fireworks for supply from each separate outlet; or
- (b) persons without premises who supply or expose for supply are licensed in accordance with this regulation (this particular amendment may relate to Internet and mail order suppliers)

Regulation 3 – additions to the principal Regulations

2.4 Regulation 3 adds further exceptions to this prohibition in cases where fireworks are supplied to other fireworks suppliers, professional organisers or operators of fireworks displays or persons engaged in transporting fireworks.

Regulation 3(6) amends regulation 9(7)

¹ SI 2004 No.1836. See: <http://www.legislation.hmso.gov.uk/si/si2004/20041836.htm>

2.5 The annual fee for a licence issued under regulation 9 of the principal Regulations is fixed at £500. Responses to the consultations both on these Regulations and the principal Regulations raised concerns that the licence fee would vary according to the local authority in a way which would be unfair as between businesses in different areas.

Regulation 4 amends regulation 10

2.6 Regulation 4(1) amends the principal regulations by modifying the dimensions of the notice required to be displayed in premises where adult fireworks are supplied. It reflects the standard A3 size (420 x 297mm) which makes it easier for suppliers to comply with this regulation. The wording is also modified under regulation 4 to include a reference to sparklers which, although not “adult fireworks” cannot, by virtue of the Fireworks (Safety) Regulations 1997² be supplied to those under eighteen .

2.7 Regulation 4 also inserts a requirement that suppliers of adult fireworks keep records of the information which they can be requested to supply to a local licensing authority for three years after the date of the supply. This amendment responds to a point raised by the Joint Committee on Statutory Instruments in its thirtieth report of the 2003/04 session. .

Regulation 5 amends regulation 12

2.8 Regulation 5 amends regulation 12 of the principal Regulations in relation to the licensing enforcement duty. An amendment to this was considered for the reason that the principal Regulations transferred the enforcement duty to the Fire Service in the London area. This is not what was intended, as the Regulations should mirror the current arrangements for storage license and registrations under the Explosives Act 1875, where in London the local weights and measures authority has that enforcement responsibility.

A Regulatory Impact Assessment is available, copies of which have been placed in the libraries of both House of Parliament. Copies are available from the Consumer and Competition Policy Directorate of the Department of Trade and Industry, Bay 573, 1 Victoria Street, London SW1H 0ET.

3. Matters of special interest to the Joint Committee on Statutory Instruments

Two of the amendments proposed, in regulations 2 and 4, are made in response to points raised by the Joint Committee on Statutory Instruments (JCSI).³

4. Legislative Background

As with the Fireworks Regulations 2004, the principal purpose of this Statutory Instrument is to ensure that the 2004 Fireworks Regulations are both technically correct and reflect the original intension of those Regulations – as expressed in the consultation document and regulatory impact assessment for those Regulations. The

² S.I. 1997/2294

³ JCSI Report on the Fireworks Regulations 2004 viewed at:
<http://www.publications.parliament.uk/pa/jt200304/jtselect/jtstatin/181/181.pdf>

measures introduced under the principal Regulations were made to reduce the risk that fireworks, through their supply, possession, importation and use, are misused in anti-social, criminal or dangerous ways.

5. Extent

This instrument applies to England and Wales. It also applies to Scotland, with the exception of regulation 2, where the prohibition on the use of fireworks late at night is a reserved matter for the Scottish Parliament.⁴

6. European Convention on Human Rights

Gerry Sutcliffe, the minister for Employment Relations, Postal Services and Consumers has made the following statement regarding Human Rights:

In my view the provisions of the Firework (Amendment) Regulations 2004 are compatible with the Convention rights.

7. Policy Background

7.1 In the 2nd Parliamentary session of 2003, the Government supported Bill Tynan's Private Member's Bill whose principal purpose was to allow the Secretary of State make regulations to control the supply, possession and use of fireworks. In particular, regulations to be made under this proposed legislation it was hoped would achieve a reduction to the risks associated with fireworks with respect to anti-social behaviour, safety and criminal damage. This is in line with the Government's broader commitment to reduce anti-social behaviour in all of its manifestations in order to improve the quality of life for the community at large.

7.2 The Bill was successful and received Royal Assent in late 2003. Since then the Government has introduced a number of controls on fireworks using the powers under the Fireworks Act 2003. The latest Regulations – the Fireworks Regulations 2004 – were made on 14 July 2004 and most of the measures came into force on 7 August 2004.

7.3 While the Regulations have been positively received and apparently effective thus far, some technical inaccuracies have none the less come to the Government's attention which we consider need to be addressed at the earliest opportunity for the Regulations to be effective and clear.

7.4 Most of the amendments to the principal Regulations relate to regulation 9 – whose coming into force date is on 1 January 2005. Prior to it coming into force, the Government would like to ensure that this regulation functions the way that was intended and that enforcers are clear about their role in administering and enforcing this particular measure. The other amendments are also minor in nature and, again, are intended to make the Regulations clearer to both enforcers and the industry.

⁴ <http://www.scotland-legislation.hms.gov.uk/legislation/scotland/ssi2004/20040393.htm>

8. Impact

8.1 We do not consider there to be any regulatory impact as a result of these regulations, save for:

- making the licensing scheme fairer and how the principal regulations were intended;
- making it easier for enforcers to understand the Regulations; and
- clarifying to suppliers what is required of them apropos of licensing and information requirements (regulation 9 and 10 of the principal Regulations, respectively).

8.2 All of the regulatory impacts are identified and explored in the RIA for the principal Regulations. See accompanying RIA.

9. Contact

John de Sousa at the Department for Trade and Industry on tel: 020 7215 0363 or e-mail: John.De.Sousa@dti.gsi.gov.uk can answer queries regarding the instrument.

Final Regulatory Impact Assessment

Fireworks (Amendment) Regulations 2004

1. Proposal

1.1 To make minor supplementary amendments to the Fireworks Regulations 2004 in the following areas:

- Regulation 7 – Prohibition of use of certain fireworks at night;
- Regulation 9 – Licensing of suppliers;
- Regulation 10 – Information about adult fireworks; and
- Regulation 12 – Transfer of enforcement duties.

2. Purpose and Intended effect of Measure

2.1 The Fireworks Regulations 2004⁵ (the “2004 Regulations”), which were made under the Fireworks Act 2003, introduced a number of measures to tackle the anti-social and dangerous use of fireworks through the regulation of supply, possession, importation and use.

2.2 Since the Regulations were made, it has come to the attention of the Department that certain parts of the Regulations are in need of minor technical amendment. The amendments proposed are designed to achieve what was originally intended in the 2004 Regulations - and, it should be noted, what was consulted on during both formal and informal consultations with the industry, enforcement authorities, the public and other interested parties.

2.3 As such, the proposals should not be considered as departing from anything already included in the 2004 Regulations – but rather as a drafting exercise enabling the 2004 Regulations to both effective and easily understood by enforcers and industry alike.

⁵ SI 2004 No.1836. See: <http://www.legislation.hmso.gov.uk/si/si2004/20041836.htm>

3. Options

Option 1- Do nothing

3.1 The Joint Committee on Statutory Instruments for the Houses of Parliament (JCSI) report that certain parts of the Regulations could have been clearer and, with respect to regulation 10(3) in particular, that this should be amended in such a way as to make explicit its presuppositions.⁶

3.2 The wording of regulation 9 the Department also proposed to change. The original intention of the licensing requirement was that all suppliers that supply all year round - save for the exempted periods - must obtain a licence to supply from their local licensing authority. As regulation 9 stands, if a chain store with multiple outlets obtained a licence from a licensing authority, then that one licence would cover all of their shops in that authority area. The practical effect would be that smaller businesses with only one outlet are quite significantly disadvantaged in relation to the larger multiple suppliers with a number of shops within the local authority area. The licence should apply to every separate outlet as if that outlet were a separate shop – irrespective ownership.

3.3 On the converse, but for the same reason identified above with respect to unfair advantages to smaller singular outlets, the current wording of regulation 9 would also mean that suppliers with multiple outlets are in a different way disadvantaged. This would be the case if a licence to supply were refused to or revoked from a chain store at one of their outlets. That refusal or revocation of the licence would therefore apply to all of their shops in the wider area, irrespective of individual circumstances.

3.4 Another minor but important change is again to regulation 9. It was our intention, as expressed in the consultation, that the licence to supply would only apply to those outlets that supplied to members of the public. This would have included not only retailers but also many wholesale and factory outlets. As it stands, the regulation also covers those that supply only to the trade – either strictly to wholesale or retail outlets or to professional fireworks display companies. This regulation should therefore be amended to include a specific exemption to limit the scope of the regulation. In particular, the exemption will be for those that supply fireworks solely to either the trade or associated businesses.

3.5 Another minor change that must be made is the transfer of the enforcement duty under regulation 12. We had hoped to give the duty to those authorities currently responsible for storage registration and licensing under the Explosives Act 1875. As a rule of thumb, the arrangements are that in metropolitan areas it is the responsibility of the Fire Service and in other areas that of Trading Standards Departments. The Department has since learned,

⁶ JCSI Report on the Fireworks Regulations 2004 viewed at:
<http://www.publications.parliament.uk/pa/it200304/jtselect/jtstatin/181/181.pdf>

however, that for the Greater London area - where there is a Fire and Civil Defence Authority - that Trading Standards issue the storage registrations and licenses nonetheless. Therefore, the duty to both administer and enforce the licensing regime should be retained by Trading Standards Departments in Greater London. If this is not rectified, then this is likely to cause a burden on the Fire and Rescue Service and lead to the regulation being ineffectively enforced given the established separate duties of Trading Standards and the Fire and Rescue Service in this area.

3.6 The other changes to the 2004 Regulations are slight corrections in terms and references. See Annex A for full list of changes.

Option 2 – non-regulatory alternatives

3.7 The Government has considered the option of other alternatives to the proposed regulatory amendments – such as dealing with certain issues in guidance. While this might be the best option with regard to some of the proposed changes i.e. where the insertion of a word is proposed for the purposes of consistency and clarity, it would not be possible with the amendments proposed in relation, in particular, to regulation 9 – the licensing of suppliers. As the above paragraphs explain, the regulation would not work the way it was intended and local authorities will need to be granted the powers to work it in the desired way by statute – with a legal underpinning.

3.8 Additionally, the JCSI report that certain parts of the Regulations – particularly that part relating to regulation 10 (information requirements) are defective and should be revisited by the Department with a view to rectifying the problems identified. In part this is what these proposed amendments aim to address.

OPTION 3 – MAKING THE PROPOSED AMENDMENTS

3.9 As is clear to see from the above, making the proposed amendments would guarantee that the principal Regulations are fair, in line with the originally proposed Regulations that were widely consulted on, and ensure that the Regulations are clear and enforceable.

4. Benefits

Option 1

4.1 Doing nothing provides no benefits.

Option 2

4.2 While some aspects could be dealt with by guidance and agreement among enforcers, this is not possible with other aspects. There is therefore no benefit with this option. On the contrary, where amendments are necessary this also provides opportunity to tidy-up parts of the regulations that are not clear (those that could be explained in guidance).

Option 3

4.3 The benefits of this option are clear insofar as these amendments are necessary for the Regulations to be both fair and enforceable. The real benefits, however, may only be viewed in the context of the principal Regulations themselves – which these amendments correct.

4.4 For a detailed view of the benefits of the Fireworks Regulations 2004, see Annex A, in which the RIA for these Regulations is reproduced.

5. Risk Assessment

5.1 The table below sets out the potential risks were none of the proposed amendments to the 2004 Regulations made.

Risks Identified	Implications
Unfair advantage to large business	This could mean that a small outlet with one property would have to purchase a licence to supply all year round at the same cost as those larger chain outlets whose licence would cover all of their outlets.
Disadvantages to chain stores	Whereas the above risk relates to an unfair advantage over small singular outlets of fireworks, there is also an disadvantage that the 2004 Regulations as currently drafted would entail. Were a shop with multiple premises in a local licensing area to be refused a licence or have their licence revoked this would mean that all of their shops in that area would also not be able to supply – irrespective of individual circumstances of each.
Ineffective enforcement of the 2004 Regulations in the London boroughs	Trading Standards Departments in London are currently responsible for issuing registrations and licences under the Explosives Act 1875. The 2004 Regulations transfer this duty to the Fire and Rescue Authority in this area.

	In order for the Regulation to be able to work – and with effectiveness owing to Trading Standards expertise - this amendment must be made.
Confusion among enforcers	Certain parts of the 2004 Regulations i.e. sentences and words, could cause confusion and a lead to different enforcement approaches throughout the country based on misinterpretation.
JCSI Report	The Department is obliged to review Regulations in the light of JCSI recommendations.

6. Costs

Option 1

6.1 Option one has a significant qualitative (which also implies a quantitative cost) cost insofar as the 2004 Regulations will not be as effective as they were intended in tackling the problems associated with fireworks – such as noise nuisance and anti-social behaviour.

Option 2

6.2 See Option 1.

Option 3

6.3 These Regulations entail no costs. The costs to business have already been dealt with in the in the RIA to the Fireworks Regulations 2004, of which this RIA is supplementary. See Annex B.

7. Small Businesses: *The impact Test*

7.1 These proposed amendments would ensure that small and often independent retailers are not disadvantaged as compared to the larger chain stores that may also supply fireworks. For full details on the impact on small businesses, see RIA in Annex B.

8. Issues of Equity and Fairness

8.1 These Regulations entail no issues of equity and fairness. See Annex B.

9. Enforcement and Sanctions

9.1 These proposals will have the effect of transferring the enforcement duty back from the Fire and Rescue Service to Trading Standards in the Greater London area. The Local Authorities Co-ordinators of Regulatory Services (Lacors) have stated that London Trading Standards are in agreement with this proposal - given that they enforce both the Fireworks (Safety) Regulations 1997 and also storage registration and licensing for fireworks under the Explosives Act 1875.

9.2 For details of the entire Fireworks Regulations 2004, see RIA in Annex B.

10. Monitoring and Review

10.1 N/A - See RIA in Annex B

11. Consultation

11.1 The Department conducted both preliminary and formal consultations throughout the year for the Fireworks Regulations 2004. This is what informed the draft proposals that were floated for comment - and the subsequent changes made.⁷

11.2 For these proposals we have consulted informally with enforcers and the industry and launched a formal consultation exercise which ran from 12 November to 3 December 2004.

⁷ See the 2004 consultation document and response at: <http://www.dti.gov.uk/ccp/topics1/fireworks.htm>

<i>Small Business Service</i>	<i>Department of Constitutional Affairs (DCA)</i>
<i>Association of Chief Police Officers (ACPO)</i>	<i>British Fireworks Association (BFA)</i>
<i>Fire and Rescue Service</i>	<i>British Pyrotechnics Association</i>
<i>CAFOA</i>	<i>LACORS</i>
<i>Home Office</i>	<i>Trading Standards Institute</i>
<i>Association of Chief Police Officers n Scotland (ACPOS)</i>	<i>Welsh Assembly</i>
<i>National Association of Shopkeepers</i>	<i>Chartered Institute of Environmental Health</i>
<i>Defra</i>	<i>British Retail Consortium</i>
<i>CBI – Explosives Industry Group (CBI EIG)</i>	<i>Local Government Association</i>
<i>Association of Convenience Stores</i>	<i>Customs and Excise</i>
<i>Animal Welfare Coalition – incl. Blue Cross and RSPCA</i>	<i>London Chinatown Association</i>
	<i>Health and Safety Executive/Commission</i>

12. Summary and Recommendation

Option	Benefits	Cost
Option 1: Do nothing	Likely to be significant harm caused to effectiveness of the Regulations i.e. in terms of noise reduction and reducing anti-social behaviour.	The costs are likely to be qualitative insofar as the 2004 Regulations will not have the desired effect and therefore reduce potential improvements to the quality of life for communities.
Option 2: Non-regulatory alternatives	While one or two of the proposals may be dealt with in this way – others cannot as a legal underpinning is required.	Again, as above the costs are likely to be qualitative insofar as the 2004 Regulations will not have the desired effect and thus reduce

		<p>potential improvements to the quality of life for communities.</p> <p>Additionally, enforcement agencies might run the risk of court action against them were they to deviate from that which is stated in the Regulations.</p>
Option 3: Make the proposed amendments	<p>This will:</p> <ul style="list-style-type: none"> (a) ensure that the licensing regime is fairer; (b) reduce noise and promote safety; (c) provide more clarity; and (d) enable the full implementation of the 2004 Regulations as originally proposed. 	<p>No Costs besides those identified in the 2004 Regulations RIA. See Annex B.</p>

12.1 We recommend the adoption of option 3.

13. Conclusions and Recommendations

The Fireworks Act 2003 sets out the purpose of the enabling provisions under section 2, that is to reduce the possibility that fireworks use can cause death, injury or distress, either to persons or animals, or cause the destruction of, or damage to, property. The Fireworks Regulations 2004 were designed to achieve this. These proposed amendments, although minor in nature, will enable the 2004 Regulations to achieve these aims by ensuring clarity for both enforcers and the industry. Crucially, it will also ensure that the regulation which introduces a licensing system functions as it was intended – with the right authorities responsible for enforcement and a regionally consistent fee that will ensure optimum enforcement.

Signed by the Minister responsible *Gerry Sutcliffe*

(Parliamentary Under-Secretary of State for Employment Relations,
Consumers and Postal Services)

Date 8th December 2004

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Annex A

The proposed changes to the Fireworks Regulations 2004 are as follows:

Regulation 7 - Prohibition of use of certain fireworks at night

On recommendation from the JCSI, the Department propose to change the wording in relation to permitted fireworks nights. In particular, with respect to 5 November, where the regulation states that this permitted fireworks night ends at "12 am the following day", this shall be amended to read "midnight".

Regulation 9 - Licensing of fireworks suppliers

This is proposed to be amended to:

- require each supplier at each separate outlet where fireworks are supplied or exposed for supply to obtain a licence to do so;
- fix the licence fee to the sum of £500;

- include exemptions to the licensing requirement for those who do not sell fireworks to the general public i.e. those that supply solely to businesses such as wholesalers, retailers and firework display companies;
- change the reference to the “Fire and Civil Defence Authority” to the “Fire and Rescue Authority”; and
- transfer the enforcement duty from the Fire and Rescue Authority in Greater London back to the Local Weights and Measures Authority (Trading Standards) (this will be an amendment to **regulation 12(7)**);

Regulation 10 – Information about adult fireworks

Three amendments are proposed here:

- change the size of the paper of the notice to consumers so that it is a standard size (A3) and therefore easier for suppliers to comply with the Regulations;
- amend the message content to accurately reflect the law with regard to the under age sale of fireworks i.e. where it currently states that it is illegal to sell adult fireworks to anyone under the age of 18, it should also state that it is illegal to sell sparklers to those under the age of 18;
- where licensing authorities are required to give information in relation to fireworks transactions over 50kg net explosive content – this should be amended to also require suppliers to keep records of such transactions; and
- the term “adult” should also be inserted before “fireworks” in the first line of Regulation 10(3).

Annex B

Final Regulatory Impact Assessment (Fireworks Regulations 2004)

1. Issue

1.1 The Fireworks Act 2003 (the “2003 Act”) received Royal Assent on 18 September 2003. This Act is enabling legislation – conferring power on the Secretary of State to make provision about fireworks and other explosives. The passing of the 2003 Act was in recognition that current legislation is inadequate to deal with the increasing inconsiderate and anti-social use of fireworks.

1.2 There are a number of existing Acts of Parliament and Regulations made which cover fireworks - disparate pieces of legislation regulating the supply, sale and use of such products. This legislation is as follows:

- **The Fireworks Regulations 2003** (made under the **Fireworks Act 2003**) prohibit the possession of most fireworks by those under the age of 18 in

public places as well as of category 4 fireworks (professional display fireworks) by any person other than a fireworks professional.⁸

- The **Fireworks (Safety) Regulations 1997⁹ (as amended)** prohibit the supply to the general public of particular types of fireworks – such as bangers and air bombs - on the grounds of consumer safety (focussed principally on the safety of consumer products), as well as further increasing the minimum age of persons to whom fireworks could be supplied - from 16 to 18 years of age. The Regulations require that all fireworks intended for supply to the general public meet the **British Standard (BS 7114)**.¹⁰
- The **General Product Safety Regulations 1994** impose a general prohibition on supplying unsafe goods, and supplement the 1997 Regulations by serving as a residual protective measure in respect of any aspect of safety that is not covered by the 1997 Regulations.
- The **Explosives Act 1875** (as modified by the **Control of Explosives Regulations 1991** and as amended by the **Explosives (Age of Purchase) Act 1976** and, in part, superseded by the **Consumer Protection Act 1987**) permits an unlimited quantity of fireworks to be kept, without licensing or registering the place of storage provided the fireworks are intended for private use. However, if storing fireworks for supply in the course of a business (retail or wholesale), the fireworks have to be kept on premises either registered (anything up to 1000 kg) with or licensed (between 1000 and 7200 kg) by the Local Authority or licensed by HSE (for quantities exceeding 7200kg). Additionally, in relation to use (as opposed to storage) of fireworks it is an offence under the 1875 Act to throw or discharge a firework in a street or a public place, or to tamper with or alter fireworks without a licence. The former offence is punishable by a maximum fine of £5,000, the latter with a fine, imprisonment or both.
- The **Health and Safety Act 1974** - provides for the making of health and safety regulations for the general purposes of securing the safety of persons at work. In the context of fireworks, this would generally apply to firework display operators and those events where pyrotechnic or firework displays take place in the course of business.

2. Objectives

2.1 The objective of the Regulations is to reduce the risk that the use of fireworks will cause death, injury or distress – either to persons or animals, or cause the destruction of, or damage to, property. This objective, which is set out in section 2 of the 2003

⁸ These regulations were made under the emergency procedure – which means that they can last no longer than 12 months. The proposed Firework Regulations 2004 will repeal these Regulations and incorporate them.

⁹ Made under section 11 of the **Consumer Protection Act 1987** - which confers power on the Secretary of State to make regulations for securing, inter alia, that goods to which that section applies are safe and that appropriate information is provided.

¹⁰ Although this is due to be replaced by the new harmonised European Standard: BS EN 14035.

Act, will be met by a combination of supply side measures and those designed to control the use of fireworks. The 2003 Act enables the Government to address the lack of relevant provisions in existing legislation to tackle the anti-social behaviour phenomenon.

2.2 The proposed Regulations are as follows:

- **Prohibition of supply etc. to young persons:** to simply repeal the 2003 emergency Regulations and incorporate them into the Fireworks Regulations 2004. See separate regulatory impact assessment for the 2003 Regulations: <http://www.dti.gov.uk/ccp/topics1/pdf1/fireworkria2.pdf>
- **Prohibition of supply etc. in certain circumstances:** the creation of a curfew on the use of fireworks – which will prohibit the use of fireworks between the hours of 11 pm and 7 am, with the exception of November 5th, New Years Eve, Chinese New Year and Diwali.
- **Prohibition of supply etc. of certain fireworks:** to set a maximum noise level of 120 decibels (AI) for category 3 fireworks, which are usually the largest and most powerful fireworks available to consumers. 120 decibels is the level taken from the harmonised European Standard (BS EN 14035) which is being developed by the European Standardisation body (CEN). Category 3 fireworks exceeding this level will be prohibited from sale to members of the public. It would also be an offence to possess them.¹¹
- **Licensing of suppliers:** the creation of a licensing system whereby shops, that is, those outlets supplying to the general public – both retail and wholesale outlets – will be required to apply for a licence to supply all year round. Those supplying to the public during the following defined periods only will not be required to obtain a licence to supply:
 - (a) November 5 (3 weeks before and 5 days after)
 - (b) New Year (December 26th to 31st)
 - (c) Chinese New Year (4 Days before, including the Day of Chinese New Year).
 - (d) Diwali (4 Days before, including Diwali)
- **Information about fireworks (a):** requiring those supplying to the public to display a notice informing consumers of the law with respect to the sale to and possession of fireworks by those under the age of 18. The notice should read:

“It is illegal to sell adult fireworks to anyone under the age of eighteen.

It is illegal for anyone under the age of eighteen to possess adult fireworks in a public place”

¹¹ It is worth noting that the standard does not apply to rockets. In the absence of a specified level for category three rockets and an agreed measurement for the sound emitted from this particular firework, the Government consulted with the industry and experts on this issue. In light of these discussions, we consider that the sound level and method of testing in the standard should also be applicable to rockets.

- **Information about fireworks (b):** conferring power on licensing authorities to request information from suppliers pertaining to the supply – whether retail or wholesale – of fireworks transactions exceeding 50 kg net explosive content (NEC). This will enable a more comprehensive ability to track firework movements so as to reduce the possibility that they are sold from unlicensed premises – both in terms of storage and supply licences.
- **Information about importation:** where importers, at the point of entry, will be required to provide information so as to reduce the possibility that fireworks are destined for illegal storage and/or distribution. Importers of fireworks will be required to furnish Comioners of Customs and Excise with the following information (which will then be forwarded on the relevant licensing authority):
 - (i) the name and address of the importing company or companies; and
 - (ii) the address of the storage facility or facilities where the fireworks are destined

2.3 The Regulations apply to England, Wales and Scotland but not to Northern Ireland. However, Scottish Ministers are expected to be conferred with concurrent functions (with the Secretary of State) under sections 4 and 6 – “Prohibition of supply etc, in certain circumstances” and “Public fireworks displays”, so far as the functions are exercisable in or as regards Scotland. The Scottish Executive’s proposals under section 4 are included in the joint consultation document, of which this document forms a part.

2.4 Regulatory issues arising from the Scottish Regulations have been considered in conjunction with the English and Welsh proposals – and are therefore included in this regulatory impact assessment. As this RIA reveals, the Scottish proposals will have no impact on business, charities or the voluntary sector.

3. RISK ASSESSMENT

3.1 Despite the current Regulations that are in force, the table below sets out the risks that fireworks pose were the status quo to be maintained:

Risks Identified	Implications
Firework related Injuries	Firework related injuries historically fluctuate around the 1000 per year mark. The figures for 2003 indicate an 11% rise from the previous year’s figure: from 1017 in 2002 to 1136 in 2003.

<p>Anti-social Behaviour</p>	<p>Anti-social behaviour in all of its manifestations is a problem that the Government is tackling head-on by the introduction of specifically targeted Regulations. In the context of fireworks, this particular product has increasingly become a tool for troublesome elements to cause a nuisance in local communities and, in certain instances, cause deliberate damage to property. The Government needs to act to implement all of these proposed measures so that the danger, noise and nuisance of fireworks misuse are reduced.</p>
<p>Noise and Nuisance</p>	<p>Since 2001, the Department of Trade and Industry (DTI) has received quite substantial levels of complaints from the public and interest/ cause groups about firework nuisance - especially associated with the noise and misuse caused by fireworks use in the streets.</p> <p>Assuming that the current trend continues, incidents of misuse are likely to present more in the way of misery to particular individuals and groups in the community. Where acceptance was once the norm, increasing usage could lead to some members of the community feeling desperate and distressed.</p>

4. Benefits

Noise and Nuisance

4.1 The curfew would have benefits for those in areas where firework use beyond acceptable times has become the rule rather than the exception. Many of the complaints that the DTI has received in relation to noise relate not only to the use of fireworks outside of the traditional season (something which the licence to supply is designed to tackle) but also to firework use late at night and in the early hours of the morning. Indeed, responses to the formal consultation on these Regulations confirmed that many members of the public are in favour of restricting the hours that fireworks can be used.

4.2 We hope for a reduction in fireworks noise late at night as a result of the curfew – and expect that this regulation will be an important deterrent for many law-abiding citizens who use fireworks.

4.3 Although we agree that there are likely to be certain instances where those breaking the curfew could not be brought to account – and, additionally, we recognise that this regulation should not be considered a police priority - we nonetheless believe that the curfew will be enforceable in many cases if the offenders are caught in the act. In this regard, detection will be similar to that of the offence of letting off fireworks in a public place, which is an offence under the Explosives Act 1875.¹² The combination of these two factors would mean reductions in the noise and nuisance suffered by local residents; reductions in the distress caused to domestic, working (particularly guide dogs) and farm animals (where fireworks late at night can be more distressing in the absence of day time ambient noise levels); and with the possibility of fewer noise and nuisance complaints being made to local authorities as a result of fireworks use.

4.4 By imposing a maximum level of 120 decibels on category 3 fireworks, we hope to reduce the number of extremely loud bangs that have characterised bonfire nights and caused distress to older people, working animals and pets. This is a first step to applying maximum levels on most consumer fireworks, which the Government intends to do and will keep constantly under review.

4.5 Whilst we sympathise with the recent RSPCA campaign to reduce the level of permitted fireworks noise to 97 decibels¹³ we consider that the European Standard level is the best starting point at which to set the level – this is the first time consumer fireworks have been subject to a maximum noise limit. 120 db has not been randomly picked, but arrived at by fireworks and noise experts forming the relevant firework safety committee within the European Standardisation body (CEN). This level will act as our starting point - a starting point that will be kept under review.

Licensing of Suppliers

4.6 It is envisaged that the licensing regime will ensure that firework sales, for retailers and wholesalers, are restricted to the traditional times of the year. This also includes sale periods for multi-cultural events. Those outlets wishing to supply all year round will be encouraged, given the licence conditions, to be both responsible and more mindful of the impact that fireworks can have on local communities.

4.7 HSE are in the process of drawing up new Regulations – the Manufacture and Storage of Explosives Regulations, which will update the existing regulations made

¹² This offence is punishable by fixed penalty notice (FPN) in England and Wales –under section 1(1) of the **Criminal Justice and Police Act 2001**. The Home Office are working to add the possession and curfew laws to the list of offences that can be dealt with in this way. The Scottish Executive is considering the position for Scotland.

¹³ It should be noted that during the consultation some respondents were confusing the measurements for decibels. The measurement that the RSPCA has used in its campaign is “db (A)” whereas the European Standard uses “db (AI)” The RSPCA’s proposal of 95 db (A) in terms of db (AI) equates to 97db and conversely, the Government’s proposal of 120db(AI) equates to around 113 db (A). We have opted for the European measurement that appears in BS EN 14035 as it is an appropriate measurement to use for short bursts of sound. The measurement of db (A) is more suitable for measuring constant noise emitted from, for example, factories and building sites.

under the Explosives Act 1875 – particularly with regard to registration and licences to store. The two licensing schemes will be complementary insofar as a pre-condition for having a licence to supply would be the possession of a licence to store and, where the storage licence is revoked (which will be possible under the new HSE Regulations) – so too will the licence to supply. See HSE’s MSER consultation document at:

www.hse.gov.uk/consult/condocs/cd174.pdf

Information about fireworks

4.8 As with the use of notices in shops where alcohol and cigarettes are purchased, we believe that communication of the law in this way is essential for the purpose of making both retailers and consumers aware of their respective responsibilities and, additionally, highlight the serious nature of fireworks use among not only the former but also those that may be tempted to purchase fireworks on behalf of someone under the legal age of purchase.

Information about Importation

4.9 This regulation will help reduce the possibility that imported fireworks are destined for illegal storage and distribution – by requiring importers to provide information to enforcers which will allow for the tracking of fireworks consignments. It should be noted that as a response to the formal consultation – particularly as a result of industry representation - we revised the initial proposal which required, in addition to the name of the importer, the names and addresses of all fireworks facilities that the fireworks were to be stored at, up to the point of retail sale. Firework distribution down to this level is not always known – and such a requirement would thus constitute an unreasonable burden on the industry. It is for this reason that we have changed the originally proposed requirements so that fireworks can be traced up to the first point of storage upon leaving the port of entry.

4.10 However, given the desirability of tracking the movement of fireworks (to reduce the risk that from the first point of storage they are not supplied to illegal stores), section 8 of the Fireworks Act will be used to give power to licensing authorities to see records of fireworks movements exceeding 50kg net explosive content . This will not only allow enforcers to detect those illegally storing fireworks, but it is also complementary to the proposed HSE MSER regulations. Under the proposals, it would be an offence to purchase fireworks exceeding 50kg NEC if you do not have a licence to store and, conversely, an offence to supply a quantity exceeding this amount to anyone without an appropriate licence to store. HSE suggest that with the ability to see records of transactions, this regulation could enable a more effective means of enforcement.

5. Options

5.1 In formulating these Regulations under the 2003 Act, we have considered a number of options. In doing so, an important guiding principle has been the belief that

regulation should be the last resort. The following options set out some of our thinking in terms of the problems identified, the shortfalls of existing legislation and possible non-regulatory solutions to the former:

- (a) do nothing and rely on existing legislation in this area, e.g. principally the 1997 Regulations and the 1875 Act;
- (b) secure voluntary guidelines and rely on existing public awareness campaigns to ensure consumer safety and control noise and nuisance; or
- (c) accept and enact the selected provisions of the 2003 Act to tackle the anti-social use of fireworks with measures designed to tackle both the supply of fireworks and their use by consumers.

5.2 Option (a) is acceptable insofar as the following provisions of the 2003 Act are concerned:

- **Section 7 Licensing of Suppliers (Two Tier System)** – many questioned the need and the wisdom of having a two tier licensing system whereby to supply fireworks, irrespective of the times that they are supplied, a licence to supply would first need to be obtained from the relevant licensing authority – in addition to the payment of a fee. Some went further in suggesting that the anti-social behaviour problem has little to do with supply so much as being a contemporary socio-cultural problem. With regard to the former point, we believe that if it is one of our objectives to achieve a reduction in sales beyond the defined periods, then the best way to achieve this, while avoiding the creation of an excessive and unfair system (and in addition to storage licences), is to require those intending to sell outside of the periods to have a licence. Anyone caught supplying on a day outside of the prescribed periods would be committing an offence. Regarding the latter point on anti-social behaviour, while the supply of fireworks, strictly speaking, has little bearing on the intention of the user, it is nonetheless the case that the availability of a particular product – such as those products restricted under the Intoxicating Substances Supply Act 1985 (covering products such as glue) - correlates to the frequency of misuse. In the context of fireworks, we believe that restricting sales to within defined periods would therefore have an impact on the times that the product is used.
- **Section 6 Public fireworks displays** - which allows the making of Regulations requiring, among other things, operators to be trained and for firework displays to give notice of planned displays. We do not believe, at this time, that public firework display operators pose a particular danger to the general public. There is no clear evidence that the recorded injuries at public displays were as a direct result of incompetence or the unprofessional use of fireworks by operators. Furthermore, we do not wish to burden display operators with the requirement to notify for the reason that this could increase the already high level of private displays – thereby potentially increasing the frequency of firework noise around the fireworks period. We therefore consider that the existing legislation in this area, which is the Health and Safety Act 1974 (or Regulations made under that Act), is

sufficient for the purposes of ensuring that displays are operated responsibly. No further regulation is required at this time, although the DTI and Scottish Executive will continue to monitor during the 2004 firework season.

- **Section 10 Training courses** – related to the above, there is no clear evidence of major incidence of death or serious injury caused by the use of fireworks by display operators and therefore little justification to regulate so as to require professional display operators to undergo mandatory training. Event organisers and display operators have duties under the Health and Safety at Work Act to ensure, so far as reasonably practicable, the safety of members of the public, as well as theirs and others' employees. These duties would, for example, require operators to carry out a full site assessment; ensure that the equipment they use is suitable for the purpose; and ensure that they and their staff are competent and properly trained.¹⁴ Furthermore, the Health and Safety Executive (HSE) believe that the fireworks display industry has a generally very good safety record. Again, this will be reviewed after the 2004 fireworks season.

5.3 However, in the light of growing complaints about firework nuisance and damage to properties resulting from their misuse - and the possibility of increasing incidents of injury as a result of the increasing abuse of fireworks - doing nothing in the broader sense is not an option. The scope of existing legislation, which could be said to cover certain aspects of what the Regulations hope to tackle, is limited in the following ways:

- The **Consumer Protection Act 1987** (under which the 1997 **Fireworks (Safety) Regulations** were made) is limited to the safety of consumer products and is therefore insufficient for the purpose of controlling the sale of nuisance products; their time of use; and to address the issue of imports destined for illegal storage.
- The **Explosives Act 1875**, which deals with the storage (registration of or licensing to store) and criminal use of fireworks, is complementary to the 2003 Act but insufficient in the sense that it cannot specify who can and who cannot possess particular types of fireworks – and cannot prohibit the supply of certain types of firework.
- The **Noise Act 1996**, as amended by the Anti-social Behaviour Act 2003, is applicable in England, Wales and Northern Ireland and deals with unacceptable levels of domestic noise beyond 11 pm.
- The **Environmental Protection Act 1990**, applicable throughout the UK, contains statutory nuisance legislation which includes noise but it does not

¹⁴ Specifically, under the Management of Health and Safety at Work Regulations 1999, employers must ensure that their employees are competent to carry out their jobs in a safe manner, with the minimum of risk to themselves or others. This is informed by the requirement that employees undertake an extensive risk assessment to, among other things, identify the hazards and appropriate precautions to take.

specifically prohibit firework use beyond that time. Additionally, the judgement of whether a noise is a nuisance requires the professional judgement of Environmental Health Officers - who monitor noise over periods of time. In most cases, this would preclude the possibility that those using fireworks beyond this point could be prosecuted given intermittency and the relatively short duration of use. A complete prohibition would remedy this inadequacy by making it an offence to let off any individual firework after 11 pm.

5.4 Option (b) would require the fireworks industry to agree and adhere to voluntary guidelines. The effectiveness of this approach is questionable in the light of the experience with Air Bombs¹⁵ – where despite the existence of a voluntary ban this particular type of firework has gradually made its way back onto the market.¹⁶ In the context of the free market, were one competitor to flout a voluntary agreement, the likely outcome would be a domino effect.

5.5 While it should be acknowledged that public awareness campaigns are a valuable way to disseminate important information with a view to influencing public behaviour, the available evidence indicates that there are still an unacceptable number of injuries. The increasing use of fireworks all year round would entail corresponding campaign activity, which would be difficult (and expensive) to sustain for such a period. One of the principal reasons for this is that broadcasters are unlikely to extend the free airtime given to Government TV 'fillers' throughout the year - and certainly not with the same intensity as they do pre-November 5th.

5.6 Option (c), in its entirety, is the recommended option – and one which would plug the gap in existing legislation - and focus specifically on the issue of anti-social use.

6. Business Sectors Affected/ Competition Assessment

6.1 The markets affected by the proposed Regulations are firework manufacturers (or more accurately, importers, as no real manufacture of consumer fireworks takes place in the UK¹⁷), importers, professional firework display operating companies and retail and wholesale outlets. The majority of retailers that would be affected are outlets such as newsagents, garden centres and supermarkets - whose principal merchandise are products other than fireworks.

6.2 The results of applying the competition filter¹⁸ for all of the proposed regulations indicate that there is little in the way of significant effects on competition. Questions 1, 2 and 3 (industry concentration) were answered 'yes', as was question 5 on market

¹⁵ Prior to the recent legislation banning the supply of Air Bombs under the recent **Fireworks (Safety) (Amendment) Regulations 2004**, Local Trading Standards officers reported that certain retailers across the country were selling Air Bombs despite the agreed voluntary ban on such items. However, as it was not an offence to supply Air Bombs to the public, there is no quantitative data available.

¹⁶ 2004 Regulations available at: <http://www.legislation.hmso.gov.uk/si/si2004/20041372.htm>

¹⁷ With the exception of minor product assembly.

¹⁸ For further details see: www.cabinet-office.gov.uk/regulation/ria-guidance/content/competition/index.asp

structure. The other five questions were answered in the negative. On that basis, a full competition assessment is not needed.

6.3 Although question 5 of the filter was answered “yes” with regard to licences to supply all year round, we believe that the possible outcome is not significant. It is certain that for those suppliers that currently supply fireworks all year round there will be a disadvantage inasmuch as they will have to pay for a licence to supply whereas others supplying within the defined periods will not. However, it is expected that the cost of the licence to supply (£500) would be negligible to those whose market niche is satisfying year round demand for fireworks at weddings, birthdays and other such events – as well as during the peak firework season. It is therefore likely that the existing customer base of both the seasonal outlets and those supplying all year round will remain the same.¹⁹

6.4 We consider the proposals made under section 3, 4, and 5, that is, the creation of a curfew, the possession of fireworks in public places by under 18s and the prohibition of possession of category 4 by anyone other than a fireworks professional, respectively, to have no impact on competition.

6.5 Similarly, with the introduction of a maximum decibel limit on category 3 fireworks, in line with the European Standard, this, if anything, reduces barriers to trade by making manufactured fireworks marketable throughout the European Union.

6.6 Importers will be required to ensure that they are able to furnish Commissioners of Customs and Excise with the relevant information. This is considered to present little in the way of an obstacle to competition on the free market.

6.7 As regards the information requirement – that is, licensing authorities checking records of suppliers - during the formal consultation on the proposed Regulations the fireworks industry indicated that it is normal practice to keep such records – thus involving little in the way of an extra burden on business.

7. Small Businesses: ‘*The impact Test*’

7.1 In both our informal and formal consultations with representative bodies of small businesses, there was a mixed response to the licensing section of the Act. In our consultation on the Act before it became law there were three main concerns about the form that a licensing regime may take:

- the licensing regime should be fair, that is, in the context of possible higher costs for licences for ethnic community retailers;
- the requirement that small businesses would have to undergo some sort of training as a condition to the licence being granted - as this may prove difficult for family businesses; and

¹⁹ It should be noted, however, that with the coming into force of the Manufacture and Storage of Explosives Regulations the overall cost to all suppliers is likely to rise. HSE are currently consulting on the appropriate costs.

- the total cost of a licence and how that will impact on yearly net profits.

7.2 In formulating Regulations, we considered carefully both these and more recently expressed concerns. We believe that we have dealt with them in the following ways:

- The licensing regime is fair to ethnic minorities because a licence to supply is not needed during those festivals where minority faiths and cultures traditionally use fireworks, that is, Diwali and Chinese New Year.
- We do not see the need for retailers/wholesalers to undergo training (for the reasons set out in section 3, above). This is usually provided by the companies that supply them with fireworks.
- Those outlets supplying within the defined periods are not required to have a licence to supply - so no costs will be incurred in this regard.²⁰ The impact on specialist outlets whose principal merchandise is fireworks is not expected to be significant as the cost of the licence is likely to be relatively small in relation to annual turnover. The rise from the original cost proposal of £200 (as set out in the consultation document) to £500 was in part on advice from specialist outlets and the industry itself – acting as a deterrent to seasonal suppliers while allowing for effective enforcement of the licensing system.

8. Issues of Equity and Fairness

8.1 As with the RIA for the Fireworks Bill, our consultations revealed concern by particular religious and cultural communities in relation to Regulations creating a curfew on firework use and a licensing requirement for suppliers. With regard to the latter, as above, there was particular concern with the idea of a two-tier licence scheme where suppliers to local communities for multicultural events might have to apply for the more expensive second tier of licence to supply all year round. After consultation with a number of faith and cultural groups, we were able to identify which groups traditionally use fireworks for particular events. We have therefore included the dates of Diwali and Chinese New Year in our list of exemptions - thus precluding the requirement that such outlets would have to apply for a year round licence. Similarly, we have also included exemption to the curfew for those celebrating these events.

8.2 We believe that with the list of exemptions and allowances included in the Regulations we have dealt with these concerns and achieved the right balance between fairness and the need to reduce nuisance and anti-social behaviour in general.

8.3 We will meet with the commitments to assess and consult on the likely impact of proposed policies set out in DTI's Race Equality Scheme which is available at:

²⁰ Although, as aforementioned, all those that store fireworks will have to have to be registered or licensed– as under the current legislation and that to follow under the proposed MSER.

9. Enforcement, Sanctions, Monitoring and Review

Possession Offences and a Curfew on Firework Use

9.1 The police will continue to have primary responsibility for enforcement of the possession offences. The police will also have responsibility of enforcing the curfew on fireworks use. As stated in paragraph 5.3 above, some police representatives have expressed concern about the enforceability of this measure. ACPO and ACPOS, for example, were concerned that public expectations would be raised disproportionate to what is practicably possible with regard to eliminating fireworks nuisance beyond the curfew times. We agree with the police insofar as we recognise that in certain circumstances, given the ephemeral nature of fireworks use, investigation would be difficult. However, again as suggested in 5.3, we consider that this measure is comparable to other measures in place such as the offence of letting fireworks off in a public place – or any other offence where the presence of a police officer in the vicinity of an offence is the best circumstance for action.

9.2 Some police representatives gave their support for the idea of community support officers (CSOs) taking on the responsibility for enforcement of curfew breaches. In addition to other minor offences, the Home Office is looking into extending the enforcement responsibilities for the curfew to CSOs – with the possibility of improved enforcement.

9.3 The Home Office is also working improve the sanctions available to the police to deal with curfew breaches and possession offences. We believe that the most suitable and cost effective way is to issue a FPN. This will require amendment to the Criminal Justice and Police Act 2001. The Home Office will be laying affirmative resolution Regulations in July (before Parliamentary recess) to ensure that possession offences that are breaches of a curfew will be punishable by this means. The Scottish Executive is also assessing the situation.

9.4 Currently, the powers of the 2003 Act give police officers the power to issue a summons and seize the prohibited item. Under Section 11(4) of the Fireworks Act, any person found in breach of Regulations made under that Act is liable on summary conviction to:

- an imprisonment term not exceeding six months; or
- a fine not exceeding level 5 (£5000)

9.5 The Home Office is looking into the possibility of giving power to the police to stop and search in the context of possession offences. In the formal consultation the police expressed their enthusiasm for such a power. The Scottish Executive is also considering this issue.

9.6 The regulations proposed in the consultation document included a dispensation provision for local authorities to grant to private and professional display operators.

However, in response to the consultation the Government has removed this from the final Regulations – as there would seem to be little in the way of fireworks displays that do take place past the hour of 11 pm – and, additionally, we agree with respondents that there seems to be little reason for professional public display operators to set fireworks off at this time – the same as for non-professionals.

9.7 In terms of enforcement, this is likely to reduce the regulatory burden on Local Authority licensing departments in issuing permits – as well as eliminating the need to set up a communication system between the police and the Local Authorities i.e. where local authorities would have been required to inform the police of a fireworks display permitted beyond 11 pm.

Notice to consumers

9.8 The enforcement of this regulation would fall to local Trading Standards Officers. We do not consider that this constitutes a new burden as such and thus not does not entail much in the way of extra costs. It would be enforced in the course of Trading Standards duties under the Firework (Safety) Regulations 1997 (enforcement of the restrictions on under age sales, etc.).

Importation

9.9 Importers of goods, or representatives contracted to complete Customs formalities on their behalf, are required to declare goods on Customs declaration form C88 (either in writing or by data processing techniques) as laid down by Article 62 of Council Regulation 2913/92 and Article 205 of Commission Regulation 2454/93. Section 9 of the Fireworks Act will make an additional mandatory requirement for the importers to provide both the name and address of their business, as well as the address of the storage facility or facilities to where the fireworks are destined (the first drop off points after leaving the port). Customs and Excise will require this information to be given in form C88. The effectiveness of the proposed regulation is self evident, as the information collected will be passed on to the relevant storage licensing bodies, who will then be able to carry out checks against current data that they have or physical spot checks for those suspected of breaking their storage licence conditions (such as exceeding the permitted gross weight of explosive content at particular storage premises).

9.10 It is envisaged that the Local Trading Standards Office at each port where fireworks are imported (mainly at Felixstowe) will be passed the information collected by Customs and Excise and then process that information - distributing the details to the relevant local authorities responsible for issuing licences to store.

9.11 The relevant authorities responsible for registration and licensing of storage premises, that is, HSE, Trading Standards or the Fire Rescue Services, etc, will be responsible for acting on information once it is handed to them by the Trading Standards Office at port. This particular regulation – given the necessity to set up the machinery - will not come into force until 1st January 2005.

10. Costs

Enforcement

10.1 There will be no extra costs in enforcing the possession offences as under section 3 and 5 of the 2003 Act – as this is currently in place under the Fireworks Regulations 2003²¹ (emergency Regulations). However, in relation to the fireworks curfew, where we might expect an increase in the cost of enforcement, ACPO and ACPOS advise that it is difficult to estimate costs for enforcement of a curfew - as it is unknown how many offences are likely to occur and with how many action can be taken. This will become clearer with the benefit of experience.

10.2 However notwithstanding the above, it is envisaged that the powers and sanctions that the Home Office hope to give the police, such as the ability to deal with offences by FPN, are expected to reduce the time involved in dealing with these offences – as well as reducing overall court costs.

10.3 With regard to the licensing of suppliers, LACORS believe that the overall cost of administration and effective enforcement will be covered by the cost of the licence.

10.4 In relation to the importation regulation, the machinery for processing and distributing collected information is still under discussion. It is therefore too early to estimate the costs for such a system until the details are finalised. LACORS are to advise the Government in due course.

10.5 Customs and Excise, in relation to the passing of information about fireworks imports, do not expect the costs to be significant – but rather see it as an extension to the system that is currently in operation. It should be noted, however, the final cost will depend on how rigorous the collection and subsequent passing on of the information is. We are still in discussion with Customs and Excise on this point of administration, and it is our preference for the system to be robust enough to ensure the regulation is effective.

Licensing of retailers

10.6 The regulatory impact assessment of the Fireworks Bill noted that while representative bodies of the retail sector were generally supportive of the Bill's provisions, they still had concerns that the cost of a licence to supply would be damaging to retailers – if significantly above the current £13 registration fee for storage (which is the form of storage that most retailers currently have). As explained in paragraph 7.2, above, as a result of listening to the concerns of retailers in our informal consultations, we believe that we have addressed those concerns by exempting the majority of outlets - an estimated 97%²² who sell during seasonal times, from the requirement to be licensed.

10.7 Those who supply fireworks to the public – that is retailers, wholesale, mail order or internet suppliers - are likely to incur minor costs in terms of familiarisation

²¹ See RIA for the 2003 Fireworks Regulations: <http://www.dti.gov.uk/ccp/topics1/pdf1/fireworkria2.pdf>.

²² This figure is an estimate provided by the **British Fireworks Association**.

with the new laws, particularly with regard ensuring that the notices that they are required to display conform to the Regulations and to ensure that they do not sell into periods where they would be required to be licensed. We expect this cost to be minimal however.

11. Consultation

11.1 To date the following stakeholders were among those consulted, both formally and informally, and have had key input into the formulation of these Regulations:

<i>Small Business Service</i>	<i>Department of Constitutional Affairs (DCA)</i>
<i>Association of Chief Police Officers (ACPO)</i>	<i>British Fireworks Association (BFA)</i>
<i>Fire and Rescue Service</i>	<i>British Pyrotechnics Association</i>
<i>CAFOA</i>	<i>LACORS</i>
<i>Home Office</i>	<i>Trading Standards Institute</i>
<i>Association of Chief Police Officers n Scotland (ACPOS)</i>	<i>Welsh Assembly</i>
<i>National Association of Shopkeepers</i>	<i>Chartered Institute of Environmental Health</i>
<i>Defra</i>	<i>British Retail Consortium</i>
<i>CBI – Explosives Industry Group (CBI EIG)</i>	<i>Local Government Association</i>
<i>Association of Convenience Stores</i>	<i>Customs and Excise</i>
<i>Animal Welfare Coalition – incl. Blue Cross and RSPCA</i>	<i>London Chinatown Association</i>
	<i>Health and Safety Executive/Commission</i>

12. Conclusions and Recommendation

12.1 The Fireworks Act 2003 sets out the purpose of the enabling provisions under section 2, that is to reduce the possibility that firework use can cause death, injury or distress, either to persons or animals, or cause the destruction of, or damage to, property, to which these proposed measures are designed to achieve. While the Government is guided by better regulation principles – and, in particular, committed, wherever possible, to avoiding regulation, we believe that the Fireworks Act itself is invaluable legislation in its scope in the area of fireworks, that is, in providing a framework by which to tackle any new problems on the horizon - and now especially in the context of anti-social behaviour and the consequent public dissatisfaction with the law as it is. We have carefully chosen - with these principles and the specific problems of fireworks in mind – which of the provisions of the Act are necessary to enact in order to reduce the risks set out in section 2. And with these proposals, we believe that this represents a first significant step to address the problems in an effective and measured way and therefore recommend that these Regulations be implemented as soon as possible.