
STATUTORY INSTRUMENTS

2015 No. 1553

The Pyrotechnic Articles (Safety) Regulations 2015

PART 1

Preliminary

Citation and commencement

1. These Regulations may be cited as the Pyrotechnic Articles (Safety) Regulations 2015 and come into force on 17th August 2015 (“the commencement date”).

Interpretation

2.—(1) In these Regulations—

the “1974 Act” means the Health and Safety at Work etc Act 1974(1);

the “1987 Act” means the Consumer Protection Act 1987(2), as it has effect on the commencement date;

the “2010 Regulations” means the Pyrotechnic Articles (Safety) Regulations 2010(3);

“accreditation” has the meaning set out in point 10 of Article 2 of RAMS (as amended from time to time);

“accreditation certificate” means a certificate, issued by the United Kingdom Accreditation Service (a company limited by guarantee incorporated in England and Wales under number 03076190) or a national accreditation body in another member State, attesting that a conformity assessment body meets the notified body requirements;

“aerial wheel” means tubes containing propellant charges and sparks, flame or noise-producing pyrotechnic composition (or all three), the tubes being fixed to a supporting structure, the principal effect of which is rotation and ascent, with emission of sparks and flames, producing a visual or aural effect (or both) in the air;

“banger” means a firework (other than a firework within regulation 33(1)(g)(i) (prohibitions on making available certain category F2 and F3 fireworks))—

(a) which comprises a non-metallic tube which contains pyrotechnic composition and has a fuse; and

(b) whose functioning principally involves report;

“battery” means an assembly which includes two or more fireworks of the same type;

“category F1 firework” has the meaning set out in paragraph 1 of Schedule 1 (categories of pyrotechnic article);

“category F2 firework” has the meaning set out in paragraph 2 of Schedule 1;

(1) 1974 c.37.

(2) 1987 c.43.

(3) S.I. 2010/1554; amended by S.I. 2011/1885, 2012/1848, 2012/2963, 2013/602, 2013/1948 and 2013/1950.

- “category F3 firework” has the meaning set out in paragraph 3 of Schedule 1;
- “category F4 firework” has the meaning set out in paragraph 4 of Schedule 1;
- “category P1 other pyrotechnic article” has the meaning set out in paragraph 7 of Schedule 1;
- “category P2 other pyrotechnic article” has the meaning set out in paragraph 8 of Schedule 1;
- “category T1 theatrical pyrotechnic article” has the meaning set out in paragraph 5 of Schedule 1;
- “category T2 theatrical pyrotechnic article” has the meaning set out in paragraph 6 of Schedule 1;
- “CE marking” means a marking which takes the form set out in Annex II of RAMS (as amended from time to time);
- “Christmas cracker” means a paper or foil tube, crimped at each end, enclosing novelties and with one or more snaps running along the length of the tube;
- “combination” means an assembly, other than a battery, which includes 2 or more fireworks;
- “competent national authority” means an authority having responsibility for enforcing the law of a member State which implements the Directive;
- “conformity assessment” means the process demonstrating whether the essential safety requirements relating to a pyrotechnic article have been fulfilled;
- “conformity assessment body” means a person that performs conformity assessment activities, including calibration, testing, certification and inspection;
- the “Directive” means Directive 2013/29/EU of the European Parliament and of the Council on the harmonisation of the laws of the member States relating to the making available on the market of pyrotechnic articles (recast)(4);
- “distributor” means any person in the supply chain, other than the manufacturer or the importer, who makes a pyrotechnic article available on the market;
- “double banger” means a firework (other than a firework falling within regulation 33(1)(g)(i))—
- (a) which comprises a non-metallic tube containing two portions of pyrotechnic composition connected by a delay fuse; and
 - (b) whose functioning principally involves report and a flash of light;
- “economic operator” means a manufacturer, importer or distributor;
- “enforcing authority” means any person enforcing these Regulations under regulation 53 (enforcement), and, for these purposes, the Secretary of State is to be considered the person enforcing these Regulations where a person acts on the Secretary of State’s behalf under regulation 53(5);
- “essential safety requirements” means the requirements set out in Schedule 2 (essential safety requirements);
- “EU declaration of conformity” means a declaration of conformity required to be drawn up in accordance with regulation 9(1)(a) (EU declaration of conformity and CE marking);
- “European Commission” means the Commission of the European Union;
- “firework” means a pyrotechnic article intended for entertainment purposes;
- “flash banger” means a firework (other than a firework falling within regulation 33(1)(g)(i))—
- (a) which comprises a non-metallic tube containing metal-based pyrotechnic composition; and

(4) OJ L 178, 28.6.2013, p. 27.

(b) whose functioning principally involves report and a flash of light;
“harmonised standard” has the meaning set out in point 1(c) of Article 2 of Regulation (EU) 1025/2012 of the European Parliament and of the Council on European standardisation⁽⁵⁾ (as amended from time to time);

“importer” means any person who—

- (a) is established within the EU; and
- (b) places a pyrotechnic article from a third country on the EU market;

“jumping cracker” means a paper tube containing black powder, folded back on itself several times and bound together, the principal effect of which is reports in succession with jumping motions;

“jumping ground spinner” means a non-metallic tube containing gas and sparks producing pyrotechnic composition, with or without whistling pyrotechnic composition, the principal effect of which is rotation on the ground frequently interrupted by a jumping motion and emission of sparks and flame, with or without an aural effect (other than report);

“make available on the market” means any supply for distribution, consumption or use on the EU market in the course of a commercial activity, whether in return for payment or free of charge, and related expressions must be construed accordingly;

“manufacturer” means a person who—

- (a) manufactures a pyrotechnic article, or has such an article designed or manufactured; and
- (b) markets that pyrotechnic article under that person’s name or trade mark;

“market surveillance authority” has the meaning set out in regulation 52 (designation of market surveillance authority);

“mini-rocket” means a firework which is designed so that, on functioning, it propels itself into the air and which comprises a body or motor which contains pyrotechnic composition and—

- (a) the outside diameter of which, at the point where the diameter is greatest, is less than 12 millimetres; or
- (b) if equipped with a stick for the purpose of stabilising its flight—
 - (i) where the firework is intended to be made available on the market singly, whose overall length (including the length of any such stick) is less than 900 millimetres or (not including the length of any such stick) is less than 195 millimetres; or
 - (ii) where the firework is intended to be supplied in a primary pack, whose overall length (including the length of any such stick) is less than 400 millimetres or (not including any such stick) is less than 125 millimetres; or
 - (iii) where the firework is intended to be supplied in a selection pack, whose overall length (including the length of any such stick) is less than 300 millimetres; or
- (c) if not equipped with a stick for the purposes of stabilising its flight—
 - (i) whose overall length is less than 300 millimetres; and
 - (ii) is intended to be supplied singly or in a primary pack;

“national accreditation body” has the meaning set out in point 11 of Article 2 of RAMS (as amended from time to time);

“notified body requirements” means the requirements set out in Schedule 5 (notified body requirements);

(5) OJ L 316, 14.11.2012, p. 12.

“person with specialist knowledge” has the meaning set out in Schedule 4 (persons with specialist knowledge);

“place on the market” means the first making available on the EU market, and related expressions must be construed accordingly;

“primary pack” means a package of fireworks of the same type, all of which are either category F1 fireworks, category F2 fireworks or category F3 fireworks, which is intended to be offered for retail sale as a single unit;

“pyrotechnic article” has the meaning set out in regulation 3 (definition of “pyrotechnic article”);

“pyrotechnic article for a vehicle” means a pyrotechnic article which is a component of a safety device in a vehicle and which is used to activate that device or another device;

“RAMS” means Regulation (EC) 765/2008 of the European Parliament and of the Council setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93(6);

“recall” means taking any measure aimed at achieving the return of a pyrotechnic article that has already been made available to the end-user and related expressions must be construed accordingly;

“registration number” means the number assigned to a pyrotechnic article by a notified body under paragraph 5(a) of Schedule 6 (operational obligations of notified bodies) or the laws of any other member State which implement the Article 33(3) of the Directive (as amended from time to time) or Commission Implementing Directive 2014/58/EU setting up a system for the traceability of pyrotechnic articles(7) (as amended from time to time);

“relevant conformity assessment procedure” means a conformity assessment procedure referred to in regulation 40 (conformity assessment procedures);

“relevant economic operator” means, in relation to a pyrotechnic article, an economic operator with obligations in respect of that pyrotechnic article under Part 2;

“selection pack” means a package of fireworks of more than one type intended to be offered for retail sale as a single unit;

“shot tube” means a tube containing propellant charge and a pyrotechnic unit, with or without a transmitting fuse, the principal effect of which is the ejection of the pyrotechnic unit producing a visual effect in the air, an aural effect in the air or both;

“snap” means two overlapping strips of cardboard or paper, or two strings, with a friction-sensitive pyrotechnic composition in sliding contact with an abrasive surface and designed to be held in the hand;

“spinner” means a tube containing pyrotechnic composition, with or without aerofoils attached, the principal effect of which is rotation and ascent with the emission of sparks, flames or both, with or without aural effect (other than report);

“technical documentation” has the meaning set out in regulation 8(b) (technical documentation and conformity assessment);

“technical specification” means a document that prescribes technical requirements to be fulfilled by a pyrotechnic article;

“theatrical pyrotechnic article” means a pyrotechnic article designed for indoor or outdoor stage use, including use in film and television productions or similar use;

(6) OJ L 218, 13.8.2008, p. 30.

(7) OJ L 155, 17.4.2014, p. 28.

“weights and measures authority” means a local weights and measures authority within the meaning set out in section 69 of the Weights and Measures Act 1985⁽⁸⁾;

“wheel” means an assembly—

- (a) which includes a tube or tubes containing pyrotechnic composition;
- (b) which is designed to be attached to a support and to rotate about a fixed point or axis and which is provided with a means of attaching it securely to such a support so that it can rotate; and
- (c) whose functioning involves rotation around a fixed point and the emission of sparks and flames, with or without aural effect.

“withdraw”, when used in relation to a pyrotechnic article, means taking any measure aimed at preventing a pyrotechnic article in the supply chain from being made available on the market and related expressions must be construed accordingly.

(2) In these Regulations, a reference to a pyrotechnic article being “in conformity with Part 2” means that—

- (a) the pyrotechnic article is in conformity with the essential safety requirements; and
- (b) each relevant economic operator has complied with the obligations imposed on them under Part 2 which must be satisfied at or before the time at which they make the pyrotechnic article available on the market.

(3) In these Regulations (except in Part 4 (notification of conformity assessment bodies) and Schedules 5 (notified body requirements) and 6 (operational obligations of notified bodies)), “notified body” means—

- (a) a notified body within the meaning set out in regulation 43 (notified bodies); or
- (b) a notified body under the laws of any other member State which implement the Directive.

(4) In regulation 21(1) (monitoring), and paragraphs 2(5), 3(1) and 3(3) of Schedule 2 (essential safety requirements), “risk” means a risk which could arise from lawful and readily predictable human behaviour.

(5) In the other provisions of these Regulations, “risk” means a risk—

- (a) which could arise from lawful and readily predictable human behaviour; and
- (b) which may result in harm to any of the following interests—
 - (i) human health;
 - (ii) public security;
 - (iii) the safety of consumers;
 - (iv) the environment.

Definition of “pyrotechnic article”

3.—(1) In these Regulations, a “pyrotechnic article” is an article which—

- (a) contains 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; and
- (b) is not excluded by paragraph (2).

(2) The following articles are excluded from the definition in paragraph (1)—

⁽⁸⁾ 1985 c.72; section 69 was amended by the Statute Law (Repeals) Act 1989 (c.43), Schedule 1, the Local Government etc. (Scotland) Act 1994 (c.39), Schedule 13, paragraph 144 and the Local Government (Wales) Act 1994 (c.19), Schedule 16, paragraph 75.

- (a) articles which have been placed on the market before the commencement date;
- (b) articles intended for non-commercial use by—
 - (i) the armed forces;
 - (ii) a police force in England and Wales;
 - (iii) the Police Service of Scotland;
 - (iv) the Police Service of Northern Ireland, the Police Service of Northern Ireland Reserve or the Northern Ireland Policing Board;
 - (v) the British Transport Police;
 - (vi) the Ministry of Defence Police Force;
 - (vii) the Civil Nuclear Constabulary;
 - (viii) a police force for a harbour, port, airport, park, garden or forest in the United Kingdom or with a specialised function in the United Kingdom;
 - (ix) the National Crime Agency;
 - (x) a fire and rescue service authority within the meaning of section 1 or a combined authority within the meaning of section 2 or 4 of the Fire and Rescue Services Act 2004⁽⁹⁾;
 - (xi) the Scottish Fire and Rescue Service; or
 - (xii) the Northern Ireland Fire and Rescue Board;
- (c) articles falling within the scope of Council Directive 96/98/EC on marine equipment⁽¹⁰⁾;
- (d) articles intended for use in the aerospace industry;
- (e) percussion caps intended specifically for toys falling within the scope of Directive 2009/48/EC of the European Parliament and of the Council on the safety of toys⁽¹¹⁾;
- (f) explosives falling within the scope of Council Directive 93/15/EEC on the harmonization of the use of the provisions relating to the placing on the market of explosives for civil uses⁽¹²⁾;
- (g) projectiles and propelling charges and blank ammunition used in portable firearms, other guns and artillery; and
- (h) fireworks which—
 - (i) are built by a manufacturer established in the United Kingdom;
 - (ii) are built for the manufacturer's own use; and
 - (iii) comply with the law applicable to such fireworks (excluding these Regulations).

Exception for trade fairs, exhibitions and demonstrations

4. The provisions of Part 2 (and of Part 5, so far as applying in relation to obligations under Part 2) do not apply to the showing and use of a pyrotechnic article at a trade fair, exhibition or demonstration for the marketing of pyrotechnic articles, provided that a visible sign clearly indicates—

- (a) the name and date of the trade fair, exhibition or demonstration;
- (b) that the pyrotechnic article is not in conformity with Part 2; and

⁽⁹⁾ 2004 c.21.

⁽¹⁰⁾ OJ L 46, 17.02.1997, p. 25.

⁽¹¹⁾ OJ L 170, 30.6.2009, p. 1.

⁽¹²⁾ OJ L 121, 15.5.1993, p. 20.

- (c) that the pyrotechnic article is not available for sale until brought into conformity with Part 2.

Exception for research, development and testing

5. The provisions of Part 2 (and of Part 5, so far as applying in relation to obligations under Part 2) do not apply to a pyrotechnic article manufactured for the purpose of research, testing and development, provided that provided that a visible sign clearly indicates that—

- (a) the pyrotechnic article is not in conformity with Part 2; and
- (b) the pyrotechnic article is not available for purposes other than research, development and testing.

PART 2

Obligations of economic operators

Chapter 1

Manufacturers

Categorisation

6. Before placing a pyrotechnic article on the market, a manufacturer must—
- (a) categorise it using the categories set out in Schedule 1 (categories of pyrotechnic article), according to its—
 - (i) type of use; or
 - (ii) purpose and level of hazard, including its noise level; and
 - (b) ensure that a notified body has confirmed that categorisation as part of a relevant conformity assessment procedure.

Design and manufacture in accordance with essential safety requirements

7. Before placing a pyrotechnic article on the market, a manufacturer must ensure that it has been designed and manufactured in accordance with the essential safety requirements.

Technical documentation and conformity assessment

8. Before placing a pyrotechnic article on the market, a manufacturer must—
- (a) have a relevant conformity assessment procedure carried out; and
 - (b) draw up the technical documentation referred to—
 - (i) for a pyrotechnic article in respect of which the conformity assessment procedure in regulation 40(a) is being carried out, in point 3(c) of Module B of Annex II to the Directive (as amended from time to time);
 - (ii) for a pyrotechnic article in respect of which the conformity assessment procedure in regulation 40(b) is being carried out, in point 2 of Module G of Annex II to the Directive (as amended from time to time);
 - (iii) for pyrotechnic article in respect of which the conformity assessment procedure in regulation 40(c) is being carried out, in point 3.1(b) of Module H of Annex II to the Directive (as amended from time to time).

EU declaration of conformity and CE marking

9.—(1) Where the conformity of a pyrotechnic article with the essential safety requirements has been demonstrated by a relevant conformity assessment procedure, the manufacturer must, before placing the pyrotechnic article on the market—

- (a) draw up a declaration of conformity in accordance with regulation 41 (EU declaration of conformity); and
- (b) affix the CE marking in accordance with regulation 42 (CE marking).

(2) The manufacturer must keep the EU declaration of conformity up-to-date.

(3) Where a pyrotechnic article is subject to more than one EU instrument requiring a declaration of conformity to be drawn up, the manufacturer must draw up a single declaration of conformity, which—

- (a) identifies the EU instruments; and
- (b) includes references to the publication of those EU instruments in the Official Journal of the European Union.

Retention of technical documentation and EU declaration of conformity

10. A manufacturer must keep the technical documentation and the EU declaration of conformity drawn up in respect of a pyrotechnic article for a period of 10 years beginning on the day on which the pyrotechnic article is placed on the market.

Labelling of pyrotechnic articles other than pyrotechnic articles for vehicles

11.—(1) Before placing a pyrotechnic article on the market, a manufacturer must ensure that it is labelled —

- (a) visibly, legibly and indelibly;
- (b) clearly and understandably; and
- (c) subject to paragraphs (3) and (4), in the official language of the member State in which the pyrotechnic article is to be made available to the end-user.

(2) The manufacturer must ensure that the labelling of the pyrotechnic article includes, as a minimum, the information specified in Schedule 3 (labelling: required information).

(3) The information specified in paragraph 1(a) and (b) of Schedule 3 must be provided in a language which can be easily understood by the end-users and the competent national authority in the member State in which the pyrotechnic article is to be made available to such end-users.

(4) The information specified in paragraph 1(f) of Schedule 3 must be provided 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 to such consumers and other end-users.

(5) Where the pyrotechnic article is to be made available to end-users in the United Kingdom the language which can be easily understood by consumers and other end-users is English.

(6) Where it is not possible for information specified in paragraph 1(a) and (b) of Schedule 3 to be indicated on the pyrotechnic article (including where this is as a result of other labelling requirements referred to in Schedule 3 having taken up the available space on the pyrotechnic article), the manufacturer must ensure that that information is indicated on its packaging or in a document accompanying the pyrotechnic article.

(7) Where the pyrotechnic article does not provide sufficient space for the other labelling requirements specified in Schedule 3 (including where this is as a result of the information specified in paragraph 1(a) and (b) of Schedule 3 having taken up the available space on the pyrotechnic

article), the manufacturer must ensure that the information is provided on the smallest piece of packaging.

(8) This regulation does not apply to pyrotechnic articles for vehicles.

Labelling of pyrotechnic articles for vehicles

12.—(1) Before placing a pyrotechnic article for a vehicle on the market, a manufacturer must ensure that it is labelled with—

- (a) the information about the manufacturer specified in paragraph 1(a) and (b) of Schedule 3;
- (b) the name and type of the pyrotechnic article;
- (c) the registration number of the pyrotechnic article;
- (d) the product, batch or serial number of the pyrotechnic article; and
- (e) safety instructions (where necessary).

(2) If the pyrotechnic article for a vehicle does not provide sufficient space for the labelling requirements specified in paragraph (1), the manufacturer must ensure that the information is provided on the packaging.

(3) Before placing a pyrotechnic article for a vehicle on the market, the manufacturer must draw up a safety data sheet.

(4) In paragraph (3), “safety data sheet” means a document—

- (a) compiled in accordance with Annex II to Regulation (EC) 1907/2006 of the European Parliament and of the Council concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals, establishing a European Chemicals Agency⁽¹³⁾ (as amended from time to time); and
- (b) which takes account of the specific needs of professional users.

Compliance procedures for series production

13.—(1) A manufacturer of pyrotechnic articles which are manufactured by series production must ensure that, before placing such a pyrotechnic article on the market, procedures are in place to ensure that any pyrotechnic article so manufactured will be in conformity with Part 2.

(2) In doing so, the manufacturer must take adequate account of—

- (a) any change in pyrotechnic article design or characteristics; and
- (b) any change in a harmonised standard or in another technical specification by reference to which the EU declaration of conformity was drawn up.

Chapter 2

Importers

Prohibition on placing on the market pyrotechnic articles which are not in conformity

14. An importer must not place a pyrotechnic article on the market unless it is in conformity with the essential safety requirements.

Requirements which must be satisfied before an importer places a pyrotechnic article on the market

15.—(1) Before placing a pyrotechnic article on the market, an importer must ensure that—

(13) OJ L 396, 30.12.2006, p. 1.

- (a) a relevant conformity assessment procedure has been carried out by the manufacturer;
 - (b) the manufacturer has drawn up the technical documentation;
 - (c) the pyrotechnic article—
 - (i) bears the CE marking; and
 - (ii) is accompanied by the required documents; and
 - (d) the manufacturer has complied with the requirements set out in regulations 11 (labelling of pyrotechnic articles other than pyrotechnic articles for vehicles) and 12 (labelling of pyrotechnic articles for vehicles).
- (2) In paragraph (1)(c)(ii), “required documents” means any documents that are required to be provided with the pyrotechnic article pursuant to—
- (a) regulation 11(6); and
 - (b) regulation 35 (supply of safety data sheet).

Prohibition on placing on the market pyrotechnic articles considered not to be in conformity with the essential safety requirements

16.—(1) Where an importer considers, or has reason to believe, that a pyrotechnic article is not in conformity with the essential safety requirements, the importer must not place the pyrotechnic article on the market.

(2) Where the pyrotechnic article presents a risk, the importer must inform the manufacturer and the market surveillance authority of that risk.

Information identifying importer

17.—(1) Before placing a pyrotechnic article on the market, an importer must indicate on the pyrotechnic article—

- (a) the name, registered trade name or registered trade mark of the importer; and
- (b) a postal address at which the importer can be contacted.

(2) The information specified in paragraph (1) must be in a language which can be easily understood by end-users and the competent national authority in the member State in which it is to be made available to such end-users.

(3) Where it is not possible to indicate the information specified in paragraph (1) on the pyrotechnic article, the importer must indicate that information—

- (a) on the packaging; or
- (b) in a document accompanying the pyrotechnic article.

Instructions and safety information

18.—(1) When placing a pyrotechnic article on the market, an importer must ensure that it is accompanied 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 to such consumers and other end-users.

(2) When the pyrotechnic article is being made available to consumers and other end-users in the United Kingdom, the language which can be easily understood by consumers and other end-users is English.

Retention of technical documentation and EU declaration of conformity

19. An importer must, for a period of 10 years beginning on the day on which the pyrotechnic article is placed on the market—

- (a) keep a copy of the EU declaration of conformity at the disposal of enforcing authorities; and
- (b) ensure that the technical documentation can be made available to enforcing authorities, upon request.

Chapter 3

Manufacturers and importers

Traceability

20.—(1) Where a manufacturer or importer places a pyrotechnic article on the market before 17th October 2016, the manufacturer or importer must—

- (a) maintain a record of the registration number of the pyrotechnic article for a period of at least 10 years beginning on the day on which it is placed on the market; and
- (b) upon request, make this information available to an enforcing authority.

(2) Where a manufacturer or importer places a pyrotechnic article on the market after 16th October 2016, the manufacturer or importer must—

- (a) keep a record of the required information for the pyrotechnic article for a period of at least 10 years beginning on the day on which it is placed on the market;
- (b) transfer the record referred to in sub-paragraph (a) to the Secretary of State if the manufacturer or importer is ceasing to trade; and
- (c) upon a reasoned request, provide an enforcing authority with the required information.

(3) The Secretary of State may appoint a person to receive, hold and manage the record referred to in paragraph (2) on the Secretary of State's behalf.

(4) In this regulation, “required information” means the following information about a pyrotechnic article—

- (a) the registration number;
- (b) the trade name;
- (c) the generic type and sub-type (where applicable); and
- (d) the site of manufacture.

Monitoring

21.—(1) When an enforcing authority deems it appropriate, with regard to the risks to the health and safety of consumers presented by a pyrotechnic article, a manufacturer or importer must, upon a duly justified request of the authority and within such period as the authority may specify—

- (a) carry out sample testing of pyrotechnic articles made available on the market;
- (b) investigate complaints that pyrotechnic articles are not in conformity with Part 2; and
- (c) keep distributors informed of any monitoring carried out under sub-paragraphs (a) and (b).

(2) A manufacturer or importer must keep a register and must promptly make entries in that register of any—

- (a) complaints that pyrotechnic articles are not in conformity with Part 2;
- (b) pyrotechnic articles which are found not to be in conformity with Part 2; and

(c) pyrotechnic article recalls.

(3) A manufacturer or importer must keep an entry made in the register for a period of at least 10 years beginning on the day on which the obligation to make the entry arose.

Duty to take action in respect of pyrotechnic articles placed on the market which are considered not to be in conformity

22.—(1) A manufacturer or importer who considers, or has reason to believe, that a pyrotechnic article which they have placed on the market is not in conformity with Part 2 must immediately take the corrective measures necessary to—

- (a) bring the pyrotechnic article into conformity;
- (b) withdraw the pyrotechnic article; or
- (c) recall the pyrotechnic article.

(2) Where the pyrotechnic article presents a risk, the manufacturer or importer must immediately inform the market surveillance authority, and the competent national authorities of any other member State in which the manufacturer or importer made the pyrotechnic article available on the market, of the risk, giving details of—

- (a) the respect in which the pyrotechnic article is considered not to be in conformity with Part 2; and
- (b) any corrective measures taken.

Provision of information and cooperation

23.—(1) A manufacturer or importer must, further to a reasoned request from an enforcing authority and within such period as the enforcing authority may specify, provide the authority with the information and documentation necessary to demonstrate that the pyrotechnic article is in conformity with Part 2—

- (a) in paper or electronic form; and
- (b) in a language which can be easily understood by the enforcing authority.

(2) A manufacturer or importer must, at the request of the enforcing authority, cooperate with the authority on any action taken to—

- (a) evaluate a pyrotechnic article in accordance with regulation 56 (evaluation of pyrotechnic articles presenting a risk); or
- (b) eliminate the risks posed by a pyrotechnic article which the manufacturer or importer has placed on the market.

Chapter 4

Distributors

Duty to act with due care

24. When making a pyrotechnic article available on the market, a distributor must act with due care to ensure that it is in conformity with Part 2.

Requirements which must be satisfied before a distributor makes a pyrotechnic article available on the market

25.—(1) Before making a pyrotechnic article available on the market, the distributor must verify that—

- (a) the pyrotechnic article—
 - (i) bears the CE marking;
 - (ii) is accompanied by the required documents;
 - (iii) is accompanied 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;
- (b) the manufacturer has complied with the requirements set out in regulation 11 (labelling of pyrotechnic articles other than pyrotechnic articles for vehicles) and 12 (labelling of pyrotechnic articles for vehicles); and
- (c) the importer has complied with the requirements set out in regulation 17 (information identifying importer).

(2) In paragraph (1)(a)(ii), “required documents” means the documents that are required to be provided with the pyrotechnic article pursuant to—

- (a) regulation 11(6);
- (b) regulation 17(3)(b); and
- (c) regulation 35 (supply of safety data sheet).

Prohibition on making available on the market where pyrotechnic article not considered to be in conformity with the essential safety requirements

26.—(1) Where a distributor considers, or has reason to believe, that a pyrotechnic article is not in conformity with the essential safety requirements, the distributor must not make the pyrotechnic article available on the market.

(2) Where the pyrotechnic article presents a risk, the distributor must inform the following persons of the risk—

- (a) the manufacturer or the importer; and
- (b) the market surveillance authority.

Duty to take action in respect of pyrotechnic articles made available on the market which are not in conformity

27.—(1) A distributor who considers, or has reason to believe, that a pyrotechnic article which the distributor has made available on the market is not in conformity with Part 2 must make sure that the necessary corrective measures are taken to—

- (a) bring that pyrotechnic article into conformity;
- (b) withdraw the pyrotechnic article; or
- (c) recall the pyrotechnic article.

(2) Where the pyrotechnic article presents a risk, the distributor must immediately inform the market surveillance authority, and the competent national authorities of the other member States in which the distributor has made the pyrotechnic article available on the market, of that risk, giving details of—

- (a) the respect in which the pyrotechnic article is considered not to be in conformity with Part 2; and
- (b) any corrective measures taken.

Provision of information and cooperation

28.—(1) A distributor must, further to a reasoned request from an enforcing authority and within such period as the authority may specify, provide the authority with the information and documentation, in paper or electronic form, necessary to demonstrate that the pyrotechnic article is in conformity with Part 2.

(2) A distributor must, at the request of the enforcing authority, cooperate with the authority on any action taken to—

- (a) evaluate a pyrotechnic article in accordance with regulation 56 (evaluation of pyrotechnic articles presenting a risk); and
- (b) eliminate the risks posed by a pyrotechnic article which the distributor has made available on the market.

Chapter 5**Importers and distributors****Storage and transport**

29. Each importer and distributor must ensure that, while a pyrotechnic article is under their responsibility, its storage or transport conditions do not jeopardise its conformity with the essential safety requirements.

Cases in which obligations of manufacturers apply to importers and distributors

30. An economic operator who would, but for this regulation, be considered an importer or distributor (“A”), is to be considered a manufacturer for the purposes of these Regulations and is subject to the obligations of a manufacturer under this Part, where A—

- (a) places a pyrotechnic article on the market under A’s own name or trademark; or
- (b) modifies a pyrotechnic article already placed on the market in such a way that it may affect whether the pyrotechnic article is in conformity with Part 2.

Chapter 6**All economic operators****Prohibition on making available to persons younger than the minimum age limit**

31. An economic operator must not make a pyrotechnic article available on the market in the United Kingdom to a person younger than the following minimum age limits—

- (a) for a Christmas cracker, 12 years;
- (b) for a category F1 firework other than a Christmas cracker, 16 years;
- (c) for a category F2 firework or a category F3 firework, 18 years;
- (d) for a category T1 theatrical pyrotechnic article, 18 years;
- (e) for a category P1 other pyrotechnic article, 18 years.

Prohibition on making available to persons without specialist knowledge

32. An economic operator must not make available on the market the following pyrotechnic articles, except to a person with specialist knowledge—

- (a) a category F4 firework;
- (b) a category T2 theatrical pyrotechnic article; or

- (c) a category P2 other pyrotechnic article.

Prohibitions on making available certain category F2 and F3 fireworks

33.—(1) An economic operator must not make available on the market in the United Kingdom a category F2 firework or a category F3 firework of any of the following descriptions—

- (a) an aerial wheel;
- (b) a banger, flash banger or double banger;
- (c) a jumping cracker;
- (d) a jumping ground spinner;
- (e) a spinner;
- (f) a mini rocket;
- (g) a shot tube—
 - (i) which produces a report as its principal effect; or
 - (ii) the inside diameter of which is greater than 30mm;
- (h) a battery containing bangers, flash bangers or double bangers;
- (i) a combination (other than a wheel) which includes one or more bangers, flash bangers or double bangers.

(2) Paragraph (1)(b) does not prohibit the making available on the market of a category F2 firework or category F3 firework as part of a wheel.

(3) Paragraph (1) does not prohibit the making available on the market of a category F2 firework or category F3 firework to a person with specialist knowledge.

(4) No person who carries on a business involving the making available of fireworks on the market by retail may supply a category F2 firework or category F3 firework which that person—

- (a) has removed or caused to be removed from a selection pack or primary pack; or
- (b) knows to have been removed from a selection pack or primary pack.

Prohibition on making pyrotechnic articles for vehicles available to members of the general public

34. An economic operator must not make a category P1 pyrotechnic article, which is also a pyrotechnic article for a vehicle (including an airbag or seat belt pre-tensioner system), available to a member of the general public unless the article has been incorporated in a vehicle or a detachable vehicle part.

Supply of safety data sheet

35. When making a pyrotechnic article for a vehicle available on the market to a professional user, an economic operator must supply to the professional user the safety data sheet referred to in regulation 12(3) (labelling of pyrotechnic articles for vehicles)—

- (a) in the language requested by that professional user; and
- (b) on paper or in electronic form, provided that the format chosen is accessible to the professional user.

Translation of declaration of conformity

36.—(1) Before making a pyrotechnic article available on the market, an economic operator must ensure that the EU declaration of conformity is prepared in, or translated into, the language required by the member State in which it is to be made available on the market.

(2) Where the pyrotechnic articles is to be made available on the market in the United Kingdom, the language required is English.

Identification of economic operators

37.—(1) An economic operator (“E”), who receives a request from the market surveillance authority before the end of the relevant period, must, within such period as the authority may specify, identify to the authority—

- (a) any economic operator who has supplied E with a pyrotechnic article; and
- (b) any economic operator to whom E has supplied a pyrotechnic article.

(2) The relevant period is—

- (a) for information under paragraph (1)(a), a period of 10 years beginning on the day on which E was supplied with the pyrotechnic article;
- (b) for information under paragraph (1)(b), a period of 10 years beginning on the day on which E supplied the pyrotechnic article.

Prohibition on improper use of CE marking

38.—(1) An economic operator must not affix the CE marking to a pyrotechnic article unless—

- (a) that economic operator is the manufacturer; and
- (b) the conformity of the pyrotechnic article with the essential safety requirements has been demonstrated by a relevant conformity assessment procedure.

(2) An economic operator must not affix to a pyrotechnic article a marking (other than the CE marking) which purports to attest that the pyrotechnic article is in conformity with the essential safety requirements.

(3) An economic operator must not affix to a pyrotechnic article a marking, sign or inscription which is likely to mislead any other person as to the meaning or form of the CE marking.

(4) An economic operator must not affix to a pyrotechnic article any other marking if the visibility, legibility and meaning of the CE marking would be impaired as a result.

PART 3

Conformity assessment

Presumption of conformity

39.—(1) A pyrotechnic article which is in conformity with a harmonised standard (or part of such a standard) the reference to which has been published in the Official Journal of the European Union is to be presumed to be in conformity with the essential safety requirements covered by that standard (or that part of that standard).

(2) The presumption in paragraph (1) is rebuttable.

Conformity assessment procedures

40. For the assessment of conformity of a pyrotechnic article, the manufacturer must follow one of the following procedures referred to in Annex II to the Directive (as amended from time to time)—

- (a) EU-type examination carried out by a notified body (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 by a notified body (Module G);
- (c) conformity based on full quality assurance by a notified body (Module H), insofar as it concerns category F4 fireworks.

EU declaration of conformity

41. The EU declaration of conformity for a pyrotechnic article must—

- (a) state that the fulfilment of the essential safety requirements has been demonstrated in respect of the pyrotechnic article;
- (b) contain the elements specified in Annex II to the Directive (as amended from time to time) for the relevant conformity assessment procedure followed in respect of the pyrotechnic article; and
- (c) have the model structure set out in Annex III to the Directive (as amended from time to time).

CE marking

42.—(1) The CE marking must be affixed visibly, legibly and indelibly to the pyrotechnic article.

(2) Where it is not possible or warranted, on account of the nature of the pyrotechnic article, to affix the CE marking in accordance with paragraph (1), the CE marking must be affixed to—

- (a) the packaging; and
- (b) the accompanying documents.

(3) The CE marking must be followed by the identification number of the notified body which carried out the relevant conformity assessment procedure for the pyrotechnic article, where that body is involved in the production control phase.

(4) The identification number of the notified body must be affixed—

- (a) by the notified body itself; or
- (b) under the instructions of the notified body, by the manufacturer.

PART 4

Notification of conformity assessment bodies

Notified bodies

43.—(1) For the purposes of this Part, a notified body is a conformity assessment body—

- (a) which has been notified to the European Commission and to other member States under regulation 44 (notification); and
 - (b) in respect of which no objections are raised by the European Commission or other member States—
 - (i) within 2 weeks of a notification, where an accreditation certificate is used; or
 - (ii) within 2 months of a notification, where accreditation is not used.
- (2) Paragraph (1) has effect subject to regulation 49 (changes to notifications).

Notification

44.—(1) The Secretary of State may notify to the European Commission and the other member States only those conformity assessment bodies that qualify for notification.

(2) A conformity assessment body qualifies for notification if the first and the second conditions below are met.

(3) The first condition is that the conformity assessment body makes an application to the Secretary of State for notification and that application is accompanied by—

- (a) a description of—
 - (i) the conformity assessment activities that the conformity assessment body intends to carry out;
 - (ii) the conformity assessment module for which the conformity assessment body claims to be competent; and
 - (iii) the pyrotechnic article for which the conformity assessment body claims to be competent; and either
- (b) an accreditation certificate; or
- (c) the documentary evidence necessary for the Secretary of State to verify, recognise and regularly monitor the conformity assessment body's compliance with the notified body requirements.

(4) The second condition is that the Secretary of State is satisfied that the conformity assessment body meets the notified body requirements.

(5) For the purposes of paragraph (4), the Secretary of State may accept an accreditation certificate, provided in accordance with paragraph (3)(b), as sufficient evidence that the conformity assessment body meets the notified body requirements.

(6) When deciding whether to notify a conformity assessment body that qualifies for notification to the European Commission and the other member States, the Secretary of State may—

- (a) have regard to any other matter which appears to the Secretary of State to be relevant; and
- (b) set conditions that the conformity assessment body must meet.

(7) The Secretary of State must inform the European Commission of the United Kingdom's procedures for the assessment and notification of conformity assessment bodies, and any changes to those procedures.

Presumption of conformity of notified bodies

45.—(1) Where a conformity assessment body demonstrates its conformity with the criteria laid down in a harmonised standard (or part of such a standard), the reference of which has been published in the Official Journal of the European Union, the Secretary of State is to presume that the conformity assessment body meets the notified body requirements covered by that standard (or part of that standard).

- (2) The presumption in paragraph (1) is rebuttable.

Contents of notification

46. A notification under regulation 44 must include—

- (a) details of—
 - (i) the conformity assessment activities in respect of which the conformity assessment body has made its application for notification;
 - (ii) the conformity assessment module in respect of which the conformity assessment body has made its application for notification;
 - (iii) the pyrotechnic article in respect of which the conformity assessment body has made its application for notification; and either
- (b) an accreditation certificate; or
- (c) documentary evidence which attests to—
 - (i) the conformity assessment body's competence; and
 - (ii) the arrangements in place to ensure that the conformity assessment body will be monitored regularly and will continue to meet the notified body requirements.

Monitoring

47.—(1) The Secretary of State must monitor each notified body with a view to verifying that the notified body—

- (a) continues to meet the notified body requirements;
- (b) meets any conditions set in accordance with regulation 44(6)(b); and
- (c) carries out its functions in accordance with these Regulations.

(2) The Secretary of State must inform the European Commission of the United Kingdom's procedures for the monitoring of notified bodies, and any changes to those procedures.

Delegation to the United Kingdom Accreditation Service

48. The Secretary of State may authorise the United Kingdom Accreditation Service (a company limited by guarantee incorporated in England and Wales under number 03076190) to carry out the following activities on behalf of the Secretary of State—

- (a) assessing whether a conformity assessment body meets the notified body requirements; and
- (b) monitoring notified bodies.

Changes to notifications

49.—(1) Where the Secretary of State determines that a notified body no longer meets a notified body requirement, or that it is failing to fulfil any of its obligations under these Regulations other than conditions set in accordance with regulation 44(6)(b), the Secretary of State must restrict, suspend or withdraw the body's status as a notified body under regulation 43.

(2) With the consent of a notified body, or where the Secretary of State determines that a notified body no longer meets a condition set in accordance with regulation 44(6)(b), the Secretary of State may restrict, suspend or withdraw the body's status as a notified body under regulation 43.

(3) In deciding what action is required under paragraph (1) or (2), the Secretary of State must have regard to the seriousness of the failure.

(4) Where the Secretary of State takes action under paragraph (1) or (2), the Secretary of State must immediately inform the European Commission and the other member States.

(5) Where the Secretary of State has taken action in respect of a notified body under paragraph (1) or (2), or where a notified body has ceased its activity, the body must—

- (a) on the request of the Secretary of State, transfer its files (including the register which it maintains under paragraph 5 of Schedule 6 (operational obligations of notified bodies)) to another notified body or to the Secretary of State; or
- (b) in the absence of a request under sub-paragraph (a), ensure that its files are kept available for the Secretary of State and each enforcing authority for a period equal to that specified in paragraphs 5 and 6 of Schedule 6.

Operational obligations of notified bodies

50. When a notified body carries out a relevant conformity assessment procedure, Schedule 6 has effect.

Subsidiaries and contractors

51.—(1) Where a notified body subcontracts specific conformity assessment activities, or has such activities carried out by a subsidiary, the activities are only to be treated as having been carried out by a notified body for the purposes of regulation 40 (conformity assessment procedures) where the conditions in paragraphs (2) and (3) are met.

(2) The notified body must—

- (a) ensure that the subcontractor or subsidiary meets the notified body requirements; and
- (b) inform the Secretary of State accordingly.

(3) The notified body must have obtained the agreement of the client to the use of a subcontractor or subsidiary.

(4) Where a notified body subcontracts specific conformity assessment activities, or has such activities carried out by a subsidiary, the notified body must for a period of at least 10 years beginning on the day on which the activities are carried out, keep at the disposal of the Secretary of State the documentation concerning—

- (a) the assessment of the qualifications of the subcontractor or the subsidiary; and
- (b) the conformity assessment activities carried out by the subcontractor or subsidiary.

(5) When monitoring a notified body in accordance with regulation 47, the Secretary of State must treat the notified body as responsible for the tasks performed by a subcontractor or subsidiary, wherever the subcontractor or subsidiary is established.

PART 5

Market surveillance and enforcement

Designation of market surveillance authority

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

- (a) within its area, the weights and measures authority for—
 - (i) category F1 fireworks;
 - (ii) category F2 fireworks; and

- (iii) category F3 fireworks;
- (b) the Health and Safety Executive for—
 - (i) category F4 fireworks;
 - (ii) category T1 theatrical pyrotechnic articles;
 - (iii) category T2 theatrical pyrotechnic articles;
 - (iv) category P1 other pyrotechnic articles; and
 - (v) category P2 other pyrotechnic articles.
- (2) In Northern Ireland, the market surveillance authority is—
 - (a) within its area, the district council for—
 - (i) category F1 fireworks;
 - (ii) category F2 fireworks; and
 - (iii) category F3 fireworks;
 - (b) the Secretary of State for—
 - (i) category F4 fireworks;
 - (ii) category T1 theatrical pyrotechnic articles;
 - (iii) category T2 theatrical pyrotechnic articles;
 - (iv) category P1 other pyrotechnic articles; and
 - (v) category P2 other pyrotechnic articles.

Enforcement

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

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

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

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

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

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

(7) In this regulation—

“GB enforcer” means—

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

“NI enforcer” means—

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

Enforcement powers

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

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

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

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

Exercise of enforcement powers

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

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

Evaluation of pyrotechnic articles presenting a risk

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

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

Enforcement action in respect of pyrotechnic articles which are not in conformity and which present a risk

57.—(1) Where, in the course of the evaluation referred to in regulation 56, an enforcing authority finds that the pyrotechnic article is not in conformity with Part 2, it must, without delay, require a relevant economic operator to—

- (a) take appropriate corrective actions to bring the pyrotechnic article into conformity with those requirements within a prescribed period;
- (b) withdraw the pyrotechnic article within a prescribed period; or
- (c) recall the pyrotechnic article within a prescribed period.

(2) The enforcing authority must inform the notified body which carried out the conformity assessment procedure in respect of the pyrotechnic article of—

- (a) the respect in which the pyrotechnic article is not in conformity with Part 2; and
 - (b) the actions which the enforcing authority is requiring the relevant economic operator to take.
- (3) Where the enforcing authority is not the Secretary of State and it considers that the lack of conformity referred to in paragraph (1) is not restricted to the United Kingdom, it must notify the Secretary of State of—
- (a) the results of the evaluation; and
 - (b) the actions which it has required the economic operator to take.
- (4) Where the Secretary of State receives a notice under paragraph (3), or otherwise considers that the lack of conformity referred to in paragraph (1) is not restricted to the United Kingdom, the Secretary of State must inform the European Commission and the other member States of—
- (a) the results of the evaluation; and
 - (b) the actions which the enforcing authority has required the economic operator to take.
- (5) Where the relevant economic operator does not take adequate corrective action within the prescribed period, the enforcing authority must take appropriate measures to—
- (a) prohibit or restrict the pyrotechnic article being made available on the market in the United Kingdom;
 - (b) withdraw the pyrotechnic article from the United Kingdom market; or
 - (c) recall the pyrotechnic article.
- (6) Where the enforcing authority is not the Secretary of State and it takes measures under paragraph (5), it must notify the Secretary of State of those measures without delay.
- (7) Where the Secretary of State receives a notice under paragraph (6), or takes measures under paragraph (5), the Secretary of State must notify the European Commission and the other member States of those measures without delay.
- (8) The notices in paragraphs (6) and (7) must include details about the pyrotechnic article and, in particular—
- (a) the data necessary for the identification of the pyrotechnic article which is not in conformity with Part 2;
 - (b) the origin of the pyrotechnic article;
 - (c) the nature of the lack of conformity alleged and the risk involved;
 - (d) the nature and duration of the measures taken;
 - (e) the arguments put forward by the relevant economic operator; and
 - (f) whether the lack of conformity is due to either of the following—
 - (i) failure of the pyrotechnic article to meet requirements relating to a risk;
 - (ii) shortcomings in the harmonised standards referred to in regulation 39 (presumption of conformity) conferring a presumption of conformity.
- (9) In this regulation, “prescribed period” means a period which is—
- (a) prescribed by the enforcing authority; and
 - (b) reasonable and commensurate with the nature of the risk presented by the pyrotechnic article.

EU safeguard procedure

58.—(1) Where another member State has initiated the procedure under Article 39 of the Directive (as amended from time to time), each enforcing authority (other than the Secretary of State) must, without delay, inform the Secretary of State of—

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

(2) Where another member State has initiated the procedure under Article 39 of the Directive (as amended from time to time), the Secretary of State must, without delay, inform the European Commission and the other member States of—

- (a) any measures taken by an enforcing authority in respect of the pyrotechnic article;
- (b) any additional information which an enforcing authority has at its disposal relating to the lack of conformity of the pyrotechnic article; and
- (c) any objections that the Secretary of State may have to the measure taken by the member State initiating the procedure.

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

(4) Where a measure taken by another member State in respect of a pyrotechnic article is considered justified by the European Commission under Article 40(1) of the Directive (as amended from time to time), the market surveillance authority must take the necessary measures to ensure that the pyrotechnic article is withdrawn from the United Kingdom market.

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

(6) Where the Secretary of State receives a notice under paragraph (5) or has taken action under paragraphs (3) or (4), the Secretary of State must inform the European Commission of the action taken.

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

Enforcement action in respect of pyrotechnic articles which are in conformity, but present a risk

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

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

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

(3) Where the Secretary of State receives a notice under paragraph (2) or takes measures under paragraph (1), the Secretary of State must notify the European Commission and the other member States immediately.

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

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

(5) In this regulation, “prescribed period” means a period which is—

- (a) prescribed by the enforcing authority; and
- (b) reasonable and commensurate with the nature of the risk presented by the pyrotechnic article.

Enforcement action in respect of formal non-compliance

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

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

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

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

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

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

Restrictive measures

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

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

Offences

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

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

- (d) regulation 17 (information identifying importer);
 - (e) regulation 18 (instructions and safety information);
 - (f) regulation 19 (retention of technical documentation and EU declaration of conformity);
 - (g) regulation 20;
 - (h) regulation 21;
 - (i) regulation 22;
 - (j) regulation 23;
 - (k) regulation 29 (storage and transport);
 - (l) regulation 31;
 - (m) regulation 32;
 - (n) regulation 33;
 - (o) regulation 34;
 - (p) regulation 35;
 - (q) regulation 36;
 - (r) regulation 37;
 - (s) regulation 38.
- (3) It is an offence for a distributor to contravene or fail to comply with any requirement of—
- (a) regulation 24 (duty to act with due care);
 - (b) regulation 25 (requirements which must be satisfied before a distributor makes a pyrotechnic article available on the market);
 - (c) regulation 26 (prohibition on making available on the market where pyrotechnic article not considered to be in conformity with the essential safety requirements);
 - (d) regulation 27 (duty to take action in respect of pyrotechnic articles made available on the market which are not in conformity);
 - (e) regulation 28 (provision of information and cooperation);
 - (f) regulation 29;
 - (g) regulation 31;
 - (h) regulation 32;
 - (i) regulation 33;
 - (j) regulation 34;
 - (k) regulation 35;
 - (l) regulation 36;
 - (m) regulation 37;
 - (n) regulation 38.
- (4) It is an offence for a conformity assessment body to fail to comply with regulation 49(5) (changes to notifications).
- (5) It is an offence for any person to contravene or fail to comply with any requirement of a notice, other than a compliance notice, served on that person by an enforcing authority under these Regulations.
- (6) It is an offence for any person—
- (a) intentionally to obstruct—

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

Penalties

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

Defence of due diligence

- 64.**—(1) Subject to paragraph (2), (4) and (6), in proceedings for an offence under regulation 62, it is a defence for a person (“P”) to show that P took all reasonable steps and exercised all due diligence to avoid committing the offence.
- (2) P may not rely on a defence under paragraph (1) which involves a third party allegation unless P has—
- (a) served a notice in accordance with paragraph (3); or
 - (b) obtained the leave of the court.
- (3) The notice must—
- (a) give any information in P’s possession which identifies or assists in identifying the person who—
 - (i) committed the act or default; or
 - (ii) supplied the information on which P relied.
 - (b) be served on the person bringing the proceedings not less than 7 clear days before—
 - (i) in England, Wales and Northern Ireland, the hearing of the proceedings;
 - (ii) in Scotland, the trial diet.

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

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

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

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

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

Liability of persons other than principal offender

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

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

- (a) with the consent or connivance of the relevant person; or
- (b) as a result of the negligence of the relevant person.

(3) In paragraph (2), “relevant person” means—

- (a) a director, manager, secretary or other similar officer of the body corporate;
- (b) in relation to a body corporate managed by its members, a member of that body corporate performing managerial functions;
- (c) in relation to a Scottish partnership, a partner; or
- (d) a person purporting to act as a person described in sub-paragraphs (a), (b) or (c).

Time limit for prosecution of offences

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

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

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

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

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

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

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

Service of documents

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

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

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

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

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

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

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

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

Recovery of expenses of enforcement

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

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

Action by enforcing authority

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

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

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

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

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

Appeals against notices

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

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

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

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

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

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

(5) In this regulation—

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

Appropriate court for appeals against notices

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

- (a) the court in which proceedings have been brought in relation to the pyrotechnic article for an offence under regulation 62 (offences);

- (b) an employment tribunal seized of appeal proceedings against a notice which relates to the pyrotechnic article and which has been served under or by virtue of paragraph 1 of Schedule 8 (enforcement powers of the Health and Safety Executive under the 1974 Act); or
 - (c) in any other case, a magistrates' court.
- (2) In Scotland, the appropriate court for the purposes of regulation 70 is—
- (a) the sheriff of a sheriffdom in which the person making the appeal resides or has a registered or principal office; or
 - (b) an employment tribunal seized of appeal proceedings against a notice which relates to the pyrotechnic article and which has been served under or by virtue of paragraph 1 of Schedule 8.
- (3) A person aggrieved by an order made by a magistrates' court in England and Wales or Northern Ireland pursuant to an application under regulation 70, or by a decision of such a court not to make such an order, may appeal against that order or decision—
- (a) in England and Wales, to the Crown Court;
 - (b) in Northern Ireland, to the county court.

Compensation

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

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

PART 6

Miscellaneous

Review

- 73.**—(1) The Secretary of State must from time to time—
- (a) carry out a review of these Regulations;

- (b) set out the conclusions of the review in a report; and
 - (c) publish the report.
- (2) In carrying out the review the Secretary of State must, so far as is reasonable, have regard to how the Directive is implemented in other member States.
- (3) The report must, in particular—
- (a) set out the objectives intended to be achieved by the regulatory system established by these Regulations;
 - (b) assess the extent to which those objectives are achieved; and
 - (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved by a system that imposes less regulation.
- (4) The first report under this regulation must be published no later than 5 years after the commencement date.
- (5) Reports under this regulation are afterwards to be published at intervals not exceeding 5 years.

Transitional provisions

74.—(1) Subject to paragraphs (3) and (4), the provisions of Part 2 (and of Part 5, so far as applying in relation to obligations under Part 2) do not apply in respect of a design of pyrotechnic article which was lawfully manufactured or placed on the market in the United Kingdom immediately before 4th July 2010 and which is of one of the following categories—

- (a) a category F1 firework;
- (b) a category F2 firework; or
- (c) a category F3 firework.

(2) Subject to paragraphs (3) and (4), the provisions of Part 2 (and of Part 5, so far as applying in relation to obligations under Part 2) do not apply in respect of a design of pyrotechnic article which was lawfully manufactured or placed on the market in the United Kingdom immediately before 4th July 2013 and which is of one of the following categories—

- (a) a category F4 firework;
- (b) a category T1 theatrical pyrotechnic article;
- (c) a category T2 theatrical pyrotechnic article;
- (d) a category P1 other pyrotechnic article; or
- (e) a category P2 other pyrotechnic article.

(3) On 5th July 2017 the following provisions cease to have effect—

- (a) paragraph (1); and
- (b) paragraph (2), except to the extent that it applies to a pyrotechnic article for a vehicle (including as spare parts).

(4) The following regulations apply to pyrotechnic articles falling within paragraphs (1) and (2)—

- (a) regulation 31 (prohibition on making available to persons younger than the minimum age limit);
- (b) regulation 32 (prohibition on making available to persons without specialist knowledge); or
- (c) regulation 33 (prohibition on making available certain category F2 or category F3 fireworks).

(5) For the purposes of these Regulations, a certificate issued, or approval granted, by a notified body under regulation 44(1) of the 2010 Regulations, or any enactment of another member State

which implemented the 2007 Directive, is to be treated as a certificate issued or approval granted under Annex II to the Directive.

(6) In this regulation, “2007 Directive” means [Directive 2007/23/EC](#) of the European Parliament and of the Council on the placing on the market of pyrotechnic articles⁽¹⁴⁾.

Consequential revocations, savings and amendments

75.—(1) Subject to paragraph (2), the 2010 Regulations and the Pyrotechnic Articles (Safety) (Amendment) Regulations 2013⁽¹⁵⁾ are revoked.

(2) The enactments referred to in paragraph (1) continue to apply, as if they had not been revoked, to—

- (a) an article placed on the market before the commencement date;
- (b) a pyrotechnic article to which regulation 74(1) or (2) applies.

(3) In section 31 of the Explosives Act 1875⁽¹⁶⁾, for subsections (2) to (5), substitute—

“(2) Subsection (1) does not apply to—

- (a) pyrotechnic articles within the meaning set out in regulation 3 of the Pyrotechnic Articles (Safety) Regulations 2015; or
- (b) percussion caps intended specifically for toys within the meaning set out in regulation 4(2) of the Toys (Safety) Regulations 2011 ([S.I. 2011/1881](#)).”.

(4) Paragraph (3) of this regulation, and regulation 49(1) of the 2010 Regulations, cease to have effect when the repeal of section 31 of the Explosives Act 1875 (by section 15 of, and the Schedule to, the Fireworks Act 2003⁽¹⁷⁾) comes into force.

(5) The Fireworks Regulations 2004⁽¹⁸⁾ are amended as set out in Schedule 10 (consequential amendments to the Fireworks Regulations 2004).

(6) The Explosives (Fireworks) Regulations (Northern Ireland) 2002⁽¹⁹⁾ are amended as set out in Schedule 11 (consequential amendments to the Explosives (Fireworks) Regulations (Northern Ireland) 2002).

Anna Soubry

Minister of State for Small Business, Industry
and Enterprise

Department for Business, Innovation and Skills

19th July 2015

⁽¹⁴⁾ OJ L 154, 14.6.2007, p. 1.

⁽¹⁵⁾ [S.I. 2013/1950](#).

⁽¹⁶⁾ [1875 c.17](#); section 31(2) to (5) was inserted by [S.I. 2010/1554](#).

⁽¹⁷⁾ [2003 c.22](#).

⁽¹⁸⁾ [S.I. 2004/1836](#); amended by the Commissioners for Revenue and Customs Act 2005, section 50, [S.I. 2004/3262](#) and [2010/1554](#).

⁽¹⁹⁾ [S.R. \(N.I.\) 2002 No. 147](#); amended by [S.I. 2010/1554](#).