

SCHEDULE 1

Regulation 2(1)

Categories of pyrotechnic article

Fireworks

1. Category F1 fireworks are fireworks which present a very low hazard and negligible noise level and which are intended for use in confined areas, including fireworks which are intended for use inside domestic buildings.

2. Category F2 fireworks are fireworks which present a low hazard and low noise level and which are intended for outdoor use in confined areas.

3. Category F3 fireworks are fireworks which present a medium hazard, which are intended for outdoor use in large open areas and whose noise level is not harmful to human health.

4. Category F4 fireworks are fireworks which present a high hazard, which are intended for use only by persons with specialist knowledge and whose noise level is not harmful to human health.

Theatrical pyrotechnic articles

5. Category T1 theatrical pyrotechnic articles are theatrical pyrotechnic articles which present a low hazard.

6. Category T2 theatrical pyrotechnic articles are theatrical pyrotechnic articles which are intended for use only by persons with specialist knowledge.

Other pyrotechnic articles

7. Category P1 other pyrotechnic articles are pyrotechnic articles, other than fireworks and theatrical pyrotechnic articles, which present a low hazard.

8. Category P2 other pyrotechnic articles are pyrotechnic articles, other than fireworks and theatrical pyrotechnic articles, which are intended for handling or use only by persons with specialist knowledge.

SCHEDULE 2

Regulation 2(1)

Essential safety requirements

1.—(1) Each pyrotechnic article must attain the performance characteristics specified by the manufacturer to the notified body in order to ensure maximum safety and reliability.

(2) Each pyrotechnic article must be designed and manufactured in such a way that it can be disposed of safely by a suitable process with minimum effect on the environment.

(3) Each pyrotechnic article must function correctly when used for its intended purpose.

(4) Each pyrotechnic article must be tested under realistic conditions.

(5) If it is not possible to meet the requirement in sub-paragraph (4) in a laboratory, the tests must be carried out in the conditions in which the pyrotechnic article is to be used.

(6) The following information and properties, where applicable, must be considered or tested—

(a) design, construction and characteristic properties, including detailed chemical composition (mass and percentage of substances used) and dimensions;

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- (b) the physical and chemical stability of the pyrotechnic article in all normal, foreseeable environmental conditions;
 - (c) sensitivity to normal, foreseeable handling and transportation;
 - (d) compatibility of all components as regards their chemical stability;
 - (e) resistance of the pyrotechnic article to moisture where it is intended to be used in humid or wet conditions and where its safety or reliability may be adversely affected by moisture;
 - (f) resistance to low and high temperatures, where the article is intended to be kept or used at such temperatures and its safety or reliability may be adversely affected by cooling or heating of a component or of the pyrotechnic articles as a whole;
 - (g) safety features intended to prevent untimely or inadvertent initiation or ignition;
 - (h) suitable instructions and, where necessary, markings in respect of safe handling, storage, use (including safety distances) and disposal;
 - (i) the ability of the pyrotechnic article, its wrapping or other components to withstand deterioration under normal, foreseeable storage conditions;
 - (j) specification of all devices and accessories needed and operating instructions for safe functioning of the pyrotechnic article.
- (7) During transportation and normal handling, unless specified by the manufacturer's instructions, the pyrotechnic article must contain the pyrotechnic composition.
- (8) Pyrotechnic articles must not contain detonative explosives other than black powder and flash composition, except for pyrotechnic articles of categories P1, P2, T2 and fireworks of category F4 meeting the following conditions—
- (a) the detonative explosive cannot be easily extracted from the pyrotechnic article;
 - (b) for category P1, the pyrotechnic article cannot function in a detonative manner, or cannot, as designed and manufactured, initiate secondary explosives;
 - (c) for categories F4, T2 and P2, the pyrotechnic article is designed and intended not to function in a detonative manner, or if designed to detonate, it cannot as designed and manufactured initiate secondary explosives.
- (9) The various groups of pyrotechnic articles must at least also comply with the following requirements.

Fireworks

2.—(1) The manufacturer must assign fireworks to different categories according to regulation 6 (categorisation), characterised by net explosive content, safety distances, noise level, or similar. The category must be indicated on the label.

- (2) For category F1 fireworks, the following conditions must be met—
 - (i) the safety distance must be at least 1 metre. However, where appropriate the safety distance may be less;
 - (ii) the maximum noise level must not exceed 120 dB (A, imp), or an equivalent noise level as measured by another appropriate method, at the safety distance;
 - (iii) the category must not comprise bangers, banger batteries, flash bangers and flash banger batteries;
 - (iv) throwdowns must not contain more than 2.5 mg silver fulminate.
- (3) For category F2 fireworks, the following conditions must be met—
 - (i) the safety distance must be at least 8 metres. However, where appropriate the safety distance may be less;

- (ii) the maximum noise level must not exceed 120 dB (A, imp), or an equivalent noise level as measured by another appropriate method, at the safety distance.
- (4) For category F3 fireworks, the following conditions must be met—
 - (i) the safety distance must be at least 15 metres. However, where appropriate the safety distance may be less;
 - (ii) the maximum noise level must not exceed 120 dB (A, imp), or an equivalent noise level as measured by another appropriate method, at the safety distance.
- (5) Fireworks may only be constructed of materials which minimise risk to health, property and the environment from debris.
- (6) The method of ignition must be clearly visible or must be indicated by labelling or instructions.
- (7) Fireworks must not move in an erratic and unforeseeable manner.
- (8) Category F1 fireworks, category F2 fireworks and category F3 fireworks must be protected against inadvertent ignition either by a protective cover, by the packaging or by the construction of the pyrotechnic article.
- (9) Category F4 fireworks must be protected against inadvertent ignition by methods specified by the manufacturer.

Other pyrotechnic articles

- 3.—(1) Pyrotechnic articles must be designed in such a way as to minimise risk to health, property and the environment during normal use.
 - (2) The method of ignition must be clearly visible or must be indicated by labelling or instructions.
 - (3) The pyrotechnic article must be designed in such a way as to minimise risk to health, property and the environment from debris when initiated inadvertently.
 - (4) Where appropriate, the pyrotechnic article must function properly until the “use by” date specified by the manufacturer.

Ignition devices

- 4.—(1) Ignition devices must be capable of being reliably initiated and be of sufficient initiation capability under all normal, foreseeable conditions of use.
 - (2) Ignition devices must be protected against electrostatic discharge under normal, foreseeable conditions of storage and use.
 - (3) Electric igniters must be protected against electromagnetic fields under normal, foreseeable conditions of storage and use.
 - (4) The covering of fuses must be of adequate mechanical strength and adequately protect the explosive filling when exposed to normal, foreseeable mechanical stress.
 - (5) The parameters for the burning times of fuses must be provided with the pyrotechnic article.
 - (6) The electrical characteristics of electric igniters must be provided with the pyrotechnic article.
 - (7) The wires of electric igniters must be sufficiently insulated and must be of sufficient mechanical strength, including the solidity of the link to the igniter, taking account of their intended use.

SCHEDULE 3

Regulation 11(2)

Labelling: required information

Labelling

1. The labelling of a pyrotechnic article must include—
 - (a) the name, registered trade name or registered trade mark of the manufacturer;
 - (b) a single postal address at which the manufacturer can be contacted;
 - (c) the name, type and category of the pyrotechnic article;
 - (d) the registration number of the pyrotechnic article;
 - (e) the product, batch or serial number of the pyrotechnic article; and
 - (f) instructions for use and safety information, which must include—
 - (i) the minimum age limit for persons to whom the pyrotechnic article can be made available on the market;
 - (ii) the net explosive content of the pyrotechnic article; and
 - (iii) the information required by paragraphs 2 to 5.

Additional instructions and safety information

2. The labelling of a firework must also display the following information—
 - (a) for a category F1 firework, where appropriate—
 - (i) “for outdoor use only”; and
 - (ii) a minimum safety distance;
 - (b) for a category F2 firework—
 - (i) “for outdoor use only”; and
 - (ii) a minimum safety distance (where appropriate);
 - (c) for a category F3 firework—
 - (i) “for outdoor use only”;
 - (ii) a minimum safety distance; and
 - (iii) the year of production;
 - (d) for a category F4 firework—
 - (i) “for use only by persons with specialist knowledge”;
 - (ii) a minimum safety distance; and
 - (iii) the year of production.
3. The labelling of sparklers must also display the words “Warning: not to be given to children under 5 years of age”.
4. The labelling of a theatrical pyrotechnic article must also display the following information—
 - (a) for a category T1 theatrical pyrotechnic article, where appropriate—
 - (i) “for outdoor use only”; and
 - (ii) a minimum safety distance;
 - (b) for a category T2 theatrical pyrotechnic article—
 - (i) “for use only by persons with specialist knowledge”; and

(ii) a minimum safety distance.

5. The labelling of a category P1 other pyrotechnic article or category P2 other pyrotechnic article must also, where appropriate, display a minimum safety distance.

6. In paragraph 3, “sparkler” means a rigid wire article partially coated along one end with slow-burning pyrotechnic composition, with or without an ignition head and designed to be held in the hand, the principal effect of which is to emit sparks, with or without aural effects (other than a report).

SCHEDULE 4

Regulation 2(1)

Persons with specialist knowledge

Person with specialist knowledge: category F4 fireworks

1.—(1) A person with specialist knowledge for a category F4 firework is any individual who can demonstrate having—

- (a) undertaken training recognised in the fireworks business, in relation to the type of category F4 firework which is to be made available to that individual;
- (b) used category F4 fireworks; and
- (c) valid liability insurance covering use of category F4 fireworks.

(2) A person with specialist knowledge for a category F4 firework also includes—

- (a) any person whose trade or business (or a significant part of whose trade or business) is the supply of category F4 fireworks, for the purposes of making them available on the market in accordance with these Regulations; and
- (b) any person who is—
 - (i) in business as a supplier of goods designed and intended for use in conjunction with a category F4 firework; and
 - (ii) intends to use the category F4 firework solely for the purposes of testing it to ensure that, when used in conjunction with fireworks of the same type, it will perform its intended function or comply with any provisions made by or under any enactment and relating to the safety of such goods.

Person with specialist knowledge: category T2 theatrical pyrotechnic articles

2.—(1) A person with specialist knowledge for a category T2 theatrical pyrotechnic article is any individual who can demonstrate having—

- (a) undertaken training recognised in the theatrical profession, in relation to the type of category T2 theatrical pyrotechnic article which is to be made available to that individual;
- (b) used category T2 theatrical pyrotechnic articles; and
- (c) valid liability insurance covering use of category T2 theatrical pyrotechnic articles.

(2) A person with specialist knowledge for a category T2 theatrical pyrotechnic article also includes—

- (a) any person whose trade or business (or a significant part of whose trade or business) is the supply of category T2 theatrical pyrotechnic articles, for the purpose of making them available on the market in accordance with these Regulations;
- (b) any person who is—

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- (i) in business as a supplier of goods designed and intended for use in conjunction with a category T2 theatrical pyrotechnic article; and
- (ii) intends to use the category T2 theatrical pyrotechnic article in question solely for the purposes of testing it to ensure that, when used in conjunction with articles of the same type, it will perform its intended function or comply with any provisions made by or under any enactment and relating to the safety of such goods.

(3) In paragraph 2(1)(a), “the theatrical profession” means the profession related to indoor and outdoor stage productions and includes film and television or similar productions.

Person with specialist knowledge: category P2 other pyrotechnic articles

3.—(1) A person with specialist knowledge for a category P2 other pyrotechnic articles is any individual who can demonstrate having—

- (a) undertaken training recognised in the industry in question, in relation to the type of category P2 other pyrotechnic article which is to be made available to that individual;
 - (b) used category P2 other pyrotechnic articles; and
 - (c) valid liability insurance covering use of category P2 other pyrotechnic articles.
- (2) A person with specialist knowledge for a category P2 other pyrotechnic article also includes—
- (a) any person whose trade or business (or a significant part of whose trade or business) is the supply of category P2 other pyrotechnic articles, for the purpose of making them available on the market in accordance with these Regulations;
 - (b) any person who is—
 - (i) in business as a supplier of goods designed and intended for use in conjunction with a category P2 other pyrotechnic article; and
 - (ii) intends to use the category P2 other pyrotechnic article in question solely for the purposes of testing it to ensure that, when used in conjunction with articles of the same type, it will perform its intended function or comply with any provisions made by or under any enactment and relating to the safety of such goods.

Person with specialist knowledge: officers of enforcing authorities

4. Any person employed by or under or acting on behalf of an enforcing authority proposing to make a test purchase of a category F4 firework, category T2 theatrical pyrotechnic article or category P2 other pyrotechnic article, is to be considered to be a person with specialist knowledge where the enforcing authority—

- (a) has enforcement powers, conferred by or under any enactment, applying to the pyrotechnic article in question; and
- (b) before that person purchases the pyrotechnic article, informs the person making it available on the market that the purchase is to be made for the purposes of ascertaining whether any provision made by or under any enactment and relating to the safety of the pyrotechnic article has been contravened in relation to that pyrotechnic article.

Interpretation

5.—(1) The training referred to in paragraphs 1(1)(a), 2(1)(a) and 3(1)(a) must include training in—

- (a) the nature and correct use of the articles which are to be made available; and
- (b) the risks associated with the transport, storage and use of such articles.

(2) The training referred to in paragraphs 1(1)(a), 2(1)(a) and 3(1)(a) includes such training recognised in the relevant business, profession or industry of any member State.

(3) The use of articles referred to in paragraphs 1(1)(b), 2(1)(b) and 3(1)(b) includes the use anywhere in the world.

(4) The “liability insurance” referred to in paragraphs 1(1)(c), 2(1)(c), and 3(1)(c) may be in the name of the individual in question or the employer of that person.

SCHEDULE 5

Regulation 2(1)

Notified body requirements

1. A conformity assessment body must be established in the United Kingdom and have legal personality.

2. A conformity assessment body must be a third party body independent of the organisation or the pyrotechnic article it assesses.

3.—(1) A conformity assessment body, its top level management and the personnel responsible for carrying out the conformity assessment activities must not be the designer, manufacturer, supplier, installer, purchaser, owner, user or maintainer of pyrotechnic articles or explosive substances, nor the representative of any of those parties.

(2) Sub-paragraph (1) does not preclude the use of pyrotechnic articles or explosive substances that are necessary for the operations of the conformity assessment body or the use of pyrotechnic articles for personal purposes.

4. A conformity assessment body, its top level management and the personnel responsible for carrying out the conformity assessment activities must not be directly involved in the design, manufacture or construction, the marketing, installation, use or maintenance of pyrotechnic articles or explosive substances, or represent the parties engaged in those activities.

5. A conformity assessment body, its top level management and the personnel responsible for carrying out the conformity assessment activities must not engage in activity that may conflict with their independence of judgment or integrity in relation to conformity assessment activities for which they are notified (including consultancy services).

6. A conformity assessment body must ensure that the activities of its subsidiaries or subcontractors do not affect the confidentiality, objectivity or impartiality of their conformity assessment activities.

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

8. A conformity assessment body must be capable of carrying out all of the conformity assessment activities in relation to which it has been, or is to be, notified, whether those activities are carried out by the conformity assessment body itself or on its behalf and under its responsibility.

9. A conformity assessment body must have at its disposal—

(a) personnel with technical knowledge and sufficient and appropriate experience to perform the conformity assessment activities;

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- (b) descriptions of procedures in accordance with which conformity assessment is carried out, ensuring the transparency and the ability of reproduction of those procedures, and have appropriate policies and procedures in place that distinguish between tasks it carries out as a notified body and other activities;
 - (c) procedures for the performance of activities which take due account of the size of an undertaking, the sector in which it operates, its structure, the degree of complexity of the product technology in question and the mass or serial nature of the process.
- 10.** A conformity assessment body must have the means necessary to perform the technical and administrative tasks connected with the conformity assessment activities in an appropriate manner and must have access to the necessary equipment or facilities.
- 11.** The personnel responsible for carrying out conformity assessment activities must have—
- (a) sound technical and vocational training covering all the conformity assessment activities in relation to which the conformity assessment body has been notified;
 - (b) satisfactory knowledge of the requirements of the assessments which the personnel carry out and adequate authority to carry out those assessments;
 - (c) appropriate knowledge and understanding of the essential safety requirements, of the applicable harmonised standards and of the Directive and of these Regulations;
 - (d) the ability to draw up certificates, records and reports demonstrating that assessments have been carried out.
- 12.** A conformity assessment body must be able to demonstrate the impartiality of its top level management and the personnel responsible for carrying out the conformity assessment activities.
- 13.** The remuneration of the top level management and the personnel responsible for carrying out the conformity assessment activities must not depend on the number of assessments carried out or on the results of those assessments.
- 14.** A conformity assessment body must have, and must satisfy the Secretary of State that it has, adequate civil liability insurance in respect of its activities.
- 15.** A conformity assessment body must ensure that its personnel observe professional secrecy with regard to all information obtained in carrying out their tasks in accordance with these Regulations and that proprietary rights are protected.
- 16.** Paragraph 15 does not prevent the personnel from providing information to the Secretary of State or an enforcing authority.
- 17.** A conformity assessment body must participate in, or ensure that its personnel who are responsible for carrying out the conformity assessment activities are informed of, the relevant standardisation activities and the activities of any notified body coordination group established under the Directive and must apply as general guidance the administrative decisions and documents produced as a result of the work of that group.

SCHEDULE 6

Regulation 50

Operational obligations of notified bodies

- 1.** A notified body must carry out conformity assessments in accordance with the relevant conformity assessment procedures.
- 2.** A notified body must carry out conformity assessments in a proportionate manner, avoiding unnecessary burdens on economic operators.

3. A notified body must perform its activities taking due account of the size of an undertaking, the sector in which it operates, its structure, the degree of complexity of the product technology in question and the mass or serial nature of the production process.

4. A notified body must respect the degree of rigour and the level of protection required to ensure that the pyrotechnic article is in conformity with the requirements of these Regulations.

5. A notified body carrying out a conformity assessment must—

- (a) assign a registration number in the form specified in Article 1 of Commission Implementing Directive 2014/58/EU setting up a system for the traceability of pyrotechnic articles (as amended from time to time), which identifies the pyrotechnic articles which have been subject to a conformity assessment and their manufacturers; and
- (b) maintain a register with the registration number of the pyrotechnic articles in respect of which it has issued a certificate of conformity or granted an approval and keep entries made in the register for a period of at least 10 years beginning on the day on which the certificate of conformity was issued or the approval was granted.

6. After 16th October 2016—

- (a) an entry made in the register referred to in paragraph 5(b) must contain at least the information set out in the Annex to Commission Implementing Directive 2014/58/EU (as amended from time to time);
- (b) the notified body must—
 - (i) keep the information referred to in sub-paragraph (a) in respect of a pyrotechnic article for a period of at least 10 years beginning on the day on which the certificate of conformity was issued or the approval was granted; and
 - (ii) update the register referred to paragraph 5(b) and make it publicly available on the internet.

7. Where a notified body finds that essential safety requirements or corresponding harmonised standards or other technical specifications have not been met by a manufacturer, it must require the manufacturer to take appropriate corrective measures and must not issue a certificate of conformity or grant an approval.

8. Where, in the course of the monitoring of conformity following the issue of a certificate or grant of an approval, a notified body finds that a pyrotechnic article is no longer in conformity with the essential safety requirements, it must require the manufacturer to take appropriate corrective measures and must suspend or withdraw the certificate of conformity or approval (if necessary).

9. Where the notified body has required a manufacturer to take corrective measures and the manufacturer has failed to take such measures, or those measures have not had the required effect, the notified body must restrict, suspend or withdraw any certificate of conformity or approval.

10. Paragraph 11 applies where a notified body is minded to—

- (a) refuse to issue a certificate of conformity or grant an approval; or
- (b) restrict, suspend or withdraw a certificate of conformity or approval.

11. Where this paragraph applies, the notified body must—

- (a) give the person applying for the certificate or approval, or the person to whom the certificate or approval was given, a notice in writing giving reasons and specifying the date on which the refusal, restriction, suspension or withdrawal is intended to take effect;
- (b) give the person applying for the certificate or approval, or the person to whom the certificate or approval was given, an opportunity to make representations within a reasonable period from the date of the notice; and

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- (c) take account of any such representations before taking its decision.
- 12.** A notified body must inform the Secretary of State of—
- (a) any refusal, restriction, suspension or withdrawal of a certificate of conformity or approval;
 - (b) any circumstances affecting the scope of, or conditions for, notification under regulation 44 (notification);
 - (c) any request for information which it has received from an enforcing authority regarding conformity assessment activities; and
 - (d) on request, conformity assessment activities performed within the scope of its notification under regulation 44 and any other activity performed, including cross-border activities and subcontracting.
- 13.** A notified body must make provision in its contracts with its clients enabling such clients to appeal against a decision—
- (a) to refuse to issue a certificate of conformity or grant an approval; or
 - (b) to restrict, suspend or withdraw a certificate of conformity or approval.
- 14.** A notified body must provide other bodies notified under the Directive carrying out similar conformity assessment activities covering the same pyrotechnic articles with relevant information on issues relating to negative and, on request, positive conformity assessment results.
- 15.** A notified body must participate in the work of any notified body coordination group established under the Directive, directly or by means of its designated representatives.

SCHEDULE 7

Regulation 54(1)

Enforcement powers of weights and measures authorities,
district councils and the Secretary of State under the 1987 Act

Enforcement powers under the 1987 Act

- 1.** For the purposes of enforcing these Regulations, the following sections of the 1987 Act apply subject to the modifications in paragraph 2—
- (a) section 13 (prohibition notices and notices to warn);
 - (b) section 14 (suspension notices);
 - (c) section 16 (forfeiture: England and Wales and Northern Ireland);
 - (d) section 17 (forfeiture: Scotland);
 - (e) section 18 (power to obtain information);
 - (f) section 28 (test purchases);
 - (g) section 29 (powers of search etc);
 - (h) section 30 (provisions supplemental to s 29);
 - (i) section 31 (powers of customs officer to detain goods);
 - (j) section 33 (appeals against detention of goods);
 - (k) section 34 (compensation for seizure and detention);
 - (l) section 35 (recovery of expenses of enforcement);
 - (m) section 37 (power of Commissioners for Revenue and Customs to disclose information);

- (n) section 45 (interpretation);
- (o) section 46(1) (meaning of “supply”); and
- (p) Schedule 2 (prohibition notices and notices to warn).

Modifications to the 1987 Act

2. The sections of the 1987 Act referred to in paragraph 1 are to apply as if—
- (a) in section 13—
 - (i) in subsection (1), “relevant” were omitted on each occasion that it appears;
 - (ii) in subsection (1), for “unsafe”, on each occasion that it appears, there were substituted “non-compliant”;
 - (iii) in subsection (2), the words from “; and the Secretary of State may” to the end were omitted; and
 - (iv) subsections (4) to (7) were omitted;
 - (b) in section 14—
 - (i) in subsection (1), after “any safety provision has been contravened in relation to any goods”, there were inserted “or that any goods present a risk”;
 - (ii) in subsection 2(b), after “a safety provision has been contravened in relation to the goods”, there were inserted “or that the goods present a risk”;
 - (iii) in subsection (2)(c), “under section 15 below” were omitted; and
 - (iv) subsections (6) to (8) were omitted;
 - (c) in section 16—
 - (i) in subsection (1), after “a contravention in relation to the goods of a safety provision”, there were inserted “or that the goods present a risk”;
 - (ii) for subsection 2(b) there were substituted—
 - “(b) where an application with respect to some or all of the goods has been made to a magistrates’ court under regulation 70 (appeals against notices) of the 2015 Regulations or section 33, to that court; and”;
 - (iii) in subsection (3), after “a contravention in relation to the goods of a safety provision”, there were inserted “or that the goods present a risk”;
 - (iv) after subsection (4), there were inserted—
 - “(4A) A court may infer for the purposes of this section that any goods present a risk if it is satisfied that such a risk is presented by goods which are representative of those goods (whether by reason of being of the same design or part of the same consignment or batch or otherwise).”;
 - (v) in subsection (6), for “Subject to subsection (7) below, where” there were substituted “Where”; and
 - (vi) subsection (7) were omitted;
 - (d) in section 17—
 - (i) in subsection (1), after “a contravention of a safety provision”, there were inserted “or where the goods present a risk”;
 - (ii) in subsection (6), after “a contravention in relation to those goods of a safety provision”, there were inserted “or that those goods present a risk”; and
 - (iii) after subsection (7), there were inserted—

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“(7A) The sheriff may infer for the purposes of this section that any goods present a risk if satisfied that such risk is presented by goods which are representative of those goods (whether by reason of being of the same design or part of the same consignment or batch or otherwise).”;

- (e) in section 18, subsections (3) and (4) were omitted;
- (f) in section 28—
 - (i) in subsection (1), for “, services, accommodation or facilities”, there were substituted “or whether any goods present a risk”;
 - (ii) in subsection (1), paragraph (b) were omitted; and
 - (iii) subsections (3) and (4) were omitted;
- (g) in section 29—
 - (i) in subsection (2), after “any contravention of any safety provision” there were inserted “or whether goods present a risk”;
 - (ii) in subsection (3), after “any contravention of any safety provision” there were inserted “or whether goods present a risk”;
 - (iii) in subsection 4(a), after “any contravention of any safety provision in relation to the goods”, there were inserted “or whether the goods present a risk”;
 - (iv) in subsection 4(b), after “any such contravention”, there were inserted “or whether the goods present a risk”;
 - (v) in subsection (5), after “a contravention in relation to any goods of any safety provision”, there were inserted “or that the goods present a risk”;
 - (vi) in subsection (5)(a), after “any such contravention”, there were inserted “or whether the goods present a risk”;
 - (vii) in subsection (5)(b), after “any such contravention”, there were inserted “or whether the goods present a risk”; and
 - (viii) in subsection (7), after “a contravention of any safety provision”, there were inserted “or prevent goods from presenting a risk”;
- (h) in section 30—
 - (i) after subsection (2)(a)(ii), for “and”, there were substituted—
 - “or
 - (iii) that any goods which any officer has power to inspect under section 29 are on any premises and their inspection is likely to demonstrate that they present a risk; and”; and
 - (ii) subsections (5), (7) and (8) were omitted;
- (i) in section 31(1), for “Part II of this Act”, there were substituted “the 2015 Regulations”;
- (j) in section 34(1), after paragraph (a), there were inserted
 - “(aa) the goods do not present a risk;”;
- (k) in section 37(1), for “Part II of this Act”, there were substituted “the 2015 Regulations”;
- (l) in section 45(1)—
 - (i) the definitions of “conditional sale agreement”, “credit-sale agreement”, “gas”, “motor vehicle”, “personal injury”, “subordinate legislation” and “substance” were omitted;
 - (ii) before the definition of “aircraft”, there were inserted—

- ““2015 Regulations” means the Pyrotechnic Articles (Safety) Regulations 2015;”;
- (iii) for the definition of “enforcement authority” there were substituted—
- ““enforcement authority” means an enforcing authority within the meaning set out in regulation 2(1) of 2015 Regulations;”;
- (iv) for the definition of “goods” there were substituted—
- ““goods” means a pyrotechnic article within the meaning set out in regulation 3 of the 2015 Regulations;”;
- (v) after the definition of “modifications”, there were inserted—
- ““non-compliant” in relation to any goods means that—
- (a) a safety provision has been contravened in relation to the goods; or
- (b) the goods present a risk;”
- (vi) after the definition of “premises”, there were inserted—
- ““present a risk” means present a risk within the meaning set out in regulation 2(5) of the 2015 Regulations;”;
- (vii) for the definition of “safety provision” there were substituted—
- ““safety provision” means any provision of the 2015 Regulations;”;
- (viii) for the definition of “safety regulations” there were inserted—
- ““safety regulations” means the 2015 Regulations;”;
- (m) in section 46(1), omit “and, in relation to gas or water, those references shall be construed as including references to providing the service by which the gas or water is made available for use”; and
- (n) in Schedule 2—
- (i) for “unsafe”, on each occasion that it appears, there were substituted “non-compliant”; and
- (ii) for “safe”, on each occasion that it appears, there were substituted “not non-compliant”.

SCHEDULE 8

Regulation 54(2)

Enforcement powers of the Health and Safety Executive under the 1974 Act

Enforcement powers under the 1974 Act

1. For the purposes of enforcing these Regulations, the following sections of the 1974 Act apply subject to the modifications in paragraph 2—

- (a) section 10(1) (establishment of the Executive);
- (b) section 19 (appointment of inspectors);
- (c) section 20 (powers of inspectors);
- (d) section 21 (improvement notices);
- (e) section 22 (prohibition notices);
- (f) section 23 (provisions supplementary to ss 21 and 22);

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- (g) section 24 (appeal against improvement or prohibition notice);
- (h) section 25 (power to deal with cause of imminent danger);
- (i) section 25A (power of customs officer to detain articles and substances);
- (j) section 26 (power of enforcing authorities to indemnify inspectors);
- (k) section 27 (obtaining of information by the Executive, enforcing authorities etc);
- (l) section 27A (information communicated by Commissioners for Revenue and Customs);
- (m) section 28 (restrictions on disclosure of information);
- (n) section 33 (offences);
- (o) section 34 (extension of time for bringing summary proceedings);
- (p) section 35 (venue);
- (q) section 39 (prosecution by inspectors);
- (r) section 41 (evidence); and
- (s) section 42 (power of court to order cause of offence to be remedied or, in certain cases, forfeiture).

Modifications to the 1974 Act

2. The sections of the 1974 Act referred to in paragraph 1 are to apply as if—
 - (a) references to “relevant statutory provisions” were references to—
 - (i) the provisions of the 1974 Act set out in paragraph 1, as modified by this paragraph; and
 - (ii) these Regulations;
 - (b) references to “risk” were references to “risk” within the meaning of regulation 2(5) of these Regulations;
 - (c) in section 19—
 - (i) in subsection (1), for “Every enforcing authority” there were substituted “The Executive”;
 - (ii) in subsection (1), “within its field of responsibility” were omitted;
 - (iii) in subsection (2), paragraph (b) were omitted; and
 - (iv) in subsection (3), for “enforcing authority which appointed him” there were substituted “Executive”;
 - (d) in section 20—
 - (i) in subsection (1), “within the field of responsibility of the enforcing authority which appointed him” were omitted;
 - (ii) in subsection (2)(c)(i), for “his (the inspector’s) enforcing authority” there were substituted “the Executive”;
 - (iii) in subsection 2(h), for “him to have caused or to be likely to cause danger to health or safety”, there were substituted “contravene the relevant statutory provisions or present a risk”; and
 - (iv) subsection (3) were omitted;
 - (e) in section 21—
 - (i) before paragraph (a), there were inserted—

- “(za) is making available on the market a pyrotechnic article which presents a risk;”;
 - (ii) after “specifying the”, there were inserted “risk, or”; and
 - (iii) after “requiring that person to”, there were inserted “address the risk or”;
- (f) for section 22(2) there were substituted—
- “(2) An inspector may serve a notice (in this Part referred to as “a prohibition notice”) on a person if, as regards any activities to which this section applies, the inspector is of the opinion that, as carried on or likely to be carried on by or under the control of the person in question, the activities involve or, as the case may be, will involve—
 - (a) a risk; or
 - (b) a contravention of a relevant statutory provision.”;
- (g) in section 23, subsections (3), (4) and (6) were omitted;
- (h) in section 25A(1)—
- (i) for “an enforcing authority or inspector”, there were substituted “the Executive or an inspector”; and
 - (ii) for “the authority”, there were substituted “the Executive”;
- (i) for the title to section 26, there were substituted “Power of the Executive to indemnify its inspectors”
- (j) in section 26, for each of the following references there were substituted “the Executive”—
- (i) “the enforcing authority which appointed him”;
 - (ii) “that authority”; and
 - (iii) “the authority”;
- (k) in section 27—
- (i) in subsection (1), paragraph (b) were omitted; and
 - (ii) in subsection (1), “or, as the case may be, to the enforcing authority in question” were omitted;
- (l) in section 27A(2)—
- (i) for “an enforcing authority” there were substituted “the Executive”; and
 - (ii) the words from “, other than the Office for Nuclear Regulation” to the end were omitted;
- (m) in section 28—
- (i) in subsection (1)(a), “, other than the Officer for Nuclear Regulation (or an inspector appointed by it),” were omitted;
 - (ii) in subsection (1)(a), “, by virtue of section 43A(6) below” were omitted;
 - (iii) in subsection (3)(a), “or any enforcing authority” were omitted;
 - (iv) in subsection (4), “or an enforcing authority” were omitted;
 - (v) in subsection (4), “(including, in the case of an enforcing authority, any inspector appointed by it)” were omitted;
 - (vi) in subsection (5)(a), “or the purposes of the enforcing authority in question in connection with the relevant statutory provisions,” were omitted;
 - (vii) in subsection (7), “14(4)(a) or” were omitted;
 - (viii) in subsection (7), for paragraph (b), there were substituted—

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- “(b) for the purposes of any legal proceedings or for the purposes of a report of any such proceedings;”;
 - (ix) subsection (9B) were omitted;
- (n) in section 33—
 - (i) in subsection (1), paragraphs (a) to (i) and (k) to (m) were omitted;
 - (ii) for subsection (2), there were substituted—
 - “(2) A person guilty of an offence under this section is liable—
 - (a) on summary conviction—
 - (i) in England and Wales, to a fine or imprisonment for a term not exceeding three months, or to both;
 - (ii) in Scotland, to a fine not exceeding the statutory maximum or imprisonment for a term not exceeding three months, or to both;
 - (b) on conviction on indictment to a fine or imprisonment for a term not exceeding two years, or to both.”;
 - (iii) section 33(3) were omitted;
- (o) in section 34—
 - (i) in subsection (1), paragraphs (a) and (b) were omitted;
 - (ii) in subsection (1), for the words from “and it appears” to the end, there were substituted—
 - “and it appears from the investigation or, in a case falling within paragraph (d), from the proceedings at the inquiry, that any of the relevant statutory provisions was contravened at a time which is material in relation to the subject-matter of the investigation or inquiry, summary proceedings against any person liable to be proceeded against in respect of the contravention may be commenced at any time within three months of the conclusion of the investigation or inquiry.”;
 - (iii) subsections (3) to (6) were omitted;
- (p) in section 35, for “any enforcing authority”, there were substituted “the Executive”;
- (q) in section 39(1), for “enforcing authority which appointed him” there were substituted “Executive”; and
- (r) in section 42, subsections (3A), (4) and (5) were omitted.

SCHEDULE 9

Regulation 54(3)

Compliance, withdrawal and recall notices

Compliance notice

1.—(1) An enforcing authority may serve a compliance notice on a relevant economic operator in respect of a pyrotechnic article if the authority has reasonable grounds for believing that there is non-compliance.

(2) A compliance notice must—

- (a) require the relevant economic operator on which it is served to—
 - (i) end the non-compliance within such period as may be specified in the notice; or

- (ii) provide evidence, within such period as may be specified in the notice, demonstrating to the satisfaction of the enforcing authority that the non-compliance has not in fact occurred; and
 - (b) warn the economic operator that, if the non-compliance persists or if satisfactory evidence has not been produced under paragraph (a) within the period specified in the notice, further action may be taken in respect of the pyrotechnic article or any pyrotechnic article of the same type made available on the market by that relevant economic operator.
- (3) A compliance notice may include directions as to the measures to be taken by the economic operator to secure compliance, including different ways of securing compliance.
- (4) Subject to sub-paragraph (5), an enforcing authority may revoke or vary a compliance notice by serving a notification on the economic operator.
- (5) An enforcing authority may not vary a compliance notice so as to make it more restrictive for the economic operator or more onerous for the economic operator to comply.

Withdrawal notice

- 2.—(1) An enforcing authority may serve a withdrawal notice on a relevant economic operator in respect of a pyrotechnic article if the authority has reasonable grounds for believing that—
- (a) the pyrotechnic article has been made available on the market; and
 - (b) there is non-compliance.
- (2) A withdrawal notice must prohibit the relevant economic operator from making the pyrotechnic article available on the market without the consent of the enforcing authority.
- (3) A withdrawal notice may require the relevant economic operator to take action to alert end-users to any risk presented by the pyrotechnic article.
- (4) A withdrawal notice may require the relevant economic operator to keep the enforcing authority informed of the whereabouts of any pyrotechnic article referred to in the notice.
- (5) A consent given by the enforcing authority pursuant to a withdrawal notice, may impose such conditions on the making available on the market as the enforcing authority considers appropriate.
- (6) Subject to sub-paragraph (7), an enforcing authority may revoke or vary a withdrawal notice by serving a notification on the economic operator.
- (7) An enforcing authority may not vary a withdrawal notice so as to make it more restrictive for the economic operator or more onerous for the economic operator to comply.
- (8) A withdrawal notice has effect throughout the United Kingdom.

Recall notice

- 3.—(1) The enforcing authority may serve a recall notice on a relevant economic operator in respect of a pyrotechnic article if the authority has reasonable grounds for believing that—
- (a) the pyrotechnic article has been made available to end-users; and
 - (b) there is non-compliance.
- (2) A recall notice must require the relevant economic operator to use reasonable endeavours to organise the return of the pyrotechnic article from end-users to the relevant economic operator or another person specified in the notice.
- (3) A recall notice may—
- (a) require the relevant economic operator to—

Status: This is the original version (as it was originally made).

- (i) contact end-users in order to inform them of the recall, to the extent that it is practicable to do so;
 - (ii) publish a notice in such form and such manner as is likely to bring to the attention of end-users any risk the pyrotechnic article poses and the fact of the recall; or
 - (iii) make arrangements for the collection or return of the pyrotechnic article from end-users or its disposal; or
- (b) impose such additional requirements on the relevant economic operator as are reasonable and practicable with a view to achieving the return of the pyrotechnic article.
- (4) In determining what requirements to include in a recall notice, the enforcing authority must take into consideration the need to encourage distributors and end-users to contribute to its implementation.
- (5) A recall notice may only be issued by the enforcing authority where—
- (a) other action which it may require under these Regulations would not suffice to address the non-compliance;
 - (b) the action being undertaken by the relevant economic operator is unsatisfactory or insufficient to address the non-compliance;
 - (c) the enforcing authority has given not less than 10 days’ notice to the relevant economic operator of its intention to serve such a notice; and
 - (d) the enforcing authority has taken account of any advice obtained under sub-paragraph (6).
- (6) A relevant economic operator which has received notice from the enforcing authority of an intention to serve a recall notice may at any time prior to the service of the recall notice require the authority to seek the advice of such person as the Institute determines on the questions of—
- (a) whether there is non-compliance; and
 - (b) whether the issue of a recall notice would be proportionate.
- (7) Sub-paragraph (5)(b), (c) and (d) do not apply in the case of a pyrotechnic article presenting a serious risk requiring, in the view of the enforcing authority, urgent action.
- (8) Where a relevant economic operator requires the enforcing authority to seek advice under sub-paragraph (6), that relevant economic operator is to be responsible for the fees, costs and expenses of the Institute and of the person appointed by the Institute to advise the enforcing authority.
- (9) In this paragraph, “Institute” means the charitable organisation with registered number 803725 and known as the Chartered Institute of Arbitrators.
- (10) A recall notice served by the enforcing authority may require the relevant economic operator to keep the authority informed of the whereabouts of a pyrotechnic article to which the recall notice relates, so far as the relevant economic operator is able to do so.
- (11) Subject to sub-paragraph (12), an enforcing authority may revoke or vary a recall notice by serving a notification on the economic operator.
- (12) An enforcing authority may not vary a recall notice so as to make it more restrictive for the economic operator or more onerous for the economic operator to comply.
- (13) A recall notice has effect throughout the United Kingdom.

Interpretation

4. In this Schedule, “non-compliance” means that the pyrotechnic article—
- (a) presents a risk; or
 - (b) is not in conformity with Part 2, or RAMS in its application to pyrotechnic articles.

SCHEDULE 10

Regulation 75(5)

Consequential amendments to the Fireworks Regulations 2004

1. The Fireworks Regulations 2004 are amended as set out below.
2. In regulation 3 (interpretation)—
 - (a) for the definition of “adult firework” substitute—

““adult firework” means a—

 - (a) category F2 firework;
 - (b) category F3 firework; or
 - (c) category F4 firework.”;
 - (b) omit the definitions of—
 - (i) “amorce”;
 - (ii) “BS 7114”;
 - (iii) “BS EN 61672”;
 - (iv) “cap”;
 - (v) “category 3 firework”;
 - (vi) “category 4 firework”;
 - (vii) “cracker snap”;
 - (viii) “novelty match”;
 - (ix) “party popper”;
 - (x) “serpent”; and
 - (xi) “sparkler”;
 - (c) after the definition of “assembly”, insert—

““category F2 firework” has the meaning set out in paragraph 2 of Schedule 1 to the 2015 Regulations;

“category F3 firework” has the meaning set out in paragraph 3 of Schedule 1 to the 2015 Regulations;

“category F4 firework” has the meaning set out in paragraph 4 of Schedule 1 to the 2015 Regulations;”;
 - (d) for the definition of “explosives” substitute—

““explosives” has the meaning set out in regulation 2(1) of the Explosives Regulations 2014(1);”;
 - (e) after the definition of “explosives”, insert—

““firework” means any article, intended for entertainment purposes, containing explosive substances or an explosive mixture of substances designed to produce heat, light, sound, gas or smoke or a combination of such effects through self-sustained exothermic chemical reactions;”;
 - (f) for the definition of “the 2010 Regulations”, substitute—

““the 2015 Regulations” means the Pyrotechnic Articles (Safety) Regulations 2015;”.

(1) [S.I. 2014/1638](#).

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3. In regulation 5 (prohibition of possession of category 4 fireworks), for “category 4 firework”, substitute “category F4 firework”.
 4. In regulation 6(1)(c) (exceptions to regulations 4 and 5), for “2010 Regulations”, substitute “2015 Regulations”.
 5. In regulation 9 (licensing of fireworks suppliers)—
 - (a) in paragraph (2A)(a), for “2010 Regulations”, substitute “2015 Regulations”;
 - (b) for paragraph (4), substitute—

“(4) A local licensing authority may only grant a licence to a person (“A”) under paragraph (1), if satisfied that—

 - (a) A, or another person on A’s behalf, holds a valid licence for the storage of the fireworks under the Explosives Regulations 2014; or
 - (b) a licence for storage of the fireworks is not required under the Explosives Regulations 2014.”;
 - (c) for paragraph (5)(b), substitute—

“(b) an offence under regulation 62 of the 2015 Regulations;”;
 - (d) in paragraph 5(c), for “sections 4, 5 or”, substitute “section”.
6. In regulation 10 (information about fireworks)—
 - (a) in paragraph (1), for “adult fireworks or sparklers” on each occasion that it occurs, substitute “category F2 fireworks or category F3 fireworks”;
 - (b) for paragraph (2), substitute—

“(2) In paragraph (1), the “required information” means information that—

 - (a) it is illegal to sell category F2 fireworks or category F3 fireworks to anyone under the age of 18; and
 - (b) it is illegal for anyone under the age of 18 to possess category F2 fireworks or category F3 fireworks in a public place.”;
 - (c) in paragraph (3)—
 - (i) omit sub-paragraph (a); and
 - (ii) in sub-paragraph (b), after “the firework”, insert “, except where that person is an economic operator within the meaning of regulation 2(1) of the 2015 Regulations”.

SCHEDULE 11

Regulation 75(6)

Consequential amendments to the Explosives (Fireworks) Regulations (Northern Ireland) 2002

1. The Explosives (Fireworks) Regulations (Northern Ireland) 2002 are amended as set out below.
2. In regulation 2 (interpretation)—
 - (a) after “In these Regulations—”, insert—

“the “2015 Regulations” means the Pyrotechnic Articles (Safety) Regulations 2015;”;
 - (b) for the definition of “category 1 firework”, substitute—

““category F1 firework” has the meaning set out in paragraph 1 of Schedule 1 (categories of pyrotechnic article) to the 2015 Regulations;”;

- (c) for the definition of “category 2 firework”, substitute—
““category F2 firework” has the meaning set out in paragraph 2 of Schedule 1 to the 2015 Regulations;”;
 - (d) for the definition of “category 3 firework”, substitute—
““category F3 firework” has the meaning set out in paragraph 3 of Schedule 1 to the 2015 Regulations;”;
 - (e) for the definition of “enforcing authority”, substitute—
““enforcing authority” has the meaning set out in regulation 2(1) (interpretation) of the 2015 Regulations;”;
 - (f) for the definition of “firework”, substitute—
““firework” means any article, intended for entertainment purposes, containing explosive substances or an explosive mixture of substances designed to produce heat, light, sound, gas or smoke or a combination of such effects through self-sustained exothermic chemical reactions;”.
3. In regulation 4(1) (prohibition on the possession, purchase, sale, acquisition, handling or use of fireworks), omit “Government inspector,”.
 4. In regulation 7 (production of licence)—
 - (a) in paragraph (2), after the first reference to “licence”, insert “under regulation 4(1),”; and
 - (b) in paragraph (4), omit “Government Inspector,”.
 5. In regulation 11(1)(a) (display of notice and certificate)—
 - (a) for “category 1 fireworks”, substitute “category F1 fireworks”; and
 - (b) for “category 2 and 3 fireworks”, substitute “category F2 fireworks and category F3 fireworks”.
 6. In regulation 12 (transactions in fireworks), for “the fireworks in Schedule 2”, substitute “carrying out, or undertaking to carry out, transactions in fireworks which are in accordance with the 2015 Regulations”.
 7. In Schedule 1 (fireworks exempt from the provisions of regulation 4(1)), after each reference to “category”, insert “F”.
 8. Omit Schedule 2.