

dti

FIREWORKS REGULATIONS

Consultation on proposals to
create a number of
prohibitions on the possession
of fireworks.

CONSULTATION DOCUMENT

NOVEMBER 2003

dti

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We champion UK business at home and abroad. We invest heavily in world-class science and technology. We protect the rights of working people and consumers. And we stand up for fair and open markets in the UK, Europe and the world.

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1. EXECUTIVE SUMMARY

- 1.1 The Fireworks Act 2003 resulted from a Private Members Bill which was supported by the Government. Its aim is to reduce noise, nuisance and injuries caused by the use of fireworks.
- 1.2 The Act enables the Secretary of State for Trade and Industry to make regulations (Fireworks Regulations) in order to secure that there is either no risk, or a minimal risk compatible with use, that fireworks will cause death, injury or distress to persons or animals, or damage to property. The scope of the Act is twofold in that it allows the Government to tackle issues regarding the supply of fireworks as well as their use, or misuse, resulting in anti-social or criminal behaviour.
- 1.3 This document therefore covers proposals to introduce a number of limited prohibitions on the possession of fireworks, specifically, as above, with the aim of tackling their anti-social use by certain troublesome elements in the community.
- 1.4 This proposal consists of an offence for possession, in a public place, of fireworks by those under the age of 18 and an offence for the possession of category 4 fireworks, that is, professional display fireworks (usually very powerful), by any person other than those persons (such as professional fireworks display operators, manufacturers and suppliers) who have legitimate business reasons for handling fireworks .
- 1.5 We believe that these initial proposed offences represent significant steps in helping to fulfil the aims of the Government in relation to anti social behaviour generally, and that it is important to bring them into force as soon as possible in order to reduce the potential that fireworks may be used in such a manner in the time leading up to this year's New Year celebrations and beyond. Further proposals for regulations made under the Act, subject to consultations, are to follow in 2004.

Views sought

- 1.6 This consultation document seeks your views on proposals to introduce a number of limited prohibitions on the possession of fireworks, with the aim of curbing their anti-social use by young people or those with criminal or harmful intentions.

Timing

- 1.7 To meet with the Prime Minister's commitment on anti-social behaviour, the consultation period will be limited covering a 3 week period, but we hope that all interested parties will be able to consider and comment on these proposals.

Responses

- 1.8 We invite the submission of written or electronic views on this consultation by post or email:

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Closing Date

- 1.9 Responses must be received by **Wednesday 26 November 2003**.

Outcome

- 1.10 We aim to publish the outcome of this consultation by **Friday 16 January 2004**. However, we intend the Regulations to come into effect on **22 December 2003**.

Confidentiality

- 1.11 Your response to this consultation document may be made publicly available in whole or in part at the Department's discretion. If you do not wish all or part of your response (including your identity) to be made public, you must state in the response which parts you wish us to keep confidential. Where confidentiality is not requested, responses may be made available to any enquirer including enquirers outside the UK or published by any means, including on the Internet.

Consultees

- 1.12 We are sending this document to the consultees listed at Part 5. Please tell us if you know of others who would be interested in receiving this consultation. It is also available by request from the address listed above and on the DTI website at www.dti.gov.uk .

Enquiries

- 1.13 If you have any questions, or would like further information on this consultation please contact David Southerland on 020 7215 0371

2. THE PROPOSALS

- 2.1 The main objective of implementing this provision in the Act is to *reduce the risk that the use of fireworks will cause death, injury or distress - either to persons or animals or cause the destruction of, or damage to, property*” Although the sale of fireworks to those under the age of 18 is prohibited under the Fireworks (Safety) Regulations 1997 (1997 Regulations hereafter), young people are still obtaining fireworks. After acquiring fireworks, young people may legally carry them in public places - and as a result their misuse can lead to both nuisance, intimidation and injury. In this instance, the police can do little - even if they know that a particular nuisance has taken place - or could potentially take place. This regulation will address the existing inadequacy.
- 2.2 The case to prohibit the possession of category IV fireworks has recently been identified. Under the 1997 Regulations, the sale of this particular category of firework to the general public is prohibited, although it has recently become apparent that such fireworks are increasingly finding their way into the hands of the public - and, in particular, can and have been used in such a way as to cause significant damage to property or injury to people. This measure would thus ensure that particularly dangerous fireworks of this nature are not possessed by those with the intention of unlawfully selling them to the public and help to ensure that this type of firework is not used for anti social or criminal purposes
- 2.3 The Regulations are made under the emergency procedure and will expire 1 year after coming into force

Proposal 1 – A prohibition on the possession of fireworks by those under the age of 18 in public places.

- 2.4 The Police Service will have the primary responsibility for enforcement of this prohibition.
- 2.5 The definition of a public place includes any place to which at the material time the public have or are permitted access, whether on payment or otherwise.

2.6 We note that there may be a number of circumstances in which it should not be an offence for a person under that age of 18 to be in possession of fireworks. These include;

- (a) professional organisers or operators of firework displays, or their employees;
- (b) manufacturers (or their employees) of fireworks or assemblies containing fireworks;
- (c) suppliers (or their employees) of fireworks or assemblies containing fireworks for the purposes of supplying the fireworks in accordance with the Fireworks (Safety) Regulations 1997;
- (d) employees of local authorities, Government departments and naval, military and air force establishments, for the purposes of firework displays or for use at national public celebrations or commemorative events (or in the case of Government departments, for research or investigations purposes);
- (e) persons using fireworks, in the course of their trade, business or employment, for special effects purposes in the theatre, on film or on television;
- (f) for the purposes of test purchases by bodies with enforcement powers;
- (g) suppliers (or their employees) of goods for use with fireworks or assemblies containing fireworks, who are using the fireworks to test those goods to ensure they perform correctly or comply with safety legislation.

N.B. It should be noted that these circumstances apply to both of the possession offences.

2.7 Equally we recognise that possession of certain types of firework in a public place should not be an offence for under 18s. Such items are caps, cracker snaps, novelty matches, party poppers etc. We think it is also sensible to include sparklers in this exemption list, which are mostly category 2 fireworks. Possession of category 3 or 4 sparklers will still be prohibited.

Proposal 2– A prohibition on the possession of category 4 fireworks by members of the public in public places.

2.8 Category 4 fireworks are defined as a firework classified as category 4 under Part 1 of the British Standard Specification relating to fireworks published on 30 November 1988 (BS 7114). Regulations already prohibit Category 4 fireworks from being supplied to the general public. Such fireworks should only be supplied to and used by professionals in the course of their work.

2.9 Again, this prohibition would be enforced by the Police

2.10 We note that there may be a number of circumstances in which it should not be an offence for a person to be in possession of category 4 fireworks.

3. REGULATORY IMPACT ASSESSMENT

1. Issue

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

1.2 The Government is committed to implementing an important anti-social aspect of the Fireworks Act that will be of particular significance in tackling the perpetration of anti social behaviour. The specific Regulations that the Government propose are as follows:

- under sections 2(1)(b) and 3(2) of the Fireworks Act - **prohibiting those under the age of 18 from possessing any firework in a public place**, with the exception of category I fireworks and category II sparklers¹;
- under sections 2(1)(b) and 5(2)(a) of the 2003 Act – **prohibiting the possession of category IV fireworks by any person**;
- for both prohibitions mentioned above, to provide exceptions for persons (such as those who work in the manufacture or supply of fireworks, or who arrange public fireworks displays) with a legitimate reason for handling fireworks;
- under section 12(1) of the 2003 Act and section 27(2) of the Consumer Protection Act 1987 to transfer the enforcement duty in relation to these prohibitions from trading standards officers to the police– **giving police the power to enforce these Fireworks Regulations**.

2. Existing Legislation

¹ “Category” refers to the British Standard specification (BS 7114) – and the new harmonized European Standard to replace it. See annex for further explanation.

2.1 Existing legislation either does not address or falls short of adequately dealing with the problems of firework misuse by young people or the criminal use of Category IV fireworks in general. The legislation relevant to this issue is as follows:

- the *Explosives Act 1875*², makes it an offence to throw or discharge a firework in a street or a public place, . This offence is punishable by a maximum fine of £5,000
- The *Fireworks (Safety) Regulations 1997*³ (the 1997 Regulations) prohibit the supply, to the general public, of particular types of fireworks (those regarded as dangerous as well as all Category IV fireworks) on the grounds of consumer safety (the safety of consumer products). These Regulations also restrict the supply of all fireworks, with the exception of category I fireworks, to persons under the age of 18.

3. Objectives

3.1 The main objective making these Regulations is to reduce the risk that the use of fireworks will cause death, injury or distress – either to persons or to animals or cause the destruction of, or damage to, property. Although the sale of fireworks to those under the age of 18 is prohibited under the 1997 Regulations, young people are still obtaining fireworks. After acquiring fireworks, young people may lawfully carry them in public places – and the resulting misuse can lead to nuisance, intimidation and injury. In this instance, the police can do little - even if they know that a particular nuisance has taken place – or could potentially take place. This regulation will address the existing inadequacy.

3.2 The case to prohibit the possession of category IV fireworks has recently been identified. Under the 1997 Regulations, the sale of this particular category of firework to the general public is prohibited, although it has recently become apparent that such fireworks are increasingly finding their way into the hands of the public – and, in particular, can and have been used in such a way as to cause significant criminal damage.⁴ This measure would thus ensure that particularly dangerous fireworks of this nature are not possessed by those with the

² as modified by the *Control of Explosives Regulations 1991* and amended by the *Explosives (Age of Purchase) Act 1976*

³ Made under section 11 of the *Consumer Protection Act 1987* - which confers power on the Secretary of State to make regulations for securing, inter alia, that goods to which that section applies are safe and that appropriate information is provided.

⁴ There are currently no statistics which give a breakdown of the incidents of damage and injury caused by category IV fireworks. The information we have has been provided by the police and fire service, who are especially concerned about their increasing experiences of this particular firework type.

intention of unlawfully selling them to the public and so would help to ensure that this type of firework is not used for anti social or criminal purposes.

3.3 The Fireworks Regulations 2003 will extend to England, Wales and Scotland, but not to Northern Ireland.

4. Options

4.1 The range of options is as follows:

(a) **do nothing** and rely upon the existing legislation in this area, e.g. the 1997 Regulations and the 1875 Act;

(b) continue with existing **public awareness campaigns** to reach those who may potentially misuse fireworks; or

(c) **accept these proposals and make regulations under sections 2(1)(b), 3(2)(a) and 5(2)(a) of the Fireworks Act – and transfer to the police under the duty to enforce the prohibitions described above.**

4.2 Option (a) is generally not an acceptable option at the current time in the light both of growing incidents of injury caused by the malicious use of fireworks – and of increasing complaints about fireworks use in public places - by those under the age of 18. The current legislative provisions, as set out above, are not adequate to tackle misconduct of this nature.

4.3 The limitations are as follows:

- The *Consumer Protection Act 1987* (under which the 1997 *Fireworks (Safety) Regulations* were made) is designed to cover the supply of unsafe products – and is therefore insufficient for the purpose of regulating the use of fireworks – or their potential use through possession i.e. possession is a pre-requisite of firework misuse.
- The *Explosives Act 1875* deals with the storage and criminal use of fireworks. While it deals with some aspects of use, that is, the setting off, casting, or throwing of fireworks in public places,⁵ it is unsatisfactory in terms of both prevention and enforcement. With respect to the former, a prohibition on possession would contribute to prevention (especially where it is envisaged that

⁵ Section 80

the police may seize the prohibited item as evidence in criminal proceedings). With regard to the latter it is limited to the rare case where an enforcement officer (the police) catches the offender in the act of use.

4.4 Option (b) would rely on the proposition that Government campaigns - appealing to troublesome elements in the community who are the authors of anti social behaviour would be an effective way of ensuring adherence to socially acceptable modes of behaviour. Whilst it is reasonable to suggest that public campaigns are effective in promoting safety, there is little supporting evidence to suggest that campaigns to persuade those individuals who have a propensity to engage in nuisance and criminal behaviour, are particularly successful.

4.5 If public campaigns were to be the preferred option, the increasing use of fireworks all year round would entail a corresponding increase in campaign activity, which would be difficult (and expensive) to sustain for such a period of time. Furthermore, any such ongoing activity is likely to be seen by the public as excessive and would also involve complex issues of representation with regard to particular religious and cultural minorities.

4.6 Option (c) is the recommended option. This will allow the police to deal adequately with misuse - extending and complementing current drives by the Home Office to tackle anti social behaviour, as well as allowing the police to overcome the enforcement difficulties presented by the *Explosives Act 1875*.

5. Risk Assessment

5.1 The current risks associated with fireworks use - despite the current legislation are as follows:

Risks Identified	Implications
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<p>Anti-social Behaviour/ Criminal Behaviour</p>	<p>The widespread availability of fireworks and their possession by those likely to make anti-social or criminal use of them means it is likely that the noise, nuisance, damage to property and potential injuries may continue at current levels unabated.</p>
<p>Increasing Misuse through Increased Sales</p>	<p>The increasing use/ demand for fireworks – albeit legitimate use, means their increasing availability in various retailers. With this trend comes increasing levels of misuse by those intent on obtaining them for the purposes of causing a nuisance and/or using them with criminal intent.</p>
<p>Firework related Injuries</p>	<p>Firework related injuries historically fluctuate around the 1000 per year mark.</p> <p>The overall number of firework injuries rose from a level of around 800-1000 per year in 1997-2000 to 1362 in 2001, and the number of injuries in the street or other public places from 200-300 in each year from 1997-2000 to 442 in 2001.</p>

6. Benefits

Noise and Nuisance:

6.1 The benefits of making the proposed Regulations are as follows:

- Such a law may act as a deterrent to those trying to obtain fireworks for their use in the streets;
- It may help reduce the number of people being able to use category 4 fireworks;
- It would enable offences to be dealt with by the courts;
- It may contribute to a general reduction in noise in various communities;

- Potentially reduce incidents of injury – as either a result of irresponsible or criminal use.

6.2 The Home Office have expressed enthusiasm for the implementation of these provisions of the 2003 Act, and DTI is currently working with them in exploring the possible ways in which police could better enforce the proposed Regulations – particularly with regard to amending section 1 of the Police and Criminal Evidence Act 1984 (PACE) to confer on the police powers to stop, search, seize and arrest.

6.3 The Association of Chief Police Officers (ACPO), and their Scottish counterpart, ACPOS, consider these proposed Regulations “long overdue”, and believe that they will help them to tackle those who have so far been able to cause a nuisance with impunity.

7. Competition Assessment

7.1 The proposed Regulations are concerned with controlling the use of fireworks by those under the age of 18 and general use of category IV fireworks by those other than professionals - as distinct from the manufacture, supply or sale of these. Given this and the fact that the Regulations will reflect existing legislation concerning sales and availability, we would not expect any significant impact on competition to arise as a result, save for a possible negative impact on those involved in unlawful sales.

7.2 In light of the preceding paragraph, the results of the competition filter suggest that there will be little, if any, effects on competition. Questions 1 – 9 were all answered in the negative. On this basis, a full competition assessment is not needed.

<http://www.cabinet-office.gov.uk/regulation/scrutiny/ria-guidance.pdf>

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

8.1 Category 4 fireworks are not available to the general public – and thus should not be sold/ supplied by retailers. Their sale and exchange occur between industry suppliers and professional firework display

operators, which means that there is no discernable impact on small businesses as a result.

8.2 As far as the offence for possession for those under the age of 18 is concerned, we have included in the Regulations exemptions for those whose employment or business involves some contact with, or use of fireworks e.g. retailers, wholesalers, pyrotechnicians, etc.

9. Issues of Equity and Fairness

9.1 We have met the commitments to assess and consult on the likely impact of proposed policies set out in DTI's Race Equality Scheme which is available at:

www.dti.gov.uk/race-equality-scheme/index.htm

9.2 The Department consider that the proposed regulations involve no issues concerning equity and fairness.

10. Enforcement, Sanctions, Monitoring and Review

10.1 The police will have the primary responsibility for enforcement of these proposed Fireworks Regulations. With regard to both possession prohibitions, where it is suspected that some one may have prohibited fireworks in their possession, either on account of age or otherwise, police officers will have the power to issue a summons and seize the prohibited item.

Under Section 11(4) of the Fireworks Act, any person found in breach of regulations made under that Act is liable on summary conviction to:

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

It should be noted that the penalty given will be a matter for magistrates courts.⁶

10.2 The police already have a role in firework enforcement e.g. under the Explosives Act 1875 and believe that although these proposals will allow them to deal more adequately with the misuse of fireworks, they

⁶ It should also be noted that there are differences in the way that those under the age of 18 will be dealt with compared to adults. The treatment of young offenders is governed by youth justice laws.

are unlikely to be involved in any extra work as a result of the Regulations. However, in our consultations and meetings with representatives of the police, they expressed their preference for more powers than the Fireworks Act allows (summons and seizure) – but rather the ability to arrest, stop search and confiscate. As above, the Home Office will be making the necessary amendments to PACE in order to make enforcement more effective.

11. Costs

Enforcement

11.1 ACPO claim that these regulations will make policing easier in dealing in with anti-social behaviour – filling a gap in existing legislation. Given this minimal approach, they expect that policing the new offences will not be onerous - as they will be an aid to existing priorities and it will be down to an individual officer's discretion in a given context as to whether and when to take action.

11.2 It is thought that the number of possession offences dealt with by the police could replace some of the under section 80 of the 1875 Act - letting off fireworks in a public place (the latter being a prevention of the former), which is already enforced by the police. ACPO have provided an estimate for the enforcement of these Regulations, in England and Wales, of £238,000 per week at the height of the fireworks season.⁷

11.3 The **Department for Constitutional Affairs (DCA)**, on the basis of **convictions for the 1875 Act**, have indicated that new offences under these proposed measures are likely to have a modest impact on court work (magistrates) and the Legal Aid Budget: **8**

- £3,445 court costs
- £27,000 legal aid costs

11.4 Responsibility to enforce sale restrictions of particular fireworks falls to trading standards officers. Given that category IV fireworks are already prohibited from sale to the general public, and that supply to the under 18s is also prohibited (the 1997 Regulations), both their duties and costs are not expected to increase as a result of the proposed Regulations. .

⁷ ACPO claim that this is at best a "questionable" estimate and should therefore be treated with caution. It is based on the number of calls received in relation to fireworks nuisance by the Norfolk police force between Monday 27/10/03 and Sunday 2/11/03

⁸ The **Home Office** will be the Departmental sponsor for the Police Service and costs incurred by the courts.

12. Consultation

To date we have consulted with:

<i>Small Business Service;</i> <i>Home Office;</i>	<i>Association of Chief Police Officers (ACPO);</i> <i>Association of Chief Police Officers in Scotland (ACPOS);</i>	<i>Fire Service</i> <i>National Association of Shopkeepers;</i>
<i>Defra;</i>	<i>CBI – Explosives Industry Group;</i>	<i>Association of Convenience Stores;</i>
<i>Department of Constitutional Affairs (DCA);</i> <i>Scottish Executive;</i>	<i>British Fireworks Association (BFA);</i> <i>British Pyrotechnics Association;</i>	<i>LACORS;</i> <i>Trading Standards Institute;</i>
<i>Welsh Assembly;</i> <i>Chartered Institute of Environmental Health;</i>	<i>British Retail Consortium</i> <i>Local Government Association;</i>	<i>Customs and Excise;</i> <i>London Chinatown Association</i>
<i>Health and Safety Executive/ Commission;</i>	<i>Commission for Racial Equality;</i>	<i>Animal Welfare Coalition;</i> <i>And various ethnic and faith representatives.</i>

13. Conclusion and Recommendation

It is clear from the preceding passages the existing legislation which covers the use of fireworks is inadequate to deal with the current problems of nuisance and criminal behaviour. Indeed, these proposals have received unanimous support from all of our consultees – and especially from those responsible for enforcement. It is therefore recommended that the regulations be made law - and without delay, that is, in time for New Year 2003/4. These proposed Regulations represent the first important step in curtailing the activities of those whose intention it is to use this particular and potentially dangerous product for both nuisance and criminal purposes.

Annex

The British Standard **BS 7114**, published by the British Standards Institute on 30 November 1988, classifies fireworks into categories according to "intended use". Those categories are:

- **Category I** – fireworks suitable for use inside domestic buildings (indoor fireworks);
- **Category II** – fireworks suitable for outdoor use in relatively confined areas (garden fireworks);
- **Category III** – fireworks suitable for outdoor use in large open spaces (private display fireworks);
- **Category IV** – fireworks not intended for sale to the general public (professional display fireworks).

The Fireworks Regulations 2003 refer to "adult" fireworks, which comprises all category I fireworks and category II sparklers.

4. Draft Regulations for Consultation

STATUTORY INSTRUMENTS

2003 No.

FIREWORKS

The Fireworks Regulations 2003

<i>Made</i> - - - -	<i>1st December 2003</i>
<i>Laid before Parliament</i>	<i>1st December 2003</i>
<i>Coming into force</i> - -	<i>22nd December 2003</i>

Whereas the Secretary of State considers that there is a risk that the use of fireworks will have the consequences of death of persons or injury, alarm, distress or anxiety to persons; death of animals or injury or distress to animals; or destruction of, or damage to, property;

And whereas the Secretary of State, in accordance with section 2(1)(b) and (2) of the Fireworks Act 2003⁽⁹⁾, considers it appropriate to make provision by regulations for securing that the risk that the use of fireworks will have the aforesaid consequences is the minimum compatible with their being used;

And whereas the Secretary of State has issued a full regulatory impact assessment in accordance with section 2(4) of that Act;

And whereas it appears to the Secretary of State, in accordance with section 2(5)(b) of that Act that the need to protect the public requires that the regulations be made without delay;

And whereas every chief officer of police has, in accordance with section 27(2)(a) of the Consumer Protection Act 1987⁽¹⁰⁾, agreed to the transfer of such enforcement duties as are specified in these Regulations;

Now, therefore, the Secretary of State, in exercise of the powers conferred on her by sections 2, 3 and 5 of the Fireworks Act 2003 and by sections 11(3) and 27(2) of the Consumer Protection Act 1987 (as applied respectively by sections 11(6) and 12(1) of the Fireworks Act 2003), hereby makes the following Regulations:—

Citation, commencement and extent

- 1.—(1) These Regulations may be cited as the Fireworks Regulations 2003.
- (2) These Regulations shall come into force on 22nd December 2003 and shall cease to have effect at the end of a period of twelve months beginning with that date.

⁽⁹⁾ 2003 c. 22.
⁽¹⁰⁾ 1987 c. 43.

(3) These Regulations shall not extend to Northern Ireland.

Interpretation

2. In these Regulations—

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

“assembly” means an assembly which includes any firework;

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

- (a) BS 7114: Part 1: 1988, the British Standard Specification for classification of fireworks published on 30th November 1988(11);
- (b) BS 7114: Part 2: 1988, the British Standard Specification for fireworks published on 30th November 1988(12); and
- (c) BS 7114: Part 3: 1988, the British Standard Specification for methods of test for fireworks published on 30th November 1988(13);

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

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

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

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

“cracker snap” means a firework—

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

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

“party popper” means a firework comprising a device—

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

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

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

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

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

(11) ISBN 0 580 17026 8.

(12) ISBN 0 580 17027 6.

(13) ISBN 0580 17028 4.

Prohibition of possession of fireworks by persons below the age of eighteen

3.—(1) Subject to regulation 5 below, no person under the age of eighteen years shall possess an adult firework in a public place.

(2) In paragraph (1) above—

- (a) “public place” includes any place to which at the material time the public have or are permitted access, whether on payment or otherwise; and
- (b) “adult firework” means any firework except for a cap, cracker snap, novelty match, party popper, serpent, sparkler or throwdown.

Prohibition of possession of category 4 fireworks

4. Subject to regulation 5 below, no person shall possess a category 4 firework.

Exceptions to regulations 3 and 4

5. Regulations 3 and 4 above shall not prohibit the possession of any firework by—

- (a) any person who is employed by, or in business as, a professional organiser or operator of firework displays and who possesses the firework in question for the purposes of his employment or business;
- (b) any person who is employed in, or whose trade or business (or part of whose trade or business) is, the manufacture of fireworks or assemblies and who possesses the firework in question for the purposes of his trade, employment or business;
- (c) any person who is employed in, or whose trade or business (or part of whose trade or business) is, the supply of fireworks or assemblies, for the purpose of supplying them in accordance with the provisions of the Fireworks (Safety) Regulations 1997(14);
- (d) any person who is employed by a local authority and who, in the course of his employment, possesses the firework in question for any of the following purposes—
 - (i) the putting on of a firework display by that local authority; or
 - (ii) the use by that local authority of the firework in question at a national public celebration or a national commemorative event;
- (e) any person for use, in the course of a trade or business of his or in the course of his employment, for special effects purposes in the theatre, on film or on television;
- (f) any person employed by a local authority, enforcement authority or other body, where—
 - (i) the authority or body has enforcement powers, conferred by or under any enactment, applying to the firework in question; and
 - (ii) the person so employed possesses the firework in question for the purposes of the authority or body exercising those enforcement powers;
- (g) any person who is employed by a department of the Government of the United Kingdom and who, in the course of his employment, possesses the firework in question for any of the following purposes—
 - (i) the putting on of a firework display by that department;
 - (ii) the use by that department of the firework in question at a national public celebration or a national commemorative event; or
 - (iii) the use by that department of the firework in question for research or investigations;
- (h) any person who—
 - (i) is in business as or employed by a supplier of goods designed and intended for use in conjunction with fireworks or assemblies; and

(14) S.I. 1997/2294.

- (ii) possesses the firework in question solely for the purposes of testing those goods to ensure that, when used in conjunction with fireworks or assemblies of the same type, they will perform their intended function or comply with any provision made by or under any enactment and relating to the safety of those goods; or
 - (i) any person who is employed by an establishment of the naval, military or air forces of the Crown and who, in the course of his employment, possesses the firework in question for any of the following purposes—
 - (i) the putting on of a fireworks display by that establishment; or
 - (ii) the use by that establishment of the firework in question at a national public celebration or a national commemorative event.

Transfer of enforcement duties

- 6.—(1) In this regulation the “enforcement duty” means the duty imposed by 27(1) of the Consumer Protection Act 1987⁽¹⁵⁾, insofar as that duty is, by virtue of section 12(1) of the Fireworks Act 2003⁽¹⁶⁾, exercisable in relation to the enforcement of these Regulations.
- (2) The enforcement duty is hereby transferred to every police force in Great Britain and shall be the duty of every police force in relation to the police area for which it is maintained.
- (3) Every weights and measures authority of Great Britain is hereby relieved of the enforcement duty.

Proceedings

7. In England and Wales a magistrates’ court may try an information in respect of an offence under section 11 of the Fireworks Act 2003 arising from a contravention of a prohibition imposed by these Regulations if the information is laid within twelve months from the time when the offence was committed, and in Scotland summary proceedings for such an offence may be brought at any time within twelve months from the time when the offence was committed.

Gerry Sutcliffe,
Parliamentary Under Secretary of State for Employment Relations, Competition and Consumers
[Date] Department of Trade and Industry

EXPLANATORY NOTE
(This note is not part of the Regulations)

These Regulations (which do not extend to Northern Ireland) make certain provisions in relation to fireworks in order to minimise the risk that fireworks will be used with harmful consequences for people, animals or property.

The Regulations prohibit persons under eighteen from possessing all fireworks (with the exception of the firework types listed in regulation 3(2)(b)) in a public place (regulation 3). The Regulations also prohibit persons of any age from possessing (in a public place or elsewhere) a category 4 firework (regulation 4). A category 4 firework is defined in regulation 2(1) by reference to the categorisation of fireworks under

⁽¹⁵⁾ 1987 c. 43.
⁽¹⁶⁾ 2003 c. 24.

British Standard 7114. Both these prohibitions are subject to the exceptions in regulation 5.

The exceptions in regulation 5 allow a person under eighteen to be in possession of a firework in a public place, or a person of any age to be in possession of a category 4 firework in the following cases—

- (a) professional organisers or operators of firework displays, or their employees;
- (b) manufacturers (or their employees) of fireworks or assemblies containing fireworks;
- (c) suppliers (or their employees) of fireworks or assemblies containing fireworks for the purposes of supplying the fireworks in accordance with the Fireworks (Safety) Regulations 1997;
- (d) employees of local authorities, Government departments and naval, military and air force establishments, for the purposes of firework displays or for use at national public celebrations or commemorative events (or in the case of Government departments, for research or investigations purposes);
- (e) persons using fireworks, in the course of their trade, business or employment, for special effects purposes in the theatre, on film or on television;
- (f) for the purposes of test purchases by bodies with enforcement powers; and
- (g) suppliers (or their employees) of goods for use with fireworks or assemblies containing fireworks, who are using the fireworks to test those goods to ensure they perform correctly or comply with safety legislation.

By virtue of section 11 of the Fireworks Act 2003, a contravention of either regulation 3 or regulation 4 is a criminal offence. Although section 12 of the Fireworks Act 2003 and section 27(1) of the Consumer Protection Act 1987 provide that it is the duty of local weights and measures authorities to enforce these Regulations, this duty is transferred to the relevant police forces (regulation 6).

These Regulations will expire within twelve months of their coming into force.

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

A Regulatory Impact Assessment is available, copies of which have been placed in the libraries of both Houses of Parliament. Copies are also available from the Consumer and Competition Policy Directorate of the Department of Trade and Industry, Room 427, 1, Victoria Street, London, SW1H 0ET.

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