

Firework Regulations 2003 (possession offences)

Consultation Response

1. Introduction/ Background

1.1 . The Fireworks Act received Royal Assent on 18th September 2003 and enables the Secretary of State to make Regulations (**Firework Regulations**) to control both the supply and use of fireworks.

1.2 On 5th November 2003, the Government launched a [consultation](#) on proposed Regulations to be made under the new Fireworks Act. Comments were invited on the specific measures proposed under section 3 (prohibition of supply etc. to young persons) and section 5 (prohibition of supply etc. of certain fireworks). This formal written consultation followed extensive meetings with a range of interested organisations and individuals.

1.3 The measures were designed to tackle the anti-social use of fireworks – and are therefore complementary to the aims and objectives announced by the Home Office in their ***Anti Social Behaviour Action Plan***¹. Those Regulations proposed:

- a prohibition on the possession of fireworks, in public places, by those under the age of 18.
- a prohibition on the possession of category 4 fireworks (professional display fireworks) by any one other than a fireworks professional.

1.4 The Department is particularly appreciative of the responses received, especially given the length of the consultation period.²

2. Responses received

2.1 The Department received approximately 80 responses. These were sent via a number of mediums, including conventional post and telephone calls, although respondents' preferred means of communication was email. Respondents ranged from enforcement bodies, such as the police, and members/ representatives of the fireworks industry, to various interest groups, such as the RSPCA, faith groups and members of the general public.

2.2 The vast majority of responses received expressed support for the proposed measures. The responses were of immense value to the Government in ensuring that the Regulations were balanced and without technical error. This was especially important given the use of the emergency procedure.

2.3 The responses, except those made in confidence, are available in the DTI Library and can be access on request by contacting the Information and Library Services in the DTI on 020

¹ Announced on the 14th October 2003. Available at: http://www.homeoffice.gov.uk/docs2/ASB_Action_Plan.pdf

² The usual period for consultation is 12 weeks. Owing to the Regulations being made under the emergency procedure (section 2(5)), the consultation period was a truncated 3 weeks.

7215 6226. A list of those respondents who were willing to have their names and responses disclosed can be found at Annex A.

3. Amendments made

3.1 Two consequent changes were made to the draft Regulations in light of consultation responses.

3.2 Both individual police officers and police representatives (ACPO/ ACPOS) identified a terminological omission in parts of the drafting: in paragraph 5 of the preamble and regulation 6(2). These related to the use of different terms used in the context of police forces in England, Wales and Scotland.

3.3 Whereas the draft Regulations referred to “chief officers of each police force” only, which only applies to police forces in England and Wales, the amended Regulations also included reference “chief constable of each police force in Scotland”.

3.4 With respect to regulation 3(b), which defines the concept, “adult firework”, on recommendation from trading standards officers and the Local Authority Co-ordination of Regulatory Services (LACORS), the draft was amended to ensure that persons under the age of 18 could not possess fireworks which did not comply with BS 7114, such as a particularly large and dangerous party popper.

3. Other issues beyond the scope of the 2003 Regulations

3.1 Many responses were received by the Department that were outside the scope of the consultation and the proposed Regulations. The following addresses two recurring themes:

- Some respondents expressed their preference for a complete **ban on consumer fireworks**. However, the Fireworks Act 2003, under which these Regulations were made, does not allow for such a ban. Section 5(3) of the Act exempts those fireworks falling under category 1 and 2 from prohibition (referred to as “classes” in the Act). Notwithstanding this legal obstacle, the Government does not believe that the case has been made for a complete ban on the sale of consumer fireworks as there are many responsible people who enjoy fireworks and do not misuse them. We do not believe that a small minority should spoil the fun of millions of people who put on their own displays.
- A minority of respondents wanted to see a noise level imposed on fireworks manufacturers and a curfew on the use of fireworks late at night. The Government plans to introduce both these two proposals under the Fireworks Regulations 2004. See paragraph 4.2 below.

4. Next Steps

4.1 Given that the Fireworks Regulations 2003 were made under the emergency procedure (lasting no longer than 12 months), the Government plans to repeal and incorporate these measures into the planned Fireworks Regulations 2004. We expect these Regulations to come into force in the summer.

4.2 Whereas the 2003 Regulations represented the first step to tackle the misuse of fireworks, the 2004 Regulations will be a comprehensive package of measures designed to tackle not only use directly, but also indirectly by regulating the supply side. The measures that the Government hopes to introduce under the Fireworks Act 2003 are as follows:

- Suppliers of fireworks to be licensed
- The creation of a curfew on firework use
- Importers to supply information at the point of entry to help ensure they are destined for legitimate sale
- The imposition of a maximum decibel limit on all consumer fireworks
- The prohibition of those fireworks considered to be either a serious nuisance or particularly dangerous

4.3 Related legislation is planned to come into force in the spring of 2004. Under the Consumer Protection Act 1987, the Government is set to amend the Fireworks (Safety) Regulations 1997 to:

- ban the sale of air bombs;
- tighten up the definition of mini rockets; and,
- encourage retailers to be more diligent with regard to under age sales.

4.4 A consultation document, including draft Regulations (Firework (Safety) Amendment Regulations 2004) and a draft regulatory impact assessment, is to be published on the DTI/ Consumer and Competition website on Friday 30th January 2004. The consultation will run for 12 weeks until Friday 2nd April 2004. All relevant links, including to the DTI website, are available in Annex A.

Annex A

1. Useful Links

Fireworks Act 2003

<http://www.legislation.hmso.gov.uk/acts/acts2003/20030022.htm>

Fireworks Regulations 2003

http://www.hmso.gov.uk/cgi-bin/htm_hl.pl?DB=hmso-new&STEMMER=en&WORDS=fireworks+act+2003+&COLOUR=Red&STYLE=s&URL=http://www.hmso.gov.uk/si/si2003/20033085.htm#muscat_highlighter_first_match

Fireworks Regulations 2003 – Regulatory Impact Assessment

<http://www.dti.gov.uk/ccp/topics1/pdf1/fireworkria2.pdf>

DTI website

<http://www.dti.gov.uk/>

Consumer and Competition Policy web pages

<http://www.dti.gov.uk/ccp/>

2. Consultation Respondents

Alison Edwards <i>LACORS</i>	Noel Tobin <i>National Campaign for Fireworks Safety</i>	Peter Lovitt <i>Small Business Service</i>
John Woodhead <i>British Fireworks Association</i>	Brig. Charles Smith <i>Explosives Industry Group/CBI</i>	Keith Bailey <i>ACPO</i>
Kathy Cameron <i>COSLA</i>	Chris Verhayden <i>Frontier Fireworks</i>	Simon Taylor <i>ACC Norfolk Constabulary/ ACPO</i>
David Roderick <i>North Lanarkshire Council and TSI</i>	Edwina Hart AM MBE <i>Welsh Assembly</i>	Bill Tynan MP <i>MP for Hamilton South</i>
Simon Pope <i>Coalition of Animal Welfare Groups</i>	Mick Hoare <i>National Crime and Operations Faculty</i>	Patrick Bligh-Cheesman <i>West Sussex Council</i>
Sally Watson <i>British Medical Association</i>	David Roberts <i>Hertfordshire County Council</i>	Dr Martin Adams <i>Adams, Wilson and Associates Ltd</i>
Martyn Evans <i>Scottish Consumer Council</i>	Katherine Lyttle <i>Dundee City Council</i>	William Stafford <i>East Ayrshire Council</i>
Richard Tweedy <i>Naturewatch</i>	Rob Bainbridge <i>(Member of Public)</i>	Andrew Stewart <i>Faculty of Advocates</i>
Andy Miller <i>HSE</i>	Andre McConnell <i>Scotland Office</i>	Gordon Rob <i>Highland Trading Standards</i>
Clive Townend <i>Coventry Trading Standards</i>	Ann Thwaite <i>(Member of Public)</i>	Joe Donnelly <i>East Ayrshire Council</i>
Joseph Donnelly <i>Department of Community Services</i>	Robin Seaman <i>BT Group</i>	Ian Craig <i>Phoenix Fireworks Ltd</i>
Peter Duerden <i>(Member of Public)</i>	Jim Rackham <i>Warwickshire County Council</i>	David Evans <i>East Lothian Council</i>
John McNicholas <i>Coventry City Council</i>	Angela Attah <i>Royal Pharmaceutical Society</i>	Bill Milburn <i>Sefton Council</i>
Barbara Gilbert <i>NFWI</i>	Howard Price <i>Chartered Institute of Environmental Health</i>	Rosemary E. Marlow <i>(Member of Public)</i>
Colin Lindsay <i>Le Maitre Ltd</i>	Geoff Roe <i>(Member of Public)</i>	Tom Bell <i>The Royal Environmental</i>

		<i>Health Institute of Scotland</i>
Mrs H. Parr <i>(Member of Public)</i>	Frank Sheehan <i>West Midlands Fire Service</i>	Peter Steven <i>Midlothian Council</i>
Barbara Gilbert <i>Haselbury Plucknett Women's Institute</i>	William Rae <i>ACPOS</i>	Heena Prajapati <i>MidCOTS</i>
Will Niblett <i>Home Office</i>	Nick Garnham <i>Peterborough City Council</i>	Patience Purdy <i>National Council of Women of Great Britain</i>
Lesley Campbell <i>Perth and Kinross Council</i>	Peter Steven <i>Midlothian Council</i>	Keith Atkinson <i>Darlington Borough Council</i>
Susan Power <i>Local Government Association</i>	Michael Hagen <i>Merseyside Fire and Rescue</i>	Ben Savill <i>National Federation of Women's Institutes</i>
Dorothy Kerr <i>Renfrewshire Council</i>	Chris Roe <i>Birmingham City Council</i>	Bill Cassie <i>Aberdeenshire Council</i>
Andrew Bishop <i>Men Shun Fireworks</i>	Lin Morrison <i>Mersey Fire and Rescue</i>	Angela Blair <i>Aberdeenshire Council</i>
Rashmi Verma <i>Confederation of Indian Organisation</i>	Steve Fox <i>East Renfrewshire Council</i>	J.M. Drewry <i>Edinburgh City Council</i>
John B Milne <i>Perth and Kinross Council</i>		

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Department of Trade and Industry
January 2004 (amended version)

