
STATUTORY INSTRUMENTS

2015 No. 1553

CONSUMER PROTECTION

HEALTH AND SAFETY

The Pyrotechnic Articles (Safety) Regulations 2015

Made - - - - - *19th July 2015*

Laid before Parliament *21st July 2015*

Coming into force - - - *17th August 2015*

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The Secretary of State is a Minister designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to pyrotechnic articles, market surveillance and marking which indicates that a product is in conformity with requirements of EU legislation.

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Secretary of State that it is expedient for certain references to provisions of EU instruments to be construed as references to those provisions as amended from time to time.

The Secretary of State makes these Regulations in exercise of the powers conferred by section 2(2) of, and paragraph 1A(c) of Schedule 2 to, the European Communities Act 1972:

PART 1

Preliminary

Citation and commencement

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

Interpretation

2.—(1) In these Regulations—

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

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

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

(a) S.I. 2009/2743, S.I. 2009/3214.

(b) 1972 c.68; section 2(2) was amended by the Legislative and Regulatory Reform Act 2006 (c.51), section 27(1) and the European Union (Amendment) Act 2008 (c.7), Schedule, Part 1.

(c) Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 and amended by the European Union (Amendment) Act 2008, Schedule, Part 1.

(d) 1974 c.37.

(e) 1987 c.43.

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

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

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

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

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

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

(b) whose functioning principally involves report;

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

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

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

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

“category F4 firework” has the meaning set out in paragraph 4 of Schedule 1;

“category P1 other pyrotechnic article” has the meaning set out in paragraph 7 of Schedule 1;

“category P2 other pyrotechnic article” has the meaning set out in paragraph 8 of Schedule 1;

“category T1 theatrical pyrotechnic article” has the meaning set out in paragraph 5 of Schedule 1;

“category T2 theatrical pyrotechnic article” has the meaning set out in paragraph 6 of Schedule 1;

“CE marking” means a marking which takes the form set out in Annex II of RAMS (as amended from time to time);

“Christmas cracker” means a paper or foil tube, crimped at each end, enclosing novelties and with one or more snaps running along the length of the tube;

“combination” means an assembly, other than a battery, which includes 2 or more fireworks;

“competent national authority” means an authority having responsibility for enforcing the law of a member State which implements the Directive;

“conformity assessment” means the process demonstrating whether the essential safety requirements relating to a pyrotechnic article have been fulfilled;

“conformity assessment body” means a person that performs conformity assessment activities, including calibration, testing, certification and inspection;

the “Directive” means Directive 2013/29/EU of the European Parliament and of the Council on the harmonisation of the laws of the member States relating to the making available on the market of pyrotechnic articles (recast)(a);

“distributor” means any person in the supply chain, other than the manufacturer or the importer, who makes a pyrotechnic article available on the market;

“double banger” means a firework (other than a firework falling with in regulation 33(1)(g)(i))—

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

(a) which comprises a non-metallic tube containing two portions of pyrotechnic composition connected by a delay fuse; and

(b) whose functioning principally involves report and a flash of light;

“economic operator” means a manufacturer, importer or distributor;

“enforcing authority” means any person enforcing these Regulations under regulation 53 (enforcement), and, for these purposes, the Secretary of State is to be considered the person enforcing these Regulations where a person acts on the Secretary of State’s behalf under regulation 53(5);

“essential safety requirements” means the requirements set out in Schedule 2 (essential safety requirements);

“EU declaration of conformity” means a declaration of conformity required to be drawn up in accordance with regulation 9(1)(a) (EU declaration of conformity and CE marking);

“European Commission” means the Commission of the European Union;

“firework” means a pyrotechnic article intended for entertainment purposes;

“flash banger” means a firework (other than a firework falling within regulation 33(1)(g)(i))—

(a) which comprises a non-metallic tube containing metal-based pyrotechnic composition; and

(b) whose functioning principally involves report and a flash of light;

“harmonised standard” has the meaning set out in point 1(c) of Article 2 of Regulation (EU) 1025/2012 of the European Parliament and of the Council on European standardisation^(a) (as amended from time to time);

“importer” means any person who—

(a) is established within the EU; and

(b) places a pyrotechnic article from a third country on the EU market;

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

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

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

“manufacturer” means a person who—

(a) manufactures a pyrotechnic article, or has such an article designed or manufactured; and

(b) markets that pyrotechnic article under that person’s name or trade mark;

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

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

(a) the outside diameter of which, at the point where the diameter is greatest, is less than 12 millimetres; or

(b) if equipped with a stick for the purpose of stabilising its flight—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“wheel” means an assembly—

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

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

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

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

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

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

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

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

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

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

Definition of “pyrotechnic article”

- 3.—(1) In these Regulations, a “pyrotechnic article” is an article which—
- (a) contains explosive substances or an explosive mixture of substances designed to produce heat, light, sound, gas or smoke or a combination of such effects through self-sustained exothermic chemical reactions; and
 - (b) is not excluded by paragraph (2).
- (2) The following articles are excluded from the definition in paragraph (1)—
- (a) articles which have been placed on the market before the commencement date;
 - (b) articles intended for non-commercial use by—
 - (i) the armed forces;
 - (ii) a police force in England and Wales;
 - (iii) the Police Service of Scotland;
 - (iv) the Police Service of Northern Ireland, the Police Service of Northern Ireland Reserve or the Northern Ireland Policing Board;
 - (v) the British Transport Police;
 - (vi) the Ministry of Defence Police Force;
 - (vii) the Civil Nuclear Constabulary;
 - (viii) a police force for a harbour, port, airport, park, garden or forest in the United Kingdom or with a specialised function in the United Kingdom;
 - (ix) the National Crime Agency;
 - (x) a fire and rescue service authority within the meaning of section 1 or a combined authority within the meaning of section 2 or 4 of the Fire and Rescue Services Act 2004(a);
 - (xi) the Scottish Fire and Rescue Service; or
 - (xii) the Northern Ireland Fire and Rescue Board;
 - (c) articles falling within the scope of Council Directive 96/98/EC on marine equipment(b);
 - (d) articles intended for use in the aerospace industry;
 - (e) percussion caps intended specifically for toys falling within the scope of Directive 2009/48/EC of the European Parliament and of the Council on the safety of toys(c);
 - (f) explosives falling within the scope of Council Directive 93/15/EEC on the harmonization of the use of the provisions relating to the placing on the market of explosives for civil uses(d);
 - (g) projectiles and propelling charges and blank ammunition used in portable firearms, other guns and artillery; and
 - (h) fireworks which—
 - (i) are built by a manufacturer established in the United Kingdom;
 - (ii) are built for the manufacturer’s own use; and
 - (iii) comply with the law applicable to such fireworks (excluding these Regulations).

Exception for trade fairs, exhibitions and demonstrations

4. The provisions of Part 2 (and of Part 5, so far as applying in relation to obligations under Part 2) do not apply to the showing and use of a pyrotechnic article at a trade fair, exhibition or

(a) 2004 c.21.
 (b) OJ L 46, 17.02.1997, p. 25.
 (c) OJ L 170, 30.6.2009, p. 1.
 (d) OJ L 121, 15.5.1993, p. 20.

demonstration for the marketing of pyrotechnic articles, provided that a visible sign clearly indicates—

- (a) the name and date of the trade fair, exhibition or demonstration;
- (b) that the pyrotechnic article is not in conformity with Part 2; and
- (c) that the pyrotechnic article is not available for sale until brought into conformity with Part 2.

Exception for research, development and testing

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

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

PART 2

Obligations of economic operators

Chapter 1

Manufacturers

Categorisation

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

Design and manufacture in accordance with essential safety requirements

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

Technical documentation and conformity assessment

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

EU declaration of conformity and CE marking

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

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

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

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

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

Retention of technical documentation and EU declaration of conformity

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

Labelling of pyrotechnic articles other than pyrotechnic articles for vehicles

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

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

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

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

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

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

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

(7) Where the pyrotechnic article does not provide sufficient space for the other labelling requirements specified in Schedule 3 (including where this is as a result of the information specified in paragraph 1(a) and (b) of Schedule 3 having taken up the available space on the pyrotechnic article), the manufacturer must ensure that the information is provided on the smallest piece of packaging.

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

Labelling of pyrotechnic articles for vehicles

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

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

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

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

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

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

Compliance procedures for series production

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

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

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

Chapter 2

Importers

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

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

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

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

- (a) a relevant conformity assessment procedure has been carried out by the manufacturer;
- (b) the manufacturer has drawn up the technical documentation;
- (c) the pyrotechnic article—
 - (i) bears the CE marking; and
 - (ii) is accompanied by the required documents; and

^(a) OJ L 396, 30.12.2006, p. 1.

- (d) the manufacturer has complied with the requirements set out in regulations 11 (labelling of pyrotechnic articles other than pyrotechnic articles for vehicles) and 12 (labelling of pyrotechnic articles for vehicles).

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

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

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

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

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

Information identifying importer

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

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

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

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

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

Instructions and safety information

18.—(1) When placing a pyrotechnic article on the market, an importer must ensure that it is accompanied by instructions and safety information in a language which can be easily understood by consumers and other end-users in the member State in which the pyrotechnic article is to be made available to such consumers and other end-users.

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

Retention of technical documentation and EU declaration of conformity

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

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

Chapter 3

Manufacturers and importers

Traceability

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

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

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

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

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

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

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

Monitoring

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

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

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

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

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

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

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

- (a) bring the pyrotechnic article into conformity;

- (b) withdraw the pyrotechnic article; or
- (c) recall the pyrotechnic article.

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

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

Provision of information and cooperation

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

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

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

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

Chapter 4

Distributors

Duty to act with due care

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

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

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

- (a) the pyrotechnic article—
 - (i) bears the CE marking;
 - (ii) is accompanied by the required documents;
 - (iii) is accompanied by instructions and safety information in a language which can be easily understood by consumers and other end-users in the member State in which the pyrotechnic article is to be made available on the market;
- (b) the manufacturer has complied with the requirements set out in regulation 11 (labelling of pyrotechnic articles other than pyrotechnic articles for vehicles) and 12 (labelling of pyrotechnic articles for vehicles); and
- (c) the importer has complied with the requirements set out in regulation 17 (information identifying importer).

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

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

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

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

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

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

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

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

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

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

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

Provision of information and cooperation

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

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

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

Chapter 5

Importers and distributors

Storage and transport

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

Cases in which obligations of manufacturers apply to importers and distributors

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

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

Chapter 6

All economic operators

Prohibition on making available to persons younger than the minimum age limit

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

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

Prohibition on making available to persons without specialist knowledge

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

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

Prohibitions on making available certain category F2 and F3 fireworks

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

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

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

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

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

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

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

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

Supply of safety data sheet

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

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

Translation of declaration of conformity

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

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

Identification of economic operators

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

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

(2) The relevant period is—

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

Prohibition on improper use of CE marking

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

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

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

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

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

PART 3

Conformity assessment

Presumption of conformity

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

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

Conformity assessment procedures

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

- (a) EU-type examination carried out by a notified body (Module B), and, at the choice of the manufacturer, one of the following procedures—
 - (i) conformity to type based on internal production control plus supervised product checks at random intervals (Module C2);
 - (ii) conformity to type based on quality assurance of the production process (Module D);
 - (iii) conformity to type based on product quality assurance (Module E);
- (b) conformity based on unit verification by a notified body (Module G);
- (c) conformity based on full quality assurance by a notified body (Module H), insofar as it concerns category F4 fireworks.

EU declaration of conformity

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

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

CE marking

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

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

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

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

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

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

PART 4

Notification of conformity assessment bodies

Notified bodies

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

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

(2) Paragraph (1) has effect subject to regulation 49 (changes to notifications).

Notification

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

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

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

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

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

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

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

- (a) have regard to any other matter which appears to the Secretary of State to be relevant; and

- (b) set conditions that the conformity assessment body must meet.

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

Presumption of conformity of notified bodies

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

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

Contents of notification

46. A notification under regulation 44 must include—

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

Monitoring

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

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

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

Delegation to the United Kingdom Accreditation Service

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

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

Changes to notifications

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

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

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

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

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

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

Operational obligations of notified bodies

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

Subsidiaries and contractors

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

(2) The notified body must—

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

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

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

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

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

PART 5

Market surveillance and enforcement

Designation of market surveillance authority

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

- (a) within its area, the weights and measures authority for—
 - (i) category F1 fireworks;
 - (ii) category F2 fireworks; and
 - (iii) category F3 fireworks;
- (b) the Health and Safety Executive for—
 - (i) category F4 fireworks;
 - (ii) category T1 theatrical pyrotechnic articles;
 - (iii) category T2 theatrical pyrotechnic articles;
 - (iv) category P1 other pyrotechnic articles; and
 - (v) category P2 other pyrotechnic articles.

(2) In Northern Ireland, the market surveillance authority is—

- (a) within its area, the district council for—
 - (i) category F1 fireworks;
 - (ii) category F2 fireworks; and
 - (iii) category F3 fireworks;
- (b) the Secretary of State for—
 - (i) category F4 fireworks;
 - (ii) category T1 theatrical pyrotechnic articles;
 - (iii) category T2 theatrical pyrotechnic articles;
 - (iv) category P1 other pyrotechnic articles; and
 - (v) category P2 other pyrotechnic articles.

Enforcement

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

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

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

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

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

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

(7) In this regulation—

“GB enforcer” means—

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

“NI enforcer” means—

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

Enforcement powers

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

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

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

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

Exercise of enforcement powers

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

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

Evaluation of pyrotechnic articles presenting a risk

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

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

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

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

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

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

- (a) the respect in which the pyrotechnic article is not in conformity with Part 2; and
- (b) the actions which the enforcing authority is requiring the relevant economic operator to take.

(3) Where the enforcing authority is not the Secretary of State and it considers that the lack of conformity referred to in paragraph (1) is not restricted to the United Kingdom, it must notify the Secretary of State of—

- (a) the results of the evaluation; and
- (b) the actions which it has required the economic operator to take.

(4) Where the Secretary of State receives a notice under paragraph (3), or otherwise considers that the lack of conformity referred to in paragraph (1) is not restricted to the United Kingdom, the Secretary of State must inform the European Commission and the other member States of—

- (a) the results of the evaluation; and
- (b) the actions which the enforcing authority has required the economic operator to take.

(5) Where the relevant economic operator does not take adequate corrective action within the prescribed period, the enforcing authority must take appropriate measures to—

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

(6) Where the enforcing authority is not the Secretary of State and it takes measures under paragraph (5), it must notify the Secretary of State of those measures without delay.

(7) Where the Secretary of State receives a notice under paragraph (6), or takes measures under paragraph (5), the Secretary of State must notify the European Commission and the other member States of those measures without delay.

(8) The notices in paragraphs (6) and (7) must include details about the pyrotechnic article and, in particular—

- (a) the data necessary for the identification of the pyrotechnic article which is not in conformity with Part 2;
- (b) the origin of the pyrotechnic article;
- (c) the nature of the lack of conformity alleged and the risk involved;
- (d) the nature and duration of the measures taken;
- (e) the arguments put forward by the relevant economic operator; and
- (f) whether the lack of conformity is due to either of the following—
 - (i) failure of the pyrotechnic article to meet requirements relating to a risk;
 - (ii) shortcomings in the harmonised standards referred to in regulation 39 (presumption of conformity) conferring a presumption of conformity.

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

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

EU safeguard procedure

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Enforcement action in respect of formal non-compliance

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

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

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

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

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

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

Restrictive measures

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

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

Offences

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

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

(2) It is an offence for an importer to contravene or fail to comply with any requirement of—

- (a) regulation 14 (prohibition on placing on the market pyrotechnic articles which are not in conformity);
- (b) regulation 15 (requirements which must be satisfied before an importer places a pyrotechnic article on the market);
- (c) regulation 16 (prohibition on placing on the market pyrotechnic articles considered not to be in conformity with the essential safety requirements);
- (d) regulation 17 (information identifying importer);
- (e) regulation 18 (instructions and safety information);
- (f) regulation 19 (retention of technical documentation and EU declaration of conformity);
- (g) regulation 20;
- (h) regulation 21;
- (i) regulation 22;
- (j) regulation 23;
- (k) regulation 29 (storage and transport);
- (l) regulation 31;
- (m) regulation 32;
- (n) regulation 33;

- (o) regulation 34;
- (p) regulation 35;
- (q) regulation 36;
- (r) regulation 37;
- (s) regulation 38.

(3) It is an offence for a distributor to contravene or fail to comply with any requirement of—

- (a) regulation 24 (duty to act with due care);
- (b) regulation 25 (requirements which must be satisfied before a distributor makes a pyrotechnic article available on the market);
- (c) regulation 26 (prohibition on making available on the market where pyrotechnic article not considered to be in conformity with the essential safety requirements);
- (d) regulation 27 (duty to take action in respect of pyrotechnic articles made available on the market which are not in conformity);
- (e) regulation 28 (provision of information and cooperation);
- (f) regulation 29;
- (g) regulation 31;
- (h) regulation 32;
- (i) regulation 33;
- (j) regulation 34;
- (k) regulation 35;
- (l) regulation 36;
- (m) regulation 37;
- (n) regulation 38.

(4) It is an offence for a conformity assessment body to fail to comply with regulation 49(5) (changes to notifications).

(5) It is an offence for any person to contravene or fail to comply with any requirement of a notice, other than a compliance notice, served on that person by an enforcing authority under these Regulations.

(6) It is an offence for any person—

- (a) intentionally to obstruct—
 - (i) an enforcing authority (or officer of such authority) acting in pursuance of its powers and duties under these Regulations or Article 19 of RAMS (as amended from time to time);
 - (ii) a customs officer facilitating the action of an enforcing authority under these Regulations; or
- (b) knowingly or recklessly to provide any statement, information, document or record which is false or misleading in a material respect in purported compliance with any requirement of these Regulations or Article 19 of RAMS (as amended from time to time).

(7) It is an offence for a person who is not authorised to act on behalf of an enforcing authority to purport to exercise any of the powers of the enforcing authority under these Regulations or RAMS.

Penalties

63.—(1) A person guilty of an offence under regulation 62 in respect of a category F1 firework, a category F2 firework, or a category F3 firework is liable on summary conviction—

- (a) in England and Wales, to a fine or imprisonment for a term not exceeding 3 months or to both;

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

Defence of due diligence

64.—(1) Subject to paragraph (2), (4) and (6), in proceedings for an offence under regulation 62, it is a defence for a person (“P”) to show that P took all reasonable steps and exercised all due diligence to avoid committing the offence.

(2) P may not rely on a defence under paragraph (1) which involves a third party allegation unless P has—

- (a) served a notice in accordance with paragraph (3); or
- (b) obtained the leave of the court.

(3) The notice must—

- (a) give any information in P’s possession which identifies or assists in identifying the person who—
 - (i) committed the act or default; or
 - (ii) supplied the information on which P relied.
- (b) be served on the person bringing the proceedings not less than 7 clear days before—
 - (i) in England, Wales and Northern Ireland, the hearing of the proceedings;
 - (ii) in Scotland, the trial diet.

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

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

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

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

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

Liability of persons other than principal offender

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

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

- (a) with the consent or connivance of the relevant person; or
 - (b) as a result of the negligence of the relevant person.
- (3) In paragraph (2), “relevant person” means—
- (a) a director, manager, secretary or other similar officer of the body corporate;
 - (b) in relation to a body corporate managed by its members, a member of that body corporate performing managerial functions;
 - (c) in relation to a Scottish partnership, a partner; or
 - (d) a person purporting to act as a person described in sub-paragraphs (a), (b) or (c).

Time limit for prosecution of offences

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

- (2) Subject to paragraph (4), in Scotland—
- (a) summary proceedings for an offence under regulation 62 may be commenced before the end of 12 months after the date on which evidence sufficient in the Lord Advocate’s opinion to justify the proceedings came to the Lord Advocate’s knowledge; and
 - (b) section 136(3) of the Criminal Procedure (Scotland) Act 1995 (time limit for certain offences) applies for the purpose of this paragraph as it applies for the purpose of that section.

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

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

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

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

Service of documents

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

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

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

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

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

- (a) in the case of a body corporate or its director—
 - (i) the registered or principal office of that body; or
 - (ii) the email address of the secretary or clerk of that body;
- (b) in the case of a partnership, a partner or person having control or management of the partnership business—

- (i) the principal office of the partnership; or
- (ii) the email address of a partner or person having that control or management;
- (c) in any other case, a person's last known address, which includes an email address.

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

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

Recovery of expenses of enforcement

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

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

Action by enforcing authority

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

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

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

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

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

Appeals against notices

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

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

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

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

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

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

(5) In this regulation—

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

Appropriate court for appeals against notices

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

- (a) the court in which proceedings have been brought in relation to the pyrotechnic article for an offence under regulation 62 (offences);
- (b) an employment tribunal seized of appeal proceedings against a notice which relates to the pyrotechnic article and which has been served under or by virtue of paragraph 1 of Schedule 8 (enforcement powers of the Health and Safety Executive under the 1974 Act); or
- (c) in any other case, a magistrates’ court.

(2) In Scotland, the appropriate court for the purposes of regulation 70 is—

- (a) the sheriff of a sheriffdom in which the person making the appeal resides or has a registered or principal office; or
- (b) an employment tribunal seized of appeal proceedings against a notice which relates to the pyrotechnic article and which has been served under or by virtue of paragraph 1 of Schedule 8.

(3) A person aggrieved by an order made by a magistrates’ court in England and Wales or Northern Ireland pursuant to an application under regulation 70, or by a decision of such a court not to make such an order, may appeal against that order or decision—

- (a) in England and Wales, to the Crown Court;
- (b) in Northern Ireland, to the county court.

Compensation

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

(2) The conditions are that—

- (a) the pyrotechnic article in respect of which the relevant notice was served neither—
 - (i) presents a risk; nor
 - (ii) contravenes any requirement of these Regulations; and
- (b) the exercise of the power to serve the relevant notice was not attributable to neglect or default by a relevant economic operator.

(3) In this regulation, “relevant notice” means—

- (a) in respect of the Health and Safety Executive, a withdrawal notice served in accordance with paragraph 2 of Schedule 9;
- (b) in respect of any other enforcing authority—
 - (i) a suspension notice served in accordance with Schedule 7;
 - (ii) a withdrawal notice served in accordance with paragraph 2 of Schedule 9; or
 - (iii) a recall notice served in accordance with paragraph 3 of Schedule 9.

PART 6

Miscellaneous

Review

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

Transitional provisions

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

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

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

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

- (3) On 5th July 2017 the following provisions cease to have effect—
- (a) paragraph (1); and
 - (b) paragraph (2), except to the extent that it applies to a pyrotechnic article for a vehicle (including as spare parts).
- (4) The following regulations apply to pyrotechnic articles falling within paragraphs (1) and (2)—
- (a) regulation 31 (prohibition on making available to persons younger than the minimum age limit);
 - (b) regulation 32 (prohibition on making available to persons without specialist knowledge); or
 - (c) regulation 33 (prohibition on making available certain category F2 or category F3 fireworks).
- (5) For the purposes of these Regulations, a certificate issued, or approval granted, by a notified body under regulation 44(1) of the 2010 Regulations, or any enactment of another member State which implemented the 2007 Directive, is to be treated as a certificate issued or approval granted under Annex II to the Directive.
- (6) In this regulation, “2007 Directive” means Directive 2007/23/EC of the European Parliament and of the Council on the placing on the market of pyrotechnic articles(a).

Consequential revocations, savings and amendments

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

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

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

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

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

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

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

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

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

Anna Soubry

Minister of State for Small Business, Industry and Enterprise
Department for Business, Innovation and Skills

19th July 2015

(a) OJ L 154, 14.6.2007, p. 1.

(b) S.I. 2013/1950.

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

(d) 2003 c.22.

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

(f) S.R. (N.I.) 2002 No. 147; amended by S.I. 2010/1554.

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;
- (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—
 - (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;
- (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
- (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—
 - “(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);
- (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—
 - “(b) for the purposes of any legal proceedings or for the purposes of a report of any such proceedings;”; and
- (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.”; and
 - (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.”; and
 - (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—
 - (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(a);”;
- (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;”.

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—

(a) S.I. 2014/1638.

“(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.

EXPLANATORY NOTE

(This note is not part of these Regulations)

These Regulations transpose Directive 2013/29/EU of the European Parliament and of the Council of 12th June 2013 on the harmonisation of the laws of member States relating to the making available on the market of pyrotechnic articles (recast) (OJ L 178, 28.6.2013, p.27) (“the Directive”) and Commission Implementing Directive 2014/58/EU setting up a system for the traceability of pyrotechnic articles (OJ L 155, 17.4.2014, p.28).

The Directive repeals and replaces Directive 2007/23/EC of the European Parliament and of the Council of 23rd May 2007 on the placing on the market of pyrotechnic articles (OJ L 154, 14.06.2007, p.1) which was implemented in the United Kingdom by the Pyrotechnic Articles (Safety) Regulations 2010 (S.I. 2010/1554) (as amended). These Regulations revoke and replace S.I. 2010/1554.

Regulation 3 defines “pyrotechnic article”. Regulations 4 and 5 provide exceptions allowing the use of pyrotechnic articles which are not in conformity with Part 2 for the purposes of trade fairs, exhibitions, demonstrations, research, testing and development.

Part 2 sets out the obligations of economic operators. Regulations 6 to 13 set out the obligations that are specific to manufacturers. These obligations include ensuring that a pyrotechnic article has been designed and manufactured in accordance with the essential safety requirements set out in Schedule 2, having a relevant conformity assessment procedure carried out before the pyrotechnic article is placed on the market, affixing the CE marking and labelling the pyrotechnic article.

Regulations 14 to 19 set out the obligations that are specific to importers. These obligations include ensuring that they are not placing on the market pyrotechnic articles which are not in conformity with the essential safety requirements, checking that the manufacturer has carried out a relevant conformity assessment procedure and labelled the pyrotechnic articles correctly and indicating on the pyrotechnic article the name and address of the importer.

Regulations 20 to 23 set out the obligations that manufacturers and importers have, but distributors do not. These obligations include maintaining records of the registration numbers assigned to pyrotechnic articles and monitoring pyrotechnic articles which have been placed on the market.

Regulations 24 to 28 set out the obligations that are specific to distributors. These obligations include acting with due care to ensure that pyrotechnic articles are in conformity with Part 2 and checking that the pyrotechnic articles bears the CE marking and are labelled correctly.

Regulations 29 and 30 set out the provisions that apply to importers and distributors, but not to manufacturers. These obligations include an obligation to ensure that the storage and transport of a pyrotechnic article do not jeopardise its conformity with the essential safety requirements.

Regulations 31 to 38 set out obligations that manufacturers, importers and distributors have. These obligations include not making pyrotechnic articles available to persons beneath the minimum age limits. They include not making category F4 fireworks, category T2 theatrical pyrotechnic articles or category P2 other pyrotechnic articles available to persons without specialist knowledge. The meaning of “person with specialist knowledge” is set out in Schedule 4. They also include an obligation to identify other economic operators in the supply chain.

Part 3 sets out provisions concerning the conformity assessment procedure, declarations of conformity and CE marking.

Part 4 sets out provisions concerning the bodies which carry out conformity assessment procedures under the Regulations.

Part 5 sets out provisions for market surveillance and enforcement. Regulation 52 identifies the market surveillance authority which has an obligation to enforce the Regulations in respect of each category of pyrotechnic article. Regulation 54 and Schedule 7, 8 and 9 provide for the enforcement powers which the enforcing authorities are to have. Regulation 62 provides for the

contravention of provisions of these Regulations to be an offence. Regulation 63 sets out the penalties that are to apply for offences under these Regulations.

Part 6 sets out transitional provisions and consequential amendments. Until 5th July 2017, Part 2 will not apply to designs of category F1 firework, F2 firework and F3 firework which were lawfully manufactured or placed on the market before 4th July 2010 or to designs of other categories of pyrotechnic article lawfully manufactured or placed on the market before 4th July 2013. Regulation 75 makes consequential amendments, including to section 31 of the Explosives Act 1875 (c.17).

A transposition note and full impact assessment of the impact that these Regulations will have on the costs of business, the voluntary sector and the public sector are available from the Single Market Product Safety Team, Department for Business, Innovation and Skills, 1 Victoria Street, London SW1H 0ET and are also published with the Explanatory Memorandum alongside these Regulations on www.legislation.gov.uk.