

2004 No. 3262

FIREWORKS

The Fireworks (Amendment) Regulations 2004

Made - - - - *8th December 2004*

Laid before Parliament *10th December 2004*

Coming into force - - *1st January 2005*

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

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

And whereas the Secretary of State, in accordance with section 2(3) of that Act, has consulted the Health and Safety Commission, those organisations which appear to her to be representative of interests substantially affected by the following Regulations and such other persons whom she considers it appropriate to consult;

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

And whereas, in relation to every metropolitan county, each fire and rescue authority has, in accordance with section 27(2)(a) of the Consumer Protection Act 1987(b), agreed to the transfer to it of such enforcement duties as are specified in the following Regulations;

Now, therefore, the Secretary of State, in exercise of the powers conferred upon her by sections 2, 4, 7 and 8 of the Fireworks Act 2003 and by section 27(2) of the Consumer Protection Act 1987 (as applied by section 12(1) of the Fireworks Act 2003), hereby makes the following Regulations:—

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Fireworks (Amendment) Regulations 2004 and shall come into force on 1st January 2005.

(2) In these Regulations, “the principal Regulations” means the Fireworks Regulations 2004(a).

(a) 2003 c. 22.
(b) 1987 c. 43.

Amendment of regulation 7 of the principal Regulations

2.—(1) Regulation 7 of the principal Regulations is amended as follows.

(2) For paragraph (3)(b), there is substituted—

“(b) beginning at 11pm and ending at midnight on 5th November;”

Amendment of regulation 9 of the principal Regulations

3.—(1) Regulation 9 of the principal Regulations is amended as follows.

(2) For paragraph (1), there is substituted—

“(1) Subject to paragraphs (2) and (2A) below, no person shall supply or expose for supply any adult firework, save in accordance with either—

- (a) a licence granted in respect of each premises under his control at which the fireworks are supplied or exposed for supply; or
- (b) a licence granted to him, if the fireworks which he supplies or exposes for supply are kept at premises which are not under his control.”

(3) After paragraph (2), there is inserted—

“(2A) Paragraph (1) above shall not prohibit the supply or exposing for supply, otherwise than in accordance with a licence, of adult fireworks—

- (a) to a person who is employed in, or whose trade or business (or part of whose trade or business) is the supply of fireworks or assemblies, for the purpose of that person’s supplying them in accordance with the provisions of the 1997 Regulations;
- (b) to a person who is employed by, or in business as, a professional organiser or operator of firework displays for the purpose of that person’s employment or business; or
- (c) to a person who is employed in, or whose trade or business (or part of whose trade or business) is, the transport of fireworks, for the purpose of that person’s trade, employment or business.”

(4) For paragraph (3), there is substituted—

“(3) An application for a licence under this regulation shall be made to the local licensing authority in whose area—

- (a) the premises concerned are located in the case of a licence mentioned in paragraph (1)(a) above, or
- (b) the principal business premises of the applicant are located in the case of a licence mentioned in paragraph (1)(b) above.”

(5) For paragraph (4), there is substituted—

“(4) A local licensing authority shall not grant a licence unless it is satisfied—

- (a) in the case of an application under paragraph (3)(a) above, that the premises which are the subject of the application, are licensed or registered in accordance with the Explosives Act 1875(b); or
- (b) in the case of an application under paragraph (3)(b) above, that the fireworks which will be supplied or exposed for supply by the applicant, will be kept at premises which are licensed or registered in accordance with that Act.”

(6) For paragraph (7), there is substituted—

“(7) A local licensing authority shall charge a fee of £500 a year in connection with the grant of a licence in accordance with this regulation.”

(a) S.I. 2004/1836.
(b) 1875 c. 17.

Amendment of regulation 10 of the principal Regulations

- 4.—(1) Regulation 10 of the principal Regulations is amended as follows.
- (2) In paragraph (1)—
- (a) after the words “any adult firework”, there is inserted “or sparkler”;
 - (b) in sub-paragraph (a)—
 - (i) after the words “adult fireworks”, there is inserted “or sparklers”, and
 - (ii) for the words “which measures no less than 400 millimetres by 300 millimetres”, there is substituted “which measures no less than 420 millimetres by 297 millimetres”; and
 - (c) in sub-paragraph (b), after the words “adult fireworks”, there is inserted “or sparklers”.
- (3) In paragraph (2)(a), after the words “adult fireworks”, there is inserted “or sparklers”.
- (4) For paragraphs (3) and (4), there is substituted—
- “(3) No person shall supply any adult firework unless he maintains for a period of three years, beginning with the date on which he supplies that firework, a record of the following information—
- (a) the name and address of the person who supplied the firework to him;
 - (b) the name and address of the person to whom he is supplying the firework;
 - (c) the date when the firework was supplied to him;
 - (d) the date when he supplied the firework to another person; and
 - (e) the total amount of explosives contained in the firework supplied.
- (3A) A person who supplies adult fireworks shall, if requested by a local licensing authority within the period mentioned in paragraph (3) above to provide any of the information mentioned in that paragraph, provide to that authority such information as is specified in the request.
- (4) Paragraphs (3) and (3A) above shall not apply if, in a single transaction, the total amount of the explosives contained in the fireworks supplied is less than or equal to 50 kilograms.”
- (5) In the cross heading, the word “adult” is deleted.

Amendment of regulation 12 of the principal Regulations

- 5.—(1) Regulation 12 of the principal Regulations is amended as follows.
- (2) For paragraph (7) there is substituted—
- “(7) In relation to every metropolitan county, the licensing enforcement duty is hereby transferred to the fire and rescue authority for that county and any weights and measures authority for that county or any part of that county is hereby relieved of the licensing enforcement duty.”

Gerry Sutcliffe
Parliamentary Under Secretary of State for Employment
Relations, Postal Services and Consumers
Department of Trade and Industry

8th December 2004

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Fireworks Regulations 2004 (“the principal Regulations”). These Regulations do not extend to Northern Ireland and regulation 2 does not extend to Scotland.

Regulation 2 amends regulations 7(3)(b) of the principal Regulations to make it clear that, notwithstanding the prohibition on the use of fireworks after 11pm, fireworks may be used until midnight on the night of 5th November.

Regulation 3 amends regulation 9 of the principal Regulations to provide that (subject to the exceptions in regulation 9) the supply of fireworks is prohibited unless either the person supplying the fireworks or the premises from which the fireworks are supplied are licensed. Regulation 3 adds further exceptions to this prohibition in cases where fireworks are supplied to other fireworks suppliers, professional organisers or operators of fireworks displays or those who transport fireworks in the course of their trade, business or employment. The annual fee for a licence issued under regulation 9 is fixed at £500.

Regulation 4 amends regulation 10 of the principal Regulations to reflect the prohibition on the supply of sparklers (which are not “adult fireworks” for the purposes of the principal Regulations) to those under eighteen under the Fireworks (Safety) Regulations 1997. It also modifies the dimensions of the notice required to be displayed in premises where adult fireworks and sparklers are supplied. Regulation 4 also adds a requirement that suppliers of adult fireworks keep, for three years after supplying such fireworks, records of the information which they may be required to supply to a local licensing authority.

Regulation 5 amends regulation 12 of the principal Regulations in relation to the licensing enforcement duty.

A Regulatory Impact Assessment is available, copies of which have been placed in the libraries of both Houses of Parliament. Copies are available from the Consumer and Competition Policy Directorate of the Department of Trade and Industry, Room 573, 1 Victoria Street, London SW1H 0ET.

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