SCOTTISH STATUTORY INSTRUMENTS

2004 No. 393

FIREWORKS

The Fireworks (Scotland) Regulations 2004

Made - - - -	*13th September 2004*
Laid before the Scottish Parliament - - - -	*15th September 2004*
Coming into force - -	*7th October 2004*

The Scottish Ministers, in exercise of the powers conferred by sections 2, 4, 11(6) and 12(1) of the Fireworks Act 2003(**1**) and by sections 11(3) and 27(2) of the Consumer Protection Act 1987(**2**) (as applied respectively by sections 11(6) and 12(1) of the Fireworks Act 2003)(**3**), and having consulted the Health and Safety Commission those organisations which appear to them to be representative of interests substantially affected by these Regulations and such other persons whom they consider it appropriate to consult, and whereas a full regulatory impact assessment has been issued before making these regulations in accordance with section 2(4) of the Fireworks Act 2003, and whereas every chief constable in Scotland has, in accordance with section 27(2)(a) of the Consumer Protection Act 1987, agreed to the transfer of such enforcement duties as are specified in these Regulations, hereby make the following Regulations:

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Fireworks (Scotland) Regulations 2004 and shall come into force on 7th October 2004.

(2) These Regulations shall extend to Scotland only.

Interpretation

2. In these Regulations–

"adult firework" means

(a) any firework which does not comply with the relevant requirements of Part 2 of BS 7114 when tested in accordance with the appropriate test method (if any) in Part 3 of BS 7114; or

(**1**) 2003 c. 22.
(**2**) 1987 c. 43.
(**3**) By virtue of article 4 and the schedule to The Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2004 (S.I.2004/2030), the Scottish Ministers exercise the functions concurrently with the Secretary of State for Trade and Industry, being functions conferred by sections 2, 4, 11(6) and 12(1) of the Fireworks Act 2003, and sections 11(3), 18 and 27(2) of the Consumer Protection Act 1987.

(b) any firework (except for a cap, cracker snap, novelty match, party popper, serpent, sparkler or throwdown) which does comply with those requirements;

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

"BS 7114" means the British Standard Specification comprising the following parts–

(a) BS 7114: Part 1: 1988, the British Standard Specification for classification of fireworks published on 30th November 1988(**4**);

(b) BS 7114: Part 2: 1988, the British Standard Specification for fireworks published on 30th November 1988(**5**); and

(c) BS 7114: Part 3: 1988, the British Standard Specification for methods of test for fireworks published on 30th November 1988(**6**);

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

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

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

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

"cracker snap" means a firework–

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

(b) which produces a report when pulled apart;

"local authority" means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994(**7**);

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

"party popper" means a firework comprising a device–

(a) which is designed to be held in the hand while functioning;

(b) which is operated by a pull-string with an abrasive surface in sliding contact with a friction-sensitive pyrotechnic composition; and

(c) whose functioning involves a report with the ejection of streamers or confetti, or both;

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

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

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

(**4**) ISBN 0 580 17026 8.
(**5**) ISBN 0 580 17027 6.
(**6**) ISBN 0 580 17028 4.
(**7**) 1994 c. 39.

"the enforcement duty" means the duty imposed by section 27(1) of the Consumer Protection Act 1987(**8**), insofar as that duty is, by virtue of section 12(1) of the Fireworks Act 2003(**9**) exercisable in relation to the enforcement of the prohibition imposed by regulation 3 of these Regulations; and

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

Prohibition of use of certain fireworks at night

3.—(1) Subject to paragraph (2) below, no person shall use an adult firework during night hours.

(2) Paragraph (1) above shall not prohibit the use of a firework–

(a) during a permitted fireworks night;

(b) by any person who is employed by a local authority and who uses the firework in question–

(i) for the purposes of putting on a firework display by that local authority; or

(ii) at a national public celebration or a national commemorative event; or

(c) in accordance with a dispensation granted under regulation 4 below.

(3) In this regulation, "night hours" means the period beginning at 23.00 and ending at 07.00 the following day and a "permitted fireworks night" means a period–

(a) beginning at 23.00 on the first day of the Chinese New Year and ending at 01.00 the following day;

(b) beginning at 23.00 on 5th November and ending at 24.00 on 5th November;

(c) beginning at 23.00 on the day of Diwali and ending at 01.00 the following day; or

(d) beginning at 23.00 on 31st December and ending at 01.00 the following day.

Dispensation from the prohibition imposed by regulation 3

4.—(1) Subject to paragraphs (3) to (9), a local authority may grant a dispensation from the prohibition imposed by regulation 3(1) to any of the persons mentioned in paragraph (2) to enable that person to use fireworks–

(a) for the purposes of putting on a firework display for their employer or in the course of their business (as the case may be); or

(b) at a national public celebration or a national commemorative event.

(2) The persons mentioned for the purposes of paragraph (1) are–

(a) any person who is employed by, or in business as, a professional organiser or operator of firework displays;

(b) any person who is employed by a department of the Government of the United Kingdom or by the Scottish Executive or an agency of the Scottish Executive; or

(c) any person who is employed by an establishment of the naval, military or air forces of the Crown.

(3) A local authority may not grant a dispensation under this regulation, unless it is satisfied either–

(**8**) 1987 c. 43.
(**9**) 2003 c. 22.