

# **Guidance Note for Business and Enforcement Authorities**

## **The Fireworks Regulations 2004 (SI 2004 No. 1836) amended by SI 2004 No. 3262**

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## 1. Introduction

1.1 The Fireworks Regulations 2004 (as amended) impose a number of restrictions on the importation, supply, possession and use of fireworks.

1.2 The restrictions include:

- (a) a prohibition on those under 18 possessing adult fireworks (originally imposed by the Fireworks Regulations 2003<sup>1</sup> and renewed by these Regulations);
- (b) a prohibition on the possession of category 4 fireworks (also originally imposed by the Fireworks Regulations 2003);
- (c) a prohibition on the use of adult fireworks during night hours (11 pm to 7 am);
- (d) a prohibition on the supply of category 3 fireworks whose sound level exceeds 120 decibels (A);
- (e) a requirement that suppliers of adult fireworks hold a licence, unless the supply is during specified periods ;
- (f) a requirement for suppliers of adult fireworks to display a notice informing consumers of the law with respect to age restrictions on the purchase of fireworks and their possession;
- (g) a requirement for suppliers of adult fireworks to keep records of individual transactions of fireworks exceeding 50 kg for a period of 3 years and, on request, to provide information from such records to local licensing authorities ; and,
- (h) a requirement that importers provide information about the storage of adult fireworks to Customs and Excise at the port of entry.

1.3 The Regulations came into force on 7th August 2004, but regulations 9 and 11, concerning the licensing of suppliers and importation requirements respectively, came into force on 1 January 2005.

1.4 The Regulations do not apply in Northern Ireland where fireworks are subject to separate legislation.<sup>2</sup> Regulation 7 (prohibition on the use of fireworks at night) does not apply to Scotland where the Scottish Parliament has exercised

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<sup>1</sup> S.I. 2003/3085.

<sup>2</sup> SR 2002 No. 147. For full text of the Regulations see: [www.northernireland-legislation.hmso.gov.uk/sr/sr2002/20020147.htm](http://www.northernireland-legislation.hmso.gov.uk/sr/sr2002/20020147.htm)

devolved power on this matter and the Scottish Executive has therefore made separate legislation.<sup>3</sup>

## 2. Enforcement of the Regulations

2.1 The Local Weights and Measures Authority (Trading Standards) are solely responsible for the enforcement of regulation 8 - the prohibition of excessively loud category 3 fireworks.

2.2 Regulations 9 and 10 are also enforced by Trading Standards – with the exception of the metropolitan counties where it is the responsibility of the Fire and Rescue Services.<sup>4</sup> Both enforcement authorities are licensing authorities for the purposes of this particular regulation.

2.3 Enforcement of the following regulations is the responsibility of the police service:

- Regulation 4 - prohibition on the possession of fireworks by persons under the age of 18 in public places;
- Regulation 5 - prohibition on the possession of category 4 fireworks by anyone other than a fireworks professional;<sup>5</sup> and
- Regulation 7 - prohibition on the use of certain fireworks during night hours (fireworks curfew)

2.4 The enforcement of regulation 11 concerning the importation of fireworks belongs to HM Customs and Excise.

## The individual requirements of the Regulations

### 3. Prohibitions on the possession of adult fireworks by persons under the age of 18 and of category 4 fireworks by persons other than firework professionals

3.1 Regulations 4 and 5 impose the following prohibitions and restrictions on the possession of fireworks:

- (a) **prohibit the possession** - except by persons listed in paragraph 11 below - of any adult firework by any person under the age of 18 in a public place.

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<sup>3</sup> SI 2004 No.393. For full text of the Regulations see: [www.scotland-legislation.hmso.gov.uk/legislation/scotland/ssi2004/20040393.htm](http://www.scotland-legislation.hmso.gov.uk/legislation/scotland/ssi2004/20040393.htm)

<sup>4</sup> See Section 10 for definitions.

<sup>5</sup> It should be noted that the sale of such items to the general public was made illegal by the Fireworks (Safety) Regulations 1997 which are enforced by Trading Standards Departments.

- (b) **prohibit the possession** - except for persons listed in paragraph 11 below- of fireworks intended for use by fireworks professionals only i.e. category 4 fireworks as defined in the **British Standard (BS 7114)**;<sup>6</sup>

3.2 A **category 4** firework may be identified by the mark it must bear by virtue of the requirements of BS 7114. This is as follows:

**“THIS DEVICE MUST NOT BE SOLD TO, OR USED BY, A MEMBER OF THE GENERAL PUBLIC”**

3.3 Additionally, category 4 fireworks must not be marked with a reference to any part of BS 7114 (including the code "BS 7114") or state that they are category 4 fireworks.

3.4 Some category 4 fireworks may also be identified by their appearance insofar as they are not packaged in the same way as category 1, 2 and 3 fireworks i.e. colourful illustrations or promotional names may be absent.

#### **4. Prohibition on the use of adult fireworks at night**

4.1 Regulation 7 prohibits the use of adult fireworks during night hours. Night hours, except on the dates listed below, means between 11 pm and 7 am .

4.2 The prohibition on the use of adult fireworks during night hours begins later than 11 pm on the following nights:

- (a) Chinese New Year: 1am to 7am;
- (b) 5 November: midnight to 7am;
- (c) Diwali: 1am to 7am;
- (d) New Year's Eve: 1am to 7am.

4.3 The dates for the Chinese New Year and Diwali vary from year to year – as they are calculated on traditional and/ or ancient calendars different to that of the Gregorian calendar. See paragraph 10 below for dates for the next 5 years.

4.4 Those employed by a local authority and who use the fireworks for the purposes of putting on a display by that local authority or at a national public celebration or national commemorative event are exempt from the prohibition.

4.5 For the purposes of the Fireworks Regulations 2004, the term "employed" may include persons either directly or indirectly employed by the local authority to put on a display for that local authority e.g. local authority staff or contractors respectively.

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<sup>6</sup> See section 10 for information on BS 7114.

## 5. Prohibition of excessively loud category 3 fireworks

5.1 Regulation 8 prohibits the supply of excessively loud category 3 fireworks (“display” fireworks which are suitable for use by the public). An excessively loud firework is one whose sound level exceeds 120 decibels (A). This is taken from the as yet uncompleted harmonised British Standard - BS EN 14035<sup>7</sup>. Whereas the Standard does not specify a maximum level for rockets, the limit, together with the testing method, also applies to rockets under this regulation.

5.2 The regulation does not apply to category 1, 2 or 4 fireworks.<sup>8</sup>

## 6. Licensing of fireworks suppliers

6.1 Regulation 9 requires all suppliers of fireworks that supply outside of the specified exempted periods (listed at 6.5, below) to obtain a licence to do so. This is required for suppliers that supply to the general public outside of these periods. This may include retail, wholesale or factory outlets.

6.2 It should be noted that this regulation introduces a **licence to supply** – and is therefore distinct from the existing requirements under the Explosives Act 1875 to **register or licence storage premises**. Suppliers of fireworks must therefore still comply with these storage requirements.<sup>9</sup>

6.3 It should also be noted that the licence to supply, where that supply takes place at premises, covers both the person and the premises. This means, for example, that where a business supplies fireworks at a number of premises within a local licensing authority area, each of those premises must be licensed to supply e.g. where a business has 4 shops in a licensing authority area, 4 licences must be obtained.

6.4 The Regulations also recognise that some suppliers do not supply from physical premises as such e.g. internet suppliers, in which case one licence is required by a person at the company’s principal trading address. An application for a licence in these circumstances should be made to the local licensing authority in whose area the principal trading address is located.

6.5 Those that supply only during the periods below will not require a licence to supply:

- (a) on the first day of Chinese New Year and three days before;
- (b) the period beginning 15 October and ending on 10 November;
- (c) on the day of Diwali and three days before; and
- (d) the period beginning 26 December and ending on 31 December.

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<sup>7</sup> Completion of the Standard is expected sometime during late 2005.

<sup>8</sup> Again, for BS 7114 categorisations, see paragraph 10.

<sup>9</sup> The law with regard to storage will shortly change with the introduction of the Manufacture and Storage of Explosives Regulations, which are made under the Health and Safety at Work Act 1974. These new measures are expected to come into force in April 2005. For further information, contact the Health and Safety Executive (HSE). See Annex A for web link.

6.6 Additionally, suppliers that supply solely to other traders or businesses - such as retailers, wholesale or professional organisers of public displays, will not need a licence if supplying outside the above periods.

6.7 Persons transporting fireworks i.e. hauliers are also exempt from the licensing requirements.

6.8 The licensing bodies will be local authorities and in metropolitan counties will be the Fire and Rescue Service for the county..

6.9 An application for a licence may be refused or a licence revoked if the applicant or licence holder has a conviction for any of the following:

- (a) an offence under section 11 of the Fireworks Act 2003;
- (b) an offence under section 12 of the Consumer Protection Act 1987 arising from a contravention of the Fireworks (Safety) Regulations 1997 (as amended);
- (c) an offence under sections 4, 5 or 32 of the Explosives Act 1875 (registration or licensing requirements in relation to storage); or
- (d) an offence under the Health and Safety at Work Act 1974 – specifically in relation to the use, storage or keeping of fireworks.<sup>10</sup>

6.10 The cost of an annual licence is fixed by the Regulations at £500.<sup>11</sup>

## **7. Information about adult fireworks and sparklers – notice to consumers**

7.1 Regulation 10 prohibits the supply of fireworks unless suppliers display a notice on the premises where fireworks are sold. The notice must be on a paper size 297 x 420 millimetres (A3) and the letters no less than 16 millimetres high.

7.2 If fireworks are advertised either on the internet or in a catalogue, then the notice must be prominently placed on that advertisement or in the catalogue.

7.3 In the case of sales over the telephone, the message must be clearly communicated.

7.4 The required information is as follows:

- it is illegal to sell adult fireworks and sparklers to anyone under the age of eighteen; and

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<sup>10</sup> This relates to the Health and Safety Executive's proposed Manufacture and Storage of Explosives Regulations which are set to replace the old registration and licensing regime under the Explosives Act 1875.

<sup>11</sup> See Fireworks Safety Amendment Regulations 2004: <http://www.legislation.hms0.gov.uk/si/si2004/20043262.htm>

- it is illegal for anyone under the age of eighteen to possess adult fireworks in a public place.

7.5 The wording of the notice does not have to mirror the above wording – so long as the meaning is conveyed in a comprehensive way. Downloads are available from the DTI CCP Website:

<http://www.dti.gov.uk/fireworks/download/041418p.pdf>

## **8. Information about adult fireworks – fireworks transactions**

8.1 Regulation 10 prohibits the supply of adult fireworks unless firework suppliers keep records of individual transactions of fireworks whose total explosive content exceeds 50kg. Records must be kept for a period of 3 years.

8.2 The regulation also prohibits the supply of adult fireworks unless the above records are disclosed to a local licensing authority upon request.

8.3 The information to be kept is as follows:

- (a) where and from whom the supplier obtained the fireworks;
- (b) where and to whom fireworks have been supplied;
- (c) the dates of the transactions; and
- (d) the total amount of explosives in the fireworks transacted.

8.4 The form in which the records are kept and presented may vary from business to business and may be, for example, copies of the sale records normally held. So long as the information is kept for a period of 3 years and disclosed to a local licensing authority upon request, the supplier is considered to have complied with the regulation.

8.5 Regulation 10 does not apply if in any single transaction the total explosive content of the fireworks is 50kg or less.

## **9. Prohibition of Importation**

9.1 Regulation 11 prohibits the importation of adult fireworks unless information is given to Commissioners of Customs and Excise at the port of entry.

9.2 The required information is as follows:

- (a) the name and address of the company importing the fireworks;
- (b) the name of the person who is to store the fireworks following their importation (which may be the same as the person importing); and

- (c) the address of the premises at which the fireworks are to be stored immediately following importation.<sup>12</sup>

9.3 Importers will provide the above information on the Customs and Excise declaration form C88. In particular, box 44 will require information relating to the name of the person storing the fireworks (if different from the importer) and the address of the premises at which the fireworks are to be stored following importation.

## 10. Definitions

10.1 The following definitions apply in the Regulations:

“**Firework**” is defined by the Fireworks Act 2003 to cover devices which are fireworks for the purposes of the British Standard BS 7114. BS 7114 defines a firework as a device containing explosive composition which, upon functioning, will burn and/or explode to produce a visual or aural effect, or a combination of such effects, intended as a form of entertainment.

Owing to the scope of BS 7114, these Regulations do not cover pyrotechnic articles such as those used for theatrical displays or devices such as signal flares, bird scarers or track detonators.

“**Adult firework**” means any firework except for a cap, cracker snap, novelty match, party popper, serpent, throw-down or sparkler.

“**BS 7114**” sets out manufacturing and product safety standards including debris weight limits and labelling requirements. It is published by the British Standards Institution and comprises 3 parts – (1) classification of fireworks, (2) specification for fireworks and (3) methods of test for fireworks.

### **BS 7114 firework categorisations are as follows:**

- Category 1: fireworks suitable for use inside domestic buildings;
- Category 2: fireworks suitable for outdoor use in relatively confined areas (minimum spectator distance of 5 metres);
- Category 3: fireworks suitable for outdoor use in large open spaces (minimum spectator distance of 25 metres);
- Category 4: fireworks which are incomplete and/ or which are not intended for sale to the general public.

It should be noted that BS 7114 is due to be replaced by a new harmonised British Standard, **BSEN 14035**. This is expected to be completed in late 2005 and will replace references to BS 7114 in the relevant national legislation.

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<sup>12</sup> If, for example, a consignment of fireworks is taken from the port by a haulage vehicle to more than one premise, then the addresses of all the premises will have to be disclosed to Customs and Excise. The regulation does not require information about subsequent shipments from these points of storage.

**“Professional”** in the context of these Regulations refers to persons who may legally possess category 4 fireworks in the course of their professional activities. Such fireworks should only be in the possession of professional display companies or manufacturers who can demonstrate professional use through evidence of legal storage, public liability insurance and evidence of training and competence. Professional display companies may also be members of professional pyrotechnics bodies such as the British Pyrotechnics Association (BPA) and/or the Confederation of British Industry Explosives Industry Group (CBI EIG). See Annex A for website links.

**“Public Place”** is any place to which at the material time the public is permitted access - for payment or otherwise. This would include streets, thoroughfares, roads, parks, etc. At certain times, private land or premises may also be a public place so long as the general public are permitted access e.g. land or premises on which festivals or concerts take place.

**“Diwali”** is a short form of the word “Deepavali”, which in Sanskrit means “row of lights” and for many Hindus this also marks the beginning of the New Year (Annakut). The date of Diwali is determined by using the Vikram calendar as opposed to the Western Gregorian calendar. Whereas the former calendar is a lunisolar system the latter is not, which means that the date on which Diwali falls each year is not fixed relative to Gregorian dates. The dates for the next five years are as follows:

**2005 - 1 November**

**2006 - 21 October**

**2007 - 9 November**

**2008 – 28 October**

**2009 - 17 October**

**“Chinese New Year”** is also known as the “Spring Festival” and marks the beginning of the New Year. The date on which the New Year falls is determined by the Chinese lunisolar calendar. Again, given the difference in the calendar system used, relative to the Gregorian calendar, the date on which the Chinese New Year falls each year will vary. The dates for the next five years are as follows:

**2005 - 9 February**

**2006 - 29 January**

**2007 - 18 February**

**2008 - 7 February**

**2009 - 26 January**

**“Decibels (AI)”** (or “dB (AI)”) is a sound measurement that will be used in the new European Standard (BS EN 14035). It is used for fireworks as the noise emitted from that source is usually intermittent.

**“Decibels (A)”** (or dB(A)) is another frequently used measurement of sound which is more suitable for the measurement of noise sources emitting constant sound e.g. machinery in factories, etc. The Regulations do not use this measurement.

**“Local Authority”**, for the purposes of regulation 7, means a County Council, Borough Council, District Council or County Borough Council.

**“Local Licensing Authority”**, for the purposes of regulation 9, means the local authorities mentioned above except in the metropolitan counties<sup>13</sup> where that authority is the Fire and Rescue Service.

The **“Metropolitan Counties”** are:

- Greater Manchester (Manchester, Bolton, Bury, Oldham, Rochdale, Salford, Stockport, Tameside, Trafford, Wigan)
- Merseyside (Liverpool, Knowsley, Sefton, St Helens and Wirral)
- South Yorkshire (Sheffield, Barnsley, Doncaster, Rotherham)
- Tyne and Wear (Newcastle-upon-Tyne, Gateshead, South Tyneside, North Tyneside, Sunderland)
- West Midlands (Birmingham, Coventry, Dudley, Sandwell, Solihull, Walsall, Wolverhampton)
- West Yorkshire (Leeds, Bradford, Calderdale, Kirklees, Wakefield)

## **11. Exceptions from regulation 4 and 5 prohibitions – possession of fireworks by under 18s and category 4 fireworks**

11.1 These exceptions apply to:

- any person who is employed by, or in business as, a professional organiser or operator of firework displays and who possesses the firework for the purposes of his employment or business;
- any person who is employed in, or whose trade or business (or part of whose trade or business) is the manufacture of fireworks or assemblies and who possesses the firework for the purposes of his trade, employment or business;

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<sup>13</sup> The metropolitan counties were established by the Local Government Act 1972. Although the metropolitan county councils were abolished in 1983, the part of the 1972 Act which established the counties was not repealed. The metropolitan counties therefore still exist both as legal administrative counties and are also geographic or ceremonial counties.

- any person who is employed in, or whose trade or business (or part of whose trade or business) is the supply of fireworks or assemblies, for the purpose of supplying them in accordance with the provisions of the 1997 Regulations i.e. the production and supply of category 4 fireworks;
- any person who is employed by a local authority and who, in the course of his employment, possesses the firework in question for any of the following purposes –
  - putting on a firework display by that local authority; or
  - firework use by that local authority at a national public celebration or a national commemorative event;
- any person for use, in the course of a trade or business of his or in the course of his employment, for special effects purposes in the theatre, on film or on television;
- any person employed by or otherwise acting on behalf of a local authority, enforcement authority or other body, where –
  - the authority or body has enforcement powers, conferred by or under any enactment, applying to the firework in question; and
  - the person so employed possesses the firework in question for the purposes of the authority or body exercising those enforcement powers;
- any person who is employed by a department of the Government of the United Kingdom and who, in the course of his employment, possesses the firework for any of the following purposes –
  - putting on a firework display by that department;
  - use of fireworks by that department of at a national public celebration or a national commemorative event; or
  - use of fireworks by that department for research or investigations;
- any person who –
  - is in business as or employed by a supplier of goods designed and intended for use in conjunction with fireworks or assemblies; and
  - possesses the fireworks solely for the purposes of testing those goods to ensure that, when used in conjunction with fireworks or assemblies of the same type, they will perform their intended function or comply with any safety provisions ; or

- any person who is employed by an establishment of the naval, military or air forces of the Crown and who, in the course of his employment, possesses the firework for any of the following purposes –
  - the putting on of a fireworks display by that establishment; or
  - use of fireworks by that establishment at a national public celebration or a national commemorative event.

Regulation 5 (possession of category 4 fireworks) does not prohibit the possession of any firework by any person who is employed in, or whose trade or business (or part of whose trade or business) is, the transport of fireworks and who possesses the fireworks for the purposes of his trade, employment or business e.g. hauliers.

### **Note**

**This guidance note is intended only as a broad indication of the provisions of the Regulations and does not cover all the detailed requirements. It should not therefore be taken as a definitive statement of the full legal requirements and anyone wishing to know the precise legal position should either consult the Regulations themselves or seek independent legal advice.**

**Anyone in the business of supplying fireworks should ensure that they are familiar with the legal requirements specified in the Regulations.**

**Copies of the Regulations may be purchased from the Stationery Office and its agents or are available on the HMSO Website:**

**[www.legislation.hmsso.gov.uk/si/si2004/20041836.htm](http://www.legislation.hmsso.gov.uk/si/si2004/20041836.htm)  
[www.legislation.hmsso.gov.uk/si/si2004/20043262.htm](http://www.legislation.hmsso.gov.uk/si/si2004/20043262.htm)**

## **12. Contacts**

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## Annex A

### ***Legislation***

The Fireworks Act 2003

[www.legislation.hmso.gov.uk/acts/acts2003/20030022.htm](http://www.legislation.hmso.gov.uk/acts/acts2003/20030022.htm)

The Fireworks Regulations 2004

[www.legislation.hmso.gov.uk/si/si2004/20041836.htm](http://www.legislation.hmso.gov.uk/si/si2004/20041836.htm)

The Fireworks (Amendment) Regulations 2004

[www.legislation.hmso.gov.uk/si/si2004/20043262.htm](http://www.legislation.hmso.gov.uk/si/si2004/20043262.htm)

The Fireworks (Safety) Regulations 1997

[www.legislation.hmso.gov.uk/si/si1997/97229401.ht](http://www.legislation.hmso.gov.uk/si/si1997/97229401.ht)

The Fireworks (Safety) (Amendment) Regulations 2004

[www.legislation.hmso.gov.uk/si/si2004/20041372.htm](http://www.legislation.hmso.gov.uk/si/si2004/20041372.htm)

### ***Enforcement and Business links***

Health and Safety Executive (HSE)

[www.hse.gov.uk](http://www.hse.gov.uk)

HM Customs and Excise

[www.hmce.gov.uk](http://www.hmce.gov.uk)

Local Authorities Coordinators of Regulatory Services (LACORS)

[www.lacors.gov.uk/pages/trade/lacors.asp](http://www.lacors.gov.uk/pages/trade/lacors.asp)

Chief Fire Officers Association (CFOA)

[www.fire-uk.org](http://www.fire-uk.org)

Fire Incident Research Safety Team (FIRST)

[www.merseyfire.gov.uk](http://www.merseyfire.gov.uk)

Association of Chief Police Officers (ACPO)

[www.acpo.police.uk](http://www.acpo.police.uk)

Association of Chief Police Officers in Scotland (ACPOS)

[www.scottish.police.uk/main/acpos/acpos.htm](http://www.scottish.police.uk/main/acpos/acpos.htm)

DTI Website (fireworks pages)

[www.dti.gov.uk/ccp/topics1/fireworks.htm](http://www.dti.gov.uk/ccp/topics1/fireworks.htm)

Scottish Executive

[www.scottishexecutive.gov.uk/Home](http://www.scottishexecutive.gov.uk/Home)

CBI Explosives Industry Group

[www.eig.org.uk/](http://www.eig.org.uk/)

British Fireworks Association

[www.b-f-a.org](http://www.b-f-a.org)

British Pyrotechnics Association

[www.bpa-fmg.org.uk](http://www.bpa-fmg.org.uk)