



STATUTORY INSTRUMENTS.

**S.I. No. 174 of 2015**



EUROPEAN UNION (MAKING AVAILABLE ON THE MARKET OF  
PYROTECHNIC ARTICLES) REGULATIONS 2015

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S.I. No. 174 of 2015

EUROPEAN UNION (MAKING AVAILABLE ON THE MARKET OF  
PYROTECHNIC ARTICLES) REGULATIONS 2015

I, FRANCES FITZGERALD, Minister for Justice and Equality, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purpose of giving effect to Directive 2013/29/EU of the European Parliament and of the Council of 12 June 2013<sup>1</sup>, and Commission Implementing Directive 2014/58/EU of 16 April 2014<sup>2</sup>, hereby make the following regulations:

PART 1

GENERAL PROVISIONS

*Citation and commencement*

1. (1) These Regulations may be cited as the European Union (Making Available on the Market of Pyrotechnic Articles) Regulations 2015.

(2) Subject to paragraph (3) and Regulations 36 and 37, these Regulations come into operation on 1 July 2015.

(3) Paragraphs (3) to (6) of Regulation 9 and paragraphs (2) to (4) of Regulation 23 come into operation on 17 October 2016.

*Interpretation*

2. (1) In these Regulations—

“ammunition” means projectiles and propelling charges and blank ammunition used in portable firearms, other guns and artillery;

“authorised officer” means a person appointed under Regulation 28;

“CE marking” means a marking by which the manufacturer indicates that the pyrotechnic article is in conformity with the applicable requirements set out in Union harmonisation legislation providing for its affixing in accordance with Regulation 19;

“Commission” means European Commission;

“competent authority in the State” means the Minister;

<sup>1</sup>OJ No. L 178, 28.6.2013, p.27

<sup>2</sup>OJ No. L 115, 17.4.2014, p.28

*Notice of the making of this Statutory Instrument was published in  
“Iris Oifigiúil” of 8th May, 2015.*

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

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

“Directive” means Directive 2013/29/EU of the European Parliament and of the Council of 12 June 2013<sup>1</sup>;

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

“economic operators” means the manufacturer, the importer and the distributor;

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

“harmonised standard” means harmonised standard with the meaning of Article 2 (1) (c) of Regulation (EU) No. 1025/2012 of 25 October 2012<sup>3</sup>;

“importer” means a person established within the Union who places a pyrotechnic article from a third country on the Union market;

“making available on the market” means any supply of a pyrotechnic article for distribution, consumption or use on the Union market in the course of a commercial activity, whether in return for payment or free of charge;

“manufacturer” means a person who manufactures a pyrotechnic article, or has such an article designed or manufactured, and markets that pyrotechnic article under his name or trademark;

“market surveillance authority” means the Minister;

“Minister” means Minister for Justice and Equality;

“net equivalent quantity” (NEQ) means the net explosive content (NEC), the net explosive quantity (NEQ) or the net equivalent mass (NEM) and is the total mass of the explosives substances without the packaging, casings or other non-explosive material;

“notifying authority” means the Minister;

“notified body” means a body notified to the Commission to carry out conformity assessment procedures that has been granted notification—

(a) under Regulation 21, or

(b) by another Member State, and whose appointment has been notified to the Commission under Article 29 of the Directive;

“person with specialist knowledge” means a person authorised by the competent authority in the State, to handle or to handle and use, in the State, category F2,

<sup>3</sup>OJ No. L 316, 14.11.2012, p. 12

F3, F4 fireworks, theatrical pyrotechnic articles, category P2 pyrotechnic articles and category P1 pyrotechnic articles for vehicles, including airbag and seatbelt pre-tensioner systems, except where those pyrotechnic articles for vehicles have been incorporated in a vehicle or a detachable vehicle part;

“placing on the market” in relation to a pyrotechnic article, means the first making available of the pyrotechnic article on the Union market;

“private dwelling” does not include a part of a private dwelling which for the time being is a registered premises, a store or a magazine within the meaning of the Explosives Act 1875 (c. 17);

“pyrotechnic article” means any article 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;

“pyrotechnic articles for vehicles” means components of safety devices in vehicles which contain pyrotechnic substances used to activate these or other devices;

“recall” means any measure aimed at achieving the return of a pyrotechnic article that has already been made available to the end-user;

“Regulation (EC) No. 765/2008” means Regulation (EC) No. 765/2008 of 9 July 2008<sup>4</sup>;

“Regulations of 2010” means European Communities (Placing on the Market of Pyrotechnic Articles) Regulations 2010 (S.I. No. 1 of 2010);

“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 film and television productions or similar use;

“Union” means European Union;

“Union harmonisation legislation” means any Union legislation harmonising the conditions for the marketing of products;

“withdrawal” means any measure aimed at preventing a pyrotechnic article in the supply chain from being made available on the market.

(2) In these Regulations, a reference to a pyrotechnic article of a particular category shall be construed in accordance with Schedule 1.

(3) A word or expression which is used in these Regulations and which is also used in the Directive has, unless the context otherwise requires, the same meaning in these Regulations as it has in the Directive.

<sup>4</sup>OJ No. L 218, 13.8.2008, p.30

*Application*

3. (1) Subject to paragraph (2), these Regulations apply to all pyrotechnic articles.

(2) These Regulations do not apply to:

- (a) pyrotechnic articles intended for non-commercial use by the Defence Forces, the Garda Síochána or emergency services;
- (b) equipment falling within the scope of the European Union (Marine Equipment) Regulations 2014 (S.I. No. 540 of 2014);
- (c) pyrotechnic articles intended for use in the aerospace industry;
- (d) percussion caps intended specifically for toys falling within the scope of the European Communities (Safety of Toys) Regulations 2011 (S.I. No. 14 of 2011);
- (e) explosives falling within the scope of—
  - (i) the European Communities (Placing on the Market and Supervision of Explosives for Civil Uses) Regulations 1995 (S.I. No. 115 of 1995) as amended by the European Communities (Placing on the Market and Supervision of Explosives for Civil Uses) (Amendment) Regulations 2005 (S.I. No. 546 of 2005), or
  - (ii) the European Communities (System for the Identification and Traceability of Explosives for Civil Uses) Regulations 2009 (S.I. No. 133 of 2009) as amended by the European Union (System for the Identification and Traceability of Explosives for Civil Uses) (Amendment) Regulations 2012 (S.I. No. 106 of 2012);
- (f) ammunition;
- (g) fireworks which are built by a manufacturer established in the State, under a licence issued by the competent authority in the State, for his or her own use and approved for use exclusively in the State and which remain on the territory of the State.

(3) Nothing in these Regulations shall affect the operation of:

- (a) the Explosives Act 1875 and the Carriage of Dangerous Goods by Road Act 1998 (No. 43 of 1998), in relation to the import, manufacture, storage, transport and supply of pyrotechnic articles;
- (b) the Safety, Health and Welfare at Work Act 2005 (No. 10 of 2005), in relation to the use of pyrotechnic articles at a place of work;
- (c) section 80 (inserted by section 68 of the Criminal Justice Act 2006 (No. 26 of 2006)) of the Explosives Act 1875.



*Making available on market of pyrotechnic articles*

4. (1) A person shall not make available on the market any pyrotechnic articles unless the articles—

- (a) satisfy the essential safety requirements applicable to the category of the article concerned,
- (b) have been submitted to a notified body for a conformity assessment,
- (c) have passed the conformity assessment in accordance with Regulation 17 and an EU declaration of conformity has been drawn up in accordance with Regulation 18,
- (d) have affixed to them the CE marking in accordance with Regulation 19 and Article 30 of Regulation (EC) No. 765/2008,
- (e) have been properly labelled, or their packaging has been so labelled, in accordance with Regulation 9 and with Regulation 10 or 11, as appropriate, and
- (f) when properly stored and used for their intended purpose, do not endanger the health and safety of persons.

*Categorisation*

5. A manufacturer shall categorise pyrotechnic articles in the manner set out in Schedule 1 according to—

- (a) their type of use, or
- (b) their purpose and level of hazard, including their noise level.

*Exception for trade fairs, exhibitions, demonstrations and for research, development and testing*

6. (1) Nothing in these Regulations shall prevent the showing of pyrotechnic articles that are not in conformity with these Regulations at trade fairs, exhibitions and demonstrations intended for the marketing of pyrotechnic articles, provided that—

- (a) a clearly visible sign is displayed indicating—
  - (i) the name and date of the trade fair, exhibition or demonstration concerned,
  - (ii) that the articles concerned do not conform with these Regulations, and
  - (iii) that the articles concerned are not available for sale until they are brought into conformity with these Regulations, and
- (b) appropriate safety measures, in accordance with the Safety, Health and Welfare at Work Act 2005 (No. 10 of 2005), are observed at the trade fair, exhibition or demonstration concerned.

(2) Nothing in these Regulations shall prevent the free movement or use of pyrotechnic articles manufactured for the purpose of research, development and testing that are not in conformity with these Regulations provided that a visible sign clearly indicates that the articles concerned—

- (a) do not conform with these Regulations, and
- (b) are not available for purposes other than research, development and testing until they are brought into conformity with these Regulations.

*Restrictions on sale or supply of pyrotechnic articles*

7. (1) A person shall not sell or otherwise make available to any person, other than a person with specialist knowledge relating to those pyrotechnic articles, any of the following—

- (a) category F2, F3 or F4 fireworks,
- (b) theatrical pyrotechnic articles,
- (c) category P2 pyrotechnic articles, or
- (d) category P1 pyrotechnic articles for vehicles, including airbag and seat belt pre-tensioner systems, except where those pyrotechnic articles for vehicles have been incorporated in a vehicle or a detachable vehicle part.

(2) A person shall not, other than a person with specialist knowledge relating to those articles, possess or use the following—

- (a) category F2, F3 or F4 fireworks,
- (b) theatrical pyrotechnic articles,
- (c) category P2 pyrotechnic articles, or
- (d) category P1 pyrotechnic articles for vehicles, including airbag and seat belt pre-tensioner systems, except where those pyrotechnic articles for vehicles have been incorporated in a vehicle or a detachable vehicle part.

(3) A person shall not sell or otherwise make available a Category F1 firework to a person below the age of 12 years.

(4) Notwithstanding paragraph (1), a person shall not sell or otherwise make available to a person below the age of 18 years any of the following—

- (a) category F2, F3 or F4 fireworks,
- (b) theatrical pyrotechnic articles, or
- (c) category P1 or P2 pyrotechnic articles.

## PART 2

## OBLIGATIONS OF ECONOMIC OPERATORS

*Obligations of manufacturers*

8. (1) A manufacturer shall ensure that pyrotechnic articles placed on the market have been designed and manufactured in accordance with the essential safety requirements set out in Schedule 2 applicable to the category of the article concerned.

(2) Before placing a pyrotechnic article on the market, the manufacturer of the pyrotechnic article shall:

- (a) draw up the technical documentation as referred to in Annex II to the Directive;
- (b) submit the pyrotechnic article to a notified body for the performance by that body of a conformity assessment in accordance with Regulation 17;
- (c) where compliance of the pyrotechnic article with the applicable requirements has been demonstrated by that procedure, draw up an EU declaration of conformity in accordance with Regulation 18;
- (d) affix a CE marking to the pyrotechnic article in accordance with Regulation 19 and Article 30 of Regulation (EC) No. 765/2008;
- (e) retain the technical documentation and EU declaration of conformity for 10 years after the article has been placed on the market;
- (f) ensure that procedures are in place for series production to remain in conformity with these Regulations, having regard to any changes in pyrotechnic article design or characteristics and changes in the harmonised standards or in other technical specifications;
- (g) when deemed appropriate with regard to the risks presented by a pyrotechnic article, and upon a duly justified request of an authorised officer, to protect the health and safety of consumers, carry out, as required, sample testing of pyrotechnic articles made available on the market, investigate and, if necessary, keep a register of complaints, of non-conforming pyrotechnic articles and pyrotechnic recalls, and keep distributors informed of any such monitoring;
- (h) label the pyrotechnic articles in accordance with Regulation 9 and Regulation 10 or 11, as appropriate;
- (i) indicate on the pyrotechnic article the manufacturer's name, registered trade name or registered trade mark and the postal address at which the manufacturer can be contacted or, where that is not possible, on its packaging or a document accompanying the pyrotechnic article, and—

- (I) the address shall indicate a single point at which the manufacturer can be contacted, and
- (II) the contact details shall be in a language that is easily understood by end users and market surveillance authorities;
- (j) ensure that the pyrotechnic article is accompanied by instructions and safety information in a language which can easily be understood by consumers and other end users and which are clear, understandable and intelligible;
- (k) immediately take any corrective measures necessary to bring into conformity, a pyrotechnic article which the manufacturer has reason to believe is not in conformity, including withdrawing it, or recalling it, if appropriate;
- (l) inform the competent authorities of Member States in which the pyrotechnic article was made available on the market, of the non-compliance and of any corrective measures taken;
- (m) further to a reasoned request from a competent authority, provide it with all the information and documentation in paper or electronic form necessary to demonstrate the conformity of the pyrotechnic article with these Regulations, in a language which can be easily understood; and
- (n) co-operate with the competent authority in the State or a competent authority in another Member State, at its request, on any action taken to eliminate the risk posed by pyrotechnic articles which they have placed on the market.

#### *Traceability*

9. (1) A manufacturer or an importer shall label pyrotechnic articles with a registration number assigned by the notified body carrying out the conformity assessment under Regulation 17.

(2) A manufacturer and an importer shall maintain records of the registration numbers of the pyrotechnic articles they make available on the market and shall make this information available to an authorised officer upon the request of the officer.

(3) The numbering system referred to in paragraph (1) shall be done in accordance with that set out in Schedule 3.

(4) A manufacturer and an importer shall maintain records of the registration numbers of the pyrotechnic articles they import or manufacture, together with their trade name, generic type and subtype, if applicable, and the site of manufacture and shall make this information available to an authorised officer upon the request of the officer.

(5) A manufacturer and an importer shall, where it is to cease its activity, transfer the records referred to in paragraph (4) to the competent authority in the State.

(6) The records referred to in paragraph (4) shall be kept for at least 10 years after the article has been placed on the market.

*Labelling of pyrotechnic articles other than pyrotechnic articles for vehicles*

10. (1) A manufacturer shall ensure that pyrotechnic articles, other than pyrotechnic articles to which Regulation 11 applies, are properly labelled visibly, legibly and indelibly in the language of the Member State in which the article is to be made available to the consumer, and in accordance with this Regulation.

(2) The labelling of pyrotechnic articles referred to in paragraph (1) shall be clear, understandable and intelligible and shall include as a minimum:

- (a) the name, registered trade name or registered trade mark of the manufacturer and a single postal address at which it can be contacted at;
- (b) the name and type of the pyrotechnic article;
- (c) the registration number of the pyrotechnic article and its product, batch or serial number;
- (d) the minimum age limits as set out in Regulation 7 or, as appropriate, the equivalent minimum age limit in the Member State in which they are to be sold to consumers;
- (e) the category of the pyrotechnic article;
- (f) instructions for use;
- (g) in the case of category F3 and F4 fireworks, the year of production;
- (h) a minimum safety distance where appropriate;
- (i) net equivalent quantity (NEQ) of active explosive material.

(3) Where the manufacturer is not established in the Union, the information set out in paragraph (2) (a) shall be provided in respect of both the manufacturer and the importer.

(4) In addition to the requirements of paragraphs (1) to (3), the labelling of fireworks shall display the following minimum information:

- (a) in the case of fireworks of category F1, where appropriate the statement “for outdoor use only” and a minimum safety distance;
- (b) in the case of fireworks of category F2, the statement “for outdoor use only” and, where appropriate, minimum safety distance or distances;

- (c) in the case of fireworks of category F3, the statement “for outdoor use only” and minimum safety distance or distances;
  - (d) in the case of fireworks of category F4, the statement “for use only by persons with specialist knowledge” and minimum safety distance or distances.
- (5) In addition to the requirements of paragraphs (1) to (3), theatrical pyrotechnic articles shall contain the following minimum information:
- (a) in the case of theatrical pyrotechnic articles of category T1, where appropriate, the statement “for outdoor use only” and a minimum safety distance or distances;
  - (b) in the case of theatrical pyrotechnic articles for category T2, the statement “for use only by persons with specialist knowledge” and minimum safety distance or distances.
- (6) If a pyrotechnic article does not provide sufficient space for the labelling requirements referred to in paragraphs (1),(2),(3),(4) and (5), the information shall be provided on the smallest piece of packaging.
- (7) This Regulation does not apply to pyrotechnic articles to which Regulation 11 applies.

*Labelling of pyrotechnic articles for vehicles*

11. (1) A manufacturer shall ensure that pyrotechnic articles for vehicles are labelled in accordance with this Regulation.

(2) The labelling referred to in paragraph (1) shall include—

- (a) the name, registered trade name or registered trade mark of the manufacturer or, where the manufacturer is not established in the Union, the name of the importer,
- (b) the postal address at which the manufacturer can be contacted,
- (c) the name and type of article,
- (d) the registration number of the article and its product, batch or serial number, and
- (e) the safety instructions, where necessary.

(3) If the article referred to in paragraph (1) does not provide sufficient space for the labelling requirements referred to in paragraph (2), the information shall be provided on the packaging.

(4) A safety data sheet compiled for a pyrotechnic article shall be supplied by the manufacturer to professional users—

- (a) in the language requested by them, and

- (b) on paper or electronically, provided that the addressee has the necessary means of accessing it.
- (5) In paragraph (4), “safety data sheet” means a document—
- (a) compiled in accordance with Annex II to Regulation (EC) No. 1907/2006 of the European Parliament and of the Council of 18 December 2006<sup>5</sup>, and
  - (b) which takes account of the specific needs of professional users.

*Obligations of importers*

12. (1) An importer shall not place pyrotechnic articles on the market unless those articles are compliant with these Regulations.

(2) Before placing a pyrotechnic article on the market an importer shall ensure that the appropriate conformity assessment procedure referred to in Regulation 17 has been carried out by the manufacturer.

(3) An importer shall also ensure that—

- (a) the manufacturer has drawn up the technical documentation,
- (b) the pyrotechnic article bears the CE marking and is accompanied by the required documents, and
- (c) the manufacturer has complied with the requirements set out in Regulation 8(2)(h) and (i).

(4) Where an importer considers or has reason to believe that a pyrotechnic article is not in conformity with the essential safety requirements set out in Schedule 2, the importer shall not place the pyrotechnic article on the market until that article has been brought into conformity.

(5) Where the pyrotechnic article presents a risk, an importer shall inform the manufacturer and the market surveillance authorities of that risk.

(6) An importer shall indicate on the pyrotechnic article—

- (a) their name, registered trade name or registered trade mark, and
- (b) a postal address at which they can be contacted.

(7) The information referred to in paragraph (6) shall be in a language that can be easily understood by end-users and the market surveillance authority in the Member State in which it is to be made available to end-users.

(8) Where it is not possible to indicate the information specified in paragraph (6) on the pyrotechnic article, the importer shall indicate the information—

- (a) on the packaging, or

<sup>5</sup>OJ No. L 396, 30.12.2006, p.1

(b) in a document accompanying the pyrotechnic article.

(9) An importer shall ensure that the pyrotechnic article is accompanied by instructions and safety information in a language which can be easily understood by consumers and other end-users, as determined by the Member State concerned.

(10) An importer shall ensure that, while a pyrotechnic article is under his or her responsibility, its storage or transport conditions do not jeopardise its compliance with the essential safety requirements set out in Schedule 2.

(11) When deemed appropriate with regard to the risks presented by a pyrotechnic article, importers shall, to protect the health and safety of consumers, upon a duly justified request of the competent authorities, carry out sample testing of pyrotechnic articles made available on the market, investigate, and, if necessary, keep a register of complaints, of non-conforming pyrotechnic articles and pyrotechnic articles recalls, and shall keep distributors informed of any such monitoring.

(12) An importer who considers, or has reason to believe, that a pyrotechnic article which they have placed on the market is not in conformity with these Regulations shall immediately take the corrective measures necessary to—

(a) bring that pyrotechnic article into conformity,

(b) withdraw the pyrotechnic article, or

(c) recall the pyrotechnic article.

(13) Where a pyrotechnic article presents a risk, an importer shall immediately inform the competent authorities of the Member States in which they made the pyrotechnic article available on the market to that effect, giving details of—

(a) the respect in which the pyrotechnic article is considered to be non-compliant, and

(b) any corrective measures taken.

(14) An importer shall, for 10 years after a pyrotechnic article has been placed on the market—

(a) keep a copy of the EU declaration of conformity at the disposal of the market surveillance authorities, and

(b) ensure that the technical documentation can be made available to those authorities, upon request.

(15) An importer shall, at the request of a competent authority, provide it with all the information and documentation in paper or electronic form necessary to demonstrate the conformity of a pyrotechnic article in a language which



can be easily understood by that authority. They shall cooperate with that authority, at its request, on any action taken to eliminate the risks posed by pyrotechnic articles which they have placed on the market.

*Obligations of distributors*

13. (1) A distributor shall not make a pyrotechnic article available on the market without acting with due care in relation to the requirements of these Regulations.

(2) Before making a pyrotechnic article available on the market a distributor shall verify that—

(a) the pyrotechnic article—

(i) bears the CE marking,

(ii) is accompanied by the required documents, and

(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 8(2)(h) and (i),

(c) the importer has complied with the requirements set out in Regulation 12(6), (7) and (8).

(3) Where a distributor considers, or has reason to believe, that a pyrotechnic article is not in conformity with the essential safety requirements set out in Schedule 2, its distributor—

(a) shall not make the pyrotechnic article available on the market until it has been brought into conformity, and

(b) where the pyrotechnic article presents a risk, shall inform the manufacturer or the importer to that effect as well as the market surveillance authority.

(4) A distributor shall ensure that, while a pyrotechnic article is under the responsibility of the distributor, its storage or transport conditions do not jeopardise its compliance with the essential safety requirements set out in Schedule 2.

(5) 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 these Regulations shall make sure that the corrective measures necessary to bring that pyrotechnic article into conformity, to withdraw it or recall it, if appropriate, are taken.

(6) Where a pyrotechnic article presents a risk, its distributor shall immediately inform the competent authorities of the Member States in which the distributor made the pyrotechnic article available on the market to that effect, giving details, in particular, of the non-compliance and of any corrective measures taken.

(7) A distributor shall, further to a reasoned request from a competent authority, provide it with all the information and documentation in paper or electronic form necessary to demonstrate the conformity of a pyrotechnic article.

(8) A distributor shall cooperate with a competent authority, at its request, on any action taken to eliminate the risks posed by pyrotechnic articles which they have made available on the market.

*Cases in which obligations of manufacturers apply to importers and distributors*

14. An importer or distributor shall be considered a manufacturer for the purposes of these Regulations and he or she shall be subject to the obligations of the manufacturer under Regulation 8 where he or she places a pyrotechnic article on the market under his or her name or trademark or modifies a pyrotechnic article already placed on the market in such a way that compliance with the requirements of these Regulations may be affected.

*Identification of economic operators*

15. (1) An economic operator shall, on request, identify to the market surveillance authority any other economic operator—

(a) who has supplied the operator with a pyrotechnic article, or

(b) to whom the operator has supplied a pyrotechnic article.

(2) An economic operator shall be able to present the information referred to in paragraph (1) for a period of 10 years after the operator has been supplied with the pyrotechnic article and for a period of 10 years after the operator supplied the pyrotechnic article.

## PART 3

### CONFORMITY OF THE PYROTECHNIC ARTICLE

*Presumption of conformity of pyrotechnic articles*

16. 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 Union shall be presumed to be in conformity with the essential safety requirements set out in Schedule 2 covered by that standard (or part of that standard).

*Conformity assessment procedures*

17. (1) A manufacturer shall follow one of the following procedures, as referred to in Annex II to the Directive, for the assessment of conformity of pyrotechnic articles:

- (a) EU type-examination (Module B) and, at the choice of the manufacturer, either—
  - (i) the conformity to type based on internal production controls plus supervised product checks at random intervals (Module C2),
  - (ii) conformity to type based on quality assurance of the production process (Module D), or
  - (iii) conformity to type based on quality assurance (Module E);
- (b) conformity based on unit verification (Module G);
- (c) conformity based on full quality assurance (Module H), in so far as it concerns fireworks of category F4.

(2) Where a manufacturer fails to follow or comply with the procedures contained under paragraph (1) the notifying body concerned may refuse to issue an EU type-examination certificate in respect of the pyrotechnic product being assessed or withdraw any such certificate issued in respect of the product.

(3) A manufacturer of a pyrotechnic article shall not place the article on the market unless the article has an EU type-examination certificate issued by a notified body in respect of it following the relevant conformity assessment procedure in accordance with Annex II to the Directive.

*EU declaration of conformity*

18. (1) An EU declaration of conformity for a pyrotechnic article shall—
- (a) state that the fulfilment of the essential safety requirements set out in Schedule 2 has been demonstrated in respect of the pyrotechnic article,
  - (b) have the model structure as set out in Schedule 4,
  - (c) contain the elements specified in the relevant modules set out in Annex II to the Directive for the relevant conformity assessment procedure followed in respect of the pyrotechnic article, and
  - (d) be translated into the language or languages required by the Member State in which the pyrotechnic article is placed or made available on the market.

(2) Where a pyrotechnic article is subject to more than one Union act requiring an EU declaration of conformity, a single EU declaration of conformity shall be drawn up in respect of all such Union acts. That declaration shall contain the identification of the Union acts concerned including their publication references.

(3) Where a manufacturer draws up an EU declaration of conformity the manufacturer shall assume responsibility for the compliance of the pyrotechnic article with the requirements laid down in these Regulations.

(4) A manufacturer in drawing up an EU declaration of conformity shall comply with this Regulation.

*Rules and conditions for affixing CE marking and other markings*

19. (1) The CE marking shall be affixed visibly, legibly and indelibly, by the manufacturer, to a pyrotechnic article before the pyrotechnic article is placed on the market.

(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 shall be affixed by its manufacturer to—

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

(3) The CE marking shall be followed by the identification number of the notified body, where that body is involved in the production control phase.

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

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

(5) The CE marking and where applicable, the identification number of the notified body may be followed by any other mark indicating a special risk or use.

(6) A person shall not affix to any pyrotechnic article a marking or inscription which may lead to confusion as to the meaning and form of the CE marking.

(7) A person shall not affix a CE marking, in a manner that is in contravention of this Regulation, to a pyrotechnic article which conforms with these Regulations.

(8) A person shall not affix a CE marking to a pyrotechnic article which does not conform with these Regulations.

## PART 4

### NOTIFICATION OF CONFORMITY ASSESSMENT BODIES

*Designation of Minister as notifying authority*

20. The Minister is designated as the notifying authority in the State for the purposes of Article 22 of the Directive.

*Notification of notified bodies*

21. (1) A conformity assessment body shall meet the requirements of Article 25 of the Directive for the purposes of notification.

(2) Application for notification by a conformity assessment body should be in accordance with Article 28 of the Directive.

(3) The notifying authority may where—

- (a) a conformity assessment body has made an application in accordance with Article 28 of the Directive, and
- (b) the notifying authority is satisfied that the conformity assessment body meets the requirements set out in Article 25 of the Directive,

grant notification to the conformity assessment body.

(4) The Irish National Accreditation Board shall carry out the following activities on behalf of the notifying authority—

- (a) the setting up and carrying out the necessary procedures for the assessment and accreditation of conformity assessment bodies, and
- (b) the monitoring of notified bodies, including compliance with Article 27 of the Directive.

(5) Where the notifying authority has ascertained or has been informed that a notified body no longer meets the requirements laid down in Article 25 of the Directive or that it is failing to fulfil its obligations under Article 33 or 35 of the Directive or this Part, the notifying authority shall restrict, suspend or withdraw notification, as appropriate, depending on the seriousness of the failure to meet those requirements or fulfil those obligations.

(6) The notifying authority shall inform the notified body concerned of its decision and allow the body an opportunity to make representations to it.

(7) Where a notified body is aggrieved by a decision of the notifying authority to restrict, suspend or withdraw its notification, the notified body may appeal the decision to an appeal panel of such number of independent and suitably qualified persons as the notifying authority decides. The decision of the appeal panel is final other than on a point of law which lies to the High Court.

(8) Where a notified body subcontracts specific tasks carried out with conformity assessment it shall comply with Article 27 of the Directive.

*Operational obligations of notified bodies*

22. (1) A notified body shall carry out a conformity assessment in accordance with the conformity assessment procedure provided for in Annex II to, and Article 33(2) and (3) of, the Directive.

(2) A notified body shall confirm the categorisation of a pyrotechnic article in accordance with Schedule 1 as part of the conformity assessment procedure referred to in Regulation 17.

(3) Where a notified body finds that essential safety requirements set out in Schedule 3 or corresponding harmonised standards or other technical specifications have not been met by a manufacturer, it shall require that manufacturer

to take appropriate corrective measures and shall not issue a certificate of conformity.

(4) Where, in the course of the monitoring of conformity following the issue of a certificate, a notified body finds that a pyrotechnic article no longer complies, it shall by notification require the manufacturer to take appropriate corrective measures and shall suspend or withdraw the certificate if necessary.

(5) Where corrective measures under the Regulation are not taken or are not taken by a manufacturer, the notified body concerned shall, having considered any representations made to it by the manufacturer, restrict, suspend or withdraw any certificate, as appropriate, issued to the manufacturer.

(6) A manufacturer may, within 21 days of the date of withdrawal, restriction or suspension of a certificate held by the manufacturer, appeal the decision of the notified body to an appeal panel established by the notifying authority.

(7) An appeal panel shall comprise such number of independent and suitably qualified persons as the notifying authority decides. The decision of an appeal panel is final other than on a point of law which lies to the High Court.

(8) A notified body shall inform the notification authority of the matters referred to in Article 35 of the Directive.

*Register of pyrotechnic articles and fees*

23. (1) A notifying body carrying out conformity assessment procedures under Regulation 17 shall maintain a register with the registration numbers of pyrotechnic articles for which it has issued EU type-examination certificates in accordance with the modules referred to in that Regulation.

(2) Registration numbers referred to in paragraph (1) shall be in accordance with that set out in Schedule 3.

(3) The register shall contain at least the information set out in Schedule 5 and be kept for not less than 10 years from the date a certificate is issued.

(4) Where notification of the notified body is withdrawn, this information shall be transferred to the notification authority or at its direction to another notified body.

(5) A notifying body may charge fees in connection with or incidental to carrying out conformity assessment under Regulation 17, as it determines.

(6) The fees charged under paragraph (5) shall not exceed the sum of the following:

- (a) the costs incurred or to be incurred by the notified body in carrying out conformity assessment procedures;
- (b) an amount of profit which is reasonable in the circumstances having regard to the character and extent of the work done by the body on

behalf of the person who has submitted the articles for the assessment of conformity, and the commercial rate normally charged on account of profit for that work or similar work.

(7) The power in paragraph (5) includes the power to require the payment of fees in advance of carrying out the work requested by the applicant.

## PART 5

### UNION MARKET SURVEILLANCE, CONTROL OF PYROTECHNIC ARTICLES ENTERING THE UNION MARKET AND UNION SAFEGUARD PROCEDURE

#### *Union market surveillance and control of pyrotechnic articles entering Union market*

24. A person shall not place a pyrotechnic article on the market unless when properly stored and used for its intended purpose it does not endanger the health and safety of persons.

#### *Procedure for dealing with pyrotechnic articles presenting risk at national level*

25. (1) Where the market surveillance authority has sufficient reasons to believe that a pyrotechnic article presents a risk to the health or safety of persons or to other aspects of public interest protection covered by these Regulations, it shall carry out an evaluation in relation to the pyrotechnic article concerned covering all relevant requirements laid down in these Regulations.

(2) The relevant economic operators shall cooperate as necessary with the market surveillance authority in carrying out an evaluation under paragraph (1).

(3) Where, in the course of the evaluation referred to in paragraph (1), the market surveillance authority finds that the pyrotechnic article does not comply with the requirements laid down in these Regulations, it shall without delay by notification require the relevant economic operator to take all appropriate corrective actions to bring the pyrotechnic article into compliance with those requirements, to withdraw the pyrotechnic article from the market, or to recall it within a reasonable period stated in the notification, commensurate with the nature of the risk, as the market surveillance authority decides. Article 21 of Regulation (EC) No. 765/2008 shall apply to the measures referred to in this paragraph.

(4) The economic operator shall ensure that corrective action is taken in respect of all pyrotechnic articles that are found to be non-compliant under paragraph (3).

(5) Where the relevant economic operator does not take adequate corrective action as required under paragraph (3) within the period referred to in that notification, the market surveillance authority shall take all appropriate provisional measures to prohibit or restrict the pyrotechnic articles being made available on the market in the State, to withdraw the pyrotechnic article from that market or to recall it.

(6) An economic operator shall comply with measures taken under paragraph (5).

*Compliant pyrotechnic articles which present risk to health or safety*

26. (1) Where, having carried out an evaluation under Regulation 25(1), the market surveillance authority finds that although a pyrotechnic article is in compliance with these Regulations, it presents a risk to the health or safety of persons or to other aspects of public interest protection, it shall require the relevant economic operator to take all appropriate measures to ensure that the pyrotechnic article concerned, when placed on the market, no longer presents that risk, to withdraw the pyrotechnic article from the market or to recall it within a reasonable period, commensurate with the nature of the risk, as it may require.

(2) An economic operator shall ensure that corrective action required under paragraph (1) is taken in respect of all the pyrotechnic articles concerned that he has made available on the market throughout the Union.

(3) Without prejudice to Regulation 25, where the market surveillance authority makes one of the following findings—

- (a) the CE marking has been affixed in contravention of Article 30 of Regulation (EC) No. 765/2008 or of Regulation 19,
- (b) the CE marking has not been affixed,
- (c) the identification number of the notified body, where that body is involved in the production control phase, has been affixed in violation of Regulation 19, or has not been affixed,
- (d) the EU declaration of conformity has not been drawn up,
- (e) the EU declaration of conformity has not been drawn up correctly,
- (f) technical documentation is either not available or not complete,
- (g) the information referred to in Regulation 8(2)(i) or 12(6), (7) or (8) is absent, false or incomplete, or
- (h) any other administrative requirement provided for in Regulation 8 or 12 is not fulfilled,

it shall by notification require the relevant economic operator to put an end to the non-compliance concerned.

(4) The economic operator shall ensure that corrective action is taken in respect of all pyrotechnic articles that are found to be non-compliant under paragraph (3).

(5) Where the non-compliance referred to in paragraph (3) persists, the market surveillance authority shall take all appropriate measures to restrict or



prohibit the pyrotechnic article being made available on the market or ensure that it is recalled or withdrawn from the market.

(6) An economic operator shall comply with measures taken under paragraph (5).

## PART 6

### INSPECTIONS AND SURVEILLANCE

#### *Inspections and surveillance*

27. (1) The market surveillance authority shall carry out inspections of pyrotechnic articles where appropriate—

- (a) on their entry into the State (where the State is their place of entry into the Union), and
- (b) at the storage and manufacturing sites of such articles and to confirm that such storage and manufacture is carried out in accordance with the Explosives Act 1875.

(2) The market surveillance authority shall organise and perform appropriate surveillance of products made available on the market, taking due account of the presumption of the conformity of products bearing a CE marking.

(3) The surveillance referred to in paragraph (2) may be performed in conjunction with the Competition and Consumer Protection Commission.

#### *Authorised officers*

28. (1) The market surveillance authority may appoint such and so many persons as it thinks fit to be authorised officers for the purposes of ensuring compliance with these Regulations.

(2) An authorised officer shall be furnished with a warrant of his or her appointment and when exercising any power conferred on him or her under these Regulations an authorised officer shall, if requested by any person thereby affected, produce the warrant or a copy of it to that person for inspection.

(3) Subject to paragraph (7), an authorised officer may for the purpose of ensuring that these Regulations and the Directive are being complied with—

- (a) at all reasonable times enter any premises or a place, at which there are reasonable grounds to believe that a product to which these Regulations apply is being or has been manufactured, distributed, supplied or placed on the market or that records relating to the product are kept, and search and inspect the premises or place and any product or records found therein,
- (b) secure for later inspection any premises or place or part of it in which such product or records are kept or there are reasonable grounds for believing that such product or records are kept,

- (c) require any person in charge of or employed in such premises or place to produce to the officer such books, documents or records (and in the case of such information in a non-legible form to reproduce it in a permanent legible form) that are in the person's power or control or to give to the officer such information as the officer may reasonably require in relation to any entries in such records,
- (d) inspect and take copies of or extracts from any such books, documents or records (including in the case of information in non-legible form a copy of or extract from such information in a permanent legible form),
- (e) remove and detain, where the officer has reasonable cause to suspect that there has been a contravention of these Regulations, the product or records for such period as may be reasonable for further examination or until the conclusion of any legal proceedings,
- (f) as regards any product or any article or substance used in the manufacture of a product the officer finds at or in a premises, require any person in charge of the premises, or any person who appears to the officer to be in possession of the product or the article or substance, to supply without payment, for test, examination or analysis sufficient samples thereof,
- (g) cause any product or any article or substance used in the manufacture of a product found at or in any premises which appears to the officer to have caused or to be likely to cause danger to safety or health, to be dismantled or subjected to any process or test (but not so as to damage or destroy it unless this is in the circumstances necessary for the purposes of these Regulations) and where an authorised officer proposes to exercise this power in the case of a product or an article or substance used in the manufacture of a product found at or in any premises, the officer shall, if so requested by a person who at the time is present at or in and has responsibilities in relation to that premises, and if it is practicable and safe to do so, cause anything which is to be done by virtue of that power to be done in the presence of that person,
- (h) in relation to any product or any article or substance used in the manufacture of a product found at a premises in accordance with subparagraph (g), take possession of it and detain it for so long as is necessary for all or any of the following purposes, namely—
  - (i) to examine or arrange for the examination of it and do to it anything which he or she has power to do under subparagraph (g),
  - (ii) to ensure that it is not tampered with before the examination of it is completed, and
  - (iii) to ensure that it is available for use as evidence in any proceedings,

- (i) require any person to afford the officer such facilities and assistance within the person's control or responsibilities as are reasonably necessary to enable the officer to exercise any of the powers conferred on an authorised officer under this Regulation, and
- (j) examine any procedure connected with the manufacture of a product.

(4) Before exercising the power conferred by paragraph (3)(g) in the case of any product, article or substance, an authorised officer shall, in so far as it is reasonably practicable to do so, consult such persons as appear to him or her to be appropriate for the purpose of ascertaining what dangers, if any, there may be in doing anything which he or she proposes to do under that power.

(5) Where under the power conferred by paragraph (3)(h) an authorised officer takes possession of any product, article or substance found at or in any premises, the officer shall, if it is practicable for him or her to do so, take a sample thereof and give to a responsible person at the premises a portion of the sample marked in a manner sufficient to identify it.

(6) An authorised officer shall not, other than with the consent of the occupier, enter a private dwelling unless he or she has obtained a warrant from the District Court under paragraph (9) authorising such entry.

(7) Where an authorised officer in the exercise of the officer's powers under this Regulation is prevented from entering any premises, an application may be made to the District Court under paragraph (9) for a warrant authorising such entry.

(8) An authorised officer, where he or she considers it necessary, may be accompanied by a member of the Garda Síochána when performing any powers conferred on an authorised officer under this Regulation or seizing any product under a forfeiture order made under Regulation 29.

(9) If a judge of the District Court is satisfied on the sworn information of an authorised officer that there are reasonable grounds for suspecting that there is information required by an authorised officer under this Regulation held on any premises or any part of any premises or there is a product which an authorised officer requires to inspect for purposes of these Regulations or the Directive or that such inspection is likely to disclose evidence of a contravention of these Regulations, the judge may issue a warrant authorising an authorised officer, accompanied by either or both authorised officers and members of the Garda Síochána, at any time or times within one month from the date of issue of the warrant, on production if so requested of the warrant, to enter, if need be by reasonable force, the premises and exercise all or any of the powers conferred on an authorised officer under this Regulation.

(10) An application under paragraph (9) shall be made to the judge of the District Court in whose district court district the premises is situated.

(11) A person shall not—

- (a) obstruct or interfere with an authorised officer in the exercise of the officer's powers under this Regulation,
- (b) without reasonable excuse fail to comply with a request from an authorised officer under this Regulation, or
- (c) make a statement to such officer which the person knows is false or misleading.

(12) A person appointed as an authorised officer under Regulation 15 of the Regulations of 2010 who immediately before the making of these Regulations held office as such an officer continues to be an authorised officer under this Regulation.

*Forfeiture orders*

29. (1) The market surveillance authority may apply under this Regulation for an order ("forfeiture order") for the forfeiture to the market surveillance authority of any product to which these Regulations apply on the grounds that the product, when properly stored and used for its intended purpose, endangers the health and safety of persons.

(2) An application under this Regulation shall be made to the judge of the District Court in whose district court district the person against whom the forfeiture order is sought resides or carries on business.

(3) Any product the subject of a forfeiture order may be seized on behalf of the market surveillance authority by an authorised officer.

(4) Any person aggrieved by the making of a forfeiture order or by a decision of the District Court not to make such an order, may appeal against that order or decision to the judge of the Circuit Court in whose Circuit a forfeiture order has been made or refused.

(5) Where the District Court makes a forfeiture order, the order may contain such provision as appears to the Court to be appropriate for delaying the coming into force of the order pending the making and determination of any appeal.

(6) Subject to paragraph (7), where any product is forfeited under a forfeiture order it shall be destroyed in accordance with such directions as the District Court may give.

(7) On making a forfeiture order the District Court may, if it considers it appropriate to do so, direct that the product to which the order relates shall (instead of being destroyed) be released to such person and on such conditions as the Court may specify.

*Articles liable to endanger health and safety of persons*

30. (1) Where the market surveillance authority ascertains that a pyrotechnic article, bearing a CE marking, accompanied by the EC declaration of conformity and used in accordance with its intended purpose, is liable to endanger the health and safety of persons, he or she—

- (a) shall, by notice in writing, direct the person on whom it is served to do one or more of the following—
  - (i) withdraw the article from the market,
  - (ii) refrain from making the article available on the market, or
  - (iii) take such other measures that have the effect of restricting the free movement of the article, and
- (b) may take any other appropriate measures, including the seizing and removing of the article from the market, to ensure compliance with these Regulations.

(2) A notice referred to in paragraph (1)(a) may be served on any person the market surveillance authority has reasonable grounds for believing is in a position to take the measures specified in the notice.

*Measures entailing refusal or restriction*

31. (1) Where the market surveillance authority takes any of the following measures—

- (a) a measure referred to in Regulation 25, 26 or 30, or
- (b) any other measure under these Regulations, other than those referred to in Regulation 35, to prohibit or restrict the making available of a product on the market, or to withdraw a product from the market,

he or she shall follow the procedures set out in this Regulation.

(2) A measure referred to in paragraph (1) shall be notified without delay to the person concerned, and the notification shall—

- (a) state the exact grounds on which the measure is based, and
- (b) inform the person concerned of his or her right to make representations under paragraph (3) and of his right of appeal under Regulation 33, and
- (c) explain the measures, and any time limits associated with them, that must be taken in order to remove the necessity for the prohibition or restriction.

(3) Subject to paragraph (4), a person concerned by a measure referred to in paragraph (1) shall have the opportunity to make representations to the market surveillance authority in advance of the measure being taken.

(4) Where, due to the urgency of the measure referred to in paragraph (1), as justified in particular by public health, security or safety requirements, it is not possible to give the person concerned the opportunity to make representations in advance of the measure being taken, the market surveillance authority shall give such opportunity, as soon as may be, thereafter.

(5) The market surveillance authority may, where he or she considers it appropriate to do so, withdraw, or amend by a further notification in writing any notification given under this Regulation.

(6) A notification under this Regulation may require that the measures concerned be undertaken—

- (a) immediately, because of the urgency of the matter,
- (b) from a specified date,
- (c) by a specified date, or
- (d) between specified dates.

(7) A notification under this Regulation shall, subject to Regulation 33, take effect on the date specified therein.

(8) The market surveillance authority shall cause the Commission to be notified of any relevant notification or other measures taken pursuant to paragraph (1).

(9) A person shall comply with a notification under this Regulation, or a requirement of a notification, unless and until the notification is annulled under Regulation 32.

(10) In this Regulation and Regulations 32 and 33, a reference to a notification under this Regulation includes a reference to a notice referred to in Regulation 30(1)(a).

(11) Where a person fails to comply with a notification under this Regulation or a requirement of a notification, the market surveillance authority may institute, in a court of competent jurisdiction, proceedings for an order requiring the person to comply with the terms of the notification.

#### *Service of notifications*

32. (1) Subject to paragraphs (2) and (3), a notification under Regulation 25, 26 or 30 shall be addressed to the person concerned by name and may be given to the person in one of the following ways—

- (a) by delivering it to the person,
- (b) by leaving it at the address at which the person carries on business or ordinarily resides or, in the case in which an address for service has been furnished, at that address,
- (c) by sending it by post in a prepaid registered letter to the address at which the person carries on business or ordinarily resides or, in a case in which an address for service has been furnished, to that address,
- (d) where there is a facility for receiving the text of the notice by electronic means at the address at which the person carries on business

or ordinarily resides, by transmitting the text of the notice by such means to such address, provided that the notice is also delivered in any of the other ways referred to in this paragraph, or

- (e) if the address at which the person ordinarily resides cannot be ascertained by reasonable enquiry and the compliance notice relates to a premises, by delivering it to the premises or by affixing it in a conspicuous position on or near the premises.

(2) Where a notification under Regulation 25, 26 or 30 is to be given to a person who is the owner or occupier of land or property and the name of the person cannot be ascertained by reasonable inquiry, it may be addressed to the person by using the words “the owner” or, as the case may require, “the occupier”.

(3) For the purposes of this Regulation, a company within the meaning of the Companies Acts shall be deemed to be ordinarily resident at its registered office, and every other body corporate and every unincorporated body shall be deemed to be ordinarily resident at its principal office or place of business.

*Right of appeal against notification or other measure*

33. (1) A person aggrieved by a notification or other measure taken under Regulation 25, 26 or 30 may appeal to the appropriate court against the giving of the direction or taking of the measure.

(2) An appeal under this Regulation shall state the grounds on which the appeal is made and be made by written notice, which shall be lodged with the appropriate office of the court by the appellant not later than 14 days from the date upon which the notification concerned was given to him or her or the measure was taken.

(3) A copy of the notice by which a person makes an appeal under this Regulation shall be given by him or her to the market surveillance authority.

(4) Where an appeal is made under paragraph (1) the notification shall remain in force until the appeal is determined or withdrawn, subject to any decision to the contrary by the High Court.

(5) On the hearing of an appeal under this Regulation the appropriate court may, as it thinks fit, confirm the notification or measure concerned or annul the notification or measure and make any other such order as it considers appropriate.

(6) In this Regulation “appropriate court” means—

- (a) in case the estimated value of the pyrotechnic articles concerned does not exceed €15,000, or such other amount as may stand specified for the time being by law as that Court’s jurisdiction in tort, the District Court,



- (b) in case the estimated value of the pyrotechnic articles concerned does not exceed €75,000, or such other amount as may stand specified for the time being by law as that Court's jurisdiction in tort, the Circuit Court, and
- (c) in any case, the High Court.

(7) If, in relation to an appeal under this Regulation to the District Court, that court becomes of opinion during the hearing of the appeal that the value of the pyrotechnic articles, the subject of the appeal, exceeds that court's jurisdiction in tort, it may, if it so thinks fit, transfer the appeal to the Circuit Court or the High Court, whichever it considers appropriate having regard to its opinion of the value of the pyrotechnic articles.

(8) If, in relation to an appeal under this Regulation to the Circuit Court, that court becomes of opinion during the hearing of the appeal that the value of the pyrotechnic articles, the subject of the appeal, exceeds that courts' jurisdiction in tort, it may, if it so thinks fit, transfer the appeal to the High Court.

(9) Paragraphs (6) and (7) are without prejudice to the jurisdiction of a court (being either the District Court or the Circuit Court) to determine an appeal under this Regulation in relation to which it was, at the time of the hearing of the appeal, the appropriate court.

(10) An appeal under this Regulation to the District Court shall be determined by the judge of the District Court for the District Court district in which the pyrotechnic articles concerned were placed on the market or the appellant ordinarily resides.

(11) An appeal under this Regulation to the Circuit Court shall be determined by the judge of the Circuit Court for the circuit in which the pyrotechnic articles concerned were placed on the market or the appellant ordinarily resides.

#### *Offences and penalties*

34. (1) A person who contravenes these Regulations (other than Part 4) commits an offence and is liable—

- (a) on summary conviction, to a class A fine, or
- (b) on conviction on indictment, to a fine not exceeding €50,000.

(2) Where an offence under these Regulations is committed by a body corporate and is proved to have been so committed with the consent or connivance of, or to be attributable to any wilful neglect on the part of, any person, being a director, manager, secretary or other officer of the body corporate, or a person who was purporting to act in any such capacity, that person, as well as the body corporate, commits an offence and shall be liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

(3) Where the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to the acts and defaults of a member in connection



with his or her functions of management as if he or she were a director or manager of the body corporate.

(4) An offence under these Regulations may be prosecuted summarily by the market surveillance authority.

(5) Where a person is convicted of an offence under these Regulations, the court may order the forfeiture to the market surveillance authority of any pyrotechnic article to which the offence relates.

(6) Where an order is made under paragraph (5), the market surveillance authority may for the purpose of giving effect to it seize and detain the pyrotechnic article where it has not already been seized under this Regulation.

(7) If a person is convicted of an offence under these Regulations the court shall, unless it is satisfied that there are special and substantial reasons for not so doing, order the person to pay to the prosecutor the costs and expenses, measured by the court, reasonably incurred by the prosecutor in relation to the investigation, detection and prosecution of the offence, including costs incurred in the taking of samples, the carrying out of tests, examinations and analyses and in respect of the remuneration and other expenses of employees, consultants and advisers.

*Seizure and disposal of unsafe pyrotechnic articles*

35. (1) Notwithstanding Regulations 29 and 33, any pyrotechnic article that appears to an authorised officer to have deteriorated, or to be unsafe, or to be a danger to persons or property, may be seized and destroyed or otherwise disposed of by such person and in such manner and at such time and place as the authorised officer may direct, and the costs of seizure and disposal may be charged to the economic operator, manager of the premises or place where the pyrotechnic articles were found, or the person having lawful possession of the pyrotechnic articles at the time of seizure is known.

(2) In this Regulation “disposed of” includes any manner of disposal which in the opinion of the authorised officer will least endanger the public, and includes surrender of the pyrotechnic articles to a member of the Garda Síochána, or to any other competent agency or organisation for its destruction, or the certified return of the pyrotechnic articles to the economic operator who manufactured, imported, distributed or supplied the articles, in order to remove it from the market, at the expense of the economic operator, manager, or person having lawful possession of the pyrotechnic articles at the time of seizure, where known.

*Transitional — lawful importation of fireworks and pyrotechnic articles before certain dates*

36. (1) Regulations 4, 8, 9, 10, 12 and 13 do not apply in respect of the following—

- (a) a firework of category F1, F2 or F3, the manufacture or importation of which was lawful immediately prior to 4 July 2010, or

- (b) a pyrotechnic article (other than a firework of category F1, F2 or F3,) the manufacture or importation of which was lawful immediately prior to 4 July 2013.
- (2) (a) The manufacturer of an article to which paragraph (1) applies (other than a pyrotechnic article for vehicles) shall label that article in accordance with paragraph (4).
  - (b) The manufacturer of a pyrotechnic article for vehicles to which paragraph (1) applies shall label that article in accordance with Regulation 11, other than Regulation 11(2)(b) and (d).
- (3) A person shall not make available on the market any article to which paragraph (1) applies unless the article—
    - (a) has been properly labelled, or its packaging has been so labelled, in accordance with paragraph (4) or, in the case of a pyrotechnic article for vehicles, Regulation 11, excluding paragraph (2)(b) and (d), and
    - (b) when properly stored and used for its intended purpose, does not endanger the health and safety of persons.
  - (4) (a) A manufacturer shall ensure that articles to which paragraphs (1) applies (other than pyrotechnic articles for vehicles) are properly labelled visibly, legibly and indelibly in the English language or in the English and Irish languages, and in accordance with this Regulation.
  - (b) The labelling of articles referred to in subparagraph (a) shall include as a minimum—
    - (i) the name and type of the article,
    - (ii) instructions for use, and
    - (iii) a minimum safety distance where appropriate.
  - (c) If the article referred to in subparagraph (a) does not provide sufficient space for the labelling requirements referred to in subparagraphs (a) and (b), the information shall be provided on the smallest piece of packaging.
- (5) This Regulation ceases to have effect on 3 July 2017.

*Transitional — pyrotechnic articles placed on market under Regulations of 2010*

37. (1) The making available on the market of pyrotechnic articles which are in conformity with the Regulations of 2010 and which were placed on the market before 1 July 2015 continues to be lawful.

(2) Certificates issued under the Regulations of 2010 shall be valid under these Regulations.

(3) The making available on the market of pyrotechnic articles for vehicles, including as spare parts, which were lawful to be placed on the market prior to 4 July 2013 shall continue to be lawful until their expiry.

*Revocations*

38. The following are revoked:

- (a) the European Communities (Placing on the Market of Pyrotechnic Articles) Regulations 2010 (S.I. No.1 of 2010);
- (b) the European Communities (Placing on the Market of Pyrotechnic Articles) (Amendment) Regulations 2010 (S.I. No. 416 of 2010);
- (c) the European Communities (Placing on the Market of Pyrotechnic Articles) (Amendment) Regulations 2013 (S.I. No. 373 of 2013).

**Schedule 1**

Regulations 2(2) and 5

**Categorisation of Pyrotechnic Articles**

Categorisation of pyrotechnic articles shall be as follows:

(a) Fireworks:

**Category F1**

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.

**Category F2**

Fireworks which present a low hazard and low noise level and which are intended for outdoor use in confined areas.

**Category F3**

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.

**Category F4**

Fireworks which present a high hazard, which are intended for use only by persons with specialist knowledge (commonly known as “fireworks for professional use”) and whose noise level is not harmful to human health.

(b) Theatrical pyrotechnic articles:

**Category T1**

Pyrotechnic articles for stage use which present a low hazard;

**Category T2**

Pyrotechnic articles for stage use which are intended for use only by persons with specialist knowledge.

(c) Other pyrotechnic articles:

**Category P1**

Pyrotechnic articles other than fireworks and theatrical pyrotechnic articles which present a low hazard;

**Category P2**

Pyrotechnic articles other than fireworks and theatrical pyrotechnic articles which are intended for handling or use only by persons with specialist knowledge.

## Schedule 2

Regulations 8, 12, 13, 16 and 18

### Essential Safety Requirements

1. A pyrotechnic article shall attain the performance characteristics specified by the manufacturer to the notified body in order to ensure maximum safety and reliability.
2. A pyrotechnic article shall 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. A pyrotechnic article shall function correctly when used for its intended purpose.
4. A pyrotechnic article shall be tested under realistic conditions. If this is not possible in a laboratory, the tests shall be carried out in the conditions in which the pyrotechnic article is to be used.

The following information and properties, where applicable, shall 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 pyrotechnic 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 article 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.

During transportation and normal handling, unless specified by the manufacturer's instructions, the pyrotechnic articles should contain the pyrotechnic composition.

5. Pyrotechnic articles shall 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.

6. The various groups of pyrotechnic articles shall at least also comply with the following requirements:

#### **A. Fireworks**

1. The manufacturer shall assign fireworks to different categories according to Regulation 5 characterised by net explosive content, safety distances, noise level, or similar. The category shall be clearly indicated on the label.

- (a) For category F1 fireworks, the following conditions shall be met:
  - (i) the safety distance shall be at least 1 m. However, where appropriate the safety distance may be less,
  - (ii) the maximum noise level shall not exceed 120 dB (A, imp), or an equivalent noise level as measured by another appropriate method, at the safety distance,
  - (iii) category F1 shall not comprise bangers, banger batteries, flash bangers and flash banger batteries, and
  - (iv) throwdowns in category F1 shall not contain more than 2.5 mg silver fulminate.
- (b) For category F2 fireworks, the following conditions shall be met—

- (i) the safety distance shall be at least 8 m. However, where appropriate the safety distance may be less, and
  - (ii) the maximum noise level shall not exceed 120 dB (A, imp), or an equivalent noise level as measured by another appropriate method, at the safety distance.
- (c) For category F3 fireworks, the following conditions shall be met—
- (i) the safety distance shall be at least 15 m. However, where appropriate the safety distance may be less, and
  - (ii) the maximum noise level shall not exceed 120 dB (A, imp), or an equivalent noise level as measured by another appropriate method, at the safety distance.

2. Fireworks may only be constructed of materials which minimise risk to health, property and the environment from debris.

3. The method of ignition shall be clearly visible or shall be indicated by labelling or instructions.

4. Fireworks shall not move in an erratic and unforeseeable manner.

5. Fireworks of categories F1, F2 and F3 shall be protected against inadvertent ignition either by a protective cover, by the packaging, or by the construction of the pyrotechnic article. Fireworks of category F4 shall be protected against inadvertent ignition by methods specified by the manufacturer.

#### **B. Other pyrotechnic articles**

1. Pyrotechnic articles shall be designed in such a way as to minimise risk to health, property and the environment during normal use.

2. The method of ignition shall be clearly visible or shall be indicated by labelling or instructions.

3. The pyrotechnic article shall 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 shall function properly until the 'use by' date specified by the manufacturer.

#### **C. Ignition devices**

1. Ignition devices shall be capable of being reliably initiated and be of sufficient initiation capability under all normal, foreseeable conditions of use.

2. Ignition devices shall be protected against electrostatic discharge under normal, foreseeable conditions of storage and use.

3. Electric igniters shall be protected against electromagnetic fields under normal, foreseeable conditions of storage and use.
4. The covering of fuses shall 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 shall be provided with the pyrotechnic article.
6. The electrical characteristics (such as no-fire current, resistance, etc.) of electric igniters shall be provided with the pyrotechnic article.
7. The wires of electric igniters shall be sufficiently insulated and shall be of sufficient mechanical strength, including the solidity of the link to the igniter, taking account of their intended use.



**Schedule 3**

Regulation 9 and 23(2)

**Registration Number**

1. Pyrotechnic articles shall be labelled with a registration number comprising the following:

- (a) the four-digit identification number of the notified body that has issued—
  - (i) EC type-examination certificate in accordance with the conformity assessment procedure referred to in Annex II to the Directive (Module B), or at the choice of the manufacturer concerned, Module C, D or E of Annex II to the Directive,
  - (ii) certificate of conformity in accordance with the conformity assessment procedure referred to in Annex II to the Directive (Module G), or
  - (iii) quality system approval in accordance with the conformity assessment procedure referred to in Annex II to the Directive (Module H);
- (b) the category of the pyrotechnic article for which conformity is certified in abbreviated format, in upper case:
  - (i) F1, F2, F3 or F4 for fireworks of category 1, 2, 3 and 4 respectively;
  - (ii) T1 or T2 for theatrical pyrotechnic articles of category T1 and T2 respectively;
  - (iii) P1 or P2 for other pyrotechnic articles of category P1 and P2 respectively.
- (c) the processing number used by the notified body for the pyrotechnic article.

2. The registration number shall be structured as follows: 'XXXX — YY — ZZZZ...', where XXXX refers to point (a) of paragraph 1, YY refers to point (b) of paragraph 1 and ZZZZ... refers to point (c) of paragraph 1.

**Schedule 4**

Regulation 18(1)(b)

**EU Declaration of Conformity (No XXXX)<sup>6</sup>**

1. Registration number in accordance with Regulation 9(3):
2. Product, batch or serial number:
3. Name and address of the manufacturer:
4. This declaration of conformity is issued under the sole responsibility of the manufacturer:
5. Object of the declaration (identification of product allowing traceability):
6. The object of the declaration described above is in conformity with the relevant Union harmonisation legislation:
7. References to the relevant harmonised standards used or references to the other technical specifications in relation to which conformity is declared:
8. The notified body ... (name, number) performed ... (description of intervention) and issued the certificate:
9. Additional information:  
  
Signed for and on behalf of:  
  
(place and date of issue):  
  
(name, function) (signature):

<sup>6</sup>It is optional for the manufacturer to assign a number to the declaration of conformity.

## Schedule 5

Regulation 23(3)

## Register format referred to in Article 23

Registration Number	Date of issue of EC conformity certificate (Module B), certificate of conformity (Module G) or quality system approval (Module H) and date of expiry where applicable	Manufacturer	Type of product (generic) and subtype if applicable	Production phase conformity Module <sup>7</sup>	Notified body undertaking production phase conformity assessment	Additional Information



GIVEN under my Official Seal,  
6 May 2015.

FRANCES FITZGERALD,  
Minister for Justice and Equality.

<sup>7</sup>Always has to be filled in if under responsibility of the notified body carrying out conformity assessment procedure referred to in Article 9(a) of Directive 2007/23/EU (Module B). Not required for conformity assessment procedures referred to in Article 9(b) and (c) (Modules G and H). Information should be given (where known) if a second notified body is involved.

## EXPLANATORY NOTE

*(This note is not part of the Instrument and does not purport to be a legal interpretation)*

These Regulations give effect to Directive 2013/29/EU of the European Parliament and of the Council of 12 June 2013 on the making available on the market of pyrotechnic articles and Commission Implementing Directive 2014/58/EU of 16 April 2014 setting up a system for the traceability of pyrotechnic articles.

Directive 2013/29/EU (the Recast Pyrotechnic Directive) essentially aligns the existing Pyrotechnic Directive (Directive 2007/23/EC) with the New Legislative Framework and so these Regulations *inter alia* transpose those additional provisions of the Directive into Irish legislation. In addition, in accordance with Commission Implementing Directive 2014/58/EU, the Regulations place obligations on manufacturers and importers to place a label on pyrotechnic articles with a specific registration number linked to the notified body which carries out the conformity assessment, and to keep records of these numbers and associated details of the articles, which will facilitate the tracing of such articles by authorised officers.

The Regulations continue to restrict the sale, possession and use of the more hazardous categories of pyrotechnic articles, including fireworks, and allow for the sale to the general public of the least hazardous category of fireworks (Category F1 fireworks). The Regulations also set age limits for the sale of pyrotechnic articles, with, for example, the minimum age for the making available of a Category F1 firework (i.e. the least hazardous) being set at 12.

The Regulations also outline the obligations of the manufacturer, importer and distributor when making available pyrotechnic articles on the market and prohibit a person from placing any pyrotechnic article on the market unless they satisfy the essential safety requirements, have been subject to conformity assessment procedures, have had the CE marking affixed to them, have been properly labelled and when properly stored and used for their intended purpose, do not endanger the health and safety of persons.

The Regulations also makes provision for the notification of conformity assessment bodies.

Subject to certain provisions which come into operation on 17 October 2016, the Regulations come into operation on 1 July 2015. Certain transitional provisions also apply.

The Regulations revoke the following Statutory Instruments:

- the European Communities (Placing on the Market of Pyrotechnic Articles) Regulations 2010 (S.I. No.1 of 2010);
- the European Communities (Placing on the Market of Pyrotechnic Articles) (Amendment) Regulations 2010 (S.I. No. 416 of 2010);

- the European Communities (Placing on the Market of Pyrotechnic Articles) (Amendment) Regulations 2013 (S.I. No. 373 of 2013).

BAILE ÁTHA CLIATH  
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR  
Le ceannach díreach ó  
FOILSEACHÁIN RIALTAIS,  
52 FAICHE STIABHNA, BAILE ÁTHA CLIATH 2  
(Teil: 01 - 6476834 nó 1890 213434; Fax: 01 - 6476843)  
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