

Fireworks Bill

EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Department of Trade and Industry with the consent of the Baroness Ramsay of Cartvale, are published separately as HL Bill 77-EN.

Fireworks Bill

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TO

Make provision about fireworks and other explosives.

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Introductory

1 Introduction

- (1) In this Act “fireworks” means devices which—
- (a) are fireworks for the purposes of the British Standard Specification relating to fireworks published on 30th November 1988 (BS 7114) or any British Standard Specification replacing it, or 5
 - (b) would be fireworks for those purposes if they were intended as a form of entertainment.
- (2) The Secretary of State may by regulations substitute a new definition of “fireworks” for the definition in subsection (1). 10
- (3) References in this Act to supplying fireworks include—
- (a) selling them,
 - (b) exchanging them for any consideration other than money, and
 - (c) giving them as a prize or otherwise making a gift of them,
- but do not include supplying them otherwise than in the course of a business. 15

Fireworks regulations

2 Power to make regulations about fireworks

- (1) The Secretary of State may by regulations (“fireworks regulations”) make any provision which the Secretary of State considers appropriate—
- (a) for securing that there is no risk that use of fireworks will have the consequences specified in subsection (2), or 20

- (b) for securing that the risk that the use of fireworks will have those consequences is the minimum that is compatible with their being used.
- (2) The consequences are –
- (a) death of persons or injury, alarm, distress or anxiety to persons,
 - (b) death of animals or injury or distress to animals, and 5
 - (c) destruction of, or damage to, property.
- (3) Before making fireworks regulations the Secretary of State must consult –
- (a) the Health and Safety Commission,
 - (b) organisations which appear to the Secretary of State to be representative of interests substantially affected by the proposal, and 10
 - (c) other persons whom the Secretary of State considers it appropriate to consult.
- (4) Before making fireworks regulations the Secretary of State must issue a full regulatory impact assessment setting out details of the costs and benefits and the wider economic, social and environmental impact of the proposed regulations. 15
- (5) But subsection (3) does not apply if the regulations are to –
- (a) cease to have effect at the end of period of not more than twelve months beginning with the day on which they come into force, and
 - (b) contain a statement that it appears to the Secretary of State that the need to protect the public requires that the regulations should be made without delay. 20
- (6) The power to make fireworks regulations includes power –
- (a) to make different provision for different cases, and
 - (b) to make any incidental, supplementary, consequential and transitional provision which the Secretary of State considers appropriate. 25
- (7) Section 18 of the Consumer Protection Act 1987 (c. 43) (power to require information for deciding whether to make, vary or revoke regulations under section 11 of that Act) applies in relation to fireworks regulations as in relation to regulations under section 11 of that Act. 30
- (8) Nothing in this Act shall be construed as in any way limiting the provision that may be made in regulations under section 11 of the Consumer Protection Act 1987.

3 Prohibition of supply etc. to young persons

- (1) Fireworks regulations may include provision prohibiting persons from – 35
- (a) supplying, or
 - (b) offering or agreeing to supply,
- fireworks, or fireworks of a description specified in the regulations, to persons who are below an age so specified.
- (2) Fireworks regulations may include provision prohibiting the purchase or possession of fireworks, or fireworks of a description specified in the regulations, by persons who are below an age so specified. 40
- (3) If fireworks regulations impose any prohibition by virtue of this section, they may contain –
- (a) exceptions from the prohibition, or 45

- (b) provision for the granting of dispensations from the prohibition.

4 Prohibition of supply etc. in certain circumstances

- (1) Fireworks regulations may include provision prohibiting persons from supplying, purchasing, possessing or using fireworks, or fireworks of a description specified in the regulations, during hours of the day so specified. 5
- (2) Fireworks regulations may include provision prohibiting persons from supplying, exposing for supply, purchasing, possessing or using fireworks, or fireworks of a description specified in the regulations –
 - (a) in places or places of a description, or
 - (b) in circumstances, 10specified in the regulations.
- (3) If fireworks regulations impose any prohibition by virtue of this section, they may contain –
 - (a) exceptions from the prohibition, or
 - (b) provision for the granting of dispensations from the prohibition. 15

5 Prohibition of supply etc. of certain fireworks

- (1) Fireworks regulations may include provision –
 - (a) prohibiting persons from supplying, or offering or agreeing to supply, fireworks of a description specified in the regulations, or
 - (b) prohibiting persons from supplying, or offering or agreeing to supply, fireworks of a description specified in the regulations to persons of a description so specified. 20
- (2) Fireworks regulations may include provision –
 - (a) prohibiting the purchase or possession of fireworks of a description specified in the regulations, or 25
 - (b) prohibiting the purchase or possession of fireworks of a description specified in the regulations by persons of a description so specified.
- (3) Subsections (1) and (2) shall not apply to class I and class II fireworks.
- (4) The descriptions of persons which may be specified in fireworks regulations by virtue of subsection (1) or (2) include in particular persons who do not satisfy any conditions which are specified in the regulations and relate to any of the matters mentioned in subsection (5). 30
- (5) Those matters are –
 - (a) the satisfactory completion of a course, or courses, of training relating to fireworks and the means of proving the satisfactory completion of such a course or courses, 35
 - (b) proficiency or experience in the use of fireworks and the means of proving such proficiency or experience, and
 - (c) the possession of insurance cover against liability arising from the use of fireworks and the means of proving possession of such cover. 40
- (6) If fireworks regulations impose any prohibition by virtue of this section, they may contain –
 - (a) exceptions from the prohibition, or
 - (b) provision for the granting of dispensations from the prohibition.

6 Public fireworks displays

- (1) Fireworks regulations may include provision prohibiting persons from operating a public fireworks display unless –
- (a) notice of the display has been given in accordance with the regulations to any local or other authority to which the regulations require it to be given, 5
 - (b) any other information relating to the display which is required by the regulations to be given to any local or other authority has been so given,
 - (c) any fee imposed by any local or other authority in accordance with the regulations has been paid, and 10
 - (d) such other conditions relating to the holding of public fireworks displays as are specified in the regulations have been complied with.
- (2) Fireworks regulations may include provision prohibiting persons from operating public fireworks displays unless they satisfy –
- (a) any conditions which are specified in the regulations and relate to the satisfactory completion of a course, or courses, of training relating to fireworks and to the means of proving the satisfactory completion of such a course or courses, or 15
 - (b) any other conditions which are so specified.
- (3) Fireworks regulations may include provision prohibiting persons from operating, or assisting in the operation of, public fireworks displays if they are below an age specified in the regulations. 20
- (4) If fireworks regulations impose any prohibition by virtue of this section, they may contain –
- (a) exceptions from the prohibition, or 25
 - (b) provision for the granting of dispensations from the prohibition.
- (5) In this section “public fireworks display” means a fireworks display at which the public, or any section of the public, are present (whether or not they have paid to be).

7 Licensing of suppliers

- (1) Fireworks regulations may include provision prohibiting persons, or persons of a description specified in the regulations, from supplying, exposing for supply or possessing for supply fireworks, or fireworks of a description so specified, unless –
- (a) they are licensed in accordance with the regulations, and 35
 - (b) the fireworks are supplied, exposed for supply or kept at premises which are so licensed.
- (2) If fireworks regulations impose any prohibition by virtue of subsection (1), they may contain provision –
- (a) specifying the local or other authority by which a licence relating to any person or premises may be granted, varied and revoked, 40
 - (b) relating to the grant, variation and revocation of licences,
 - (c) about conditions which may be attached to licences (including, in particular, conditions as to the time of year for which persons or premises are licensed), 45
 - (d) for the charging of fees for the grant or variation of licences, and

- (e) about appeals against refusals to grant or vary, or variations of, licences.
- (3) The provision that may be contained in fireworks regulations by virtue of subsection (1) includes, in particular, provision that a person may not be licensed unless any conditions which are specified in the regulations are satisfied by the person or his employees (or both). 5
- (4) Those conditions may include conditions relating to the satisfactory completion of a course, or courses, of training about fireworks and the means of proving the satisfactory completion of such course or courses.
- (5) If fireworks regulations impose any prohibition by virtue of this section, they may contain – 10
 - (a) exceptions from the prohibition, or
 - (b) provision for the granting of dispensations from the prohibition.

8 Information about fireworks

- (1) Fireworks regulations may include provision for securing that – 15
 - (a) appropriate information is, and
 - (b) inappropriate information is not,
 given in relation to fireworks, or fireworks of a description specified in the regulations.
- (2) The provision that may be contained in fireworks regulations by virtue of subsection (1) includes, in particular, provision – 20
 - (a) requiring that a mark, warning or instruction relating to the fireworks be put on or accompany the fireworks, or
 - (b) requiring that information specified in the regulations be given to any person so specified. 25
- (3) If fireworks regulations impose any requirement by virtue of this section, they may contain –
 - (a) exceptions from the requirement, or
 - (b) provision for the granting of dispensations from the requirement.
- (4) If fireworks regulations impose any requirement by virtue of this section, they may contain provision requiring the keeping of records by any person to whom information is given under the regulations. 30

9 Prohibition of importation etc. of fireworks

- (1) Fireworks regulations may include provision prohibiting persons from – 35
 - (a) importing,
 - (b) completing the manufacture of, or
 - (c) placing on the market,
 fireworks, or fireworks of a description specified in the regulations, unless they have complied with any requirement imposed by the regulations for the giving of information. 40
- (2) If fireworks regulations impose any prohibition by virtue of subsection (1)(b) or (c), they shall specify the circumstances in which –
 - (a) (if the prohibition is imposed by virtue of subsection (1)(b)) a person completes the manufacture of fireworks, or

- (b) (if the prohibition is imposed by virtue of subsection (1)(c)) a person places fireworks on the market.
- (3) If fireworks regulations impose any prohibition by virtue of this section, they may contain –
- (a) exceptions from the prohibition, or 5
 - (b) provision for the granting of dispensations from the prohibition.
- (4) If fireworks regulations impose any prohibition by virtue of this section, they may contain provision requiring the keeping of records by any person to whom information is given under the regulations.
- 10 Training courses 10**
- (1) If fireworks regulations specify conditions relating to the satisfactory completion of a course, or courses, of training about fireworks, they may make provision for courses to be provided by –
- (a) the Secretary of State,
 - (b) a body or bodies established or recognised by the Secretary of State, or 15
 - (c) licensed persons.
- (2) If fireworks regulations make provision for courses to be provided by licensed persons, they may –
- (a) make provision for the licensing of persons by the Secretary of State or by any body or bodies established or recognised by the Secretary of State, 20
 - (b) authorise the making by the Secretary of State of provision about the charging of fees for the grant or variation of licences, and
 - (c) authorise the making by the Secretary of State, or by any such body or bodies, of provision about any of the matters mentioned in subsection (3). 25
- (3) Those matters are –
- (a) the grant, variation and revocation of licences,
 - (b) conditions which may be attached to licences, and
 - (c) appeals against refusals to grant or vary, or variations of, licences. 30
- (4) Fireworks regulations may authorise –
- (a) the making by the Secretary of State of provision about the charging of fees for attendance at courses of training about fireworks, and
 - (b) the making by the Secretary of State, or by any body or bodies established or recognised by the Secretary of State under this section, of provision about any of the matters mentioned in subsection (5). 35
- (5) Those matters are –
- (a) the descriptions of persons who are to be eligible to attend courses of training about fireworks,
 - (b) the subject matter to be covered by courses and the conduct of courses, 40
 - (c) the criteria to be applied in determining whether persons have satisfactorily completed courses,
 - (d) the form and content of certificates to be awarded to persons who have satisfactorily completed courses,
 - (e) appeals against refusals to award certificates to persons who have attended courses, and 45

- (f) the keeping of records about persons who have attended courses.

Supplementary

11 Offences

- (1) Any person who contravenes a prohibition imposed by fireworks regulations is guilty of an offence. 5
- (2) Any person who fails to comply with a requirement imposed by or under fireworks regulations to give or not to give information is guilty of an offence.
- (3) Where a requirement to give information is imposed by or under fireworks regulations, a person is guilty of an offence if, in giving the information, he – 10
- (a) makes a statement which he knows is false in a material particular, or
- (b) recklessly makes a statement which is false in a material particular.
- (4) A person guilty of an offence under this section is liable on summary conviction to –
- (a) imprisonment for a term not exceeding six months, or 15
- (b) a fine not exceeding level 5 on the standard scale, or to both.
- (5) Fireworks regulations may not provide for any contravention of the regulations to be an offence.
- (6) Paragraphs (c), (e) and (f) of section 11(3) of the Consumer Protection Act 1987 (c. 43) (provision about offences which may be included in regulations) apply in relation to fireworks regulations as to regulations under section 11 of that Act, but as if references to an offence under section 12 of that Act were references to an offence under this section. 20
- (7) Section 39 of that Act (defence of due diligence) applies to offences under subsections (1) and (2) of this section; and section 40(1) of that Act (liability of persons other than the principal offender) has effect accordingly. 25
- (8) In proceedings against any person for an offence of contravening a prohibition imposed by fireworks regulations made by virtue of section 3(1) it is a defence for that person to show that he had no reason to suspect that the person to whom he supplied, offered to supply or agreed to supply the fireworks was below the age specified in the regulations. 30
- (9) Section 40(2) and (3) of the Consumer Protection Act 1987 (offences by bodies corporate) applies to an offence under this section as to an offence under that Act.

12 Enforcement

35

- (1) Section 27 of the Consumer Protection Act 1987 (enforcement authorities), apart from subsection (1)(b), applies in relation to fireworks regulations as to regulations under section 11 of that Act.
- (2) The following provisions of that Act –
- (a) section 28(1)(a) and (2) to (4) (test purchases), apart from the references to forfeiture and suspension notices, 40

- (b) section 29(1) to (5), (6)(a) and (7) and section 30(1) to (9) (powers of search etc.), apart from the references to forfeiture and suspension notices,
- (c) section 32 (obstruction of officer),
- (d) section 33 (appeals against detention), apart from subsections (2)(a)(ii) and (3)(a)(ii), 5
- (e) section 34 (compensation for seizure and detention),
- (f) section 35 (recovery of enforcement expenses), apart from subsections (1)(b) and (2)(b),
- (g) section 37 (disclosure of information by Customs and Excise), 10
- (h) section 41 (civil proceedings), and
- (i) section 44 (service of documents),
- apply in relation to fireworks regulations as to regulations under section 11 of that Act.
- (3) In Schedules 14 and 15 to the Enterprise Act 2002 (c. 40) (disclosure of information), insert at the appropriate place— 15
- “Fireworks Act 2003.”.
- 13 Savings for certain privileges**
- Section 47 of the Consumer Protection Act 1987 (c. 43) (savings for privileges) applies in relation to this Act. 20
- 14 Prohibition of supply etc. of other explosives**
- (1) The power to make regulations under section 3 or 4(2) applies to explosives other than fireworks as to fireworks; and regulations made by virtue of this subsection are fireworks regulations for all the purposes of this Act.
- (2) In subsection (1) “explosives” has the same meaning as in the Explosives Act 1875 (c. 17). 25
- (3) The Secretary of State may by regulations substitute a new definition of “explosives” for the definition in subsection (2).
- 15 Repeals and revocation**
- The Schedule (repeals and revocation) has effect. 30
- 16 Parliamentary procedure for regulations**
- (1) Any power to make regulations under this Act is exercisable by statutory instrument.
- (2) Regulations under section 1(2) or 14(3) must not be made unless a draft of the statutory instrument containing them has been laid before Parliament and approved by a resolution of each House. 35
- (3) A statutory instrument containing fireworks regulations is subject to annulment in pursuance of a resolution of either House of Parliament.

17 Financial provisions

- (1) There is to be paid out of money provided by Parliament –
 - (a) any expenses incurred by the Secretary of State in consequence of any provision of this Act, and
 - (b) any increase attributable to this Act in the sums payable out of money so provided under any other Act. 5
- (2) Any sums received by the Secretary of State by virtue of this Act are to be paid into the Consolidated Fund.

18 Commencement

- (1) Sections 1 to 16 (and the Schedule) do not come into force until a day appointed by order made by the Secretary of State by statutory instrument; and different days may be appointed for different purposes. 10
- (2) The Secretary of State may by order made by statutory instrument make such transitional provision in connection with the coming into force of any provision of this Act as the Secretary of State considers appropriate. 15

19 Short title and extent

- (1) This Act may be cited as the Fireworks Act 2003.
- (2) This Act does not extend to Northern Ireland.

SCHEDULE

Section 15

REPEALS AND REVOCATION

<i>Short title or title</i>	<i>Extent of repeal or revocation</i>	
Explosives Act 1875 (c. 17)	Sections 30 to 32. In section 40(4), the words “, and for the minimum amount limited by Part One of this Act to be exposed for sale or sold otherwise than in a substantial case, box, canister, or other receptacle as therein mentioned”, the words “or minimum” and the words “, as the case may be,”. Section 80.	5 10
Health and Safety at Work etc. Act 1974 (c. 37)	In Schedule 1, in the entry relating to the Explosives Act 1875, in the third column, the words “30 to 32, 80 and”.	15
Road Traffic Act 1974 (c. 50)	Section 18.	
Explosives (Age of Purchase &c.) Act 1976 (c. 26)	The whole Act.	
Roads (Scotland) Act 1984 (c. 54)	In Schedule 9, paragraph 7(3) and (4).	20
Explosives Act 1875 etc. (Metrication and Miscellaneous Amendment) Regulations 1984 (S.I. 1984/510)	In Schedule 1, the entry relating to section 32 of the Explosives Act 1875.	
Consumer Protection Act 1987 (c. 43)	In Schedule 4, paragraph 1.	25
Criminal Justice and Police Act 2001 (c. 16)	In the Table in section 1(1), the entry relating to section 80 of the Explosives Act 1875.	

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