



STATUTORY INSTRUMENTS.

**S.I. No. 1 of 2010**



EUROPEAN COMMUNITIES (PLACING ON THE MARKET OF  
PYROTECHNIC ARTICLES) REGULATIONS 2010

**(Prn. A10/0004)**

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The Minister for Justice, Equality and Law Reform, in exercise of the powers conferred on him by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purpose of giving effect to Directive 2007/23/EC<sup>1</sup> of the European Parliament and of the Council of 23 May 2007, hereby makes the following Regulations:

*Citation and Commencement*

1. (1) These Regulations may be cited as the European Communities (Placing on the Market of Pyrotechnic Articles) Regulations 2010.

(2) These Regulations—

(a) insofar as they apply to fireworks of categories 1, 2 and 3, shall come into operation on 4 July 2010, and

(b) insofar as they apply to pyrotechnic articles, other than those referred to in subparagraph (a), shall come into operation on 4 July 2013.

*Interpretation*

2. (1) 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.

(2) In these Regulations—

“authorised officer” means a person appointed under Regulation 15;

“the CE Marking” means the conformity marking referred to in Regulation 11;

“Commission” means the Commission of the European Communities;

“Community” means the European Community;

“Council Decision 93/465/EEC” means Council Decision 93/465/EEC of 22 July 1993 concerning the modules for the various phases of the conformity assessment procedures and the rules for the affixing and use of the CE conformity marking, which are intended to be used in the technical harmonisation directives;

<sup>1</sup> O.J. L154 of 14.6.2007, p.1.

*Notice of the making of this Statutory Instrument was published in  
“Iris Oifigiúil” of 8th January, 2010.*

“the Directive” means Directive 2007/23/EC<sup>1</sup> of the European Parliament and of the Council of 23 May 2007 on the placing on the market of pyrotechnic articles;

“essential safety requirements” means the essential safety requirements set out in Annex 1 to the Directive;

“Minister” means the Minister for Justice, Equality and Law Reform;

“national standard” means a standard of a Member State which transposes a relevant harmonised standard in accordance with Article 8.3 of the Directive;

“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;

“notified body” means a body appointed to carry out conformity assessment procedures that has been appointed—

- (a) pursuant to Regulation 10, or
- (b) by another Member State, and whose appointment has been notified to the Commission pursuant to Article 10.1 of the Directive;

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

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

#### *Application*

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

- (2) These Regulations shall not apply to:
  - (a) pyrotechnic articles intended for non-commercial use by the Defence Forces, An Garda Síochána or emergency services;
  - (b) pyrotechnic articles to which Council Directive 96/98/EC<sup>2</sup> of 20 December 1996 on marine equipment and the relevant international conventions mentioned therein apply;
  - (c) pyrotechnic articles intended for use in the aerospace industry;
  - (d) percussion caps intended specifically for toys falling within the scope of Council Directive 88//378/EEC<sup>3</sup> of 3 May 1988 on the approximation of the laws of the Member States concerning the safety of toys;

<sup>1</sup> O.J. L154 of 14.6.2007, p.1.

<sup>2</sup> O.J. L46, 17.2.1997, p.25.

<sup>3</sup> O.J. L187, 16.7.1988, p.1.

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- (e) explosives falling within the scope of the European Communities (Placing on the Market, Supervision, Identification and Traceability of Explosives for Civil Uses) Regulations 1995 to 2009;
  - (f) ammunition.
- (3) Nothing in these Regulations shall affect the operation of:
- (a) the Explosives Act 1875 and the Carriage of Dangerous Goods 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 (as substituted by section 68 of the Criminal Justice Act 2006 (No. 26 of 2006)) of the Explosives Act 1875.

*Categorisation*

4. 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.

*Obligations of the Manufacturer, Importer and Distributor*

5. (1) A manufacturer shall ensure that pyrotechnic articles placed on the market comply with the essential safety requirements applicable to the category of the article concerned.

- (2) The manufacturer of pyrotechnic articles shall:
- (a) submit the pyrotechnic article to a notified body for the performance by that body of a conformity assessment in accordance with Regulation 9;
  - (b) affix a CE marking to the pyrotechnic article in accordance with Regulation 11;
  - (c) label the pyrotechnic article in accordance with Regulation 12 or 13, as appropriate.
- (3) Where a manufacturer is not established in the Community, the importer of the pyrotechnic articles shall—
- (a) ensure that the manufacturer has fulfilled his or her obligations under these Regulations, or
  - (b) assume these obligations himself or herself.

(4) A distributor shall act with due care in accordance with applicable Community law.

(5) No distributor shall distribute a pyrotechnic article which does not comply with the requirements set out in subparagraphs (a) to (f) of Regulation 6.

(6) A distributor shall verify that a pyrotechnic article bears the required CE marking and is accompanied by the required documents.

(7) For the purposes of paragraph (1), and of subparagraph (a) of Regulation 6, pyrotechnic articles which comply with a national standard shall be considered to be in conformity with the essential safety requirements applicable to the category of the article concerned.

*Placing on the Market of Pyrotechnic Articles*

6. No person shall place any pyrotechnic articles on the market 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 9,
- (d) have affixed to them the CE marking in accordance with Regulation 11,
- (e) have been properly labelled, or their packaging has been so labelled, in accordance with Regulation 12 or 13, as appropriate, and
- (f) when properly stored and used for their intended purpose, do not endanger the health and safety of persons.

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

7. (1) Nothing in these Regulations shall prevent the showing of pyrotechnic articles that are not in conformity with the provisions of 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, 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*

8. (1) No person shall 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 2, 3 or 4 fireworks;
- (b) theatrical pyrotechnic articles;
- (c) category P2 pyrotechnic articles.

(2) No person, other than a person with specialist knowledge relating to those articles, shall possess or use the following:

- (a) category 2, 3 or 4 fireworks;
- (b) theatrical pyrotechnic articles;
- (c) category P2 pyrotechnic articles.

(3) No person shall sell or otherwise make available a category 1 firework to a consumer below the age of 16 years.

(4) Notwithstanding paragraph (1), no person shall sell or otherwise make available to a consumer below the age of 18 years any of the following:

- (a) category 2, 3 or 4 fireworks;
- (b) theatrical pyrotechnic articles;
- (c) category P1 or P2 pyrotechnic articles.

*Conformity assessment procedures*

9. For the purposes of Regulation 6(a), (b) and (c) and Regulation 11 (1), a manufacturer shall follow one of the following procedures for the assessment of conformity of pyrotechnic articles:

- (a) the EC type-examination (Module B) procedure referred to in section 1 of Annex II to the Directive and, at the choice of the manufacturer, either:
  - (i) the conformity to type (Module C) procedure referred to in section 2 of Annex II to the Directive,
  - (ii) the production quality assurance (Module D) procedure referred to in section 3 of Annex II to the Directive, or
  - (iii) the product quality assurance (Module E) procedure referred to in section 4 of Annex II to the Directive,
- (b) the unit verification (Module G) procedure referred to in section 5 of Annex II to the Directive; or
- (c) the full product quality assurance procedure (Module H) referred to in section 6 of Annex II to the Directive, insofar as it concerns fireworks of category 4.

(2) The notified body, as part of the conformity assessment procedures, shall confirm the manufacturer's categorisation under Regulation 4.

#### *Notified Bodies*

10. (1) The Minister may appoint from time to time in writing such qualified body or bodies as he or she considers fit to be a notified body for the purposes of this Regulation.

(2) An appointment under this Regulation may relate to all or any description or category of pyrotechnic articles, may be subject to conditions or to a limit of time, and may be revoked in writing at any time.

(3) For the purpose of this Regulation a body is qualified if it meets the minimum criteria set out in Annex III to the Directive; and a body which meets the assessment criteria laid down by the harmonised standards relevant for notified bodies shall be presumed to satisfy those criteria.

(4) The Minister shall revoke the appointment of any body appointed under paragraph (1) of this Regulation if it appears to the Minister that the body no longer meets the minimum criteria referred to in paragraph (3) of this Regulation.

(5) Where the Minister revokes the appointment of any body appointed under paragraph (1) of this Regulation, the attestations of conformity and the related documents provided by that body shall remain valid unless it is established that there is an imminent and direct risk to health and safety.

(6) Subject to paragraph (7) a notified body may charge such fees in connection with or incidental to, carrying out functions referred to in these Regulations as it may determine.

(7) The fees charged pursuant to paragraph (6) shall not exceed the sum of the following:

- (a) the costs incurred or to be incurred by the notified body in performing its duties under these Regulations,
- (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.

(8) The power in paragraph (6) includes the power to require the payment of fees in advance of carrying out the work requested by the applicant.

*Obligation to affix the CE marking*

11. (1) Where, and only where, the conformity assessment has been successfully completed in accordance with Regulation 9, the manufacturer shall affix the CE marking to the pyrotechnic articles in accordance with this Regulation.

(2) The model to be used for the CE marking shall be in accordance with Council Decision 93/465/EEC<sup>4</sup> of 22 July 1993.

(3) For the purposes of Regulation 6(d), the CE marking is properly affixed if:

- (a) it is of such a durable nature that it will remain visible, legible and indelible, and
- (b) it is affixed to the pyrotechnic articles themselves or, if this is not possible, on an identification plate which is attached to the pyrotechnic articles or to the packaging and so designed as to make its reuse impossible.

(4) The CE marking shall be in the form shown in Schedule 2.

(5) No person shall affix to any pyrotechnic article a marking or inscription which may lead to confusion as to the meaning and form of the CE marking.

(6) Subject to paragraph (5), any other marking may be affixed to pyrotechnic articles provided the visibility and legibility of the CE Marking is not impaired.

(7) Where the pyrotechnic articles are subject to any other Community legislation which covers other aspects of, and prescribes the affixing of, the CE marking, this marking shall mean that those articles are also presumed to conform to the provisions of the other legislation which applies to them.

(8) 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.

<sup>4</sup> O.J. L220, 30.8.1993, p.23.



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

*Labelling of articles other than pyrotechnic articles for vehicles*

12. (1) A manufacturer shall ensure that pyrotechnic articles, other than pyrotechnic articles to which Regulation 13 applies, are properly labelled visibly, legibly and indelibly in the language of the Member State in which the article is to be sold to the consumer, and in accordance with this Regulation.

(2) The labelling of pyrotechnic articles referred to in paragraph (1) shall include as a minimum:

- (a) the name and address of the manufacturer;
- (b) the name of the manufacturer and the name and address of the importer where the manufacturer is not established in the Community;
- (c) the name and type of the article;
- (d) the minimum age limit relevant to those articles, as set out in Regulation 8 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 article;
- (f) instructions for use;
- (g) in the case of category 3 and 4 fireworks, the year of production;
- (h) a minimum safety distance where appropriate;
- (i) net equivalent quantity (NEQ) of active explosive material.

(3) In addition to the requirements of paragraphs (1) and (2), the labelling of fireworks shall display the following minimum information:

- (a) in the case of fireworks of category 1, where appropriate the statement “for outdoor use only” and a minimum safety distance;
- (b) in the case of fireworks of category 2, the statement “for outdoor use only” and, where appropriate, minimum safety distance or distances;
- (c) in the case of fireworks of category 3, the statement “for outdoor use only” and minimum safety distance or distances;
- (d) in the case of fireworks of category 4, the statement “for use only by persons with specialist knowledge” and minimum safety distance or distances.

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

*Labelling of pyrotechnic articles for vehicles*

13. (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 of the manufacturer or, where the manufacturer is not established in the Community, the name of the importer,
- (b) the name and type of the article, and
- (c) the safety instructions.

(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 in accordance with the Annex to Commission Directive 2001/58/EC of 27 July 2001 amending for the second time Directive 91/155/EEC<sup>5</sup> 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.

*Inspections and surveillance*

14. (1) The Minister shall carry out regular inspections of pyrotechnic articles—

- (a) on their entry into the State (where the State is their place of entry into the Community), and
- (b) at the storage and manufacturing sites of such articles.

<sup>5</sup> O.J. L212, 7.8.2001, p.24.

- (2) (a) The Minister shall organise and perform appropriate surveillance of products placed on the market, taking due account of the presumption of the conformity of products bearing a CE marking.
  - (b) The surveillance referred to in subparagraph (a) may be performed in conjunction with the National Consumer Agency.
  - (c) Where subparagraph (b) applies, the National Consumer Agency shall keep the Minister informed of its surveillance activities under that subparagraph.
- (3) No pyrotechnic articles may be transferred within the State unless the relevant safety and public security and protection requirements of these Regulations and of the Directive are met.

*Authorised Officers*

15. (1) The Minister may appoint such and so many persons as he or she thinks fit to be authorised officers for the purposes of ensuring compliance with these Regulations.

- (2) (a) An authorised officer shall be furnished with a warrant of his or her appointment.
  - (b) 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,
  - (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 16.

(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.

*Forfeiture orders*

16. (1) The Minister may apply under this Regulation for an order (“forfeiture order”) for the forfeiture to the Minister 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 Minister 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.

*Rapid Information on products presenting serious risks*

17. (1) Where the Minister has sufficient reasons to believe that a pyrotechnic article presents a serious risk to the health or health and safety of persons in the Community, he or she shall cause the Commission and the other Member States to be informed thereof.

(2) Where paragraph (1) applies, the Minister shall cause—

(a) an appropriate evaluation to be performed, and

(b) the Commission and the other Member States to be informed of the background for and the results of the evaluation.

*Articles liable to endanger the health and safety of persons*

18. (1) Where the Minister 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 placing the article 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 Minister has reasonable grounds for believing is in a position to take the measures specified in the notice.

*Measures entailing refusal or restriction*

19. (1) Where the Minister takes any of the following measures—

- (a) a measure referred to in Regulation 18(1), or
- (b) any other measure pursuant to these Regulations to prohibit or restrict the placing on the market of a product, 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,
- (b) inform the person concerned of his or her right to make representations under paragraph (3) and of his right of appeal under Regulation 21, 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 Minister 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 Minister shall give such opportunity, as soon as may be, thereafter.

(5) The Minister 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 21, take effect on the date specified therein.

(8) The Minister 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 21.

(10) In this Regulation and Regulations 20 and 21, a reference to a notification under this Regulation includes a reference to notice referred to in Regulation 18(1)(a).

(11) Where a person fails to comply with a notification under this Regulation or a requirement of a notification, the Minister 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*

20. (1) Subject to paragraphs (2) and (3), a notification under Regulation 19 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 19 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 a notification or other measure*

21. (1) A person aggrieved by a notification or other measure taken under Regulation 19 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 Minister.

(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 “the appropriate court” means—

- (a) in case the estimated value of the pyrotechnic articles concerned does not exceed €6,348.69, 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 €38,092.14, or such other amount as may stand specified for the time being by law as that Court's jurisdiction in tort, the Circuit Court,
- (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*

22. A person who contravenes Regulation 4, 5, 6, 8, 11, 12, 13, 14(3), 15(11) or 19(9) commits an offence and is liable—

- (a) on summary conviction, to a fine not exceeding €5,000 or imprisonment for a term not exceeding 12 months or both, or
- (b) on conviction on indictment, to a fine not exceeding €20,000 or imprisonment for a term not exceeding 3 years or both.

(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 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 shall be guilty of 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) If the affairs of a body corporate are managed by its members, paragraph (2) shall apply in relation to the acts and defaults of a member in connection with the functions of management as if the member is a director or manager of the body corporate.

(4) A summary offence under these Regulations may be prosecuted by the Minister.

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

(6) Where an order is made under paragraph (5), the Minister 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.

## SCHEDULE 1

CATEGORISATION OF PYROTECHNIC ARTICLES SHALL BE AS FOLLOWS:

(a) Fireworks:

Category 1

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 2

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

Category 3

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 4

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;

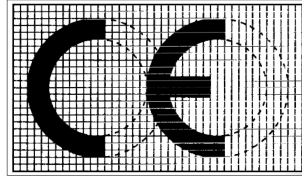
Category P2

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

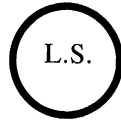
SCHEDULE 2

CONFORMITY MARKING

The CE conformity marking must consist of the initials 'CE' taking the following form:



If the marking is reduced or enlarged the proportions given in the above graduated drawing must be respected.



GIVEN under the Official Seal, of the Minister for Justice, Equality  
and Law Reform, 2010.  
4 January 2010.

KEN O'LEARY

A person authorised under section 15 of the Ministers and Secretaries Act  
1924 to authenticate the seal of the Minister for Justice, Equality and Law  
Reform.

## 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 2007/23/EC of the European Parliament and of the Council of 23 May 2007 on the placing on the market of pyrotechnic articles.

The Regulations restrict the sale, possession and use of the more hazardous categories of pyrotechnic articles, including fireworks, but allows for the sale to the general public of the least hazardous category of pyrotechnic articles (category 1 fireworks and category P1 pyrotechnics). The Regulations also set age limits for the sale of pyrotechnic articles.

The Regulations outline the obligations of the manufacturer, importer and distributor when placing pyrotechnic articles on the market and prohibit any person from placing any pyrotechnic article on the market unless they satisfy essential safety requirements, have been subject to conformity assessment procedure and have had the CE marking affixed to them.

The Regulations also makes provision for the appointment of authorised officers and of Notified Bodies.

The Regulations will come into operation on 4 July 2010 in respect of fireworks of categories 1, 2 and 3 and on 4 July 2013 for other pyrotechnic articles, fireworks of category 4 and theatrical pyrotechnic articles.

BAILE ÁTHA CLIATH  
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR  
Le ceannach díreach ón  
OIFIG DHÍOLTA FOILSEACHÁN RIALTAIS,  
TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2,  
nó tríd an bpost ó  
FOILSEACHÁIN RIALTAIS, AN RANNÓG POST-TRÁCHTA,  
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PUBLISHED BY THE STATIONERY OFFICE  
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€4.57



Wt. (B27377). 315. 1/10. Cahill. Gr. 30-15.