SCOTTISH STATUTORY INSTRUMENTS

2021 No. 14

FIREWORKS

The Fireworks (Scotland) Amendment Regulations 2021

Made - - - -	*13th January 2021*
Laid before the Scottish Parliament	*15th January 2021*
Coming into force - -	*30th June 2021*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 2, 4 and 12(1) of the Fireworks Act 2003(**a**) and by section 27(2) of the Consumer Protection Act 1987(**b**) (as applied by section 12(1) of the Fireworks Act 2003) and all other powers enabling them to do so.

The Scottish Ministers have in accordance with section 2(3) of the Fireworks Act 2003, consulted the Health and Safety Executive, those organisations which appear to them to be representative of interests substantially affected by these Regulations and other persons whom they consider it appropriate to consult.

The Scottish Ministers have in accordance with section 2(4) of that Act issued a full regulatory impact assessment.

Citation and commencement

1. These Regulations may be cited as the Fireworks (Scotland) Amendment Regulations 2021 and come into force on 30 June 2021.

Amendment of the Fireworks (Scotland) Regulations 2004

2.—(1) The Fireworks (Scotland) Regulations 2004(**c**) are amended in accordance with paragraphs (2) to (5).

(2) In regulation 2 (interpretation) after the definition of "local authority" insert—

> ""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),".

(3) In regulation 3 (prohibition of use of certain fireworks at night)—

(a) in the heading, for "at night" substitute "outside permitted hours",

(b) in paragraph (1), for "during night hours" substitute "outside permitted hours",

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(**a**) 2003 c.22 ("the Act"). By virtue of article 4 and the schedule to the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2004 (S.I. 2004/2030), the Scottish Ministers exercise certain functions concurrently with the Secretary of State, being functions conferred by sections 4 and 6 of the Act and section 2 of the Act as it relates to those sections and section 27(2) of the Consumer Protection Act 1987 as it relates to section 12(1) of the Act.

(**b**) 1987 c.43.

(**c**) S.S.I. 2004/393, as amended by S.S.I. 2005/245 and S.S.I. 2016/18.

(c) in paragraph (3) for "In this regulation, "night hours" means the period beginning at 23.00 and ending at 07.00 the following day" substitute "In this regulation "permitted hours" means the period beginning at 18.00 and ending at 23.00".

(4) After regulation 3 insert—

"Prohibition of supply of certain fireworks outside permitted hours

3A.—(1) Subject to paragraph (3) no person shall supply an adult firework outside permitted hours.

(2) In this regulation "permitted hours" means the period beginning at 07.00 and ending at 18.00.

(3) Paragraph (1) shall not prohibit the supply of fireworks outside permitted hours to any person—

(a) who is employed by, or in business as, a professional organiser or operator of fireworks displays,

(b) who is employed by a business engaged in, or whose trade or business (or part of whose trade or business) is, the supply of fireworks in accordance with the provisions of the Pyrotechnic Articles (Safety) Regulations 2015(**a**),

(c) who is employed by a local authority and the fireworks in question are to be used—

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

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

(d) who is the organiser of a public fireworks display and the fireworks in question are to be used for the purposes of putting on a public fireworks display on behalf of a charitable, religious, youth, recreational, community, political or similar organisation.

Prohibition of supply of certain fireworks in specified circumstances: supply in excess of the permitted quantity

3B.—(1) Subject to paragraph (3) no person shall supply more than the permitted quantity of adult fireworks at any one time.

(2) In this regulation "permitted quantity" means fireworks with a total net mass of explosive substance of 5 kilograms.

(3) Paragraph (1) shall not prohibit the supply of more than the permitted quantity of adult fireworks to any person—

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

(b) who is employed by a business engaged in, or whose trade or business (or part of whose trade or business) is, the supply of fireworks in accordance with the provisions of the Pyrotechnic Articles (Safety) Regulations 2015,

(c) who is employed by a local authority and the fireworks in question are to be used—

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

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

(d) who is the organiser of a public fireworks display and the fireworks in question are to be used for the purposes of putting on a public fireworks display on behalf of a charitable, religious, youth, recreational, community, political or similar organisation.".

(**a**) S.I. 2015/1553, as amended by S.I. 2019/696.

(5) In regulation 5 (transfer of enforcement duty) after paragraph (2) insert—

"(3) Regulations 5(1) and (2) do not apply to the enforcement duty in respect of regulations 3A and 3B.".

ASH DENHAM
Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
13th January 2021

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Fireworks (Scotland) Regulations 2004 ("the 2004 Regulations").

Regulation 2(2) inserts a definition of "public fireworks display" into the 2004 Regulations meaning a fireworks display at which the public, or any section of the public, are present, whether or not they have paid to be. Regulation 2(3) amends regulation 3 of the 2004 Regulations to the effect that it is prohibited to use fireworks outside of permitted hours. The permitted hours for this regulation are between 1800 and 2300. The exceptions to extend the times of day that fireworks can be used on a "permitted fireworks night" set out in regulation 3(3) of the 2004 Regulations remain unchanged.

Regulation 2(3) inserts new regulations 3A and 3B into the 2004 Regulations. Regulation 3A prohibits the supply of adult fireworks outside permitted hours, the permitted hours for this regulation are between 0700 and 1800. This is subject to the exceptions set out in regulation 3A(3).

New regulation 3B(1) prohibits the supply of more than the permitted quantity of fireworks at any one time. Regulation 3B(2) sets out that the "permitted quantity" means fireworks with a total net mass of explosive substance of 5 kilograms. This is subject to the exceptions set out in regulation 3B(3).

Regulation 2(5) amends regulation 5 of the 2004 Regulations to the effect that the enforcement duty which applies to a contravention of regulation 3 remains the duty of the chief constable of each police force in Scotland. The enforcement duty in relation to regulations 3A and 3B is placed on the local weights and measures authority by virtue of section 12 of the Fireworks Act 2003 and section 27(1) of the Consumer Protection Act 1987.

A Business and Regulatory Impact Assessment covering these regulations is available on the Scottish Government website: www.gov.scot. Copies have been placed in the Scottish Parliament Information Centre.

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