EXPLANATORY MEMORANDUM TO

THE PYROTECHNIC ARTICLES (SAFETY) (AMENDMENT) REGULATIONS 2013

2013 No. 1950

1. This explanatory memorandum has been prepared by the Department for Business, Innovation and Skills and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 These Regulations amend The Pyrotechnic Articles (Safety) Regulations 2010 to amend a prohibition on the use of commercial blasting agents in certain pyrotechnic articles which came into force on 4 July 2013. This prohibition could have interrupted the manufacture and supply of products using these materials such as car air bags. These Regulations will allow industry to continue the manufacture of such products.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Context

4.1 These Regulations implement Article 47 (2) of Directive 2013/29/EU on the harmonisation of the laws of Member States relating to the making available on the market of pyrotechnic articles (recast). This Directive is due to come into force on 1 July 2015 save for the provision relating to the use of detonative explosives subject to conditions which applies from 4 July 2013. The Regulations therefore amend the prohibition on the use of certain commercial blasting agents in pyrotechnic articles which came into force on 4 July 2013 under the provisions of Directive 2007/23/EC on the placing on the market of pyrotechnic articles. This directive is due to be revoked by Directive 2013/29/EU on 1 July 2015.

4.2 The Regulations will come into force on 30 August and will ensure continuity of manufacture and supply of affected products.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- ***What is being done and why***

7.1 The Regulations implement Article 47(2) of Directive 2013/29/EU on the making available on the market of pyrotechnic articles (recast). The Directive was published on 28 June and revokes Directive 2007/23/EC on the placing on the market of pyrotechnic with effect from 1 July 2015. However the provision in the 2007

Directive relating to a prohibition on use of commercial blasting agents, except for black powder or flash compositions, or military explosives, due to come into force on 4 July 2013 under that Directive, is repealed and replaced by the 2013 Directive from that date. This is because this prohibition would prevent the manufacture and supply of certain products eg. car airbags. The 2013 Directive amends the prohibition providing for it to be subject to certain conditions thus enabling the continued manufacture and supply of products using detonative explosives. It is relevant to note that the transitional provisions in the Regulations permit the continued supply of pyrotechnic articles lawfully placed on the market before 4 July 2013 until 3 July 2017.

- ***Consolidation***

7.2 Consolidation is not relevant at this stage because the Regulations are implementing only one small part of the Directive and a full implementation at a later date will revoke and replace these Regulations.

8. Consultation outcome

8.1 The provision for the continued use of these detonative explosives will not lead to a new cost or benefit for manufacturers but will prevent a prohibition that was never intended for the 2007 Directive. Fast implementation is appropriate to ensure a legal framework for continued production, and a short informal consultation has been agreed on better regulation principles. An early draft of the Regulations was shown to key stakeholders from industry and enforcement authorities at the earliest stage possible in late April. The draft Regulations were published on the BIS website on 18 July and sent round to all stakeholders and comments asked for by 25 July. No comments were received.

9. Guidance

9.1 It is not planned to produce any Guidance because the Regulations do not implement any substantive change but just ensure the continuation of supply.

10. Impact

10.1 The impact on business, charities or voluntary bodies is none.

10.2 The impact on the public sector is none.

10.3 An Impact Assessment has not been prepared for this instrument because there will be no change in costs or benefits as a result of these Regulations.

11. Regulating small business

11.1 The legislation, as safety legislation, has to apply to small business.

12. Monitoring & review

12.1 There is no date for review of the Directive set into the Directive. However we intend to review the Regulations in 2018.

13. Contact

13.1 Christine Knox at the Department for Business, Innovation and Skills Tel: 0207 215 3465 or email: christine.knox@bis.gsi.gov.uk can answer any queries regarding the instrument.