

Guidance on the Legal Obligations for Importers, Retailers and Distributors of Fireworks intended for Sale to the General Public



Issued by the Office of the
Government Inspector of Explosives

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Status: This document is an aide-memoire. It should not be taken or quoted as an authority for action. It is not a legal interpretation of, or substitution for, the legislation, and is non-exhaustive. The guidance may be amended or updated from time to time without notice

EU Directive on Making Available on Market of Pyrotechnic Articles (Recast) (2013/29/EU) And Commission Implementing Directive Setting Up a System for the Traceability of Pyrotechnic Articles (2014/58/EU)

Guidance on Legal Obligations for Importers, Retailers and Distributors relating to Fireworks intended for Sale to the General Public

Background

- 1) The recast Pyrotechnic Directive (2013/29/EU) repeals and replaces the old EU Directive on pyrotechnics and came into full effect on 1 July 2015. Commission Implementing Directive 2014/58/EU contains new provisions and sets up a system for the traceability of pyrotechnic articles and came into effect on 17 October 2016. The Regulation giving effect to both the recast Directive (2013/29/EU) and the Commission Implementing Directive (2014/58/EU) in Ireland is – S.I 174 of 2015 and this revokes and replaces S.I. No. 1 of 2010, S.I. No 416 of 2010 and S.I 373 of 2013 and copies of the new S.I may be accessed at <http://www.justice.ie/en/JELR/Pages/fireworks>
- 2) Essentially this legislation continues to lay down conditions for the making available on the market of all pyrotechnic articles (which include fireworks, theatrical pyrotechnics and other pyrotechnic articles such as automotive air bag cartridges, construction fixing cartridges and other industries). Fireworks under the Directive are subdivided into 4 categories relating to hazard, noise levels etc. Category F2, F3 and F4 will continue to be restricted and available only to professional operators for use in public displays, however the sale of Category F1 fireworks¹ (the least hazardous) to the public is regularized in the new legislation. The original regulations in respect of fireworks of categories F1, F2 and F3 came into effect 4 July 2010, but those applying to all other pyrotechnic articles came into effect on 4 July 2013. All measures were subject to a transitional period.

¹ Category F1 fireworks present a very low hazard and negligible noise level and are intended for use in confined areas, including indoors. Examples include Bengal flames, Bengal matches, Bengal sticks, Christmas Crackers, Crackling granules, Flash pellets, Fountains, Ground spinners, Hand Held sparklers, Non-Hand Held sparklers, Novelty Matches, Party Poppers, Serpents, Snaps, Table bombs, and Throw downs, provided they do not exceed the net explosive content specified for Category F1, and meet the requirements in the relevant standards.

Christmas crackers are however not considered to be explosives for the purposes of the 1875 Explosive Act and therefore are the only Category F1 Fireworks which do NOT require either an import license or to be stored in a Registered Premises or licensed store. (However see Para 8(2) - Importation requirements).

Note that bangers are NOT Category F1 Fireworks and their possession or sale is expressly forbidden by existing law.

- 3) The regulations set age limits for the sale of pyrotechnic articles. The regulations outline the obligations of the manufacturer, importer and distributor² when making available pyrotechnic articles on the market and prohibit any person from making available any pyrotechnic article on the market unless they satisfy the essential safety requirements, have been subject to conformity assessment procedure, 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 manufacturers and importer must also place a label on pyrotechnic articles with a specific registration number linked to the notified body which carries out the conformity assessment, and must keep records of these numbers and associated details of the articles, which will facilitate the tracing of such articles by authorised officers³. The Regulations also makes provision for the appointment of authorised officers and for the notification of conformity assessment bodies⁴.

Obligations on Importers, Distributors and Retailers under the Directive and Regulations

4) Making Available on the Market

The Regulations provide for a number of strict rules to be observed before these fireworks can be placed on the market in order to ensure the safety of these products once they become available. As Ireland does not have any fireworks manufacturers, importers and distributors will assume these obligations under the Regulations. All permissible fireworks in Ireland will have to meet a number of essential safety requirements and relevant standards. These rules also state that any fireworks placed on the market in the EU must carry a CE mark to show that it conforms to these safety requirements and be properly labelled.

5) Labelling

The Regulations provide for the proper labelling of Category F1 fireworks (and others) and set down a number of minimum requirements in this regard. In general, it is the manufacturer of the product who will label the products. However, the importer or distributor assumes this responsibility as above. Articles must be properly labelled legibly and indelibly in English (or English and Irish). If

² A "distributor" is defined as "any natural or legal person in the supply chain other than the manufacturer or the importer who makes a pyrotechnic article available on the market". (The term therefore also covers wholesalers and retailers.)

³ "authorized officer" means an officer appointed to ensure compliance with the Regulation

⁴ "notification of conformity assessment bodies" means notifying the Commission that a body is authorised to carry out conformity assessment tasks under the Directive 2013/29/EU (usually an accredited test laboratory)

there is insufficient space on the article then the information should be provided on the smallest piece of packaging.

The following are the minimum labelling requirements for fireworks (including Cat F1), which are fully CE compliant (see Reg 10 for full list of requirements):

- i) CE mark (Reg 19)
- ii) Name, registered trade name or registered trade mark of the manufacturer and a single postal address at which it can be contacted. If the manufacturer is not established in the EU this information will be provided for both the manufacturer and the importer.
- iii) Name and type of article
- iv) Minimum age limit applicable (12⁵ for Cat F1): (e.g. "Must not be sold to persons under 12 years of age")
- v) Category of article (e.g. Category F1 firework)
- vi) Instructions for use
- vii) Minimum safety distance where appropriate
- viii) For Category F3 and F4 fireworks the year of production.
- ix) Net explosive quantity/content (NEQ/NEC) of active explosive material
- x) Where appropriate: "For outdoor use only" and a minimum safety distance

6) Sale

The regulations restrict which types of pyrotechnics can be sold to the general public and which can be sold only to persons with specialist knowledge. Essentially, it means that regarding fireworks, only Category F1 Fireworks can be sold to the general public.

The more powerful fireworks such as bangers, flash-bangers, rockets, roman candles, combinations, shot tubes, batteries, shells, etc will not be authorised to be imported for sale to the general public, and any person possessing these for sale is acting illegally.

⁵ Age limit was 16 in S.I. 1 of 2010

The regulations also prohibit the sale of any fireworks to anyone under 12 years of age. It is recommended that retailers ensure that this sale prohibition is achieved, either by appropriate labelling, appropriate shelf notices, or barcode alerts.

7) **Withdrawal of products liable to endanger health and safety**

There are obligations on distributors and others to withdraw such an article from the market when directed by an authorised officer and in certain circumstances to forfeit the products and have them destroyed. If a safety hazard is found with a product then the importer, distributor, or any other person will be obliged to withdraw the product from the market and to take appropriate measures to cease and prevent its sale and restrict its free movement. This may include putting notices in the media and also in shops where the item was sold. The European Union uses a rapid alert system (RAPEX) to share information about dangerous products across all the member states. This means that if a dangerous or defective firework / pyrotechnic product is found anywhere in the EU, all the member states will know about it and be able to take action. The Competition and Consumer Protection Commission is currently the national contact point for RAPEX. The Department of Justice should be informed of any dangerous pyrotechnic products and any measures already taken.

Obligations on Importers Distributors and Retailers under existing explosives legislation

8) **Importation requirements**

- i) Under existing explosives legislation, an importation licence is required from the Department of Justice and Equality (DJE) for all explosives including all fireworks (with the sole exception of Christmas Crackers⁶). (See <http://www.justice.ie> for more information). Importation is normally organized by large scale wholesalers, who sell them on to other distributors or retailers. **The import application form for fireworks for sale is attached at the end of this document.**
- ii) For Christmas crackers, since they do not require an import license, it is recommended that importers or wholesale distributors send a sample (or E Mail a scanned copy) of the labeling/packaging of the crackers, in advance of importing or distributing shipments, into the Explosives Inspectorate of the Dept of Justice, for advice. Otherwise, there is a possibility that any shipment not meeting the requirements will have to be withdrawn from the market.

⁶ Note that Christmas crackers in their retail packaging are NOT considered to be explosives under the Explosives Act 1875 due to the nature of the article, packaging and the very small amount of pyrotechnic material in each.

9) **Transport requirements**

Under the European Agreement Concerning the International Carriage of Dangerous Goods by Road" (ADR), there are a number of requirements with regard to the transport of explosives. It is unlikely that all these requirements will apply in respect of Category F1 fireworks, because of their relatively low explosive content, (except perhaps for very large shipments) - however the advice of a Dangerous Goods Safety Advisor (DGSA)⁷ should be sought in this regard.

10) **Storage requirements**

All fireworks, (with the sole exception of Christmas Crackers) are held to be explosives. As with other explosives, certain storage requirements, as provided for under the Explosives Act 1875, will arise, depending on the Net Explosive Content (NEC) of the fireworks to be stored. One will need to register the premises where the fireworks are stored or sold with the local authority. This is a simple process and registration is done with the local authority Fire Officer. **The Form RP2 for Registration is attached at the end of this Document.**

i) Registered Premises: Generally retailers will only require to hold relatively small stocks of explosives/pyrotechnics. Regardless of the quantity⁸, the premises must be registered, since the purpose of registration is to alert the Fire Officer that explosives are stored at the premises (in the event of a fire), and also to give him powers (under the Explosives Act) to enter and inspect the premises. There are two modes of storage allowed:

- Mode A: Storage of up to 90 Kg net explosive content (NEC) is permitted in a Mode A Registered Premises
- Mode B: Storage of up to 22 Kg NEC in a Mode B Registered Premises.

In either case the registration must be renewed on an annual basis. Application form for registration (RP 2 Form) attached as , also available at <http://www.justice.ie>

See also S.I. No 129/1984 – Keeping of Fireworks Order, 1984 which limits the amount of fireworks allowed to be kept in any room open to the public, such as a sales area.

⁷ DGSA is a qualified advisor on dangerous goods under the Carriage of Dangerous Goods by Road Regulations

⁸ It is intended that the current legislation requiring registration will be amended under draft legislation currently being prepared to give an exemption for small quantities of pyrotechnics

- ii) Local Authority Store: If larger quantities of fireworks are to be stored, (more than 90kg NEQ) a 'local authority stores license' will be required (also from the Fire Officer of the local authority). Typical locations needing such a license would be larger wholesalers or importers where containers of fireworks are stored up to an explosive limit of 2 tonnes. Storage of up to 2,000 Kg NEC is permitted subject to complying with all the regulations in S. I. 804 of 2007 - Stores for Explosives Order (<http://www.justice.ie>). This license can be issued for a period of up to 5 years and an application form is available at <http://www.justice.ie>

Status of Guidance

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Summary of Regulations

| Area | Requirements | Legislation | Notes |
|---|--|---|--|
| Importation (Except Christmas Crackers) | Licence from Dept of Justice | Explosives Act 1875 | Importer should contact Dept of Justice |
| Transport | ADR Compliance | S.I. No 349 of 2011 (as amended) | Only applies fully if large NEC is carried. Consult DGSA if in doubt |
| Making Available on Market | Categorisation Essential Safety Requirements CE Marking Sale restrictions Labelling Authorised Officers Withdrawal from market | S.I. No 174 of 2015 | |
| Storage (Except Christmas Crackers) | Reg Premises or Local Authority store | Explosives Act 1875 and S.I. No 129 of 1984 S.I. No 804 of 2007 | Consult Fire Officer |

Additional Reading References - to be found on www.justice.ie

| |
|--|
| General Guidance on Fireworks in Ireland (2015) |
| GIE Guidance for the Storage of Pyrotechnic Articles in Retail & Distribution Centres (2015) |
| Guidance for Fire Safety in Stores for Explosives (2008) |
| Guide to Explosives Legislation (2010) |

Application Form for the
Importation of fireworks Intended for Sale

Notes on the completion of this form are provided at Appendix 2.

Guidance on the actual storage of fireworks and explosives legislation in general can all be accessed on the Department's website www.justice.ie.

Please note that an import licence is not required for the importation of Christmas Crackers.

1) Applicant's Details

- a) Name : _____
- b) Position: _____
- c) Company: _____
- d) Address _____
- e) Phone : _____
- f) E Mail : _____

2) Consignment Details

- a) Place of Embarkation : _____
- b) Place of Importation : _____
- c) Consignor : _____
- d) Estimated date of first delivery (**Note 1**): _____
- e) Mode of Transport: _____

3) Pyrotechnics Details (please also see Schedule attached at Appendix 1)

- a) Quantity of Pyrotechnics _____
- b) Total Gross weight (kg) _____
- c) Total Net Explosive Content (kg) (**NEC - See Note 2**) _____

4) Storage Arrangements (see Note 3)

- a) Location of Storage: _____
- b) Do you have a Registered Premises : _____
- c) Name of issuing local authority : _____
- d) Date issued or last renewed : _____

5) Certification of Pyrotechnics

I certify that all fireworks listed in the attached Schedule:

- i) Are marked with **CE**_{xxxx}
- ii) Are categorised as Category F1 Fireworks (This will be printed on the package)
- iii) Are properly labeled in accordance with S.I 174 of 2015 and
- iv) Are classified for transport in accordance with the UN Scheme - This information, if requested, will be available from the supplier

Note that documentary proof of the above may be requested by Department of Justice and Equality in respect of each article listed in the attached schedule, prior to or after an import licence has been issued.

Signature of Applicant: _____

Name in Block Capitals: _____

Date: _____

APPENDIX 1

Schedule of Fireworks

| | Article # 1 | Article # 2 | Article #3 |
|---|-------------|-------------|------------|
| Commercial or Trade Name (On label) | | | |
| Part Number | | | |
| Manufacturer (name and address) (On label) | | | |
| Country of manufacture (On label) | | | |
| Supplier (name and address) (On label) | | | |
| Pyrotechnics Type (Note 4) | | | |
| EU Type Examination Certificate No | | | |
| EU Registration Number | | | |
| UN Number | | | |
| Hazard Classification Code | | | |
| CAD or HSE Reference Number | | | |
| Expiry Date for CAD or LOCEF | | | |
| Net Explosive Content of each (kg) (Note 2) | | | |
| Total Net Weight (Kg) | | | |
| Gross Weight of each (kg) | | | |
| Total Gross Weight (Kg) | | | |

Continue table as necessary for all articles.

APPENDIX 2

Notes on completion of the application form

1. **Estimated date of first delivery:** An importation license is valid for one importation only. However to facilitate the required logistics concerned, a single importation may consist of more than one delivery, within a period of six months from the estimated date of first delivery, up to the gross weight specified on the license.
2. **Net Explosive Content (NEC):** Essentially this is the weight of the explosive/pyrotechnical material inside the article, not counting the weight of the non-explosive material such as packaging, container etc. This should be printed on the packaging for each article or on the outer box or if not will be available from the supplier.
3. **Storage:** Fireworks for sale must be stored in a ‘Registered Premises’. To obtain a ‘Registered Premises’ simply complete Form RP2 (one page). In the case of importation for distribution, storage information need only be supplied for the distribution warehouse where the fireworks will be initially stored.

Pyrotechnic Types: The following types are examples of Category F1 fireworks under the Directive where they meet the requirements in the relevant standards:

Bengal flames, Bengal matches, Bengal sticks, Crackling granules, Flash pellets, Fountains, Ground spinners, Hand Held sparklers, non-Hand Held sparklers, Novelty Matches, Party Poppers, Serpents, Snaps, Table bombs, Throw downs.

4. **Return of completed forms:** Completed application forms should be returned to the address beneath at least three weeks prior to the estimated date of first delivery. If you have any queries, the relevant contact details are outlined below:

Firearms, Explosives and Criminal Justice Compensation Schemes
Department of Justice
51 St Stephen's Green
Dublin 2
D02 HK52
Tel; +353 (0)1 859 2279
Email: explosives@justice.ie

Sale of Category F1 Fireworks only

Form RP2 - Notice to the Local Authority to Register Premises

1. Applicant

| | |
|--|--|
| Name of applicant (person or company) | |
| Postal address of applicant or company | |
| Contact telephone | |
| E mail and/or Fax | |

2. Details of premises to be registered

| | |
|---|--|
| Location / full postal address of premises to be registered | |
| Mode of Keeping (either Mode A or B) (See attached notes) | |

3. Remarks and Conditions

- a) This registration is for the keeping of Category 1 fireworks only
- b) Fire precautions as required by local authority Fire Officer apply.
- c) Fee as directed by the Local Authority⁹
- d) Registration with the local authority must be renewed annually. This form can also be used for annual renewal of registration.
- e) See "Guidance for Storage of Category F1 fireworks and other Pyrotechnics" for further guidance on safety and other matters

Signature of applicant**Date of Application**.....

Acknowledgement by Local Authority - Registration of Premises

Reference No.

Signature:.....**Position/Appointment**.....

Signed on behalf of**Local Authority**

Date of Registration/Renewal:**Date for next renewal:**.....

⁹ In the Explosives Act 1875 the maximum fee is set at one shilling which converts to approx €6 in current terms

Notes on Registered Premises

1. Sections 21-29 of the Explosives Act 1875 deal with registration of premises for the storage of explosives with the local authority and the regulation of the premises. Registration with the local authority must be renewed annually.
2. A retailer selling Category F1 fireworks (with the sole exception of Christmas Crackers¹⁰) must register their premises annually with the local authority. The following are examples of Category F1 fireworks :Bengal flames, Bengal matches, Bengal sticks, Crackling granules, Flash pellets, Fountains, Ground spinners, Hand Held sparklers, non-Hand Held sparklers, Novelty Matches, Party Poppers, Serpents, Snaps, Table bombs, Throw downs. Generally, retailers will only hold relatively small stocks of fireworks. Regardless of the quantity however, the premises must be registered with the local authority, since the main purpose of registration is to alert the Fire Officer that fireworks are kept in the premises (in the event of a fire). To register premises for any other pyrotechnics or explosives (i.e. other than Category F1 fireworks) see Form RP 1 which is available on www.justice.ie.
3. There are two modes of storage for a registered premises:
Mode A : Storage of up to 90 Kg net explosive content (NEC¹¹) is permitted in a Mode A Registered Premises. Mode A requires a substantial building constructed of brick, iron, stone or concrete or a fireproof safe detached from a dwelling at a safe distance from a street or public place.
Mode B: Storage of up to 22 kg NEC is permitted in a Mode B Registered Premises. Mode B requires a substantial receptacle or safe inside a dwelling house or public room. (Double the amount can be kept in a fireproof safe)
In most cases, Mode B will suffice for the vast majority of retailers (unless large quantities are being stored, in which case Mode A or even a local authority store may be required ¹².
4. **Sales Areas and Storage areas.** Sales areas are parts of the premises where the public have access and where a relatively small quantity of Category F1 fireworks may be displayed for sale in their retail packaging. (e.g. on shelves, shop-floor or in display cabinets). Storage areas are areas where the bulk of the Category F1 fireworks are kept (generally in their transport packaging), and would generally be a cabinet, fire safe, room or for larger quantities a separate building or structure where the public would not have access.

¹⁰ Note that Christmas crackers in their retail packaging are NOT considered to be explosives due to the nature of the article, packaging and the very small amount of pyrotechnic material in each. They are therefore exempt from the licensing requirements of the Explosives Act for Importation and Storage.

¹¹ See Table 2 at back of Guidance for Storage of Category F1 Fireworks and other Pyrotechnics for some idea of the quantity of Category F1 fireworks which corresponds to this NEC - it is a very large quantity, so that a Registered Premises Mode B will suffice for most retailers.

¹²For the storage of larger quantities of explosives, a local authority store is required in accordance Sections 15-20 of Explosives Act and the Stores for Explosives Order 2007 - S.I. No. 804 of 2007. The Application Form and copy of the Stores Order is available on the Dept of Justice website www.justice.ie .