

FACTSHEET and Frequently Asked Questions (FAQs)

Subject: Fireworks Legislation – Safety and Anti-social Use

Relevant or Related Legislation:

The Fireworks Act 2003, The Fireworks Regulations 2004 (as amended), The Fireworks (Safety) Regulations 1997 (as amended)

Current Position:

In response to public concern about the use of fireworks, particularly with regard to their anti-social use, the Government supported a Private Members Bill which was passed by Parliament in September 2003. The Fireworks Act 2003 enables the Secretary of State to make regulations to control the importation, supply, possession and use of fireworks.

Since the passing of this legislation, the Government has introduced a package of new measures (described in more detail below) under both the Fireworks Act 2003 and the Consumer Protection Act 1987.

Key Facts:

The **Fireworks Regulations 2004**, made under the Fireworks Act 2003, introduced a comprehensive package of measures including:

- Making permanent the Fireworks Regulations 2003 (Emergency Regulations). Those Regulations made it an offence to:
 - possess adult fireworks (all fireworks except party poppers and sparklers, etc.) in a public place by anyone under the age of 18;
 - possess category 4 fireworks (professional display fireworks) by anyone other than a fireworks professional.
- Requiring suppliers that sell adult fireworks all year round to be licensed - thereby reducing the availability of fireworks outside the traditional period of use. Those periods where sale without a licence is permitted are:
 - November 5 (15 October to 10 November);
 - New Year's Eve (December 26 to 31 December);
 - Chinese New Year (the day of Chinese New Year and 3 days immediately before);
 - Diwali (the day of Diwali and 3 days immediately before).

Note: This came into force on 1 January 2005 – the benefits of this measure will therefore be felt particularly during the 2005 fireworks season onwards.

- The creation of a curfew on the use of adult fireworks – between 11pm and 7am (in line with the Noise Act 1996), with the exception of the following nights where the curfew will begin at different times:

- November 5th – 12 midnight;
- New Years Eve – 1am;
- Chinese New Year – 1am;
- Diwali night – 1am.

- The imposition of a maximum decibel limit - 120 decibels - on all category 3 fireworks.
- Requiring suppliers of fireworks to display a sign informing customers that:
 - it is illegal to supply adult fireworks and sparklers to anyone under the age of 18;
 - it is illegal for anyone under the age of 18 to possess adult fireworks in a public place.
- Giving licensing authorities the power to request information from suppliers about transactions of fireworks over 50 kg of explosive content, such as:
 - to whom they have supplied;
 - where they obtained the fireworks; and
 - the exact weight of the transaction
- Importers of fireworks to supply information, at the point of entry, as to the destination (first point(s) of call) of their consignments to help ensure they are destined for legal storage and distribution

Note: This came into force on 1 January 2005 – the benefits of this measure will therefore be felt particularly during 2005 fireworks season onwards.

The **Fireworks (Safety) (Amendment) Regulations 2004** amend the Fireworks (Safety) Regulations 1997 (see below) and consist of the following measures:

- Enshrining in law the fireworks industry's ban on the supply of air bombs to the general public;
- Placing stricter controls on rockets by redefining "mini-rockets" (which are prohibited under the 1997 Regulations) to include a broader range of products;
- Encouraging suppliers of fireworks to be more diligent when selling fireworks to customers whose age may be ambiguous i.e. asking for age verifying identification.

Furthermore, the **Fireworks (Safety) Regulations 1997**, made under the Consumer Protection Act 1987, achieve the following with regard to fireworks:

- ban supply of aerial shells, aerial maroons, shells-in-mortar and maroons-in-mortar, bangers, mini-rockets and fireworks of erratic flight (e.g. squibs, jumping crackers, helicopters) to the public;

- ban supply to the public of some large and powerful fireworks (Note: these fireworks can continue to be supplied to people who are in the business as a professional organiser or professional operator of firework displays);
- set 18 as the minimum age for purchasing fireworks (apart from certain fireworks such as caps, cracker snaps and party poppers which can be supplied to persons 16 and over); and
- require all fireworks on sale to the public to comply with the British Standard BS 7114 - which governs the safe construction, testing and labelling of fireworks.

Additional Facts:

- Section 80 of the Explosives Act 1875 makes it an offence to set off fireworks in the street. This is punishable by a fixed penalty notice attracting the upper tier fine of £80.
- Police also have the power to issue fixed penalty notices to those under the age of 18 caught possessing fireworks in a public place or those breaching the 11 pm curfew time. Again, the offence attracts the upper tier fine of £80.
- It is an offence under the Explosives Act 1875 to tamper with or modify fireworks.
- It is an offence under the Explosives Act 1875 for suppliers to store fireworks without either being registered or licensed by the local authority or licensed by the Health and Safety Executive (the appropriate licence is determined by the weight of the fireworks stored).
- The Health and Safety Executive are currently revising the registration and licensing requirements under the 1875 Act. They expect to replace this legislation with regulations made under the Health and Safety at Work Act 1974 (the Manufacture and Storage of Explosives Regulations). Among other things, this will also allow for licences to be refused and revoked if the applicant or holder is judged an unfit person.

▲ Frequently Asked Questions (FAQs)

- Q1. Why doesn't the Government pass laws to regulate fireworks?**
- Q2. How many people are injured by fireworks each year?**
- Q3. Why doesn't the Government do more to warn the public about fireworks hazards?**
- Q4. Will the Government ban the sale of fireworks?**
- Q5. What is the Government doing about distress and injuries caused to animals?**
- Q6. What is the Government doing to stop people throwing fireworks in the street?**
- Q7. Will the Government do something about the noise caused by fireworks?**
- Q8. Why are category 2 fireworks not covered by the statutory category 3 noise limit of 120 decibels?**
- Q9. What is an adult firework?**
- Q10. Why are fireworks available all year round?**
- Q11. How can we be sure that fireworks don't fall into the wrong hands and**

that fireworks are stored safely?

Q12. Wouldn't it be better to limit the use of fireworks to organised displays?

Q13. How can we be sure that organised displays are safe?

Q14. Most fireworks are imported. How can we be sure they are safe?

Q15. Where can I get further information?

▲Q1. Why doesn't the government pass laws to regulate fireworks?

It does and it has. The Government has recently introduced a number of measures to regulate the supply, possession and use of fireworks under the **Consumer Protection Act 1987** and the **Fireworks Act 2003**. The introduction of any further measures at this time would be premature given the recent changes to the Regulations. We will, however, keep the effectiveness of the new measures under constant review.

▲Q2. How many people are injured by fireworks each year?

In recent years approximately 1,000 people per year have required treatment at hospital casualty departments, with 5% of these being classed as "serious accidents" requiring a stay of one or more nights in hospital. With the new regulations it is hoped that this level of injuries will be reduced.

▲Q3. Why doesn't the Government do more to warn the public about fireworks hazards?

The DTI runs an annual [firework safety campaign](#) working closely with the police, fire brigades, and local authority environmental health, education and trading standards departments as well as certain charities. In addition, many local authorities and fire services run local firework safety campaigns in the run-up to the firework season and play an active role in informing retailers of their legal obligations.

The Department has also launched an educational [Firework Safety web site](#) aimed at adults, children and teachers which offers advice on fireworks and the law, and where information leaflets, the Fireworks Code and campaign packs for schools may be viewed and downloaded.

▲Q4. Will the Government ban the sale of fireworks?

No. The Government does not believe that the case has been made for banning the sale of fireworks to the public. We have looked very closely at this, and believe that such a ban could lead to the development of a black market in fireworks and could also encourage people to produce homemade devices. When used sensibly and with consideration for others, fireworks are a very popular form of family entertainment.

▲Q5. What is the Government doing about distress and injuries caused to animals?

Under section 1 of the **Protection of Animals Act 1911** it is an offence to cause any unnecessary suffering to any domestic or captive animals. The penalty on conviction is a fine of up to £5000 or up to six months imprisonment, or both. Enforcement of this section of the Act rests with trading standards, the police or the RSPCA as appropriate.

▲Q6. What is the Government doing to stop people throwing fireworks in the street?

This is already an offence under section 80 of the Explosives Act 1875 which prohibits the throwing or setting off of fireworks in any highway, street, thoroughfare or public place. The power to enforce this section of the Act rests with the police. Anyone found guilty is liable to a fine of up to £5,000. Fixed penalty notices (on-the-spot fines) can also be issued for this offence.

In addition the new Fireworks Regulations 2004 make it an offence for anyone under the age of 18 to possess fireworks in a public place. Those most prone to this sort of behaviour are the under 18s and it is hoped that this regulation, which is also punishable by fixed penalty notice, will further reduce such incidents.

▲Q7. Will the Government do something about the noise caused by fireworks?

The Government has introduced a curfew on the use of fireworks during night hours (11 pm to 7 am) and have also imposed a 120 decibel (AI) limit on category 3 fireworks (consumer display fireworks). In addition to these statutory measures, the fireworks industry have pledged to work to achieve a lower level of between 113 and 115 decibels (AI).

In certain circumstances excessive noise from fireworks could be deemed a statutory nuisance under Part III of the Environmental Protection Act 1990 which is the responsibility of the Department of the Environment, Food and Rural Affairs (DEFRA). This Act provides local authorities with powers to prevent or abate noise nuisance from premises and land. It is for local authority environmental health officers to judge whether a problem complained about may be considered a "statutory nuisance" and to act accordingly.

▲Q8. Why are category 2 fireworks not covered by the statutory category 3 noise limit of 120 decibels?

Section 5 of the Fireworks Act 2003 does not allow for the regulation of category 1 (party poppers, etc.) and 2 fireworks (garden fireworks). However, given the generally small nature of such fireworks (evidenced by the short distance for measuring noise emitted from them), we consider that these fireworks do not present as much of a nuisance as their category 3 cousins.

Notwithstanding the above, the Government intends to make it a statutory requirement that all fireworks comply with the new harmonised European Standard on fireworks (BS EN1403). This standard is expected to be completed sometime in 2005 and will replace the current BS 7114. Among other things, this standard sets out maximum noise levels for category 2 and 3 fireworks – that level being the same as stipulated in the 2004 Regulations for Category 3 fireworks (120 decibels). The Government will make this a legal requirement by referencing this standard under the Consumer Protection Act 1987.

▲Q9. What is an adult firework?

An adult firework is any firework except for a cap, cracker snap (Christmas cracker), novelty match, party popper, serpent, throw-down or sparkler.

▲Q10. Why are fireworks available all year round?

Under a long-standing voluntary code of practice the firework industry agreed that fireworks should only be sold in the three weeks before 5 November and for a few days afterwards, and for a similar period around New Year. Government, industry and Trading Standards have all reinforced this message to retailers.

Under the Fireworks Regulations 2004, we have introduced a requirement that those that supply fireworks outside of traditional and multi-cultural periods will have to apply for a licence to do so. There are strict conditions for eligibility (such as having never been convicted under the Fireworks Act 2003 and Consumer Protection Act 1987) as well as the licence attracting a relatively high fee to enable robust enforcement.

Due to come into force on 1 January 2005, it is expected that this regulation will contain the fireworks season (and therefore fireworks use) to within these times, curtailing the creeping expansion of the season.

▲ Q11. How can we be sure that fireworks don't fall into the wrong hands and that fireworks are stored safely?

It is an offence to keep fireworks (except those for private use) on premises which have not been registered or licensed for that purpose. The Health and Safety Executive and Trading Standards vigorously enforce this law.

Under the Control of Explosives Regulations 1991 individuals can store fireworks for private use for up to 14 days provided they are kept in a safe and suitable place with due precautions for public safety.

It is also an offence for any person other than a fireworks professional to possess category 4 fireworks. This offence is enforced the police.

▲ Q12. Wouldn't it be better to limit the use of fireworks to organised displays?

It is sometimes argued that the use of fireworks should be restricted to licensed organised displays. But fireworks can provide a popular form of family entertainment provided they are used safely and the Government is not persuaded that there is a case for banning the retail sale of fireworks.

▲ Q13. How can we be sure that organised displays are safe?

Many public displays are covered by the Health & Safety at Work Act 1974. This requires that the safety of operators and the public must be safeguarded. While we encourage all operators to be properly trained, the Government does not have any immediate plans to require display operators to undergo mandatory training as there is little evidence to suggest that the injuries sustained at fireworks displays are as a result of operator incompetence.

▲ Q14. Most fireworks are imported. How can we be sure they are safe?

Most fireworks sold to the general public in the UK originate in China. But whether fireworks are imported or made here in the UK, all which are intended for use by the public, must meet the requirements of the Fireworks (Safety) Regulations 1997 (as amended), the Fireworks Regulations 2004 and the British Standard BS 7114.

▲ Q15. Where can I get further information?

Further information on the Regulations and the DTI's firework safety campaign material can be obtained from visiting the DTI's Firework Safety website:

www.dti.gov.uk/fireworks

Other Links:

Fireworks Regulations 2004

www.legislation.hmso.gov.uk/si/si2004/20041836.htm

Fireworks Act 2003

www.legislation.hmso.gov.uk/acts/acts2003/20030022.htm

Fireworks (Safety) (Amendment) Regulations 2004

www.legislation.hmso.gov.uk/si/si2004/20041372.htm

Fireworks (Safety) Regulations 1997

www.legislation.hmso.gov.uk/si/si1997/97229401.ht