

# Explosive Industry Group



## Firework Safety Information 2007

This brief guide has been prepared by the Explosive Industry Group (EIG) of the CBI to assist users of fireworks and the enforcement authorities to have a better understanding of fireworks, good practice and firework law. By its very nature this guide cannot hope to cover all aspects of this important and extensive subject. However, the guide does give advice on where to obtain further information where appropriate.

*Whilst every effort has been made to cover all current legislation and regulations and other relevant information when this Guide went to print, EIG nor its servants or agents can accept responsibility for, or liabilities incurred directly or indirectly as a result of, any errors or omissions in this Guide. Those involved in the firework sector are responsible for taking their own legal and other advice as they see fit. Readers are also strongly advised to check their own position with the relevant organisation(s) referred to in this Guide and whether there has been any change in legislation or regulation since the publication of this Guide.*

### Firework law

Fireworks are explosives, but they are also, in the main, consumer products. Firework law can be broken down into two main areas - that enforced by the Health and Safety Executive (or their agents), and that enforced by the Department of Business, Environment and Regulatory Reform (BERR - formerly DTI) and Local Authority Trading Standards Officers.

<b>"HSE" legislation</b>	<b>"DTI" legislation</b>
Manufacture	Amateur use
Storage (but see right)	Consumer protection
Packaging	Anti-social use
Transport	(including the British Standard)
Importation	Local Authority storage enforcement (often
Classification	via Trading Standards Officers)
Professional use	

### Manufacture and Storage of Explosives Regulations

The basis of the majority of UK law relating to fireworks is now the Manufacture & Storage of Explosives Regulations 2005 (MSER) which encompasses all aspects of manufacture and storage, including details of construction and Quantity/Distance relationships for explosives buildings. MSER and much other legislation (including transport and security provision) rely on the correct classification of fireworks under the Classification and labelling of Explosives Regulations 1983 (CLER). If in doubt please check with EIG, or directly to the Explosives Inspectorate (all contact details are at the end of the booklet).

### The Health and Safety at Work etc Act 1974

Modern health and safety legislation mostly stems from regulations made under the Health and Safety at Work etc Act 1974 (HSWA). These regulations are increasingly "Goal Setting" rather than "Prescriptive" in nature, and rely on Approved Codes of Practice (ACoPs) and Guidance to flesh out compliance issues.

Examples of regulations made under HSWA include:-

<b>Title of Regulation and Acronym</b>	<b>Brief details</b>
Classification and Labelling of Explosives Regulations 1983 (CLER)	Brings UK into line with United Nations Recommendations, and requires classification of all explosives for transport by HSE or MOD
Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2007 (CDGUTPER)	Adopts the European Agreements on transport of dangerous goods by rail (ADR) into UK law
Control of Explosives Regulations 1991 (COER)	Limited applicability to fireworks at present
Placing on the Market and Supervision of Transfer of Explosives Regulations (POMSTER)	Limited applicability to fireworks at present.
Manufacture and Storage of Explosives Regulations 2005 (MSER)	Replaces the old 1875 explosives Acts

### **Consumer Protection Act, General Product Safety Regulations and Fireworks Regulations**

The basis of consumer law in the UK is the Consumer Protection Act 1987 (CPA). In essence the Act says that items on sale to the general public must be safe for use by the general public, and must be safe in use without any form of training. The General Product Safety Regulations 1994 (GPSR), the result of a European Directive, covers similar scope. Due to limitations in the CPA, training cannot be a means of proving competence for potential purchasers of prohibited fireworks under the 1997 Firework (Safety) Regulations.

#### **The Fireworks Regulations 2004**

Made under the Fireworks Act 2003, these Regulations contain a number of provisions to control the anti-social use of fireworks and provide for monitoring of importations of fireworks to prevent their illegal storage and sale.

The 2004 Regulations couched the term "adult" firework meaning any firework except Sparklers and Category 1 (Indoor) Fireworks.

The Regulations made it an offence:

- For under 18's to possess adult fireworks in a public place.
- For anyone, except certain specified persons, to possess a Category 4 firework.
- To let off adult fireworks during night hours (23.00 to 07.00) except on certain specified days.
- To supply Category 3 fireworks with a noise level in excess of 120dBA(I<sub>max</sub>).
- To supply adult fireworks outside certain specified periods, unless in possession of a licence specifically for this purpose.
- To supply adult fireworks unless a notice is displayed specifying the age restrictions that apply to sale and possession.

The Regulations also require:

- That where more than 50kg net explosive mass of fireworks are supplied and if required, the person supplying shall provide the local licensing authority with specified details of the transaction.

- Persons importing fireworks to notify the Commissioners of Customs and Excise of details of the proposed storage for the fireworks.

### The British Standard for Fireworks

The British Standard BS 7114:1988, although not law, is “called up” in the Firework (Safety) Regulations 1997 - all fireworks supplied to the general public must comply with the requirements in the Standard as well as additional requirements in the 1997 Regulation. BS 7114 is a performance-based standard in which testing and compliance is based on batch testing of products. It is divided into three parts and categorises fireworks into 4 types. Each category has general performance and labelling criteria associated with that category, and in addition each firework type within a category has specific performance criteria which have to be met.

BS Category	Common Name	General Fuse Delay time	General Debris distance	General Viewing distance
Category 1	Indoor	Various	Various	Various
Category 2	Garden	3-13 secs	3m	5m
Category 3	Display	5-15 secs	20m	25m
Category 4	Display (Professional)	Not specified	Not Specified	Not Specified

### The 1997 Firework (Safety) Regulations

These regulations prohibit the sale to the general public of the following fireworks

- ✓ Shells and shells in mortar
- ✓ Aerial maroons and aerial maroons in mortar
- ✓ Fireworks of erratic flight
- ✓ “Mini” rockets
- ✓ Bangers and batteries containing bangers
- ✓ Combinations including bangers (except for wheels)
- ✓ Any other firework which is not specified in Schedule 3 of the regulations

Furthermore it modifies and extends the British Standard in respect of the maximum dimensions or weights of certain fireworks (schedule 2 of the regulations) .

The Regulations also require sparkler packets to be labelled with the text

*“Warning: not to be given to children under 5 years of age”*

*“... no person shall supply any firework or any assembly to any person apparently under the age of eighteen years”*

The Regulations also describe those persons permitted to purchase the prohibited items including:-

- (a) any person who is in business as a professional organiser or professional operator of firework displays;
- (b) any person, being a person whose trade or business (or part of whose trade or business) is the supply of fireworks or assemblies, for the purpose of supplying them in accordance with the provisions of these Regulations;
- (c) any local authority for the purposes of a firework display put on by that authority or for use by that authority at a national public celebration or a national commemorative event;

*(d) any person for use, in the course of a trade or business of his, for special effects purposes in the theatre, on film or on television;*

Clarification of which fireworks are permitted to be sold has been provided by DTI and they have stated that “cakes”, mines and Roman candles containing flash units (ie bangs) are not prohibited from sale.

### **The European Standard**

The European Standard for Fireworks, now likely to be superceded by the provisions of the European Directive on Pyrotechnic Articles, approaches standards for fireworks in a different way. Instead of one standard divided into 3 parts, the European standard will have a separate standard for each permitted type.

Broadly the European Standard follows the British Standard model. There will be 4 categories, however the test and safety distances will be altered. There will be many more types of fireworks with a Standard - although we wait to see how this will be accommodated in UK law. The first drafts of the agreed standards are available from BSI, and others will be available from them as they are agreed.

### **Professional or Consumer displays?**

Many displays, especially around November 5th, are fired by amateurs using fireworks conforming to the requirements of the 1997 Firework (Safety) Regulations - some of these shows can be quite extensive. The events are usually well established, community, school or club events where a committee has been formed to manage the event and to set-up and fire the display. These organisations usually (but not exclusively) purchase fireworks in the form of “self-fire” kits direct from major suppliers.

These displays are good fun, and are safe provided that:-

- ✓ thought has been given at the planning stage of the display - including consideration of what to do in adverse conditions etc
- ✓ the site is suitable for the type and scale of event planned
- ✓ only British Standard fireworks are used
- ✓ that the firework operators are completely familiar with their role in the display, the types of fireworks they will be firing, firing technique etc

Even in the absence of items prohibited in 1997, these displays can still provide spectacular entertainment for the audience.

Firework displays fired by professionals are usual where:-

- ✓ the site puts extra restrictions on the fireworks that can be used
- ✓ the display is to be fired in a very much reduced time (maybe as short as 30 seconds)
- ✓ the budget permits or the display is very large

Firework professionals are “at work” and thus subject to all the regulations under HSWA. This means that they will usually carry out some form of site inspection with the client, carry out a risk assessment and determine the types of fireworks suitable for the display, and rig and fire the display entirely - leaving the organiser of the event to concentrate on other matters.

Professional firers have access to a much wider range of types and sizes of fireworks than the amateur - and consequently rarely adhere to the distance guidelines of the British Standard. Often this will mean professional displays require MORE room than an amateur display - but there are circumstances where by careful choice of fireworks a display in a very restricted area can be safe and spectacular. Professional display companies will base the contents of their displays on an assessment of risk given the particular features of the site and the display. These matters, and others, will need to be discussed with the firework company prior to the event. We recommend that you employ one of the members of the EIG to arrange and fire your firework display.

## **Training**

There is no mandatory requirement for training of professional or amateur firework firers in the UK, but there are a variety of courses available organised by individual companies or by training organisations.

## **The sale of Category 4 fireworks**

The Firework (Safety) Regulations 1997 prohibited the sale of category 4 fireworks (and other specified types) except to certain groups of people (including the Armed Forces and Local Authorities) unless they are "Professional". A guide to the regulations is available from BERR.

EIG members regard the following as minimum requirements for purchasers of Category 4 fireworks:-

- ✓ Legal storage - Local Authority licenced premises are considered to be the minimum standard
- ✓ 365 day insurance covering product and public liability
- ✓ Company status (including sole traders)
- ✓ Competence to use the products required

## **Storage of fireworks**

Storage of fireworks can be legally achieved in many ways in the UK.

### **"Private Use"**

MSER permits the storage of a limited quantity of fireworks for an unlimited period of time, or the storage of an various quantities of fireworks for up to 21 days prior to their use depending on their "Hazard Type". It is generally taken that these provisions apply to "private use" that is use by the keeper or associates (eg for a school bonfire) but not for sale. It also applies where local operators are storing fireworks prior to them firing a professional display.

### **Registered premises**

Under MSER, the first level of legal storage are "registered premises". Registration must take place if the quantity of fireworks exceeds 100Kg of HT3/4 fireworks (typically professional display fireworks) or 250Kg of HT4 fireworks (typically consumer fireworks)

The vast majority of registered premises are held by shopkeepers for supply of fireworks to the general public in the period leading up to November 5th (indeed it is a requirement of MSER and Consumer legislation that all premises selling fireworks should be "Registered" with the Local Authority). The EIG feel that Registered Premises are not suitable for

professional firework display companies owing to the limited storage capacity of such premises.

### **Local Authority licences**

Above these levels it is possible to licence a store with the Local Authority for upto 2000Kg of any type of fireworks..

### **HSE licences**

The highest level of storage and control in the UK is at HSE licensed sites. Under this regime the processes and storage capacities of buildings are determined individually having regards to the type of materials being handled, and the distances to adjacent buildings and other constraints. An HSE Licence is the appropriate level for a company importing and manufacturing and/or modifying large quantities of fireworks for onward sale or for displays.

### **Firework Fusing Exemption under MSER**

This provisions of the previous exemption certificate was included within MSER because it was evident that many small display operators wish to (and indeed do) fuse firework prior to use in their own displays. The exemption (Regulation 9 under MSER) permits limited operations under carefully controlled circumstances in association with a place of legal storage and where the fireworks are for "own use" and not for sale.

The exemption requires that:-

- ✓ Only one such exemption may be granted for a premises
- ✓ A maximum of two people are engaged in the operation
- ✓ The quantity of fireworks is kept low
- ✓ That work is carried out in a separate, dedicated building remote from the firework store
- ✓ That normal cleaning and good "housekeeping" rules are followed.

The exemption, however, does not remove the obligation on the user to have all fireworks made (including assemblies) authorised, and classified and packaged prior to transport according to normal explosive legislation.

### **Websites and further information**

Current information about fireworks and safety related issues is available from the following websites.

Explosive Industry Group  
UK Firework safety site  
BERR (formerly DTI) I homepage  
HSE homepage

<http://www.eig.org.uk>  
<http://www.fireworksafety.co.uk>  
<Http://www.berr.gov.uk>  
<http://hse.gov.uk/hsehome/>

### **HSE Guides**

EIG were involved in the preparation of two award winning HSE guides on firework displays available fom HMSO:-

- "Giving your own firework display" HSG123
- "Working together on firework displays" HSG124

## **EIG contact details**

For further information please contact:-

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