

KINGDOM OF BELGIUM

FEDERAL PUBLIC SERVICE FOR ECONOMY, SMES, SELF-EMPLOYED AND ENERGY

Royal Decree amending the Royal Decree of 23 September 1958 laying down general regulations on the manufacture, storage, holding, sale, transport and use of explosives, and the Royal Decree of 20 October 2015 on the making available on the market of pyrotechnic articles

PHILIPPE, King of the Belgians,

To all who are here now or will be hereafter, Greetings.

Having regard to the Act of 28 May 1956 on explosive substances and mixtures that are susceptible to deflagration and devices loaded therewith, Article 1(1);

Having regard to the Code of Economic Law, Article IX(4)(1)(1)^{1°};

Having regard to the Royal Decree of 23 September 1958 setting general regulations on the manufacture, storage, possession, sale, transport and use of explosives;

Having regard to the Royal Decree of 20 October 2015 on the making available on the market of pyrotechnic articles;

Having regard to the notification to the European Commission, on ... (date), pursuant to Article 5(1) of Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical standards and regulations, and of rules on Information Society services;

Having regard to opinion xxxxx/x of the Council of State, issued on ... (date), pursuant to Article 84(1)(1)^{2°} of the Council of State Acts, coordinated on 12 January 1973.

Having regard to the Benelux decision of the Benelux Committee of Ministers of 27 September 2022 on combating the improper use of pyrotechnic articles intended for the general public;

On the recommendation of the Minister for the Economy,

We have decided and hereby decree:

Article 1. Article 260 of the Royal Decree of 23 September 1958 laying down general regulations on the manufacture, storage, holding, sale, transport and use of explosives, amended by the Royal Decree of 1 February 2000, shall be supplemented by a paragraph reading:

‘Notwithstanding the first paragraph, no storage licence is required for traders who are not recreational fireworks retailers but who supply fireworks with another product. The trader shall store the fireworks in a cabinet that is not accessible to customers. The total quantity of fireworks stored in the commercial establishment shall be limited to the amount that a private individual is permitted to possess under Article 265. This derogation only applies to the following types of fireworks:

1° sparklers that the Royal Decree of 20 October 2015 on the making available on the market of pyrotechnic articles classifies as category F1, and that are suitable for indoor use;

2° fountains that the Royal Decree of 20 October 2015 on the making available on the market of pyrotechnic articles classifies as category F1, and that are suitable for indoor use;

3° explosive pyrotechnic articles with built-in electric ignition that contain no more than half a gram of pyrotechnic composition per unit, that are designed for use in a pest control device and that the Royal Decree of 20 October 2015 on the making available on the market of pyrotechnic articles classifies as category P1;

4° pyrotechnic cartridges with powder for fastening and marking tools classified in category P1 in accordance with the Royal Decree of 20 October 2015 on the making available on the market of pyrotechnic articles’.

Article 2. The following changes shall be made to Article 265 of the same Decree, amended by the Royal Decree of 25 April 2004:

a) The provision in point 7° is replaced with the following:

‘7 ° a quantity of festive fireworks, fireworks for technical use and/or signal fireworks amounting to a kilogram of pyrotechnic composition contained therein, of the following types:

1) pyrotechnic articles that economic operators may make available to consumers as per Article 12 of the Royal Decree of 20 October 2015 on the making available on the market of pyrotechnic articles;

2) squibs specially designed for toys;

3) distress signals classified as marine equipment according to the Royal Decree of 26 April 2016 on marine equipment and the organisation of market surveillance, and that are only kept available for use on vessels that are required to have them onboard’.

b) the article shall be supplemented by a paragraph, which reads as follows:

‘By way of derogation from paragraph 1, persons under 18 years of age shall be prohibited from keeping powders, wicks, electric means of ignition, cap-type primers or fireworks under them, with the exception of squibs specially designed for toys’.

Article 3. Article 267 of the same Decree shall be replaced with the following:

‘Article 267. Professionals who require other pyrotechnic articles of category P1 for vehicles to pursue their profession may store these articles without authorisation up to a quantity of five kilograms of pyrotechnic composition contained therein. These items may not be sold or disposed of to private individuals, except when they are mounted in a vehicle or in a removable vehicle component. Articles incorporated in vehicles shall not be subject to a limitation of quantity’.

Article 4. The following amendments are made to Article 12(1) of the Royal Decree of 20 October 2015 on the making available on the market of pyrotechnic articles:

a) the provision under 3° is removed;

b) the provision under 4 ° shall be replaced as follows:

‘4° other pyrotechnic articles of category P1, excluding:

a) pyrotechnic articles of category P1 for vehicles;

b) pyrotechnic articles of category P1 containing flash powder, if they contain more than one gram of pyrotechnic composition per article;

c) pyrotechnic articles of category P1 that contain flash powder, whose sound level exceeds 120 dB(A, impulse) at 8 metres away;

pyrotechnic articles of category P1 designed to produce a sound and if they contain more than one gram of pyrotechnic composition per article;

e) pyrotechnic articles of category P1 designed to produce a sound, whose sound level exceeds 120 dB(A, impulse) at a distance of 8 meters;

f) pyrotechnic articles of category P1 designed to produce light and/or smoke, unless they bear a wheel mark as referred to in the Royal Decree of 25 April 2016 on marine equipment and the organisation of market surveillance;

g) pyrotechnic articles of category P1 designed to produce light and/or smoke, unless they meet all of the following conditions:

- being waterproof;
- being designed to generate a distress signal in an emergency and also recognisable as such;
- being provided with a legible indication of their intended use;
- being sold for the purpose of generating a distress signal in an emergency.’.

Article 5 Article 13 of the same Decree shall be replaced with the following:

'Article 13. § 1. It is prohibited to offer pyrotechnic articles on the market to consumers under the age of 18.

Economic operators shall check the age of consumers when handing them pyrotechnic articles.

§ 2. Economic operators shall offer the pyrotechnic articles of categories F3, F4, T1, T2 and P2 exclusively to persons with specialised knowledge on the market’.

Article 6. The following amendments are made to Article 56 of the Decree:

1° in the first paragraph, the words ‘Article 12, first paragraph, 1° to 3°’ are replaced with the words ‘Article 12, first paragraph, 1° to 2°’;

2° in the second paragraph, the words ‘with the exception of the articles indicated in Article 12, first paragraph, 3°’ is now removed.

Article 7. This Decree shall enter into force on 27 September 2024.

Pyrotechnic articles of category F1 whose label indicates a minimum age limit of 12 years, or category F2 whose label indicates a minimum age limit of 16 years, and for which this minimum age limit is the only non-conformity, may be sold up to two years after this Decree enters into force without the need to adapt the label. However, they may no longer be offered to persons under 18 years old.

Article 8. The Minister responsible for the Economy and Consumer Safety Protection shall be responsible for the implementation of this Decree.

Issued at

On behalf of His Majesty:
The Minister of the Economy,

Pierre-Yves DERMAGNE