

KINGDOM OF BELGIUM

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

Royal Decree amending the Royal Decree of 20 October 2015 on the making available on the market of pyrotechnic articles and repealing the Royal Decree of 3 March 2010 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 with them, Article 1(1);

Having regard to the Code of Economic Law [Wetboek van economisch recht], Articles IX.4 and IX.11;

Having regard to the Royal Decree of 3 March 2010 on the placing on the market of pyrotechnic articles;

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

Having regard to the opinion No 65/2023 of the Data Protection Authority, given on 24 March 2023;

Having regard to the Opinion of the Inspectorate of Finance, issued 14 November 2023;

Having regard to opinion CRB 2023-2850 of the special advisory Consumer Committee, issued on 13 December 2023;

Having regard to the approval of the State Secretary for the Budget dated 18 December 2023;

Having regard to the communication to the European Commission, on 20 December 2023, 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 73.928/1 and 75.682/1 of the Council of State, issued on 25 July 2023 and 25 March 2024, pursuant to Article 84(1)(1)° of the Council of State Acts, coordinated on 12 January 1973.

Having regard to the Benelux decision of 7 December 2020 of the Benelux Committee of Ministers on the introduction of a pyro-pass, as amended by the Benelux decision of 27 September 2022;

On the recommendation of the Minister for the Economy,

We have decreed and hereby decree:

Article 1. This Decree partially transposes Directive 2013/29/EU of the European Parliament and of the Council of 12 June 2013 on the harmonisation of the laws of the Member States relating to the making available on the market of pyrotechnic articles.

Article 2. In Article 3, paragraph 2, of the Royal Decree of 20 October 2015 on the making available on the market of pyrotechnic articles, paragraph 2 is replaced by the following:

‘2º equipment falling within the scope of the Royal Decree of 25 April 2016 on marine equipment and the organisation of market surveillance;’.

Article 3. In Chapter 3 of the same Decree, a Section 7 containing Articles 15/1, 15/2 and 15/3 is inserted as follows:

Section 7: Identification and authorisation of persons with specialised knowledge

Article 15(1). § 1. Persons with specialised knowledge shall hold a licence issued by the Minister’s representative.

§ 2. Any person applying for authorisation to the Minister’s representative must be in possession of a certificate of qualification issued by a certification body specifically accredited for the certification of persons.

By way of derogation from paragraph 1, there shall be no obligation to hold a certificate of qualification for the staff of a railway infrastructure operator, a railway undertaking or one of their contractors, only in the course of their professional activities, and only for those specific pyrotechnic articles necessary to ensure safety on the railway network. They have been trained to handle these pyrotechnic articles in a safe way.

By way of derogation from paragraph 1, there is no obligation to hold a certificate of qualification where the pyrotechnic articles of category F3, F4, T2 or P2 concerned are used solely for the purpose of driving trade and where the articles in question are not used.

§ 3. In order to be admissible, the application for authorisation shall contain at least the following information:

1 ° the surname, the forenames, the correspondence address, and date of birth of the applicant as well as a copy of an identity document, such as the identity card, passport or other official identity document issued by a foreign state;

2 ° the name and contact details of the company and its company number;

3 ° proof of professional activity and, where appropriate, an additional explanation of why the pyrotechnic articles are necessary for the professional activity;

4 ° a description of the categories and types of pyrotechnic articles for which the authorisation is requested;

5 ° the valid certificate of qualification referred to in section 2, which is no older than five years at the time the application is submitted. The staff of a railway manager or railway undertaking exempted from the certificate of qualification in accordance with section 2 shall provide proof of the training received;

6 ° proof of a valid storage permit when the applicant stores the pyrotechnic articles and/or when the applicant uses the pyrotechnic articles solely for the purpose of trading and in which the articles in question are not used;

§ 4. The Minister's agent shall take the decision within three months from the date on which the full application for authorisation is received.

The Minister's representative may seek advice from any authority if they deem it appropriate.

§ 5. The authorisation is drawn up in accordance with the model set out in Annex 5 and shall be valid for a maximum period of five years.

Holders of an authorisation for pyrotechnic articles of category T2 shall also be considered authorised for pyrotechnic articles of category T1.

Holders of an authorisation for pyrotechnic articles of category F4 shall also be considered authorised for pyrotechnic articles of category F3.

§ 6. The Minister's representative may grant or refuse the permit.

If the authorisation is refused, the Minister's agent shall clarify in his decision the reasons for the refusal.

§ 7. A licence already granted may be suspended or revoked by the Minister's representative at any time, without any compensation, if it is established that the licence holder is no longer able to fulfil the conditions set out in section 3, where an effective sanction has been imposed on the holder of the licence under the Law of 21 December 1998 on safety in football matches or when the licence holder infringes this decree or the law of 28 May 1956 on explosive substances and mixtures susceptible to deflagration and the equipment loaded with them or its implementing acts.

§ 8. Authorisations issued by the administrative authorities of another EU Member State to persons with specialised knowledge shall be treated as the authorisation referred to in section 1.

Article 15(2). § 1. The Minister's representative shall keep a record of the authorisations granted.

The official responsible for supervision shall have access to the register and may make the necessary changes to it.

§ 2. Economic operators may issue pyrotechnic articles that may be offered only to persons with specialised knowledge only upon presentation of a valid authorisation referred to in Article 15/1.

Economic operators shall consult the register referred to in section 1 prior to the provision of the pyrotechnic article in order to verify whether the authorisation is still active.

Where the authorisation has been issued to a person with specialised knowledge by the administrative authorities of another EU Member State and that Member State has a register containing national authorisations, the economic operator shall consult that register prior to the provision of the pyrotechnic article to determine whether the national authorisation is still valid.

§ 3. Economic operators shall keep proof at the disposal of the officials responsible for supervision, police and judicial authorities at least three years after the transfer of the pyrotechnic articles that they have checked the licence referred to in section 2. Such proof shall include at least a copy of the licence, the invoice and, where appropriate, the transport document.

Article 15.3. The Federal Public Service for Economy, SMEs, the Self-Employed and Energy is the controller of the personal data processed in Article 15/2(1)(1).

The controller may communicate the personal data referred to in this Chapter to the competent authorities of other EU Member States in order to enable them to exercise their supervisory powers.

The personal data processed in accordance with this Chapter shall not be retained for longer than is necessary for the purposes for which they are processed.'

Article 4. Annex 5, which is annexed to this Decree, is inserted in the same Decree.

Article 5. The Royal Decree of 3 March 2010 on the placing on the market of pyrotechnic articles, partially repealed by the Royal Decree of 20 October 2015, is repealed.

Article 6. The Minister for the Economy shall be responsible for the implementation of this decree.

Issued at

On behalf of His Majesty:

The Minister of the Economy,

Pierre-Yves DERMAGNE