



STATUTORY INSTRUMENTS.

S.I. No. 432 of 2024

EUROPEAN UNION (MAKING AVAILABLE ON THE MARKET OF
PYROTECHNIC ARTICLES) (AMENDMENT) REGULATIONS 2024

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I, HELEN MCENTEE, Minister for Justice, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purpose of giving further effect to Directive 2013/29/EU of the European Parliament and of the Council of 12 June 2013¹ and full effect to Regulation (EU) 2019/1020 of 20 June 2019², in so far as it applies to pyrotechnic articles that are subject to that Directive, hereby make the following regulations:

1. These Regulations may be cited as the European Union (Making Available on the Market of Pyrotechnic Articles) (Amendment) Regulations 2024.

2. The European Union (Making Available on the Market of Pyrotechnic Articles) Regulations 2015 (S.I. No. 174 of 2015) are amended -

(a) in Regulation 2(1)-

(i) by the substitution of the following definition for the definition of “economic operators”:

“‘economic operator’ means the manufacturer, the importer, the authorised representative, the distributor or the fulfilment service provider;”,

(ii) by the substitution of the following definition for the definition of “Regulation (EC) No. 765/2008”:

“‘Regulation (EC) No. 765/2008’ means Regulation (EC) of the European Parliament and of the Council of 9 July 2008³ as amended by Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019²;”, and

(iii) by the insertion of the following definitions:

“‘authorised representative’ means a person established within the Union that has received a written mandate from a manufacturer to act on behalf of the manufacturer in relation to the tasks specified in Article 4(3) of the Market Surveillance Regulation;

‘fulfilment service provider’ means a person who is a fulfilment service provider, within the meaning of

¹ OJ No. L 178 28.6.2013, p27

² OJ No. L 169 25.6. 2019, p.1

³ OJ No. L 218, 13.8.2008, p.30

paragraph (11) of Article 3 of the Market Surveillance Regulation, with respect to pyrotechnic articles;

‘information society service provider’ has the meaning it has in paragraph (14) of Article 3 of the Market Surveillance Regulation;

‘Market Surveillance Regulation’ means Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019²;

‘online interface’ has the meaning it has in paragraph (15) of Article 3 of the Market Surveillance Regulation;”,

- (b) in Regulation 4, by the insertion of the following paragraphs after paragraph (1):

“(2) A person shall not place a pyrotechnic article on the market unless there is an economic operator who-

- (a) is established in the Union, and
- (b) has responsibility for the tasks set out in Article 4(3) of the Market Surveillance Regulation in respect of the pyrotechnic article concerned.

(3) In this Regulation, ‘economic operator’ means a manufacturer, an authorised representative, an importer or a fulfilment service provider.”,

- (c) in Regulation 15, by the insertion of the following paragraph after paragraph (2):

“(3) In this Regulation, ‘economic operator’ means a manufacturer, an importer or a distributor.”,

- (d) by the insertion of the following Regulations after Regulation 15:

Obligations of certain economic operators

“15A. (1) An economic operator referred to in Regulation 4(2) shall-

- (a) comply with the obligations set out in Article 4(3), and
- (b) ensure that the requirements of Article 4(4) are complied with.

(2) Where a manufacturer has mandated an authorised representative to perform the tasks set out in Article 4(3), the authorised representative shall comply with the requirements of Article 5(2).

(3) The obligations of an economic operator under this Regulation are in addition to any other obligations of the economic operator under these Regulations.

(4) A reference in this Regulation to an Article is a reference to an Article of the Market Surveillance Regulation.

Obligation of information society service provider to cooperate

15B An information society service provider shall cooperate with the market surveillance authority, at the request of the market surveillance authority and in a specific case, to facilitate any action taken to eliminate or, if that is not possible, to mitigate risks presented by a pyrotechnic article that is or was offered for sale online through their services.”,

(e) in Regulation 28-

- (i) in paragraph (3), by the substitution of “compliance with these Regulations and the Directive” for “that these Regulations and the Directive are being complied with”,
- (ii) by the insertion of the following paragraph after paragraph (3):

“(3A) In addition to any power conferred on him or her by paragraph (3), an authorised officer may-

- (a) require an economic operator to provide relevant information required for the purpose of ascertaining the ownership of websites, where the information in question is related to the subject matter of an investigation being undertaken for the purposes of these Regulations,
- (b) require an economic operator to provide relevant documents, technical specifications, data or information on compliance and technical aspects of the product, including access to embedded software in so far as such access is necessary for the purpose of assessing the product’s compliance with these Regulations and the Directive, in any form or format and irrespective of the medium of storage or the place where such documents, technical specifications, data or information are stored, and to take or obtain copies thereof, and
- (c) require an economic operator or any person to provide him or her with relevant information on the supply chain, on the details of the distribution network, on quantities of products on the market and on other product models that have the same technical characteristics as the product in question, where relevant for compliance

with the requirements under these Regulations and the Directive.”,

- (f) by the insertion of the following Regulation after Regulation 28:
Power to acquire product samples (including under cover identity)

“28A. (1) An authorised officer may, in order to identify non-compliance with these Regulations and the Directive, and to obtain evidence—

- (a) acquire (including under a cover identity) product samples, and
- (b) inspect such samples and reverse engineer them.

(2) The power conferred on an authorised officer by paragraph (1) is in addition to any other power conferred on an authorised officer by these Regulations.”,

- (g) by the insertion of the following Regulation after Regulation 30:
Removal of content from online interface

“30A. (1) Where no other effective means are available to eliminate a serious risk posed by a pyrotechnic article placed on the market, the market surveillance authority may-

- (a) require the removal of content referring to the product concerned or any article or substance used in the manufacture of the product from an online interface or require the explicit display of a warning to end users when they access an online interface, or
- (b) where a person fails to comply with a request under subparagraph (a), require information society service providers to restrict access to the online interface, including by requesting a relevant third party to implement such measures.”,

- (h) in Regulation 31, by the substitution-
 - (i) in paragraph (1)(a) of “Regulation 25, 26, 30 or 30A” for “Regulation 25, 26 or 30”, and
 - (ii) in paragraph (9) of “Regulation 33” for “Regulation 32”,
 - (iii) in Regulation 32, by the substitution, in each place where it occurs, of “Regulation 25, 26, 30 or 30A” for “Regulation 25, 26 or 30”, and

- (j) in Regulation 33(1), by the substitution of “Regulation 25, 26, 30 or 30A” for “Regulation 25, 26 or 30”.



GIVEN under my Official Seal,
28 August, 2024.

HELEN MCENTEE,
Minister for Justice.

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