

IV.

Explanatory memorandum

Draft Decree amending Decree No 288/2015 on the performance of fireworks operations

I. General part

1. Description of the content of the draft legislation, stating the reasons for its submission and a summary of the basic principles and the most important changes it introduces compared to the current legislation.

It is necessary to respond to the amendment to the Pyrotechnics Act from 2025 (Act No 344/2025), which changed the method of demonstrating professional competence for the handling of pyrotechnic articles. For this reason, it is necessary to adopt an amendment to the decree amending Decree No 288/2015 on the performance of fireworks operations, to establish a specimen for the certificate of professional competence for the handling of pyrotechnic articles of categories F3, F4, T2 and P2, i.e. to bring the existing provisions into line with the provisions of § 37(1) of Act No 206/2015 on pyrotechnic articles and their handling and amending certain acts (the Pyrotechnics Act), as amended by Act No 344/2025, and to improve the quality of its content.

Until now, a natural person was considered to have professional competence if they held a certificate of professional competence for handling pyrotechnic articles of:

- a) category P2, involving the sale, destruction or disposal of pyrotechnic articles in that category, or
- b) category T2 or F4, involving the purchase, sale, destruction or disposal of pyrotechnic articles in these categories, and carrying out fireworks operations.

The Czech Mining Authority is now authorised to grant licences for the handling of pyrotechnic articles, following an application by a natural person and subject to the conditions laid down in the Pyrotechnics Act. The Czech Mining Authority shall issue a certificate of professional competence to the person to whom this licence has been granted. The Czech Mining Authority shall lay down the specimen of this document in a decree. Moreover, professional competence for category F3 was not required until the adoption of the Pyrotechnics Act.

Furthermore, based on experience gained since the Pyrotechnics Act came into effect in 2015 and its subsequent implementation, the requirements for safeguarding life, personal health and property during the carrying out of fireworks displays have been amended, and several identified duplications have been removed.

2. Assessment of the existing legal situation

The current legal situation is based on Decree No 288/2015, which remains in force and sets out the specimen for a certificate of professional competence for the handling of pyrotechnic articles.

Following the amendment to the Pyrotechnics Act (Act No 344/2025), professional competence for the handling of pyrotechnic articles will no longer be proven by means of a certificate of professional competence, but by proof of professional competence. The holder of this proof of professional competence hereby demonstrates that they have been granted a licence by the Czech Mining Authority to handle pyrotechnic articles of the relevant category or categories (F3, F4, T2 and P2). At the same time, the amendment extends the scope of pyrotechnic articles for which professional competence will be required (now also for category F3). For this reason, it is necessary to lay down a new specimen for the proof of professional competence in an implementing decree.

3. Evaluation of the compliance of the draft legislation with the constitutional order and other components of the legal order of the Czech Republic.

The draft Decree complies with the constitutional order of the Czech Republic and Act No 206/2015 on pyrotechnic articles and the handling thereof and on amendments to certain acts (the Pyrotechnics Act), as amended, for the implementation of which it is being adopted. It is based on the principles set out in the Constitution of the Czech Republic and in the Charter of Fundamental Rights and in particular on the principle of legality referred to in Article 2(3) of the Constitution and Article 4 of the Charter and on the principle of the lawful exercise of official authority referred to in Article 2 of the Charter.

The authority to issue a decree and the limits thereof have hitherto been set out in § 33(6) and § 36(3) of Act No 206/2015 on pyrotechnic articles and their handling and amending certain acts (the Pyrotechnics Act). Henceforth, following the effective date of the amendment to the Pyrotechnics Act by Act No 344/2025, the enabling provisions will be contained in § 32(1) and (3) and § 37(1) of the Pyrotechnics Act; consequently, the draft decree also amends the wording of the provision in the introductory sentence of the decree.

4. Assessment of the compliance of the draft legislation with the obligations arising for the Czech Republic from its membership of the European Union.

The draft legislation is in accordance with European Union law, especially with 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. European Union case-law does not concern the area addressed in the implementing Decree. The draft decree is in accordance with the general principles of European Union law, such as the principle of legal certainty, the principle of proportionality and the prohibition of discrimination. The draft Decree will be notified in accordance with 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 regulations and of rules on Information Society services.

5. Assessment of the compliance of the proposed legislation with international treaties binding on the Czech Republic.

The proposed legislation is in accordance with the international treaties to which the Czech Republic is bound; or, no international treaty to which the Czech Republic is a party covers the area in question.

6. Expected economic and financial impact of the draft legislation on the State budget and other public budgets.

The Draft Decree will not have a financial impact on the state budget or on other public budgets, since it does not create new competences for administrative authorities, merely re-establishing those already required by law. The Czech Mining Authority will carry out these defined responsibilities within the limits of its budget. The proposed legislation will have no financial impact on the business environment. As obligations are already regulated in the Act, the decree has no impact on the business environment, with the exception that professionally qualified persons will now be issued with modern plastic cards instead of the previous paper ID cards.

7. Justification of the individual provisions of the draft legislation; the justification shall include an explanation of their purpose and necessity, a description of the legal rules contained therein and of the rights and obligations arising therefrom.

See the special part of the explanatory memorandum.

8. Evaluation of whether the draft legislation contains a provision which by its nature would constitute a technical regulation under the legislation governing technical requirements for products and information on compliance with the notification obligation under this legislation.

The draft Decree contains provisions that have the nature of a technical regulation, and therefore will be notified in accordance with Directive 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 regulations and of rules on Information Society services.

9. Expected impact of the draft legislation, in particular.

9.1 Impact on the rights and obligations of natural persons and corporate entities.

The draft Decree will not have a negative impact on the rights and obligations of natural and legal persons. The rights and obligations are regulated in the draft Act, which authorises the issuance of this Decree. The draft decree is draft implementing legislation on the basis of which, due to its nature, neither obligations nor new rights are imposed nor can be created.

9.2 Impact on the business environment in the Czech Republic.

The draft Decree will have no negative impact on the business environment. The rights and obligations are regulated in the draft Act, which authorises the issuance of this Decree. From the perspective of modernising the documents issued to qualified individuals – moving from paper certificates to small plastic cards – the change can even be viewed in a slightly positive light as far as businesses in the sector are concerned.

9.3 Assessment of whether the draft legislation constitutes State aid.

The draft Decree does not and cannot constitute State aid, since the proposed legislation does not concern the allocation of public funds, does not confer a direct or indirect advantage on certain undertakings or sectors and is not selective in nature.

9.4 Social impact, including impact on specific groups of the population, in particular the socially vulnerable, persons with disabilities and national

minorities.

Given the purely organisational nature of the legislation in question, the draft Decree will not have any adverse social impact on any section of the population or on the environment.

9.5 Expected impact of the draft legislation on equality between men and women, if the draft legislation regulates or affects the status of natural persons.

The draft Decree contains no provisions contrary to the prohibition of discrimination. The draft does not regulate the status of natural persons. The impact on gender equality is neutral.

9.6 Environmental impact.

Given the organisational nature of the given legislation, the submitter does not expect any environmental impacts.

9.7 Impact on the protection of children's rights.

The draft decree does not concern the protection of children's rights; it has no negative, more precisely no impact on families.

9.8 Impact on national security or defence.

The decree does not have a negative impact on the security and defence of the state; on the contrary, on the basis of the refinement of the conditions for activities in the field of pyrotechnics, modest security benefits can be expected.

9.9 Impact relating to the protection of privacy and personal data.

The proposed legislation has no bearing on the protection of privacy, does not enforce or foresee the processing of personal data. The issue of obtaining an extract from the Criminal Records Register for the purpose of verifying good character in relation to professional competence is already covered in the current, effective version of the Pyrotechnics Act, not in the decree.

10. Assessment of corruption risks of the draft legislation.

The draft legislation contains no provisions posing potential corruption risks. All activities are based on the relevant legislation and are organised in a fair and transparent manner. The Decree contains only a technical specification.

11. Evaluation of territorial impacts, including impacts on local self-governing units

The draft legislation will have no impact on local governments.

12. Assessment of the compliance of the proposed solution with the principles of creation of digitally friendly legislation

The draft legislation is not in conflict with the principles of creating digitally-friendly legislation. Taking into account the preferences of the persons concerned and the practicality of demonstrating professional competence when purchasing pyrotechnic articles, preference was given to plastic cards instead of digital documents. The more modern form of the document will be prepared digitally by the authority, which can be seen as taking into account some principles of digitally friendly legislation. The visualisation containing the data will then be printed out, and the card will be sent or handed over to applicants, thereby eliminating the risk of specific groups of people being excluded from or having their access to certain services restricted as a result of the

digitisation of their provision.

13. Information under the Lobbying Regulation Act

The draft Decree has not been the subject of lobbying nor does it concern lobbying pursuant to the Lobbying Regulation Act. Rights and obligations were already laid down in the Pyrotechnics Act.

II. Special part

Re: amending point 1 [amendment to the introductory sentence]

The authority to issue a decree and the limits thereof were previously set out in § 33(6) and § 36(3) of the Pyrotechnics Act. From now on, following the effective date of the amendment to the Pyrotechnics Act by Act No 344/2025, the enabling provisions will be contained in § 32(1) and (3) and § 37(1) of the Pyrotechnics Act, as amended (by Act No 344/2025), and consequently the draft Decree includes a corresponding amendment to the wording of the provision in the introductory sentence of the decree.

Re: amending point 2 [amendment to § 1]

The scope of the Decree is being amended in line with the change to the wording of the enabling provisions set out in § 32(1) and (3) and § 37(1) of the Pyrotechnics Act, following the effective date of the amendment to the Pyrotechnics Act by Act No 344/2025. This means the establishment of requirements to ensure the protection of human life, health and property during the carrying out of fireworks displays, requirements regarding the content of the technical procedure for fireworks displays, and a new template for a document – no longer a certificate – attesting to professional competence in the handling of pyrotechnic articles. There is also a clarification of the designation of the document; after the amendment, the Pyrotechnics Act refers only to ‘proof of professional competence’, however, for legal certainty the specification of what the document concerns is retained.

Re: amending point 3 [deletion of § 2(b)]

The provisions of § 2(b) of the Decree defines the basic concept a ‘fireworks operator’. Given that the decree regulates the performance of fireworks operations, which, pursuant to § 32 of the Pyrotechnics Act, as amended following the effective date of the amendment to the Pyrotechnics Act by Act No 344/2025, are supervised by a chief fireworks operator who must be a person with professional competence, the definition of a term that is no longer in use has become redundant and is therefore deleted by the amendment to the Decree. In this context, the lettering of the provision in question has been amended and the footnote, which was no longer relevant, has been deleted.

Re: amending point 4 [amendment to § 2(b), § 4(3), § 5(2), § 6(3) and Annex 1 points 4, 10, 13 and 15]

Given that the aforementioned amendment to the Pyrotechnics Act has replaced the term ‘chief fireworks operator’ with the term ‘chief operator of fireworks operations’, a corresponding amendment – i.e. the replacement of these terms – is also being made to the text of the decree.

Re: amending points 5 and 6 [deletion of § 2(g) (formerly subparagraph h)]

The provisions of § 2(g) – originally (h) – of the Decree define the basic term ‘electrostatically earthed object’. Decree No 288/2015 uses this term only in § 11, the deletion of which is

proposed. Consequently, there is no longer any need to define that concept and its definition is therefore repealed by the amended decree. Because the e-Legislativa system does not allow this to be implemented via a single amendment, the deletion of the original subparagraph (h) and the ending of § 2 have been split into two separate amendments.

Re: amending point 7 [amendment to § 3(2)]

The term ‘general technological procedure’ is being removed from the text, along with the corresponding legislative abbreviations, as this term is no longer used in Act No 206/2015 following its amendment; consequently, footnote 3, which previously referred to the previous use of this term in the Pyrotechnics Act, is being deleted.

Re: amending points 8, 11 and 12 [amendment to § 3(1)(c), § 4(1) and § 5(1)]

A terminological change has been incorporated, namely the replacement of the term ‘reporting’ in § 32(3) of Act No 206/2015 with the term ‘notification’; in this context, the reference in footnote 5 has also been updated. Because § 33(4) of the Pyrotechnics Act no longer regulates decisions on permitting fireworks operations and refers only to ‘permitting fireworks operations’, the text of the decree is also correspondingly refined in the relevant provisions. The three amendment points are dealt with in this provision because the eSeL system does not allow the change to be made via a single amending point.

Re: amending point 9 [amendment to § 3(2)]

Because, within the meaning of Annex 1 to Decree No 288/2015, every technological process must include measures to be taken in the event of a malfunction, as well as the method for disposing of a malfunctioning, damaged or obviously non-functional pyrotechnic article, the original legal provisions, which combined the technical procedure with the instructions for use, have been reworded; however, not all instructions for use specify the method of destruction or disposal of a damaged or non-functional product. The technical procedure will take into account the instructions for use where the instructions regulate the matter in question at all and where the procedure in accordance with the instructions sufficiently ensures that there is no risk to life, health or property.

Amending points 10 and 24 [amendment to § 3(4) and Annex 1 point 5]

Pursuant to the current version of Decree No 288/2015., proof that those involved in the preparation of the fireworks display have been familiarised must be included in the technical procedure. This documentation, particularly where it forms the basis for the issue of a decision permitting fireworks operation, is fixed and no further documents may be formally and correctly inserted into it, as this would undermine the verifiability of the documentation’s wording. The procedure in question is therefore clarified to the effect that the relevant proof of familiarisation are simply attached to this documentation, meaning that the documentation itself remains unchanged. Furthermore, the documents confirming familiarisation with the documentation and the conditions for carrying out the fireworks display have been omitted from the technical procedure, as the timeline for preparing the fireworks operation does not, in practice, allow for familiarisation with the documentation to take place whilst it is still being drawn up.

Re: amending point 13 [amendment to § 5(2)]

The method of identifying patrols is now outdated and has therefore been replaced in the text with the option of equipping patrols with a high-visibility vest, company branding or another suitable means, instead of a light and a flag.

Re: amending point 14 [amendment to § 5(3)]

The draft amendment further specifies what protection is granted against the adverse effects of a pyrotechnic article being operated. The operational procedure specifies the locations of shelters for personnel, patrol posts and operating positions. It is newly emphasised that these locations are governed by local conditions with a view to ensuring sufficient protection of life, health and property from the adverse effects of the pyrotechnic article being operated.

Re: amending point 15 [deletion of § 6(1)]

It is proposed that the provision contained in the current version of Decree No 288/2015 – which is also set out in Annex 1 to that Decree – be deleted, as it is, in particular, directly incorporated into § 32(2)(b) of the amended Pyrotechnics Act.

Re: amending point 16 [amendment to § 7]

In order to enhance legal certainty and public awareness, and to improve the enforceability of the obligation to handle pyrotechnic products solely within a designated handling area whilst preparing a fireworks operation, it is necessary to mark out the handling area on site.

Re: amending point 17 [deletion of § 8(2)]

It is proposed that the provisions of § 8(2) be deleted as redundant, as the evacuation of the affected area is already dealt with in the provisions of § 6(2) of the Decree. In view of this duplicity, and based on experience gained in the exercise of powers relating to the handling of pyrotechnic articles, the provision in question was assessed as superfluous, as the provision in § 6(2) of the aforementioned decree is entirely sufficient to address the matter in question.

Re: amending point 18 [deletion of § 9 to 11]

It is proposed that provisions in the current version of Decree N 288/2015, which are identical in content to the instructions for use of individual products – which must include such instructions – be deleted. The provisions in the instructions for use are sufficient, as fireworks operation – including the preparation of ignition systems for pyrotechnic articles – may only be carried out by a person with the necessary professional qualifications (a holder of a certificate of professional competence for handling pyrotechnic articles), in accordance with the documentation drawn up for the fireworks operation. Furthermore, fireworks operation may only be performed in such a way as to avoid endangering human lives and health or causing damage to property. Knowledge of the various methods of igniting pyrotechnic articles forms part of the training required to obtain a licence to handle pyrotechnic articles. There is therefore no longer any justification for regulating in further detail and specifically the use of detonators or fuse caps, electric ignition and the protection of electric ignition against the effects of external energy; these matters must be covered in the instructions for use.

Re: amending point 19 [a change to § 12]

The waiting time is being reduced from 10 to 5 minutes, in accordance with the provisions of § 12(1) of the Decree. This change reflects the fact that, in pyrotechnics, electric or radio-controlled devices – or a combination of the two – are now used for ignition, and it is no longer necessary to wait as long as before, as any failure is essentially apparent immediately. In the event of a failure or even a mere suspicion of one, the situation, including disposal, is dealt with in accordance with the technical procedure (see paragraph 2 of the same provision).

Re: amending points 20 to 22 [amendment to § 13]

The provisions of § 13 are amended on the basis of the changes contained in the amendment to the

Pyrotechnics Act, according to which certificates of professional competence for the handling of pyrotechnic articles will no longer be issued. Instead, the Czech Mining Authority will issue proof of professional competence to a person who has been granted a licence to handle these products. There is also a clarification of the designation of the document, since the Pyrotechnics Act after the amendment refers only to a 'proof of professional competence'.

Re: amending point 23 [amendment to Annex 1 point 3]

In view of the intention to issue proof of professional competence in the form of plastic cards without serial numbers, it is proposed to specify the content of the technical procedure for the performance of fireworks operations, with the reference number of the certificate or proof of professional competence to handle pyrotechnic articles being displayed rather than the certificate number. At the same time, the terminology is being clarified, or rather, the newly introduced terms are being incorporated into Act No 206/2015.

Re: amending point 25 [amendment to Annex 1 point 8 (originally 9)]

A list of property owners located within the safety zone of fireworks operations is already known either from the notification of performance of fireworks operations pursuant to the provisions of § 35(4) of the Pyrotechnics Act or from the application for a permit for fireworks operations pursuant to § 33(2)(b) of the same Act. For this reason, the duplicate provision in point 8. (previously 9.) of the annex to the amended Decree is deleted.

Re: amending point 26 [amendment to Annex 1 point 11 (formerly 13)]

In view of the deletion of § 11 by amending 14 of the draft, this point deletes the reference to that provision in the text of Annex 1.

Re: amending point 27 [amendment to Annex 1 point 20 (formerly 22)]

Based on the experience gained after the Decree (i.e. from 2015) came into effect, the scale of map attachments submitted in the documentation has been clarified in order to increase the clarity and readability of the data. At the same time – following the deletion of some points – the references to the data to be included in the map appendices are being updated. Act No 344/2025 introduced a new obligation in § 35b, pursuant to which handling pyrotechnic articles of categories F3, F4, T2 and P2 within a distance of 250 metres from premises protected by this Act is prohibited. For this reason, point 20 of Annex 1 to the Decree has expanded the content of the site map to include the obligation to mark the nearest protected premises and to demonstrate that its distance from the firing site is at least 250 metres. The wording of the footnotes has also been updated to align with the new wording of Act No 206/2015 after 1 January 2027; however, as the eSeL system's automatic text generation did not allow for the publication of this point, including footnotes 9 and 10, these are published on separate lines, which is legally permissible under Article 24 of the Government's Legislative Rules.

Re: amending point 28 [amendment to Annex 1 – point 21 (originally 23)]

The requirement to specify a location for the technical procedure during the performance of fireworks operations is being deleted, as this location is already specifically stipulated in § 4(3) of Decree No 288/2015. The resulting Annex 1 should therefore stipulate only the requirements of the technological process, and not aspects relating to its handling.

Re: amending point 29 [amendment to Annex 2]

Following amendments to the Pyrotechnics Act in 2025, a new format for the proof of professional competence in the handling of pyrotechnic articles is being introduced. The existing

paper A4 size document will be replaced with a plastic card measuring 85.60 x 53.98 mm. The purpose is to increase convenience for its holder, to ensure greater practicality and modernization of the form of the document. The proposed amendments respond, amongst other things, to the concerns of the professional community and associations representing individuals and companies in the pyrotechnic products sector, as well as to the wording of the draft amendment to Act No 206/2015.

Re: amending points 30 and 31 [amendment to the wording of footnotes 1 and 4]

In view of the changes to the wording of Act No 206/2015 following its amendment, footnotes 1 and 4 have been updated. The legislative solution, set out in separate amendment clauses, reflects the automatically generated text of the amending legislation produced by the eSeL system, which did not allow these notes to be amended directly within the individual provisions of § 2 and 3.

Regarding Article II

This Implementing Decree will be notified in accordance with 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 regulations and of rules on Information Society services. The text meets the requirements of the Government's legislative rules.

Re: Article III

It is proposed that the effective date be set, in accordance with the relevant legislation, as a specific date chosen to ensure that the requirements of the Act are met whilst maintaining legal certainty. The date of 1 January 2027 would be problematic, as a significant proportion of fireworks displays take place as part of New Year's celebrations, when the fireworks are set off at exactly midnight or at the start of 1 January, i.e. 00:01, and the fireworks display would therefore take place after the new legislation comes into force, but preparations for this fireworks display at the launch site – which entail certain obligations – would still be carried out whilst the original legislation remains in force.