

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 present, and those to come, salutations.

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 Central Council of the Economy (CCE) Opinion (???) of the Special Advisory Commission on Consumption as the representative of the sectors concerned, issued on (date);

Having regard to the opinion of the Inspectorate-General of Finance (IGF), issued on ... (date);

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

On the recommendation of the Minister for the Economy,

We have decreed and hereby decree:

Article 1. In Article 260 of the Royal Decree of 23 September 1958 laying down general rules on the manufacture, storage, possession, sales, transport and use of explosives, as amended by the Royal Decree of 1 February 2000, the existing text of which shall constitute paragraph 1, paragraph 2 reading as follows shall be inserted in replacement of paragraph 2, inserted by the Royal Decree of 9 February 2024 and annulled by Judgment No. 263.383 of the Council of State:

‘Paragraph 2. By way of derogation from paragraph 1, no storage permit shall be required for:

1° the holding and sale of fireworks by traders who are not retailers of festive fireworks and who supply the following types of fireworks together with another product:

a) sparklers that the Royal Decree of 20 October 2015 on the making available on the market of pyrotechnic articles, hereinafter referred to as ‘the Royal Decree of 20 October 2015’, classifies as category F1, and that are suitable for indoor use;

b) fountains classified in category F1 according to the Royal Decree of 20 October 2015 and that are suitable for indoor use;

2° the holding and sale of the following types of fireworks by traders who are not retailers of festive fireworks and who sell specific products for which these fireworks are required:

a) pyrotechnic articles with built-in electric ignition, classified in category P1 in accordance with the Royal Decree of 20 October 2015, containing no more than half a gram of pyrotechnic composition per article and designed for use in pest control devices;

b) pyrotechnic cartridges classified in category P1 according to the Royal Decree of 20 October 2015 and intended to be loaded in fastening and marking tools.

The fireworks shall be kept 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.’.

Article 2. In Article 265 of the same decree, the provision under 7°, replaced by the Royal Decree of 25 April 2004, replaced by the Royal Decree of 9 February 2024 and annulled by Judgment No 263.383 of the Council of State, shall be replaced as follows:

‘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:

(a) pyrotechnic articles that economic operators may make available to consumers in accordance with Article 12 of the Royal Decree of 20 October 2015;

b) squibs specially designed for toys;

c) distress signals classified as marine equipment according to the Royal Decree of 25 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 on board.’.

Article 3. In the same decree, Article 265a, inserted by the Royal Decree of 9 February 2024 and annulled by Judgment No 263.383 of the Council of State, the following Article 265a shall be inserted:

‘Article 265a. It is prohibited for persons who have not yet reached the age limits provided for in Article 13(1) of the Royal Decree of 20 October 2015 to hold the products referred to in Article 12 of the Royal Decree of 20 October 2015.’

Article 4. In the same decree, Article 267, replaced by the Royal Decree of 9 February 2024 and annulled by Judgment No 263.383 of the Council of State, shall be replaced as follows:

‘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 5. 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, as amended by the Royal Decree of 9 February 2024 and annulled by Judgment No 263.383 of the Council of State:

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, the sound level of which exceeds 120 dB(A, impulse) at 8 metres away;

d) 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, the sound level of which exceeds 120 dB(A, impulse) at a distance of 8 metres;

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:

i) being waterproof;

ii) being designed to generate a distress signal in an emergency and also recognisable as such;

iii) being provided with a legible indication of their intended use;

iv) being sold for the purpose of generating a distress signal in an emergency.’.

Article 6. The following amendments are made in Article 13 of the same decree, amended by the Royal Decree of 9 February 2024 and annulled by Judgment No 263.383 of the Council of State:

1° in paragraph 1(1)3°, the words ‘categories T1 and’ are replaced by the word ‘category’;

2° paragraph 2 is replaced with the following:

‘Paragraph 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 7. The following amendments are made in Article 56 of the same decree, amended by the Royal Decree of 9 February 2024 and annulled by Judgment No 263.383 of the Council of State:

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°’ are now removed.

Article 8. 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,

David CLARINVAL