

## **General Provisions**

### **HOME OFFICE**

#### **No. 4675**

DECREE 240/1998, of 22nd September, regulating the performance of shows with pyrotechnic devices in the Basque Autonomous Community.

Act 4/1995, of 10<sup>th</sup> November, on public entertainment and recreational activities, passed in the exercise of the power provided for in Article 10.38 of the Statute of Autonomy of the Basque Country, authorises the Government, in its Article 5, to determine the rules and conditions regarding the performance of the shows, as well as the requirements and the procedure for their authorisation. Furthermore, Article 16.2.c) of the said Act establishes that shows involving the launching or burning of pyrotechnic devices will be subject to administrative authorisation.

On the other hand, the new types of pyrotechnic devices which have been emerging, their technology and the high risk which their use implies, make it necessary to regulate their display in a stricter way. The aim of the present Decree is, therefore, to establish the conditions for a reasonably safe performance, trying to maximise the safety for people and goods, whose protection is deemed to be essential. In this regard, safety measures, both active and passive, have been increased, without impairing the performance of the show, establishing and delimiting three progressive safety areas, i.e. the firework area, the launching area and the safety area, in keeping with the risks connected with each of them.

The technical concepts and terms used in the provisions of the Decree have also been defined in the most didactical way possible, in order to make their understanding easier, both for the organisers of the said shows, and for the pyrotechnic companies which take part in them.

The liability of the individuals which take part in the show has been determined with the greatest precision possible, as well as the minimum insurance required, so as to compensate for the potential damages which may occur, differentiating the activity for which the pyrotechnic company is liable, as a profit-making company, and the activity for which the organising entity is liable, as promoter of the show. The functions, powers and authority held by each of the people who take part in the organisation, display, control and supervision of pyrotechnic shows have also been determined.

Provisions have also been made for the cases and circumstances which could cause the suspension and/or prohibition of the show, determining the individuals with authority to make such decision, in such a way that the appropriate decisions to protect the spectators from a possible risk are ensured.

Finally, in keeping with the provisions in Act 4/1995, of 10<sup>th</sup> November, on public entertainment and recreational activities, a list of infringements has been regulated, differentiating between minor, serious and very serious infringements and setting the penalties resulting from them.

Pursuant to which, in accordance with the State Council, at the proposal of the Home Secretary, the Basque Council for Public Entertainment and Recreational Activities having issued a report and following the deliberation and approval of the Government Council in their session dated 22<sup>nd</sup> September 1998,

## I PROVIDE:

### Article 1.- Object.

The object of the present Decree is the regulation of public shows involving the launching or burning of pyrotechnic devices in the Basque Autonomous Community.

### Article 2.- Exclusions.

For the purposes of the present Decree, those outdoor events which exclusively include pyrotechnic devices from those listed in Appendix I to the present Decree, will not be considered to be shows with pyrotechnic devices, provided the net weight of the explosive to be used altogether does not surpass 50 kilograms.

Subject to what is stated in the previous paragraph, the municipal regulations may establish specific conditions or requirements for the performance of the said events.

### Article 3.- Definitions

For the only purposes of the present Decree, the following is understood:

a) Pyrotechnic device: any object, appliance or contrivance aimed at producing a visible or audible effect by combustion, deflagration or detonation in a public show. In any case, pyrotechnic devices must be legally in keeping with the classification which may be established, in accordance with the regulations in force.

b) Safety area: the space between the place where the pyrotechnic devices are launched and the line which delimits the presence of the viewing public, whose aim is to provide them with a reasonably safe performance of the show (Appendix II, Chart No. 1).

c) Safety radius: the distance between the place where the pyrotechnic devices are launched and the perimeter line of the safety area which delimits the presence of the viewing public (Appendix II, Chart No. 1).

d) Launching area: the space within the safety area, especially enclosed and protected, which includes the firework area (Appendix II, Chart No. 1).

e) Firework area: the space within the launching area, exclusively intended for setting up the show and launching the pyrotechnic devices (Appendix II, Chart No. 1).

f) Organising entity: natural or corporate person, either public or private, which undertakes the performance of the show before the Administration and/or the public.

g) Pyrotechnic company: natural or corporate person, which undertakes the assembly and launching operations, as well as the legal appropriateness of the pyrotechnic devices to be used, before the authorising Administration and/or the organising entity.

Only those pyrotechnic companies duly authorised by the appropriate Administration may take part in shows with pyrotechnic devices in the Basque Autonomous Community. It will be understood that such authorisation exists when the company holds a licence or authorisation as an explosives factory or a pyrotechnic workshop.

h) Pyrotechnic operator: a person duly authorised by the pyrotechnic company in charge of the show to carry out the unpacking, lighting, assembly, handling and launching of the pyrotechnic

devices. In any case, and subject to such authorisation, pyrotechnic operators must comply with the requirements of the applicable regulations with regard to their professional qualification for that purpose.

i) Pyrotechnic assistant: a person qualified for unloading and moving the launching devices and auxiliary or fastening elements and any other auxiliary activity. All of it, under the supervision of the authorised pyrotechnic operators and under the exclusive responsibility of the pyrotechnic company.

j) Change, time or repetition shells: pyrotechnic device consisting of lift charge, transmission fuse and priming charge to be launched with a mortar or gun, which houses single-shot pyrotechnic units as well as time and space delayed effects.

k) Mortar or gun: tube from which certain pyrotechnic devices are fired.

l) Launching angle: the angle formed by the vertical and the longitudinal axis of the mortar or launching device (Appendix II, Chart No. 2).

#### Article 4.- Application for authorisation

1.- The performance of public shows with pyrotechnic devices can only be carried out with the prior authorisation of the Gaming and Entertainment Department of the Home Office of the Basque Government, and for this purpose, the entity which organises the show must produce, at least 10 business days before the show is performed, the documents listed in the following section, written in any of the official languages of the Basque Autonomous Community. If, seventy-two hours before the performance, no resolution has been issued in this regard, the requested authorisation will be understood as granted.

2.- The documents necessary to apply for the authorisation to perform pyrotechnic shows are the following:

a) Application for authorisation, according to the standardised model established as Appendix III in the present Decree.

b) If the show affects public ways or spaces, a document certifying the consent of the appropriate Town Council for the launching or burning. This requirement will not be necessary when the Town Council itself is the entity which organises the show.

c) Certificate issued by the appropriate Administration stating that the pyrotechnic company is duly authorised, or holds a licence or authorisation as an explosives factory or pyrotechnic workshop. Also, in the case of pyrotechnic companies from non-member States of the European Union, the credentials required by the regulations in force.

d) Safety and emergency plan for the show, which will include, as well as what is provided in Article 10 of the present Decree, a document by an insurance company or an insurance broker certifying the existence of an accident and public liability insurance policy underwritten by the entity which organises the show, according to the standardised model established as Appendix IV in the present Decree, and which, at least, must cover a capital of 25,000,000 pesetas, subject to what is established in the First Additional Provision of the Present Decree.

e) A certificate by the pyrotechnic company which must include the following information:

- net weight of the explosive of the set of pyrotechnic devices which make up the show.
- type of pyrotechnic devices to be launched. Whenever the launching of devices called change, time or repetition shells, whatever their commercial name, is expected, this must be expressly stated, as well as their calibre.
- outer diameter of any other device of or above 150 mm in calibre.
- identification of the technical operators who will take part in the show, as well as the person in charge during the performance.

f) A document by an insurance company or insurance broker certifying the existence of the civil liability insurance policy underwritten by the pyrotechnic company, according to the standardised model established as Appendix V in the present Decree, and which, at least, must cover a capital of 50,000,000 pesetas.

3.- The veracity of the data requested in letter e) in the previous paragraph, as well as the compliance with the requirements of the applicable regulations as for the professional qualification of the pyrotechnic operators, will be the exclusive responsibility of the pyrotechnic company.

Article 5.- Legal appropriateness, transportation, circulation and custody of pyrotechnic material.

1.- The legal appropriateness of the pyrotechnic devices to be used in the show, as well as the packing and packaging conditions, in accordance with the requirements in that regard established by the applicable regulations on explosive materials, will be the exclusive responsibility of the pyrotechnic company in charge of carrying out the launching.

2.- The transportation of pyrotechnic material, as well as the circulation of vehicles which transport pyrotechnic material on roads and public ways of the Basque Autonomous Community, will be carried out in accordance with what is established by the regulations in force on that matter, as well as with the provisions established in that regard by the Traffic and Vehicles Department of the Home Office of the Basque Government within the scope of their powers.

3.- As soon as the pyrotechnic devices are in the site where the show is to be performed, they must be kept under permanent surveillance by staff from the pyrotechnic company so as to prevent the effects of meteorological agents or analogous circumstances.

Moreover, they must be protected by the organising entity so as to prevent actions by people which may affect the safety of the show. This protection must be carried out in accordance with the regulations in force on surveillance and safety matters.

Article 6.- Setting up the show.

1.- Before setting up the show, the pyrotechnic operators must inspect the pyrotechnic devices, discarding, if appropriate, those which have defects which may affect the safety of the show.

2.- The unloading, unpacking, lighting and assembly of all the launching devices, as well as, in general, all the handling of pyrotechnic devices which may be required to prepare and perform the launching, will be carried out in accordance with the specifications of the applicable regulations.

All the operations will be carried out by the pyrotechnic operators and assistants authorised by the pyrotechnic company and under the exclusive responsibility of the said company. To this

end, the pyrotechnic company will have the sufficient number of qualified pyrotechnic operators and assistants to carry out these operations without any risk.

3.- The mortars or guns to be used in the launching of pyrotechnic devices must include a clearly visible statement of their inner diameter in millimetres.

4.- The mortars or guns will always be placed within the firework area, and in such a way that the pyrotechnic devices are propelled either in vertical direction, or in a direction opposed to that where viewers are situated. Under no circumstances shall the mortars or guns be placed in angle towards the viewing area of the spectators (Appendix II, Chart No. 2).

#### Article 7.- Safety area

1.- A safety area will be established for each show, which must be enclosed or bounded by fences, ropes, tape or a similar system, or alternatively, under sufficient surveillance by the organising entity.

2.- The perimeter of the safety area will be determined by the safety radius. This safety radius cannot be less than 85 metres.

3.- In the cases of launching pyrotechnic devices called change, time or repetition shells, the safety radius cannot be less than what is established in the following scale:

Shell calibres up to 125 mm in outer diameter: .....	85 m.
Shell calibres from 126 to 150 mm in outer diameter: .....	100 m.
Shell calibres from 151 to 175 mm in outer diameter: .....	115 m.
Shell calibres from 176 to 200 mm in outer diameter: .....	130 m.
Shells calibres from 201 to 250 mm in outer diameter: .....	165 m.
Shell calibres from 251 to 300 mm in outer diameter: .....	200 m.

For the other devices the following scale will be applicable:

Calibres up to 150 mm in outer diameter: .....	85 m.
Calibres from 151 to 175 mm in outer diameter: .....	92 m.
Calibres from 176 to 200 mm in outer diameter: .....	104 m.
Calibres from 201 to 250 mm in outer diameter: .....	132 m.
Calibres from 251 to 300 mm in outer diameter: .....	160 m.

In order to determine the safety radius, only an increase allowance of 5 mm in the diameter of the calibres will be admitted.

4.- In the case of vertical launching, the centre of the safety area will be determined by the place in the firework area where the devices which require a greater safety radius are installed.

5.- In the case on non-vertical launching, the centre of the safety area will be determined by the vertical projection of the explosion point in the air of the devices, which will be estimated, under normal conditions, at 150 metres from the launching point as measured on the tangent to the predetermined trajectory.

For the purposes of calculating the centre of the resulting safety area, the distances established in the scale included as Appendix IV to the present Decree will be applied, and such

distances will be understood as displacements, in the same direction as the launch, from the centre of the safety area which would result from a vertical launch (Appendix II, Chart No. 2)

6.- Under no circumstances shall the launching angle exceed 30 degrees with regard to the vertical.

7.- When the safety area is at a lower level than the firework area, the organising entity will adapt the safety area, within the minimums established, in order to achieve the best protection for the spectators.

8.- Within the safety area there cannot be any hospitals, clinics, homes for the elderly, police centres, emergency centres or any other buildings, structures or communication channels which, due to their special risk, are liable to suffer any accidents which may affect the safety of the population. Also, if the show is to take place during school hours, there cannot be any educational centres.

When there are occupied buildings within the safety area other than those indicated in the previous paragraph, the organising entity will announce this circumstance and will warn the affected population using the appropriate media and in sufficient time. When the organising entity is of a private nature, this announcement must be carried out through the corresponding municipal authority.

9.- The pyrotechnic company, under their exclusive responsibility, must inform the organising entity, in sufficient time and in writing, so as to have the authorisation arranged and the safety area adapted, of the following circumstances regarding the pyrotechnic devices to be launched in the show:

a) When in the case of non-vertical launching it is expected that the estimated distance from the launching point, as measured on the tangent to the trajectory, could be less than 150 m.

b) When other pyrotechnic devices are included, whose effects on the protection of the spectators could be equivalent to the types and diameters of the devices referred to in section 3 of the present Article. In this case, a safety radius at least the same as that established for these should be set.

c) When it is expected that, due to the specific characteristics of the devices, the minimum established for the safety radius could be insufficient for protection purposes.

d) When devices with calibres above 300 mm in diameter are expected to be launched.

In cases c) and d), the pyrotechnic company will determine the corresponding increase in the safety radius, according to the characteristics of the device, the relief of the site and the building and population density.

10.- It will be for the organising entity to determine the location and delimitation of the safety area, in accordance with what is established in this Article.

#### Article 8.- Launching area

1.- Within the safety area, a launching area must be established around the pyrotechnic devices of, at least, five metres, starting from any launching or pyrotechnic device. This area must

be especially enclosed or fenced to prevent the spectators or any other unauthorised person from entering.

2.- The launching area must be permanently protected while containing any device liable to burn, deflagrate or detonate.

3.- Only the pyrotechnic operators and assistants and, if appropriate, those people attached to the organising entity or to the authorising Administration with inspection duties with regard to the show can have access to the launching area.

4.- While the show is in progress, only the necessary pyrotechnic operators can be in the launching area.

5.- No person will be allowed within the launching area while under the influence of alcohol or drugs which may impair their judgement, movements or stability in a way which can be detrimental to the safety required in this area.

6.- Compliance with the provisions in the previous paragraphs will be the responsibility of the organising entity.

#### Article 9.- Firework area

1.- The firework area must have the following characteristics:

a) Under no circumstances shall it be less than 85 m away from the line delimiting the safety area.

b) The ground must have enough consistency and cannot be easily burnable. It must also be flat and horizontal or allow a supporting base with these characteristics for the launching devices.

c) Its location must prevent the trajectory of the devices from coinciding with any other raised object, obstruction or obstacle which may affect the safety of the launch.

2.- The fastening of the launching devices must prevent any variation in the vertical or, if appropriate, in the predetermined launching angle.

3.- The pyrotechnic company must have the sufficient number of pyrotechnic operators to carry out the launching of the devices. This staff must be acquainted with the risks and the safety required during the launch, as well as the measures to be taken if necessary.

4.- Compliance with the provisions in section 1 in this Article will be the responsibility of the organising entity.

5.- Compliance with the provisions in sections 2 and 3 in this Article will be the responsibility of the pyrotechnic company.

#### Article 10.- Safety and emergency plan.

1.- The entity which organises the show will present the safety plan for the show, which will contain the measures aimed at preventing the possibility of accidents, and will include at least the following:

a) Protection planned for the launching area until the time the show starts, in accordance with section 3 of Article 5 of the present Decree. Also, protection planned for the safety area during the performance of the show.

b) Statement about the non-existence of the constructions referred to in section 8 of Article 7 of the present Decree.

c) Manpower and equipment necessary for protection purposes and for compliance with the safety measures established.

2.- Moreover, the organising entity will present the corresponding emergency plan drawn up by qualified engineers, in accordance with the following minimum contents:

a) Study and assessment of risk factors and classification of foreseeable emergencies.

b) Human and material resources and means available in case of emergency, which will include, at least:

- an ambulance provided with appropriate staff and equipment in relation to the distance to the nearest health centre.
- fire protection level adequate to the show. To this end, the appropriate fire extinguishing service will determine the necessary staff and equipment, as well as those who must be present in the show.

c) Description of the functions and actions of the staff for each case of emergency.

d) Directory of the emergency attention and civil protection services which must be alerted if an emergency takes place.

e) Recommendations which must be displayed to the public and their location, as well as ways of transmitting the alarm once it has taken place.

f) Descriptive plan of the land where the show is to be held, indicating:

- the exact situation of the firework area and its surrounding area in a radius of 500 metres.
- the delimitation of the safety area and the spaces where the presence of public is expected, as well as a representation of the safety radius and its size in metres.
- the position and accesses to the aid and assistance means in case of accident, which will be determined according to the characteristics of the show and the place where it is to be held.
- the situation of the buildings, roads and other communication lines, as well as other relevant elements for safety and evacuation purposes.
- the launching direction with regard to the area intended for the spectators in the case of non-vertical launching, as well as the expected launching angle.



3.- The person appointed by the organising entity to be in charge of the show will watch over the fulfilment, surveillance and control of the contents of the safety plan and the emergency plan, as well as the safety measures established in the present Decree and in the authorisation for the show which correspond to that entity.

#### Article 11.- Organisation

1.- The responsibility derived from the performance of the show will fall on the organising entity with regard to all that which the present Decree does not establish as the exclusive responsibility of the pyrotechnic company.

2.- Subject to the provisions in Article 26 of Act 4/1995, of 10<sup>th</sup> November, on Public Entertainment and Recreational Activities, the people empowered to watch over the safety of the show, according to the powers established in the present Decree, will be the following:

- a) the person in charge appointed by the pyrotechnic company.
- b) the person in charge appointed by the organising entity.
- c) the officers attached to the Gaming and Entertainment Department of the Home Office of the Basque Government present in the show.
- d) the officers attached to the appropriate municipal authority present in the show.

3.- Just before the show starts, staff from the organising entity will visually check the appropriateness of the safety and emergency plans drawn up for the show, as well as the correct situation of the spectators. This staff must bear some visible identification.

#### Article 12.- Prohibition, suspension and interruption of the shows.

1.- The Gaming and Entertainment Department of the Home Office of the Basque Government will prohibit the performance of shows with pyrotechnic devices when:

a) They are prohibited due to their nature, in accordance with Article 18 of Act 4/1995, of 10<sup>th</sup> November, on public entertainment and recreational activities.

b) They are held in places without the mandatory municipal consent or do not meet the required safety conditions.

c) The show cannot be authorised for safety reasons.

d) There is a sure danger for people and goods. To this end, it will be understood that there is a sure danger when:

- The safety plan or the emergency plan do not satisfy the minimums established in this Decree.
- The authorisation of the pyrotechnic company, their identity or that of the pyrotechnic operators have not been proved.
- The safety radius is less than the minimum required.

- The pyrotechnic company has not determined the safety radius in cases c) and d) of Article 7 of the present Decree.
- Serious disorders are expected with danger for people or goods.

2.- The inspection officers on duty attached to the Gaming and Entertainment Department who are present in the show will act as representatives of the authority and, after informing the organising entity, will carry out the temporary or definite suspension of the shows for reasons of the utmost urgency in relation to the cases set out in letters a), d) and e) in the previous paragraph, or any alteration in the requirements of the authorisation granted. These powers, if the aforementioned officers are not present, will be alternatively exercised by officers attached to the appropriate municipal authority when present in the show.

The following facts are deemed to be included within the cases set out in the previous paragraph:

a) When the granting of the mandatory authorisation has not been requested from the Gaming and Entertainment Department, or it has not been possible to carry out the proceedings for reasons attributable to the applicant.

b) When the protection of the safety area is not sufficiently guaranteed.

c) When the safety and emergency conditions established in the authorisation for the show are not met, in such a way that the safety of the people is seriously affected.

d) When the ambulance required in section 2 of Article 10 is not present.

e) When the evacuation ways for emergency cases are not sufficiently clear.

f) When the safety area or the launching area are entered by public.

g) When the pyrotechnic operators appointed by the pyrotechnic company to carry out the launching are not present.

h) When serious disorder takes place or is expected with danger for people or goods.

i) When, at the time of the launch or during the performance of the show, there are meteorological conditions or other similar circumstances which create a risk for people or goods, once the pyrotechnic company has been heard.

j) When there are other circumstances which imply a sure danger for people or goods.

If the above situations persist, the show will be definitely suspended.

3.- The pyrotechnic operator can temporarily interrupt the performance of the show for meteorological or technical reasons which imply a risk for people or goods.

Also, in the event of absence of law enforcement officers, the person in charge appointed by the pyrotechnic company or the person in charge appointed by the organising entity can temporarily interrupt the show due to risk for people or goods.

The reasons for the interruption must be reported to the officers attached to the Gaming and Entertainment Department or alternatively to the officers attached to the appropriate municipal authority.

If the above situations persist, the interruption will be maintained until the appropriate authority makes a decision about the suspension of the show.

#### Article 13.- Actions after the show.

1.- It will be for the pyrotechnic company to remove all the pyrotechnic material liable to burn, deflagrate or detonate existing in the firework area and in the launching area.

2.- Also, and under the responsibility of the organising entity, it will be for the pyrotechnic company, pyrotechnic operators or specialists to that effect, to collect the waste from pyrotechnic material liable to burn, deflagrate or detonate existing in the safety area.

3.- The collection of the material will be carried out in the following way:

a) In the firework area and in the launching area, immediately after the end of the show.

b) In the safety area:

- in the urban spaces within the safety area and those with sufficient lighting, immediately after the end of the show.
- if the show takes place at night and it is not possible to carry out the complete collection of the material due to lack of lighting, it will be carried out with the first natural light.
- in any case, and until the safety area has not been completely cleared of all waste which may imply a risk, sufficient surveillance will be maintained so as to prevent damages or injuries.

#### Article 14.- Infringements and penalties.

1.- In accordance with the provisions in Act 4/1995, the power to control, as well as to impose penalties in connection with the activities regulated in the present Decree will be for the Home Office of the Basque Government.

2.- In accordance with what is established in Articles 31 and following of Act 4/1995, of 10<sup>th</sup> November, on public entertainment and recreational activities, the infringements of the provisions in the present Decree may be minor, serious or very serious.

3.- Under the provisions in Article 32 of Act 4/1995, of 10<sup>th</sup> November, on public entertainment and recreational activities, very serious infringements will be:

a) The performance of pyrotechnic shows without the mandatory administrative authorisation, when situations involving a serious risk for people or goods take place.

b) The non-compliance with the safety measures established in the present Decree and in the corresponding administrative authorisations, when situations involving a serious risk for people or goods take place.

c) The bad condition of the pyrotechnic devices or their faulty assembly, which seriously decreases the required level of safety.

d) The non-compliance with the resolutions on prohibition and suspension of pyrotechnic shows, as well as the other safety measures provided for in Articles 28 and 29 of the Act.

e) The launching or burning of pyrotechnic devices not appropriate to the legislation in force or the performance of pyrotechnic shows prohibited by the laws.

f) The performance of a pyrotechnic show for which the pyrotechnic company may have been disqualified, during the time the penalty is in force.

g) The repeated refusal to allow the access of law enforcement officers on duty or prevent or seriously hinder the inspection.

h) Any other action or default defined as such in Act 4/1995, of 10<sup>th</sup> November, on public entertainment and recreational activities.

4.- Under the provisions in Article 33 of Act 4/1995, of 10<sup>th</sup> November, on public entertainment and recreational activities, serious infringements will be:

a) The commission of infringements contained in letters a), b) and c) in the previous section when a risk for people or goods can be observed.

b) The production of fraudulent advertising which may distort the electing capacity of the public.

c) The suspension of the pyrotechnic show or the substantial modification of the programme, except for justified reasons or force majeure.

d) Refusing to carry out the scheduled launching or altering it, or failing to comply with the rules established for the performance of the pyrotechnic show, except for justified reasons or force majeure.

e) Fraud in the constituent elements of the pyrotechnic show.

f) Smoking or allowing to smoke in the launching area.

g) Not taking the appropriate measures when aware of the access of the public into the safety area and into the launching area during the performance of the pyrotechnic show.

h) Any other action or default defined as such in Act 4/1995, of 10<sup>th</sup> November, on public entertainment and recreational activities

5.- Under the provisions in Article 34 of Act 4/1995, of 10<sup>th</sup> November, on public entertainment and recreational activities, minor infringements will be:

a) The delay in starting or ending the pyrotechnic shows, except in the cases provided for in the present Decree.

b) Any other action or default defined as such in Act 4/1995, of 10<sup>th</sup> November, on public entertainment and recreational activities.

6.- Infringements on this matter defined as very serious may be penalised cumulative or alternately with:

a) Fines from 5,000,001 to 25,000,000 pesetas.

b) Suspension or prohibition of the activity or activities from 1 year and 1 day to 3 years.

c) Disqualification from 6 months and 1 day to 1 year and 6 months to carry out the same activity.

7.- Infringements on this matter defined as serious infringements may be penalised cumulative or alternately with:

a) Fines from 200,001 to 5,000,000 pesetas.

b) Suspension or prohibition of the activity or activities up to one year.

c) Disqualification up to six months to carry out the same activity.

8.- Infringements on this matter defined as minor infringements may be penalised with a fine up to 200,000 pesetas.

#### ADDITIONAL PROVISIONS

First.- The launching or burning of pyrotechnic devices used to produce special effects in plays or other public shows, no matter the place where they are performed, will require the safety plan of the show to include the complementary safety measures to that effect. When the aforementioned public show does not require an authorisation, in accordance with the provisions in Article 16 of Act 4/1995, of 10<sup>th</sup> November, on public entertainment and recreational activities, the entity which organises the show must adopt the said safety measures.

Second.- Subject to what is established in Article 4 of the present Decree, the minimum capitals insured by the accident and civil liability insurance policy of the organising entity will be determined according to the population of the town where the show is to take place, according to the following scale:

Towns of up to 25,000 inhabitants: 25,000,000 pesetas

Towns of 25,001 to 50,000 inhabitants: 35,000,000 pesetas

Towns of 50,001 to 100,000 inhabitants: 50,000,000 pesetas

Towns of more than 100,00 inhabitants: 75,000,000 pesetas

In order to determine the population of each town, the official census published every year by the Basque Statistics Office (EUSTAT) will be used as a reference index.

2.- The amounts of the capitals insured may be updated by means of an Order by the Home Secretary of the Basque Government.

#### REPEALING PROVISION

All those provisions of the same or lower rank opposed to the provisions in the present Decree are hereby repealed.

## FINAL PROVISIONS

First.- The Home Secretary is authorised to lay down the necessary provisions on the development and implementation of the present Decree, as well as to modify the list of pyrotechnic devices not included within the scope of the present Decree, as referred to in Appendix I.

Second.- The present Decree will become effective on the day after its publication in the Official Gazette of the Basque Country.

Given in Vitoria-Gasteiz, on 22<sup>nd</sup> September, 1998.

The Prime Minister  
JOSE ANTONIO ARDANZA

The Home Secretary  
JUAN MARIA ATUTXA MENDIOLA.

## APPENDIX I

PYROTECHNIC DEVICES NOT INCLUDED WITHIN THE SCOPE OF THE PRESENT  
DECREE, PROVIDED THE NET WEIGHT OF EXPLOSIVE TO BE USED IN ALL THE SHOW  
DOES NOT EXCEED 50 KILOGRAMS

Fuse banger Fountain Volcano Roman Candle Party popper Crackling granules Rocket Shell Friction banger Jumping cracker Bengal match Whistler Butterfly Sparkler Pyrotechnic drawing Table bomb Impact banger (throwdown) Percussion cap Firecrackers Bengal stick (coloured) Spinner Bengal tube (coloured) Double banger	Smokes Flying squib Wheel (horizontal and vertical) Detonating match Mine Batteries and combinations Shell with mortar Flash pellets Snowthrower Chaser Valencian firecracker string Chinese firecracker string Parachute Pyrotechnic toy Ground wheel Firecracker string (coloured) Warning banger shell Aerial wheel Lancework Jumping spinner Coloured Valencian firecracker string
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*When it is not possible to identify a device or find a similarity to those listed in this Appendix, it will be deemed to be provisionally included within the scope of application of the present Decree until its definite classification is determined.*

## APPENDIX II

### CHARTS

(Chart No. 1)

R: safety radius

Spectators

Safety area

Launching area

Firework area



(Chart No. 2)

SPECTATORS

MINIMUM 85 MTS.

FIREWORK AREA

LAUNCHING ANGLE

LAUNCHING DIRECTION

0: Centre of the safety area with vertical launching

0<sub>1</sub>: Centre of the safety area with inclined or angled launching

D: Displacement from the centre of the safety area (variable according to the launching angle).

APPENDIX III

STANDARDISED APPLICATION MODEL FOR AUTHORISATION FOR PUBLIC SHOW WITH  
PYROTECHNIC DEVICES

Mr. .... holder of ID No.  
.....on behalf and in representation of .....  
with address in ..... REQUESTS from the Gaming and Entertainment Department  
of the Basque Country:  
To be granted the appropriate authorisation to organise a public show with pyrotechnic devices in the town  
..... in the historical territory ....., on the days .....  
which is planned to start at ..... and finish at ....., and which will be carried  
out by the pyrotechnic company ....., with address in  
.....  
To this end Mr. ...., as ....., is appointed as the person in  
charge during the performance of the show.  
In ....., this ..... day of ....., 19...

SIGNATURE AND SEAL

APPENDIX IV

ORGANISING ENTITY

STANDARDISED MODEL FOR INSURANCE UNDERWRITING CERTIFICATE FOR SHOWS WITH  
PYROTECHNIC DEVICES

Mr. .... as ..... of the Insurance  
Company or Insurance Broker .....  
CERTIFIES: that the civil liability insurance policy no. .... of the Insurance  
Company ....., arranged to deal with the risks derived from the  
show with pyrotechnic devices to be performed by the organising entity .....  
on the ..... day of ....., ..... in the town ..... is in keeping with  
what is established in Decree 240/1998, regulating the performance of shows with pyrotechnic devices in the  
Basque Autonomous Community, covering a capital of ..... pesetas..  
In witness whereof, at the request of the Gaming and Entertainment Department of the Home Office of the  
Basque Government, in ....., on the ..... day of ....., .....

SIGNATURE AND SEAL

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Decree 240/1998. Second ADDITIONAL PROVISION

1.- Subject to what is established in Article 4 of the present Decree, the minimum capitals insured by  
the accident and civil liability insurance policy of the organising entity will be determined according to the  
population of the town where the show is to take place, according to the following scale:

- Towns of up to 25,000 inhabitants: 25,000,000 pesetas
- Towns of 25,001 to 50,000 inhabitants: 35,000,000 pesetas
- Towns of 50,001 to 100,000 inhabitants: 50,000,000 pesetas
- Towns of more than 100,00 inhabitants: 75,000,000 pesetas

In order to determine the population of each town, the official census published every year by the  
Basque Statistics Office (EUSTAT) will be used as a reference index.

2.- The amounts of the capitals insured may be updated by means of an Order by the Home Secretary  
of the Basque Government.

APPENDIX V

PYROTECHNIC COMPANY

STANDARDISED MODEL FOR INSURANCE UNDERWRITING CERTIFICATE FOR SHOWS WITH  
PYROTECHNIC DEVICES

Mr. .... as ..... of Insurance Company or Insurance Broker .....

CERTIFIES: that the civil liability insurance policy no. .... of the Insurance Company ....., arranged to deal with the risks derived from the show with pyrotechnic devices to be performed by the pyrotechnic company ..... on the ..... day of ....., ..... in the town ..... is in keeping with what is established in Decree 240/1998, regulating the performance of shows with pyrotechnic devices in the Basque Autonomous Community, covering a capital of ..... pesetas.

In witness whereof, at the request of the Gaming and Entertainment Department of the Home Office of the Basque Government, in ....., on the ..... day of ....., .....

SIGNATURE AND SEAL

APPENDIX VI

DISPLACEMENT FROM THE CENTRE OF THE SAFETY AREA ACCORDING TO THE EXPECTED  
LAUNCHING ANGLE

LAUNCHING ANGLE IN DEGREES	1°	2°	3°	4°	5°	6°	7°	8°	9°	10°	11°	12°	13°	14°	15°
DISPLACEMENT IN METRES	3	5	8	10	13	16	18	21	23	16	29	31	34	36	39

LAUNCHING ANGLE IN DEGREES	16°	17°	18°	19°	20°	21°	22°	23°	24°	25°	26°	27°	28°	29°	30°
DISPLACEMENT IN METRES	41	44	46	49	51	54	56	59	61	63	66	68	70	73	75