

Dear Convenor,

We have grave concerns regarding Amendment 42 (see below), which was proposed by the Minister, and passed by the Justice Committee during 2nd Groupings of Amendments for Stage 2 of the Bill.

42 In schedule 1, page 26, line 28, at end insert-

<Persons under 18 in education, training or employment

It is not an offence under section 21(1) (prohibition on providing fireworks or pyrotechnic articles to children) for a person to buy, attempt to buy, give or otherwise make available a firework or pyrotechnic article to a person under the age of 18 if-

- (a) the person under the age of 18 is undertaking education or training, or is in employment,
- (b) the possession or use of a firework or pyrotechnic article is necessary in connection with that education, training or employment, and
- (c) the person buying, attempting to buy, giving or otherwise making available the firework or pyrotechnic article intends that the person under the age of 18 will possess or use the firework or pyrotechnic article only in connection with that education, training or employment.>

The existing legislation, which the Minister stated needed urgently addressed, makes it an offence to “sell” age restricted Fireworks/Pyrotechnics to anyone below the stated age limit on the article. The BFA recommended to both the Scottish Government and Westminster that the existing legislation should be amended to state “supply”, instead of “sell”, thus covering all avenues for possession or sale.

In our view, Amendment 42 is a “get out of jail” clause that every lawyer in Scotland will exploit. It will be used as justification as to why fireworks and pyrotechnics were being possessed or sold to anyone under the minimum age limit. For example, “Your Honour, my client may well be only 12 years of age, however they bought the firework to take home for their father to educate them on how to use them”!

Furthermore, the phrase “in education” would imply that age restricted fireworks can be legally sold to School Children!

Convenor, instead of closing down the “sell” issue in the existing legislation, Amendment 42 makes the situation far worse.

We are sorry to say that this is yet more evidence that the Bill has been rushed, poorly scrutinised, misunderstood and misrepresented to MSP, and ironically, the part of the Bill being used by the Minister to justify the accelerated timescale is the very part which will make Policing proxy sales almost impossible!

Regards

Fraser Stevenson

Vice Chairman