

Fireworks and Pyrotechnic Articles (Scotland) Bill

Marshalled List of Amendments for Stage 3

The Bill will be considered in the following order—

Sections 1 to 51
Long Title

Schedules 1 and 2

Amendments marked * are new (including manuscript amendments) or have been altered.

Section 3

Katy Clark

- 2 Leave out section 3

Section 4

Jamie Greene

- 68 In section 4, page 3, line 4, at end insert—

<(1A) A licensed person must provide a copy of the person’s licence to a supplier of a firework at the point of purchase.

(1B) For the purposes of subsection (1A), a copy may be provided by electronic means (for example, by means of the internet). >

Katy Clark

- 3 Leave out section 4

Section 5

Jamie Greene

- 69 In section 5, page 3, line 20, at end insert—

<() For the purposes of subsection (3), “reasonable steps” includes viewing and retaining a copy of the person’s firework licence.>

Katy Clark

- 4 Leave out section 5

Section 6

Pauline McNeill

- 70 In section 6, page 4, line 5, leave out subsection (4) and insert—
- <(4) When setting the fees payable under this section the Scottish Ministers may only charge a nominal fee or remit the fee altogether.>

Russell Findlay

- 71 In section 6, page 4, line 6, at end insert—
- <() must have regard to the rate of inflation,>

Katy Clark

- 5 In section 6, page 4, line 11, leave out <negative> and insert <affirmative>

Katy Clark

- 6 Leave out section 6

Section 7

Katy Clark

- 7 In section 7, page 4, line 22, leave out <negative> and insert <affirmative>

Russell Findlay

- 8 In section 7, page 4, line 29, leave out <and> and insert—
- <(ba) wilful fire-raising or culpable and reckless fire-raising, or>

Russell Findlay

- 72* In section 7, page 4, line 29, at end insert—
- <() an offence under—
- (i) the Terrorism Act 2000,
 - (ii) the Anti-terrorism, Crime and Security Act 2001,
 - (iii) the Terrorism Act 2006,
 - (iv) the Counter-Terrorism Act 2008,
 - (v) the Terrorism Prevention and Investigation Measures Act 2011, or
 - (vi) the Counter-Terrorism and Security Act 2015,>

Russell Findlay

- 73 In section 7, page 4, line 29, at end insert—

- <() an offence of—
- (i) common law fraud,
 - (ii) uttering, or
 - (iii) embezzlement, >

Russell Findlay

74 In section 7, page 4, line 29, at end insert—

- <() an offence—
- (i) under the Antisocial Behaviour etc. (Scotland) Act 2004, or
 - (ii) in respect of which the court has made an order under section 234AA of the Criminal Procedure (Scotland) Act 1995,>

Russell Findlay

75 In section 7, page 4, line 29, at end insert—

- <() an offence in respect of which the court has made an order under section 51 of the Police, Public Order and Criminal Justice (Scotland) Act 2006,>

Russell Findlay

9 In section 7, page 4, line 30, after <of> insert <fire,>

Katy Clark

10 Leave out section 7

After section 7

Russell Findlay

76 After section 7, insert—

<Applying for fireworks licence: disclosure

- (1) Where a person applies for a fireworks licence under section 6, the Scottish Ministers must provide the applicant with a Level 2 disclosure.
- (2) In this section, “Level 2 disclosure” has the same meaning as in section 8 of the Disclosure (Scotland) Act 2020. >

Section 8

Katy Clark

11 In section 8, page 5, line 13, leave out <negative> and insert <affirmative>

Katy Clark

12 Leave out section 8

Section 9

Jamie Greene

13 In section 9, page 5, line 19, at end insert—

<() If the Scottish Ministers decide to refuse to grant a fireworks licence, they must inform the person of the right under section 14 to appeal the decision at the same time as notifying the person of that decision.>

Katy Clark

14 Leave out section 9

Section 10

Fulton MacGregor

15 In section 10, page 5, line 26, leave out from <may> to end of line 27 and insert—

- <(a) must attach to a fireworks licence any additional conditions specified in regulations under subsection (3)(c)(i), and
- (b) may attach to a fireworks licence any optional conditions specified in regulations under subsection (3)(c)(ii).>

Jamie Greene

16 In section 10, page 5, line 27, at end insert—

<() If the Scottish Ministers decide to attach an optional condition to a fireworks licence, they must inform the person of the right under section 14 to appeal the decision at the same time as notifying the person of that decision.>

Fulton MacGregor

17 In section 10, page 5, line 33, leave out from <additional> to end of line 34 and insert—

- <(i) additional conditions that must be attached to a fireworks licence, and
- (ii) optional conditions that may be attached to a fireworks licence.>

Russell Findlay

77 In section 10, page 5, line 34, at end insert—

<() Where regulations under subsection (3) determine the length of time for which licences may be granted, the Scottish Ministers must undertake a review of that length of time—

- (a) no later than 1 year the day after the regulations come into force, and
- (b) each subsequent 1 year period thereafter. >

Katy Clark

18 In section 10, page 5, line 35, leave out <negative> and insert <affirmative>

Katy Clark

- 19 Leave out section 10

Section 11

Katy Clark

- 20 In section 11, page 6, line 10, leave out <negative> and insert <affirmative>

Katy Clark

- 21 Leave out section 11

Section 12

Jamie Greene

- 22 In section 12, page 6, line 33, at end insert—

<() If the Scottish Ministers decide to revoke a fireworks licence, they must inform the person of the right under section 14 to appeal the decision at the same time as notifying the person of that decision.>

Katy Clark

- 23 Leave out section 12

Section 13

Katy Clark

- 24 Leave out section 13

Section 14

Jamie Greene

- 25 In section 14, page 7, line 19, leave out <a> and insert <an optional>

Fulton MacGregor

- 26 In section 14, page 7, line 19, leave out <10(2)> and insert <10(2)(b)>

Katy Clark

- 27 Leave out section 14

Section 15

Katy Clark

- 28 Leave out section 15

Section 16

Katy Clark

- 29 Leave out section 16

Section 17

Katy Clark

- 30 Leave out section 17

Section 18

Katy Clark

- 31 Leave out section 18

Section 19

Katy Clark

- 32 In section 19, page 8, line 37, leave out subsection (2)

Katy Clark

- 33 Leave out section 19

After section 19

Katy Clark

- 34 After section 19, insert—

<Regulations: pre-laying procedure

- (1) Before laying any regulations to make provision for the purpose of this Part, the Scottish Ministers must—
 - (a) lay a draft of the regulations before the Parliament for a period of 120 days, of which no fewer than 60 days must be days which the Parliament is not dissolved or in recess, and
 - (b) before finalising the regulations, seek the views of a committee of the Parliament whose remit includes criminal justice matters for the time being appointed by virtue of the standing orders.
- (2) The Scottish Ministers must, when laying regulations to make provision for the purposes of this Part before the Parliament, lay a statement setting out—
 - (a) details of the views mentioned in subsection (1)(b), and
 - (b) the changes (if any) they have made to the regulations in response to such views and the reasons for those changes.>

Jamie Greene

78 After section 19, insert—

<Review on operation of fireworks licensing scheme

- (1) The Scottish Ministers must, as soon as practicable after the end of the reporting period, lay before the Scottish Parliament a report on the operation of the fireworks licensing scheme during the reporting period.
- (2) The report must, in particular, include information about—
 - (a) the effectiveness of the fireworks licensing scheme,
 - (b) the number of persons who applied for a fireworks licence,
 - (c) whether there is any evidence that the fireworks licensing scheme is contributing to improving firework safety.
- (3) The reporting period is the period of 24 months beginning with the day that Part 2 comes into force.>

Section 22

Pauline McNeill

79 In section 22, page 10, line 12, leave out <10> and insert <4>

Section 23

Pauline McNeill

80 In section 23, page 11, line 10, leave out <27 October to 12> and insert <30 October to 6>

Pauline McNeill

81 In section 23, page 11, line 11, leave out <26> and insert <31>

Section 26

Katy Clark

35 In section 26, page 12, line 29, leave out subsection (5)

Katy Clark

36 In section 26, page 12, line 29, leave out subsection (5) and insert—

- <() A local authority when designating a place within its area as a firework control zone, may—
- (a) specify which persons are exempt from committing an offence under subsection (2),
or
 - (b) specify that no persons are exempt in relation to that firework control zone. >

Jamie Greene

82 In section 26, page 12, line 29, leave out subsection (5) and insert—

- <() When designating a place as a firework control zone or amending a zone, a local authority must specify whether—
- (a) the exemptions in paragraph 12 or 23 in schedule 1 apply, or
 - (b) the exemptions in paragraph 12 or 23 in schedule 1 do not apply.>

After section 28

Pauline McNeill

1 After section 28, insert—

<Publicising firework control zones

As soon as practicable after a document is published under section 28 confirming that a proposal is proceeding, the local authority must take reasonable steps to inform the persons mentioned in section 27(1)(b) of—

- (a) the date any decision to designate a place as a firework control zone or amend or revoke a zone is to have effect (and, if different, the days on which it is to operate),
- (b) the boundaries of the zone (or any changes to those boundaries),
- (c) what is permissible within a zone, the exemptions that apply and the consequences of failure to comply,
- (d) such other information as the Scottish Ministers may specify in regulations made under section 30.>

Pauline McNeill

83 After section 28, insert—

<Firework control zones: further designation

- (1) A relevant person may make representation to a local authority that a place within its area be designated a firework control zone where the person can demonstrate—
 - (a) evidence of anti-social behaviour in the place within which the zone would apply, and
 - (b) the anti-social behaviour relates to the use of fireworks.
- (2) Sections 27, 28 and 29 apply to this section.
- (3) On receipt of a representation under subsection (1), the local authority must respond to the relevant person.
- (4) The Scottish Ministers may by regulations make provision about—
 - (a) the form and content in which a representation under subsection (1) is to be made,
 - (b) the procedure by which a local authority is to determine a representation under subsection (1), including—
 - (i) the number of times a representation may be made within a specified period,
 - (ii) the ability of a local authority to decline an application where the local authority has recently consulted on a firework control zone proposal under section 27.
 - (c) how a local authority is to discharge its functions for the purposes of this section,

- (d) the meaning of “acting together” for the purposes of subsection (6)(b),
- (e) any other matters as the Scottish Ministers consider appropriate.
- (5) Regulations under this section are subject to the affirmative procedure.
- (6) In this section, a “relevant person” means—
 - (a) a community body within the meaning of section 4(9) of the Community Empowerment (Scotland) Act 2015,
 - (b) a group of residents or persons who work in the place acting together where the zone would apply. >

Section 35

Katy Clark

- 37 In section 35, page 16, line 8, leave out <2> and insert <3>

After section 40

Ash Regan

Supported by: Jamie Greene

- 38 After section 40, insert—

<Aggravation of offences against emergency workers>

Aggravation of offences against emergency workers

- (1) An offence is aggravated by the use of a firework or pyrotechnic article if—
 - (a) the offence is committed in a manner that involves the use of a firework or pyrotechnic article which is currently lit or ignited (or which has recently been lit or ignited), and
 - (b) a victim (or intended victim) of the offence is an emergency worker.
- (2) For the purpose of subsection (1), an emergency worker is—
 - (a) a person—
 - (i) acting in a capacity mentioned in section 1(3) or 2(3) of the Emergency Workers (Scotland) Act 2005,
 - (ii) acting in a capacity mentioned in section 90(3)(a), (c) or (d) of the Police and Fire Reform (Scotland) Act 2012,
 - (iii) who is a constable of the British Transport Police Force and is acting in that capacity,
 - (b) a person who is assisting such a person in responding to an emergency circumstance.
- (3) Evidence from a single source is sufficient to prove that an offence is aggravated by the use of a firework or pyrotechnic article.
- (4) Subsection (5) applies where it is—
 - (a) libelled in an indictment, or specified in a complaint, that an offence is aggravated by the use of a firework or pyrotechnic article, and
 - (b) proved that the offence is so aggravated.

- (5) The court must—
 - (a) state on conviction that the offence is aggravated by the use of a firework or pyrotechnic article,
 - (b) record the conviction in a way that shows that the offence is so aggravated,
 - (c) take the aggravation into account in determining the appropriate sentence, and
 - (d) state—
 - (i) where the sentence in respect of the offence is different from that which the court would have imposed if the offence were not so aggravated, the extent of and the reasons for that difference, or
 - (ii) otherwise, the reasons for there being no such difference.
- (6) For the purposes of this section, a person is responding to emergency circumstances if the person—
 - (a) is going anywhere for the purpose of dealing with emergency circumstances occurring there, or
 - (b) is dealing with emergency circumstances or preparing to do so.
- (7) For the purposes of this section, circumstances are “emergency” circumstances if they are present or imminent and—
 - (a) are causing or are likely to cause—
 - (i) serious injury to or the serious illness (including mental illness) of a person,
 - (ii) serious harm to the environment (including the life and health of plants and animals and the fabric of buildings), or
 - (iii) a worsening of any such injury, illness or harm, or
 - (b) are likely to cause the death of a person.
- (8) For the purposes of this section, circumstances to which a person is responding are to be taken to be emergency circumstances if the person believes and has reasonable grounds for believing they are or may be emergency circumstances.>

Section 42

Katy Clark

39 In section 42, page 19, leave out lines 1 to 6

Katy Clark

40 In section 42, page 19, line 7, leave out <4(1), 5(1),>

Section 43

Katy Clark

41 In section 43, page 19, leave out lines 20 and 21

Katy Clark

42 In section 43, page 19, leave out line 23

Katy Clark

43 In section 43, page 19, line 24, leave out subsection (2)

Katy Clark

44 In section 43, page 19, line 29, leave out subsection (3)

Katy Clark

45 In section 43, page 19, line 33, leave out subsection (4)

Katy Clark

46 In section 43, page 20, line 1, leave out subsection (5)

Katy Clark

47 In section 43, page 20, line 3, leave out from <or,> until <licence> in line 4

After section 44

Jamie Greene

84 After section 44, insert—

<PART

REVIEW OF EXISTING LEGISLATION

Review of existing legislation

- (1) The Scottish Ministers must within 12 months of the day on which this Act receives Royal Assent—
 - (a) conduct a review of the legislation mentioned in subsection (2) in so far as it relates to the supply and use of fireworks and pyrotechnic articles, and
 - (b) determine, as a result of the review—
 - (i) whether the legislation is being adequately implemented and enforced, and
 - (ii) if not, what action is required to be taken to ensure that the legislation is adequately implemented and enforced.
- (2) The legislation to be reviewed—
 - (a) Explosives Act 1875,
 - (b) Explosives Substances Act 1883,
 - (c) Public Order Act 1986,
 - (d) Fireworks Act 2003,
 - (e) Fireworks Regulations 2004,

- (f) Fireworks (Scotland) Regulations 2004,
 - (g) Animal Health and Welfare (Scotland) Act 2006,
 - (h) Pyrotechnic Articles (Safety) Regulations 2015,
 - (i) Fireworks (Scotland) Miscellaneous Amendments Regulations 2021,
 - (j) any other enactment the Scottish Ministers consider appropriate.
- (3) The Scottish Ministers must—
- (a) prepare and publish a report of the review, and
 - (b) lay a copy of the report before the Scottish Parliament. >

Jamie Greene

85 After section 44, insert—

<PART

IMPROVEMENT OF FIREWORK SAFETY

Improvement of firework safety

- (1) The Scottish Ministers must lay before the Scottish Parliament an improvement of firework safety plan.
- (2) The plan must set out the Scottish Ministers’ policies and proposals for improving firework safety, including in particular—
 - (a) the development of an annual national safety campaign,
 - (b) the Scottish Ministers’ policy around the detection and apprehension of illegal fireworks,
 - (c) proposals for a centralised approach for the reporting of the misuse of fireworks and pyrotechnics incidents,
 - (d) plans on the prevention of illegal fireworks entering Scotland from outside of Scotland,
 - (e) co-operation with retailers about their continued supply of fireworks,
 - (f) such other matters as the Scottish Ministers consider appropriate.
- (3) In preparing the improvement of firework safety plan, the Scottish Ministers must—
 - (a) publish, and consult on, a draft of the plan, and
 - (b) have regard to any responses to the consultation.
- (4) The Scottish Ministers must keep the improvement of firework safety plan under review.>

Russell Findlay

86* After section 44, insert—

<PART

PENALTIES FOR EXISTING FIREWORKS OFFENCES

Offences relating to fireworks regulations: penalties

- (1) Where a person is guilty of an offence under the Fireworks Act 2003 which relates to the supply or use of fireworks in Scotland, that Act is modified as follows.
- (2) In section 11(4)(a) (offences) for “six” substitute “12”. >

Russell Findlay

90* After section 44, insert—

<Offence of throwing fireworks in thoroughfare: penalties

- (1) The Explosives Act 1875 is modified as follows.
- (2) In section 80 (penalty for throwing fireworks in thoroughfare), after “to” insert “imprisonment for a term not exceeding 12 months or”.
- (3) In section 80 (penalty for throwing fireworks in thoroughfare), after “scale” insert “(or both)”.>

Section 44A

Jamie Greene

87 In section 44A, page 21, line 13, at end insert—

<() any changes the Scottish Ministers are proposing to make to this Act as a consequence of information provided in accordance with this subsection.>

Jamie Greene

88 In section 44A, page 21, line 14, leave out subsection (3) and insert—

<() The reporting period is—

- (a) the period of 3 years beginning with the day on which this Act receives Royal Assent, and
- (b) at least once in every period of 5 years thereafter.>

Jamie Greene

89 In section 44A, page 21, line 14, leave out <5> and insert <3>

Russell Findlay

48 In section 44A, page 21, line 16, leave out from <sections> to end of line 17 and insert <section 7(4)(b) and (ba)>

Section 45

Katy Clark

49 In section 45, page 21, leave out lines 27 to 30

Schedule 1

Katy Clark

50 In schedule 1, page 24, line 5, leave out paragraph 1

Katy Clark

51 In schedule 1, page 24, line 8, leave out paragraph 2

Katy Clark

52 In schedule 1, page 24, line 11, leave out paragraph 3

Katy Clark

53 In schedule 1, page 24, line 34, leave out paragraph 7

Katy Clark

54 In schedule 1, page 25, line 1, leave out paragraph 8

Katy Clark

55 In schedule 1, page 25, line 37, leave out paragraph 14

Katy Clark

56 In schedule 1, page 26, line 5, leave out paragraph 15

Katy Clark

57 In schedule 1, page 28, line 4, leave out paragraph 25

Schedule 2

Katy Clark

58 In schedule 2, page 29, line 19, leave out <section 5 (supply of fireworks to unlicensed persons) or>

Katy Clark

59 In schedule 2, page 29, line 25, leave out <5 or>

Katy Clark

60 In schedule 2, page 29, line 30, leave out <5 or>

Katy Clark

61 In schedule 2, page 29, line 34, leave out <5 or>

Katy Clark

62 In schedule 2, page 29, line 38, leave out <Part 2 or>

Katy Clark

63 In schedule 2, page 31, line 5, leave out <5 or>

Katy Clark

64 In schedule 2, page 34, line 6, leave out <5 or>

Katy Clark

65 In schedule 2, page 35, line 36, leave out <5 or>

Katy Clark

66 In schedule 2, page 36, line 33, leave out <5 or>

Long Title

Katy Clark

67 In the long title, page 1, line 1, leave out from <to> to <fireworks;> in line 2

© Parliamentary copyright. Scottish Parliamentary Corporate Body

The Scottish Parliament's copyright policy can be found on the website - www.parliament.scot or by contacting Public Information on 0131 348 5000.

Published in Scotland by the Scottish Parliamentary Corporate Body

All documents are available on the
Scottish Parliament website at

www.parliament.scot/documents

For information on the Scottish Parliament contact
Public Information on:

Telephone: 0131 348 5000

Textphone: 0800 092 7100

Email: sp.info@scottish.parliament.uk
