



OFFICIAL REPORT
AITHISG OIFIGEIL

Criminal Justice Committee

Wednesday 3 May 2023

Session 6



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CRIMINAL JUSTICE COMMITTEE

13th Meeting 2023, Session 6

CONVENER

*Audrey Nicoll (Aberdeen South and North Kincardine) (SNP)

DEPUTY CONVENER

*Russell Findlay (West Scotland) (Con)

COMMITTEE MEMBERS

*Katy Clark (West Scotland) (Lab)

*Jamie Greene (West Scotland) (Con)

*Fulton MacGregor (Coatbridge and Chryston) (SNP)

*Rona Mackay (Strathkelvin and Bearsden) (SNP)

Pauline McNeill (Glasgow) (Lab)

*Collette Stevenson (East Kilbride) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Siobhian Brown (Minister for Victims and Community Safety)

Mary Hockenhull (Scottish Government)

Fiona McDiarmid (Scottish Government)

CLERK TO THE COMMITTEE

Stephen Imrie

LOCATION

The David Livingstone Room (CR6)

Scottish Parliament

Criminal Justice Committee

Wednesday 3 May 2023

[The Convener opened the meeting at 09:30]

Decision on Taking Business in Private

The Convener (Audrey Nicoll): Good morning, and welcome to the 13th meeting in 2023 of the Criminal Justice Committee. We have received apologies from Pauline McNeill this morning.

Our first item of business is consideration of whether to take item 6, on our approach to legislation, in private. Do we agree to take that item in private?

Members indicated agreement.

Subordinate Legislation

Fireworks and Pyrotechnic Articles (Scotland) Act 2022 (Consequential Modifications, Saving and Transitional Provisions) Regulations 2023 [Draft]

Fireworks and Pyrotechnic Articles (Scotland) Act 2022 (Designation of Events and Incidental Provision) Regulations 2023 (SSI 2023/98)

09:30

The Convener: Our next item of business is an oral evidence session on the Fireworks and Pyrotechnic Articles (Scotland) Act 2022 (Consequential Modifications, Saving and Transitional Provisions) Regulations 2023. This affirmative instrument, along with the negative instrument that we will consider later in the meeting, forms a package of Scottish statutory instrument that brings certain provisions of the Fireworks and Pyrotechnic Articles (Scotland) Act 2022 into force. We will also take this opportunity to consider correspondence from the Minister for Victims and Community Safety on the timetable for the implementation of the remaining provisions of the 2022 act.

I welcome to the meeting Siobhian Brown MSP, the Minister for Victims and Community Safety, and, from the Scottish Government, Ms Mary Hockenhull, safer communities policy; Fiona McDiarmid, unit head, building safer communities; and Clare McKinlay, solicitor.

I take the opportunity to welcome Ms Brown to her new role. I refer members to committee papers 1 and 2, and I invite the minister to speak to the affirmative instrument.

The Minister for Victims and Community Safety (Siobhian Brown): Good morning. Thank you for the opportunity to speak today about these two sets of regulations relating to the Fireworks and Pyrotechnic Articles (Scotland) Act 2022. I will go through the regulations and then give an update on where we are with the act.

The two sets of regulations, along with the commencement regulations, will allow the pyrotechnic possession offence provisions in part 5 of the 2022 act to take effect from 6 June.

The reckless and dangerous misuse of pyrotechnics at events is a growing problem. I strongly believe that this legislation is necessary if we are to ensure that preventative action can be taken to stop it in all places where it occurs.

Most recently, the misuse of pyrotechnics at football matches has been the focus of much media attention. I am sure that we have all seen the unacceptable images of whole sections of stands lit up with flares and blanketed with smoke. However, pyrotechnic misuse is not limited only to football; it happens at music concerts, festivals and public gatherings.

Such misuse has the potential to cause serious harm and to distress those in the vicinity, including through the smoke that is emitted. Physical risks include burns, the maiming of limbs, hearing injuries and breathing difficulties, particularly among people with health conditions such as asthma. There is also a risk of crowd panic and crowd surge when pyrotechnics are used unexpectedly in crowded places, and there is the risk that using them will cause fear and alarm through the noise of explosions and the brightness of flares.

Key to the new legislation is the ability to take action before a situation potentially becomes dangerous for the individual or those around them, including police officers and security staff.

Taking a pyrotechnic article into a designated football ground is, of course, already a criminal offence. However, by the time that an individual has reached the ground, the ability to take preventative action can be hindered by the volume of people entering the ground at the same time. Once a pyrotechnic has been carried into the ground, and certainly by the time that it has been deployed, it can be extremely difficult for the police and security staff at the ground to identify, isolate and detain the culprit safely.

In developing the legislation, we listened to our partners and stakeholders, including Police Scotland, the Scottish Police Federation, health advocacy groups and the wider public, who made it clear that something more needed to be done. That is why the 2022 act created two offences relating to the possession of pyrotechnics: first, an offence of being in possession of a pyrotechnic article, excluding F1 fireworks, in any public place “without reasonable excuse”; secondly, an offence of being in possession of any pyrotechnic article, including all fireworks, at a designated sporting or music venue or event “without reasonable excuse”.

In passing the Fireworks and Pyrotechnic Articles (Scotland) Act 2022 last year, the Scottish Parliament overwhelmingly agreed that the introduction of those offences was necessary. The Scottish statutory instruments that are being considered today ensure that those offences can operate effectively, proportionately and transparently.

Although the draft Fireworks and Pyrotechnic Articles (Scotland) Act 2022 (Consequential Modifications, Saving and Transitional Provisions) Regulations 2023 is a fairly technical instrument, it is necessary in order to give full effect to the new offences. The regulations repeal the offence relating to pyrotechnics in certain sports grounds, which is set out in the Criminal Law (Consolidation) (Scotland) Act 1995. In practice, that offence currently applies only to certain football matches and stadia, and it is no longer needed, as the new offence will apply to all designated venues or events, including football matches. The instrument also ensures that any relevant criminal proceedings that are already in progress under the 1995 act at the time of commencement can continue and that the accused in any such case will receive parity with regard to the available defence.

The Fireworks and Pyrotechnic Articles (Scotland) Act 2022 (Designation of Events and Incidental Provision) Regulations 2023 designate

“the class of sporting events”

and “music events” for the purpose of section 36 of the 2022 act. The regulations provide that the new offence will apply to live sports events before an audience and in a venue with a

“capacity for 1,000 or more”

spectators and that it will also apply to live music performances, again in a venue with

“capacity for 1,000 or more ... within the audience”.

In relation to music events, such as festivals, the regulations will also cover areas such as camping sites that are linked to the event.

In designating classes of sporting and music events in that way, and by the creation of two distinct offences in the 2022 act, we ensure proportionality in the restrictions that are applied to the different places. We ensure, too, that the new legislation maintains and adds to the protection of sports grounds that was set out in the 1995 act.

The 2022 act provides the police with a

“stop and search”

power

“without warrant”,

when reasonable grounds exist on which to suspect that a person is committing an offence under the act, which supports the intelligence-led policing that the police already carry out at many sporting and music events.

We are clear that the legislation is about preventing the misuse of pyrotechnics and not about preventing the spectacle of professionally organised pyrotechnic displays at events or the use of safety flares. It is vital that we do nothing

that could inhibit the possession and use of potentially life-saving devices for those people who are involved in activities such as sailing, mountaineering and hill walking.

A need exists, therefore, for clear messaging and awareness raising to accompany the new legislation, which will ensure understanding of, and increased compliance with, the law. That is why we have been engaging with a wide range of organisations, including football authorities, the events industry, Marine Scotland, the Royal National Lifeboat Institution, the Royal Yachting Association, Asthma and Lung UK and the Epilepsy Society in advance of the commencement of these provisions. I have also asked my officials to develop a public awareness and information campaign to coincide with the commencement of the new offences, in early June, and we will continue to involve those key organisations as that campaign is developed and implemented.

The SSIs that are being discussed today are necessary to allow the provisions of part 5 of the act that was passed by Parliament last year to operate effectively and proportionately. That is essential if we are to enable positive preventative action to stop the misuse of pyrotechnics, which is a problem that the committee has already agreed needs to be addressed.

I understand that the committee would like to discuss implementation timescales for the remaining measures of the 2022 act. The on-going challenging financial context is significantly impacting our ability to implement the remaining measures in the originally anticipated timescales. Since the passage through Parliament of the bill that became the 2022 act, the financial context has shifted significantly, and decisive budget decisions have been required to ensure that vital public services across the justice portfolio—and wider portfolios—are protected.

Although full implementation of the 2022 act will take place over a longer period, the revised timings will continue to build on the good progress that has already been made and will deliver further positive change, year on year, for our communities.

The revised timescales mean that, as was originally planned, the firework control zone provisions will commence in June, ahead of bonfire night this year. I intend to lay commencement regulations in Parliament before the summer recess in order to deliver that. The personal fireworks licensing system will take effect in autumn 2024 at the earliest, and the restricted days of supply and use provisions, as well as any related compensation arrangements, will commence in a future financial year beyond 2024.

I reassure the committee that I am committed to the implementation of the 2022 act and believe that the adapted, incremental approach to its implementation is the best route forward in delivering tangible changes in the light of the unprecedented financial challenges that we currently face.

I am happy to take questions from committee members.

The Convener: Thank you, minister. That was very helpful. We will move to questions.

One or two members want to come in, but I wonder whether I can kick off—pardon the pun—by asking about the designation of a music or sporting event. The definition in the second instrument includes reference to an event venue that has

“capacity for 1,000 or more attendees”.

Could there be issues around the use of pyrotechnics at a venue that has a smaller capacity than that, such as a smaller football ground? Up in the north-east, we have quite a number of small football teams. I am not suggesting for one moment that they have an issue with pyrotechnics, but, technically, there could be an issue in a smaller venue. Has there been any consideration of venues that have a capacity of fewer than 1,000 attendees?

Siobhian Brown: Thank you, convener—you raise a very valid point. I will come on to how we got to the capacity of 1,000 in the first place, and then I might bring in my officials to comment further on that.

The 1,000 capacity threshold was designed to provide certainty for the organisers and attendees and for the police who are enforcing the law around the offences. The designation refers to the capacity of the venue where the event takes place. I accept that, when deciding on a figure in that way, it is always challenging to set a fixed number as a limit. The 1,000 capacity was reached in order to ensure proportionality and that additional restrictions apply where they could be most necessary and effective, and in keeping with the scope of the 2022 act.

Larger-sized events are included because the available evidence suggests that pyrotechnic misuse is more likely at larger events. The risk of potential harm from pyrotechnic misuse in crowded places and larger groups also includes the risk of crowd panic and surge. That does not mean that it is acceptable or safe to take pyrotechnics into smaller venues. The broader public place possession offence will provide a significant level of protection at all music events, regardless of whether they have been designated, because it prohibits the possession of most

pyrotechnics, including fireworks, “without reasonable excuse”. Engagement with relevant stakeholders has shown that such events already restrict any attempts to bring in or use prohibited items, including pyrotechnic articles. As you know, at music events, bags are already searched for alcohol, so designation will not place any additional burden on the people who organise and manage such events.

Because those provisions will come into force on 6 June, I am very keen that we have a public awareness campaign, so that everybody knows that the 2022 act will be implemented and that it will be an offence to bring pyrotechnics into larger and smaller events.

Do my officials want to comment further?

Mary Hockenhull (Scottish Government): I think that you have covered everything.

The Convener: That is helpful. Just to follow up, I would like to know whether, once the provision is in place, in June, there will be a piece of work to monitor potential incidents in smaller venues and to respond accordingly if that is proving to be problematic. However, I appreciate your response.

I will open up the discussion to members.

09:45

Collette Stevenson (East Kilbride) (SNP): Good morning, minister, and a very warm welcome to you in your new role. You touched on the issue that I want to ask about, which relates to the policy objectives. Can you give an example of what a “reasonable excuse” for using a pyrotechnic might be?

Siobhian Brown: There is no reasonable excuse for using a pyrotechnic, but there could be a reasonable excuse for being in possession of one. For example, if a security guard in a football stadium confiscates one and is en route to putting it in a safe place, he has a reasonable excuse for having it in his possession.

Collette Stevenson: You mentioned public awareness and initiatives to encourage sports grounds and event organisers to use their own controlled pyrotechnics. On Saturday, a football game was delayed because it was crowded and there was a lot of smoke and whatnot. Will you elaborate on public awareness in relation to fireworks? I know that the provisions are being phased in, but I am keen to see work to ensure that the public are aware of what we are doing on fireworks.

Siobhian Brown: As I said, we will have a public awareness campaign in June, and we are working with Police Scotland and all local

authorities on that. The regulations are being introduced today so that people are aware of them as we progress through the implementation of the 2022 act.

Collette Stevenson: That is great. Thank you.

Katy Clark (West Scotland) (Lab): I, too, congratulate the minister on her appointment.

I want to ask about the timetable. I will support the instruments today. Labour supported the 2022 act and the creation of the various new criminal offences, despite the fact that we had concerns about the operation of the licensing scheme. You mentioned that, before June, we will look at a piece of delegated legislation in relation to control zones. Is it possible to share with the committee, prior to June, any information on the definition of control zones, which was a live issue as the Fireworks and Pyrotechnic Articles (Scotland) Bill went through Parliament? You will know that, when the committee gets statutory instruments to look at, the turnaround time can be quite tight, so, the earlier that we get that information, the more we will be able to actively consider and scrutinise it. It would be helpful to have early sight of that.

It would also be helpful to get information on the licensing scheme earlier, although I appreciate that work on that is at a far earlier stage. Genuine concerns were raised about that scheme. Of course, that will depend partly on the practicalities and the detail of how the Government takes forward the legislation. It would be useful for committee members, who have looked at the legislation in detail, to have an opportunity to consider that.

Siobhian Brown: On firework control zones, the 2022 act sets out the requirements on local authorities as part of the process of considering and designating firework control zones. They include a requirement to consult widely on any proposals to designate new zones, as well as a requirement to publish any decisions as a result of consultation 60 days before a new control zone comes into effect.

I appreciate that there might be a shortage of time. My officials are working with two local authorities at the moment to ensure that they can have measures in place this year. Time has been required for a meaningful co-design process to be progressed with local authorities, communities and wider stakeholders to develop effective guidance for local authorities on the consideration and designation of firework control zones.

It has therefore not been feasible to commence the powers earlier than was planned for the commencement regulations to be laid in June. It is possible for local authorities to undertake the process once the powers come into effect, ahead of the summer recess, although the timescales will

be challenging, as I have said. We are therefore working closely with a small number of local authorities that we know have a strong desire to use the power promptly to designate the zone ahead of bonfire night this year.

Consultation and engagement with local authorities has informed the approach that we have taken, and, to continue to build on that, the Scottish Government, in partnership with the Scottish Community Safety Network, will undertake a programme of engagement with local authorities following commencement of firework control provisions to further raise awareness of the powers and how they could be used to tackle fireworks issues moving forward

On the licensing scheme that you mentioned, you are correct—we do not have detail on that, because, as you know, it has been delayed, but I can let you know that the act sets out the core elements of how the licensing scheme will function and the requirements that will be put in place. Subsequent secondary legislation will be utilised to set out the operational and administrative details of the system. My officials are developing proposals with the consultation as part of the overall programme to implement the licensing scheme, and I am happy to keep the committee updated on all progress as that work continues.

Jamie Greene (West Scotland) (Con): I will try to rattle through my questions. Welcome to the committee, minister; congratulations on your appointment.

I want to first address the issue of pyrotechnics and flare misuse at sporting events, particularly football matches, which are clearly the most high-profile events that have been reported in the media. The existing legislation—the 1995 act—makes it illegal for pyrotechnics to be taken into sporting events, but it is clear that it is failing, otherwise we would not need to afford the police more powers. Can you explain the difference between what is already legal in football stadiums and what will happen in June, for the benefit of people who attend such venues?

Siobhian Brown: Sure. As I said in my opening statement, we saw at the weekend with the old firm game that it is about the logistics of trying to get down there and detain the people who have deployed the pyrotechnic devices. I will not get into police operations because it is up to them to gather intelligence, look at who is doing that at football stadiums and to search those people proactively as they enter the stadium and remove the pyrotechnic from them or charge them with having a pyrotechnic.

Jamie Greene: It is not difficult to see who is letting off pyrotechnics. They are on camera and there are security guards around the stadium. The

police must have a fair amount of intelligence on the individuals who are routinely responsible for that. I mention that because it is not only individuals; there seems to be a concerted and collective effort to let off flares at specific points during or before games. We have also seen the unfurling of banners related to the pyrotechnics issue.

What consultation has the Scottish Government had with football clubs, the Scottish Football Association and supporters organisations? Clearly, there is an underlying problem that is not limited to individuals breaking the law; events are clearly co-ordinated. How on earth will the police tackle the sheer volume of people who are letting off pyrotechnics?

Siobhian Brown: I appreciate where you are coming from. The use of pyrotechnic fireworks at football games in the past several years has been escalating and they are dangerous. People have been injured, and a child died at a football game in Europe. They are dangerous and because their use has escalated, it is only a matter of time.

My understanding is that historically there has been engagement with football, but I am happy to bring in one of my officials who probably has more knowledge on the history.

Jamie Greene: Before you do, we are interested in why the clubs themselves not facing any penalty or liability if their supporters are routinely breaking the existing law and will clearly be breaking the new laws that we have passed. It seems to happen endlessly and there seem to be no consequences for the clubs. Is that conversation with clubs taking place?

Mary Hockenhull, I am looking at you. I am sorry; that is unfair.

Mary Hockenhull: We have had engagement with the Scottish Professional Football League and the SFA on these regulations. At the time of the bill process, there was also engagement with supporters groups and wider groups on the detail of the bill and, subsequently, the regulations. The authorities and clubs are supportive of anything that can help them to tackle the issue in a more proactive way.

When it comes to the misuse of pyrotechnics more broadly and to what can be done in operational enforcement, there is on-going discussion. My colleagues in the active Scotland division and the Minister for Social Care, Mental Wellbeing and Sport have been more involved, I understand, but I can certainly get some further information on the detail of the engagement around that.

In the run-up to the commencement of the provisions, we, too, will engage in making sure of

the messaging for football fans and for sport, via Police Scotland.

Jamie Greene: Is it the plan that, using intelligence, the police will stop and search prior to entry to the stadium? If fireworks, pyrotechnics, flares or other devices are found on persons, will they be denied entry and the items removed, or will the items be removed but the persons still be allowed entry to the football game? I ask in order to be clear.

Siobhian Brown: I am unable to answer that question. I do not have that detail. I can find out. However, my understanding is that the articles would be removed and that the people would not be able to go into the football game and would be charged with being in possession.

Jamie Greene: Would they actually be charged at that time?

Siobhian Brown: That is an operational matter for the police, so I do not want to comment on what would—

Jamie Greene: It is quite a strong deterrent for a person—knowing that they might end up in a prison cell.

Siobhian Brown: The football clubs are supportive of that. I hope that, when we have our public campaign, they will support that as well, to deter fans from using pyrotechnics at football games.

Jamie Greene: That is great.

I have questions on a few other bits and bobs. The first is about the public awareness campaign. The provisions will commence in June this year, but the committee passed the bill last year. Would it not have been helpful to start the public awareness campaign a little earlier? Is there any reason why it has been delayed until after the commencement of the legislation?

Siobhian Brown: We had to engage with stakeholders, so we were not able to implement the provisions before June. We did not have the detail to move forward with the public campaign. I am very keen for the public campaign to go live in June, so that it is in place for bonfire night this year.

Jamie Greene: I am sure that we will all support that.

In the policy briefings that came with the SSIs, the sections on the financial effects for each instrument state:

“The Minister for Community Safety confirms that ... the instrument has no financial effects on the Scottish Government, local government or on business.”

I have two questions on that. First, multiple ministers have claimed that the financial effects of

the legislation were the cause of the delay. That seems to contradict what we are asked to do today. Clearly, there is a financial effect, so I refer to the passing of the act in 2022. What did the financial memorandum claim as the forecasted cost of the legislation? Has it crept up since then? If so, will you provide some numbers? If you do not have that information to hand, I will be happy for you to write to the committee.

Siobhian Brown: I will bring in Mary Hockenhull in a moment. The estimated costs for implementing measures in the act have not changed and remain as detailed in the original financial memorandum, which estimated ranges for cost savings and changes in revenue. The estimates were based on the information, evidence and data that were available on fireworks and pyrotechnic articles, which came mainly from the two large-scale public consultations, the work of the independent fireworks review group and the Scottish Government working group on pyrotechnic use. In addition, the Scottish Government met and engaged with stakeholders to request and examine the information, data and estimates.

I will bring in Mary Hockenhull but, as I said in my opening statement, we are now in a very different place, financially, from where we were even a year or two ago, when the legislation was introduced. It is not to do with the cost of bringing it in. It has been delayed due to our finances, given our fixed budget.

Mary Hockenhull: I can address the policy notes that accompany the SSIs; the financial impact that is mentioned is specific to the two SSIs only. In discussion with the police, we understand that there will be intelligence-led event policing and that there will not be significant additional policing costs involved. There is no cost to the Scottish Government for enforcement, beyond what exists. That is very specifically in relation to the SSIs.

Fiona McDiarmid might wish to come in on the wider fireworks legislation.

10:00

Fiona McDiarmid (Scottish Government): I am happy that the minister stayed on, as stated, our financial memorandum; the information is still correct and that is what we are working towards.

Jamie Greene: Just to be clear, the financial memorandum also states that there will be no effect on business. I know that we are drip feeding the instruments to commence the legislation and that the restriction on the sale and purchase will not be until, I presume, 2025 or thereafter. There will be no compensation scheme in place until then. Is that correct?

Siobhian Brown: Yes, because the compensation scheme relates to the restricted days. As the compensation regulation-making power is connected only to the restricted day of supply measure, which will be implemented in a future financial year—as you mentioned—it is not possible to advise when the compensation scheme for specialist fireworks will be launched.

Jamie Greene: My final question is on firework control zones, the introduction of which you mentioned is imminent. How many local authorities will introduce firework control zones? I recall that that was quite a meaty part of the legislation and much of the feedback from local authorities and their representative bodies was that it would come at a cost to them. I appreciate that you will introduce that legislation before summer recess and I am sure that we will have time to talk about it then, but that is not far away. What preparatory work has taken place in conjunction with local authorities to assist them financially to set up the zones and to run any local public awareness campaigns? Do we have any idea how many fireworks control zones there will be this coming year and where they might be?

Siobhian Brown: I will answer the second part of your question first, if I may, then bring in officials for the first part.

The legislation is coming in June, so if it goes out to consultation there will be a tight timescale. The local authorities are working with our officials. I am not sure of the exact councils, but I think that Glasgow and Lothian will have zones in place for bonfire night this November. I am unsure of any other local authority, but those are the ones that have engaged with us and really want to use the legislation. Being an ex-councillor, and knowing what a topical issue this is locally, I think that there will be further take-up from local authorities.

Jamie Greene: I dare say. We heard lots of evidence on some of the localised issues. Do you not think that there may be slight confusion among the public, because they are getting the legislation in a very piecemeal way? There was the aggravator offence around attacking emergency service workers, which I will not go into today. There was the banning of sale to minors, then the firework control zones, then the banning of pyrotechnics and flares. Then there is the restricted sale, purchase and use. All that is taking place at different times and in different places. Is there a risk that we are undermining the underlying objective of the legislation by causing confusion around what people can and cannot do? A lot of people simply do not know what the rules are.

Siobhian Brown: I appreciate that but, as a new minister, I am very keen on public awareness as we move forward. We know that

implementation will happen over a period. It may be better for small bits of information to go out to the general public, because much of this will happen in five years' time. I will be working with my officials to ensure that there is public awareness of the pyrotechnics legislation and, as we move towards bonfire night, I will be working with local authorities on what is expected, to ensure that the public are fully aware.

Russell Findlay (West Scotland) (Con): I want to check on the two local authorities—was it West Lothian or East Lothian?

Fiona McDiarmid: West Lothian.

Russell Findlay: On Sunday, at Hampden, kick-off was delayed by dozens of pyros being set off in a highly co-ordinated action by both sets of fans. As my colleague Jamie Greene said, it is already a criminal offence to take pyros into football stadiums, so why is that happening on such a big scale? Do you know how many arrests might have been made in relation to what happened on Sunday? Have you discussed it with Police Scotland? What practical difference would the new law make in respect of this issue?

Siobhian Brown: I have not discussed what happened on Sunday with Police Scotland. I saw what was happening, and I think that you are 100 per cent correct that it was totally orchestrated. As I have mentioned, the issue seems to be escalating and it is dangerous. I believe that this SSI, which will enable the police to search the general public before they enter the ground and to remove pyrotechnics from them, is different from waiting for someone to explode the device and then trying to arrest them safely in a large crowd.

Russell Findlay: The police already have powers to search fans going in.

Siobhian Brown: They do, but there will also be a public awareness campaign. At the moment, I think that people think that they can get away with it, but they cannot. Bringing in the legislation and having a public awareness campaign will reiterate that to fans, especially if we have the football clubs on our side as well.

Russell Findlay: Public awareness is one thing, but I am trying to understand what practical difference the new law will make in respect of policing powers. The police already have the powers that they need to search fans and to deal with people who are carrying pyros within stadiums or going into stadiums, but they are not using them.

Siobhian Brown: That is a police operational matter that I cannot get involved in. I want to bring in Mary Hockenhull, one of my officials, who can comment on that.

Mary Hockenhull: The power that the police currently have only applies if the person is intending to enter the football ground. The public place possession offence will prohibit all pyrotechnics, including all fireworks except for the F1 fireworks—the sparklers and such things—at any public place “without a reasonable excuse”, so there should be the ability for the police to make a much earlier proactive intervention.

Russell Findlay: Okay, thank you.

The legislation was rushed and the Scottish Government ignored some clear warnings from various people that it was a mistake. Now it has been beset by delays and there is a lack of key information around when certain measures will be introduced. Your predecessor, in a letter to the committee, said that it was not possible to say when the restrictions on the days of sale and use will come in. She also suggests, in part of the letter, that that might be something to do with the war in Ukraine; that is a bit shabby, as excuses go. What is your best guess as to when that key measure will come into place?

Siobhian Brown: Can I just clarify which key measure? Is it the licensing system?

Russell Findlay: The key measure of restricting the days of sale and use.

Siobhian Brown: The days of sale measure. First, the bill was not rushed through. The bill was subject to an accelerated parliamentary timetable to enable the proxy purchase provisions and the emergency workers aggravation to be in force ahead of bonfire night in 2022. The bill was developed from a longer-term in-depth review of and public consultation on fireworks legislation and police powers, in response to the serious incidents on bonfire night back in 2017. The outcomes and recommendations of that review were published in 2019, and we continue to work in collaboration with key stakeholders to develop—

Russell Findlay: I am sorry to interrupt. I am just trying to work out when you think that that key measure will come in.

Siobhian Brown: At this stage, we are estimating that it will be in the financial year after 2024. However, as I said previously, we never anticipated, 18 months to two years ago, that we would be in the financial position that we are in now.

Russell Findlay: Yet the financial memorandum has not changed; there is no additional cost.

Siobhian Brown: However, our budget—our fixed budget—is £1.7 billion less than it was a year ago, due to the crashing of the economy. We are in a very different place, so we have had to make hard decisions. I am very keen that the measure

will be implemented, but it will take a little bit more time.

Russell Findlay: So, the new possible date is late 2024.

Siobhian Brown: As I said in my opening statement, it is in 2024 for the next financial year.

Russell Findlay: I thought that that was in relation to the licensing scheme.

Siobhian Brown: The licensing scheme and the restricted days will be together. There are six parts of the bill that have to be implemented. If you will just bear with me for a moment—

Russell Findlay: Going back to the letter from Elena Whitham, it says, in respect of the restriction of supply and use, that

“it is not ... possible to confirm in which financial year”,

but you think that it might be in 2024.

Siobhian Brown: The financial year after 2024, after the licensing—

Russell Findlay: Right, so the licensing will come first—potentially next year, but even that is not a given.

Siobhian Brown: —and then the restricted days with compensation.

Russell Findlay: I am just looking at a Scottish Parliament information centre briefing that is on the Scottish Parliament website. It says quite clearly, for the public to see, that all the provisions within the 2022 act will be progressed in 2023. That is no fault of SPICe—it is what it was told by the Government—but that is what the public are currently reading. Do you not accept that there will be a lot of confusion out there?

Siobhian Brown: I do not accept that. We are in a very different place financially, which is why we have had to implement the act with a staggered approach. I am happy, in a public awareness campaign, to note that we are doing that because of the financial implications of our budget.

Russell Findlay: When I googled the matter to try to refresh my memory about what is a complicated set of circumstances, I was told that all the provisions in the bill will come into force in 2023—this year.

Siobhian Brown: I was not aware that that was currently in the SPICe information, but I am happy to speak to officials and have that information updated as soon as possible.

Russell Findlay: Okay—thank you.

Fulton MacGregor (Coatbridge and Chryston) (SNP): Russell Findlay has asked exactly the question that I was going to ask about

the game on Sunday. However, rather than withdraw my question as I would usually do, given that it is your first appearance at the committee, I will take the opportunity to formally welcome you to your new role, minister, and I will try to ask my question slightly differently.

We have spoken about the old firm match on Sunday, which was disrupted by flares, right on cue for your appearance at the committee today, minister. You have already had an exchange with Russell Findlay on that, and I do not expect additional answers, but has the Government had discussions with any of the authorities about possible harms that were caused on the day? Has any initial analysis been done of how the provisions in the act that come into force in June might have prevented or alleviated what happened on Sunday?

I realise that you have almost answered that question, but I have tried to put a slightly different angle on it.

Siobhian Brown: We are keen to get data as we progress, especially on injuries. I do not think that there were any injuries that we can report from Sunday, but we are keen to find out and get reports as we move forward, and we are watching the situation closely.

I will bring in officials on the communication that we have had with football stadiums regarding people coming in.

Mary Hockenhull: Even since Sunday's game, colleagues of mine have been in discussions on whether any particular harms came out of that. As far as I know, there were not any, but I cannot be absolutely certain on that just now. There will be further discussions over the next month and, I am sure, beyond that about the misuse of pyrotechnics. The regulations are one part of preventing pyrotechnic misuse, but I accept that a lot of other interventions need to be made and that work needs to happen with football clubs, football authorities, Police Scotland and supporters groups. That work has been happening, and it will continue.

Siobhian Brown: If I may, convener, I will update the committee regarding the proxy purchase offence and the emergency worker aggravation. When the committee received the letter on that, you wanted to know whether there had been any arrests in that regard, so I had an update on the matter this morning.

Following the disorder involving fireworks that was witnessed on Halloween and bonfire night last year, my officials have regularly liaised with Police Scotland regarding offences and charges. As of this morning, there had been two charges. We do not know the exact detail, and I cannot get into

that at the moment but, if we find out more, I will be happy to share that with the committee.

Police Scotland has advised that, at this stage, investigations by Police Scotland and the Crown Office and Procurator Fiscal Service are continuing and that information relating to the specific cases is not yet available in the public domain. I reassure the committee that I consider gathering data in relation to the proxy purchase offence and the emergency worker aggravation to be a priority to understand how those provisions are being used along with other firework-related charges in response to the misuse of fireworks. My officials will continue to liaise with Police Scotland and we will continue to monitor the situation. I am always happy to keep the committee updated on progress.

The Convener: Thank you.

Jamie Greene has a quick question.

Jamie Greene: Given how difficult it is to bring charges and achieve convictions and successful prosecutions, and that we already have a wide-ranging set of laws prohibiting misuse of such devices, would the Government support a lengthy or lifetime ban from entering a football stadium anywhere in Scotland as a deterrent or incentive not to bring devices into sporting stadiums? Will the Government actively discuss that with clubs?

10:15

Siobhian Brown: I am open to having discussions on that, but we would have to discuss it with Police Scotland and the football clubs.

The Convener: Thank you, minister. We have had a good range of questions and responses. I will pick up on a couple of points before we move on. We would welcome any feedback that you can provide on charges arising from assaults on emergency workers. That would be helpful for the committee in keeping track of the situation.

Section 41 of the 2022 act gives a constable power to detain a person for the purposes of search, but it does not appear to cover a further ban on entry to a ground. Could you write to us on those entry issues and on whether it might be appropriate to have a ban on entry after someone has been found to be in possession of a pyrotechnic article?

Siobhian Brown: I am happy to report back to the committee on that.

The Convener: Thank you.

Minister, I invite you to move motion S6M-08408.

Motion moved,

That the Criminal Justice Committee recommends that the Fireworks and Pyrotechnic Articles (Scotland) Act 2022 (Consequential Modifications, Saving and Transitional Provisions) Regulations 2023 [draft] be approved.—
[Siobhian Brown]

Motion agreed to.

The Convener: Are members content to delegate to me the responsibility for producing a short factual report detailing our consideration of the SSI?

Members indicated agreement.

The Convener: Our next agenda item is consideration of the negative instrument associated with the affirmative instrument that we have just considered. I refer members to paper 3.

As it seems that members have no additional questions, are we content to make no recommendation to the Parliament on the instrument?

Members indicated agreement.

The Convener: I thank members, the minister and her officials for their time. That concludes our business in public, and we now move into private session.

10:18

Meeting continued in private until 12:42.

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