

## Criminal Justice Committee

**12th Meeting, 2022 (Session 6), Wednesday  
23 March 2022**

## **Fireworks and Pyrotechnic Articles (Scotland) Bill – Oral Evidence**

### **Note by the clerk**

### **Introduction**

1. The [Fireworks and Pyrotechnic Articles \(Scotland\) Bill](#), and [its accompanying documents](#), were introduced in the Parliament by the Minister for Community Safety, Ash Regan MSP, on 1 February 2022.
2. The overarching policy objective of the Bill is to address a broad range of concerns around the sale and use of fireworks and pyrotechnic articles in Scotland. The Bill seeks to achieve this by restricting the sale of certain categories of fireworks to the public, as well as creating powers to limit the days and locations where such fireworks can be used.
3. The Bill will establish new powers for local authorities to create Firework Control Zones, as well as establish new stop and search powers for the police in terms of enforcing the provisions of the Bill.
4. The Bill also establishes new controls on the sale and use of pyrotechnic articles, commonly referred to as distress or signal flares.

### **Written submissions, public engagement and briefings**

5. A [SPiCe Bill Briefing on the Bill](#) has been produced, to inform oral evidence sessions.
6. The Committee's online public call for written views on the Bill closed on Friday 11 March. The Committee received in excess of [150 written submissions](#) and these are available online to read.
7. The Parliament's [Public Engagement Site on the Bill](#) also closed on Friday 11 March. [Paper CJ/S6/22/11/2](#) from the meeting of 21 March contains a summary of engagement contributions on each of the eight provisions in the Bill.

## Participants

8. The Committee has scheduled a number of oral evidence taking sessions on the Bill throughout March 2022, this is the third evidence session.
9. At its first meeting on [16 March](#) the Committee took oral evidence from Alasdair Hay, Chair of the Scottish Government's Fireworks Review Group, Assistant Chief Officer Stuart Stevens, Scottish Fire and Rescue Service, David Hamilton, Scottish Police Federation, Rob Holland, National Autistic Society Scotland, Lorraine Gillies, Scottish Community Safety Network, and Gilly Mendes-Ferreira, Scottish SCPA.
10. As its second meeting on 21 March the Committee took evidence from Chief Inspector Nicola Robison of Police Scotland, David MacKenzie of the Society of Chief Officers of Trading Standards in Scotland, and Julie Whitelaw, from West Lothian Council.
11. At today's meeting the Committee will hear from one panel of witnesses:
  - **Fraser Stevenson**, Vice Chairman of the British Fireworks Association;
  - **Andy Hubble**, Chairman of the British Pyrotechnists Association, and
  - **Norman Donald**, Owner of NJE Fireworks Displays

## Format

12. Mr Stevenson and Mr Hubble will be attending the meeting in person along with Members of the Committee. Mr Donald will be joining the meeting remotely.

## Written evidence

13. The following written submissions have been received from those witnesses appearing today, and are set out in **Annex A** as follows-
  - British Fireworks Association (Page 3)
  - British Pyrotechnists Association (Page 13)
  - NJE Fireworks Displays (Page 19) .

**Clerks to the Committee**  
**18 March 2022**

## ANNEX A – WRITTEN SUBMISSIONS

**Name of organisation: British Fireworks Association**

### Information about your organisation

The British Fireworks Association (BFA) is the recognised trade body, who's members import over 90% of the UK's legitimate consumer fireworks. The industry works with BEIS, OPSS, Health & Safety Executive, CEN, BSI, PALG, FELG and other authorities and organisations to ensure that Fireworks (and other pyrotechnics) placed on the market in the UK are safe and legal. Therefore, it is with great concern, that the BFA must raise objections to the vast majority of the measures being proposed in this Bill, for the reasons outlined below: -

#### 1. Restrict the use of fireworks & pyrotechnics at events

The BFA objects to this proposal on the grounds that there are already provisions within existing legislation to deal with this. The Police have extensive powers under Section 80 of the 1875 Explosives Act, which makes it an offence to discharge Explosives (including Fireworks and Pyrotechnic Articles<sup>1</sup>) in a public space, or cause them to enter a public space, and carries a Level 5 fine.

The Sporting Event (Control of Alcohol etc) Act 1985 also makes it an offence for anyone to possess Fireworks and other Pyrotechnics within a stadium.

Therefore, additional legislation is not required, instead the existing legislation should be fully and publicly enforced.

#### 2. Taking an online course before getting a fireworks licence

The BFA objects to this proposal on the grounds that it will contribute to the creation of an even larger black market in Scotland and will have wider public safety issues, not only in Scotland but throughout the UK. The industry has always supported the safe, considerate and responsible use of fireworks. The overwhelming majority of consumers in Scotland (we estimate around 250,000 each year) buy and use fireworks in this manner, and this should be recognised and encouraged. By forcing consumers to sit (and pay for) an online test, the Scottish Government are presenting consumers with three choices:-

#### **A. Do the test and pay the fee.**

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<sup>1</sup> Explosive Substances Act 1883 - This Act shall apply to gunpowder and other explosives as defined by this section. The term explosive in this Act - (1) Means gunpowder, nitroglycerine, dynamite, gun-cotton, blasting powders, fulminate of mercury or of other metals, coloured fires and every other substance, whether similar to those above mentioned or not, used or manufactured with a view to producing a practical effect by explosion or a pyrotechnic effect; and (2) includes fog-signals, fireworks, fuzes, rockets, percussion caps, detonators, cartridges, ammunition of all description, and every adaptation or preparation of an explosive as above defined.

B. Choose not to do the test and not purchase fireworks.

C. Choose not to do the test and purchase fireworks from an illegal source.

Option A) will have a financial impact on Families who choose to enjoy Fireworks at home in a safe and responsible manner. The BFA estimates that the average value of fireworks purchased is around £50-£60, and therefore the proposal will effectively double this to over £100.

Option B) will undoubtedly happen, as for many the total cost will be simply too much, effectively taxing consumers for something which has been part of our culture for over 100 years.

Option C) is the one which concerns the industry the most. ScotGov has stated that a similar system successfully operates in Northern Ireland (NI). The BFA would challenge that statement. In a 2016 BBC article<sup>2</sup>, it was stated that a total of 515 licences had been issued to purchase fireworks in NI. At the time, the population of NI was around 1.85 million people. If the same ratio was applied to Scotland today, that would amount to a total of just over 1,500 licences being issued. It is unrealistic, and we would suggest naive, to believe that the remaining 248,500 consumers would simply choose to not purchase fireworks!

Furthermore, the Scottish Government has implied that the reduction in injuries in NI was as a direct result of the introduction of a licensing scheme. Again, the BFA would challenge that statement, and would suggest that the reduction was as a result of the legalisation of Fireworks, with licensing being introduced to address the concerns surrounding terrorism!

It is therefore reasonable to conclude that a substantial number of these disenfranchised consumers would decide to source fireworks illegally. When questioned about the unintended consequences of greater restrictions on the sale and use of fireworks at a 2019 Westminster enquiry, the National Police Chiefs Council, stated<sup>3</sup>: -

*“If a black market became available, it would be even more difficult to police than the situation we currently have, which would be a really unhelpful unintended consequence.”*

Also, when asked the National Fire Chiefs Council stated that<sup>4</sup>: -

*“I am sure that there would be unintended consequences.”*

Once a supply chain for black market fireworks is established, it will be impossible to close it down. This can be seen from the experience of other countries, notably the Republic of Ireland, who introduced strict measures

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<sup>2</sup> <https://www.bbc.co.uk/news/uk-northern-ireland-37701892>

<sup>3</sup> <https://publications.parliament.uk/pa/cm201919/cmselect/cmcompetitions/103/10305.htm>

<sup>4</sup> <https://publications.parliament.uk/pa/cm201919/cmselect/cmcompetitions/103/10305.htm>

**CJ/S6/22/12/1**

**over 15 years ago and is now flooded with illegal, untested, dangerous fireworks. Fireworks, some of which were banned in the UK over 20 years ago!**

**David Kavanagh, District Officer with Dublin Fire Brigade, says illegal fireworks can have devastating consequences<sup>5</sup>: -**

**"We see kids, and adults and young teenagers, with their fingers blown off.**

**Some people their whole arm can be blown off," said Mr Kavanagh.**

**"Fireworks, because they are illegal in this country, they don't come in with a safety certificate and even though some [people] think they can light them and throw them, sometimes when you light them they explode straight away. It is terrible to see the devastation that it [a firework] can do to the body."**

**The BFA also agrees with the views of the Chartered Trading Standards Institute<sup>6</sup>, when they state: -**

**"If sections of the public who already misuse fireworks are prepared to purchase illegal fireworks then the safety course will only be of benefit to those safety conscious members of the public who already follow the fireworks' code."**

**Continuing, the Chartered Trading Standards Institute<sup>7</sup>, also state that: -**

**"The Northern Ireland experience is that a possession and use licence scheme does not, in itself, prevent the anti-social behaviour of setting fireworks off in public places and using rockets as weapons."**

**Furthermore, when commenting on this measure, Fife Council Trading Standards<sup>8</sup> state:-**

**"We feel this could likely lead to consumers seeking to purchase fireworks online or from 'underground' sources such as unlicensed sellers or 'white vans'. This could lead to less traceability of product, unsafe storage and unsafe product."**

**Instead of introducing an expensive, draconian and completely ineffective measure, the BFA has proposed that a public awareness campaign should be introduced to promote the safe, considerate and responsible use of fireworks. A proposal that Westminster fully supported and recently introduced. Unfortunately, the Scottish Government chose not to accept the industry proposal and instead chose to support those who sought to ban the use of Fireworks and exclude the industry from involvement in their safety campaigns.**

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<sup>5</sup> <https://www.irishexaminer.com/news/arid-30878362.html>

<sup>6</sup> [https://consult.gov.scot/justice/use-and-sale-of-fireworks-in-scotland/consultation/view\\_respondent?show\\_all\\_questions=0&sort%20=submitted&order=ascending&q\\_text=Superintendents+&uuld=140038268](https://consult.gov.scot/justice/use-and-sale-of-fireworks-in-scotland/consultation/view_respondent?show_all_questions=0&sort%20=submitted&order=ascending&q_text=Superintendents+&uuld=140038268)

<sup>7</sup> [https://consult.gov.scot/justice/use-and-sale-of-fireworks-in-scotland/consultation/view\\_respondent?show\\_all\\_questions=0&sort=submitted&order=ascending&q\\_text=Chartered+Trading+Standards+Institute&uuld=522946366](https://consult.gov.scot/justice/use-and-sale-of-fireworks-in-scotland/consultation/view_respondent?show_all_questions=0&sort=submitted&order=ascending&q_text=Chartered+Trading+Standards+Institute&uuld=522946366)

<sup>8</sup> <https://publications.parliament.uk/pa/cm201919/cmselect/cmcompetitions/103/10305.htm>

Therefore, additional legislation is not required nor appropriate, instead the existing legislation should be fully and publicly enforced.

*3. Local councils creating 'firework control zones'*

The BFA objects to this proposal on the grounds that there are already provisions within existing legislation to deal with this. It has been suggested by some that this proposal would have prevented the widely publicised media reports in 2018 of youths discharging fireworks in Pollokshields, Glasgow. If this incident (and the limited number of others) are broken down, they fall within two existing pieces of legislation. The first relates to Section 80 of the 1875 Explosives Act, making it an offence for anyone to discharge a firework in or into a public space (what was the case in Pollokshields). The second relates to Section 30 of the 1875 Explosives Act, which makes it an offence to supply Fireworks (or other Pyrotechnics) in a public space. This is relevant when considering the reports of fireworks being supplied from the back of vans in the same area. Finally, The Fireworks Regulations 2004, Section 4, makes it an offence for anyone under the age of 18 to possess an adult firework (or other age restricted pyrotechnic) in a public place. Therefore, on this occasion (and others), there have been at least three clear breaches of existing legislation, each carrying a £5,000 fine and/or up to 6 months in prison, and yet no action was taken.

The BFA also strongly agrees with the views of the Association of Scottish Police Superintendents<sup>9</sup> on this topic, when they state, as part of the consultation, "It is a minefield that does not need to be created."

Furthermore, the BFA has highlighted to the Scottish Government that such a proposal will have the unintended consequence of encouraging the greater misuse of fireworks, not reducing it. The reason being that discharging fireworks within the confines of private land, in effect helps identify those who are doing it and therefore helps to identify those using fireworks outside the legal times. By creating widespread firework free zones, the use of the firework will simply be displaced to public spaces to minimise the risk of identification.

Furthermore, the BFA would highlight the general issue of civil liberties, where due to a very small number of isolated incidents (which we have highlighted are already illegal), lawful activity will be stopped for all. The industry would ask, where will the line be drawn? Will it eventually spread to BBQs , dogs, outdoor music?

Finally, the Scottish Government has cited the creation of firework free zones in Berlin, Germany as an example of how such measures are successful. The BFA challenges this statement. Unlike the UK (due to Section 80 of the 1875 Explosives Act), it is not an offence to discharge a firework in a public space in Germany. The introduction of firework free zones in Berlin prevented the use of Fireworks in a public space, it did not prevent their use on private land (something the proposal will seek to prevent).

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<sup>9</sup> [https://consult.gov.scot/justice/use-and-sale-of-fireworks-in-scotland/consultation/view\\_respondent?show\\_all\\_questions=0&sort%20=submitted&order=ascending&q\\_text=Superintendents+&uuld=140038268](https://consult.gov.scot/justice/use-and-sale-of-fireworks-in-scotland/consultation/view_respondent?show_all_questions=0&sort%20=submitted&order=ascending&q_text=Superintendents+&uuld=140038268)

**Therefore, additional legislation is not required nor is it appropriate, instead the existing legislation covering the discharge and supply of fireworks in public space, along with the possession of those under the age of 18 should be fully and publicly enforced.**

**4. Give police powers to stop, search & seize certain fireworks**

**The BFA objects to this proposal on the grounds that there are already provisions within existing legislation to deal with this and there are real concerns regarding general civil liberties. We can see no justification for this proposal and find the wider reaching implications for civil liberties extremely concerning. As stated, the BFA believes that around 250,000 consumers in Scotland buy fireworks each year. This proposal would effectively give Police Scotland the right to stop and search each and every one of those 250,000 motorists.**

**Instead, the BFA would propose that Police Scotland engage with the industry (as OPSS does) in sharing market surveillance information, to help the Police identify products and locations of concern. therefore, adopting a targeted approach, and minimising the waste of resources.**

**5. Making it illegal to give certain fireworks to under 18s**

**The BFA supports clarification of the existing legislation. As stated previously, the Fireworks Regulations 2004, Section 4, makes it an offence for anyone under the age of 18 to possess an adult firework (or other age restricted pyrotechnic) in a public place, regardless of how they came into possession of it. The BFA can see no unintended consequences of creating specific proxy legislation to support the existing legislation. Therefore, we support this specific proposal and it should be fully and publicly enforced.**

**6. Restricting when the public can buy or use certain fireworks**

**The BFA objects to this proposal as it will contribute to the creation of an even larger black market in Scotland and will have wider public safety issues. By introducing such a measure, the Scottish Government will effectively be introducing a ban on the sale and use of fireworks outside specific periods. As Chris Kemp of the Association of Chief Fire Officers stated in 2019 when asked about banning the sale and use of fireworks<sup>10</sup>,**

**“Whatever threshold and whatever legislation there is, we will always have people trying to evade it and go under the radar. If a total ban was introduced, I am sure it would push the sale of fireworks underground, into a black market.”**

**Furthermore, restricting the days of supply will invariably cause some consumers to stockpile fireworks, either for their own use (in a public space to avoid identification) or for resale. Something which the Association of Scottish Police Superintendents<sup>11</sup> notes, stating that:-**

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<sup>10</sup> <https://publications.parliament.uk/pa/cm201919/cmselect/cmcompetitions/103/10305.htm>

<sup>11</sup> [https://consult.gov.scot/justice/use-and-sale-of-fireworks-in-scotland/consultation/view\\_respondent?show\\_all\\_questions=0&sort%20=submitted&order=ascending&q\\_text=Superintendents+&uuld=140038268](https://consult.gov.scot/justice/use-and-sale-of-fireworks-in-scotland/consultation/view_respondent?show_all_questions=0&sort%20=submitted&order=ascending&q_text=Superintendents+&uuld=140038268)

**“the consultation paper is silent on consumers stockpiling fireworks outwith the approved periods of sale.”**

**So once again, the BFA would highlight the unintended consequences of such a measure, creating a greater black market, stockpiling and illegal sales and storage. This concern was raised by the Chartered Trading Standards Institute<sup>12</sup> who stated that:-**

**“This proposed restriction may have the unintended consequence of increasing the illegal importation of fireworks.”**

**Therefore, additional legislation is not required nor is it appropriate, as there are recognised consequences to such a proposal which will have wider issues, including public safety.**

### Summary

**The measures being proposed are disproportionate to the root cause of the problem, a small number of individuals who choose to misuse fireworks and, thus far, have failed to feel the full force of the existing legislation. A small number of individuals who will continue to misuse fireworks regardless of what additional legislation is introduced. Indeed, Community Safety Minister Ash Regan<sup>13</sup> herself acknowledged it is a small number of people when in 2021 she stated:-**

**“..there's a number of people - a small number of people - that are using fireworks inappropriately..”**

**On the rare occasions that prosecutions have been taken, rather than the sentencing acting as a deterrent to others, the BFA feels it has simply confirmed the low priority that the courts have placed on such matters. One case in point was the use of fireworks against two Police Officers in Tranent<sup>14</sup> in 2019. Instead of being fined £5,000 and/or 6 Months in Prison, the accused was fined (in his absence) £150! In 2018, five males were convicted and sentenced for various offences, including the misuse of fireworks and again, the Court failed to pass the maximum sentence but instead chose to sentence the five to “Restriction of Liberty Order for a period of six months”<sup>15</sup>. These are only two examples where the opportunity to send a clear message to those who wilfully misuse fireworks has been missed. With this in mind, we feel it is neither appropriate, nor beneficial to introduce legislation penalising the vast majority of law-abiding citizens, when the existing legislation and sentencing is not being fully enforced against those who misuse fireworks.**

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<sup>12</sup> [https://consult.gov.scot/justice/use-and-sale-of-fireworks-in-scotland/consultation/view\\_respondent?show\\_all\\_questions=0&sort=submitted&order=ascending&q\\_\\_text=council+&\\_b\\_index=60&uuld=522946366](https://consult.gov.scot/justice/use-and-sale-of-fireworks-in-scotland/consultation/view_respondent?show_all_questions=0&sort=submitted&order=ascending&q__text=council+&_b_index=60&uuld=522946366)

<sup>13</sup> <https://www.edinburghnews.scotsman.com/news/crime/teen-thug-hurled-firework-east-lothian-police-officers-3005005>

<sup>14</sup> <https://www.edinburghnews.scotsman.com/news/crime/teen-thug-hurled-firework-east-lothian-police-officers-3005005>

<sup>15</sup> [https://www.edinburghnews.scotsman.com/news/crime/five-sentenced-over-bonfire-night-mayhem-cr\\_aigentenny-229690](https://www.edinburghnews.scotsman.com/news/crime/five-sentenced-over-bonfire-night-mayhem-cr_aigentenny-229690)

**Furthermore, the BFA firmly believes that the proposed legislation (with the exception of the proxy rules) will encourage 250,000 law-abiding Scots to look elsewhere for fireworks. To look away from legitimate supply channels of safe, tested and approved fireworks but instead towards the illegal black market. A market where products are not subjected to the rigorous safety checks we have in the UK; a market where illegal storage is commonplace and a market where illegal transport puts the safety of the general public at risk.**

**This view is not fiction, it is fact. Recent events in Germany, Austria and the Netherlands have demonstrated the tragic consequences of a black market. The black market in illegal fireworks created through greater restrictions has been attributed to at least two deaths, something the UK has not suffered from for well over 20 years. However, the UK's low injury rates are no accident, they are a direct result of Industry and Government working together, and this cooperation is set to continue with Westminster (BEIS & OPSS) and the BFA working together on several initiatives. Unfortunately, the Scottish Government has chosen a different path, despite the numerous warnings.**

**The BFA would therefore make representation (in the strongest possible terms) to the Justice Committee that the proposed legislation will not only place unfair trading restrictions upon Scottish businesses (to the benefit of those in the rest of the UK) but it will also present an increased risk to the wider public, not only in Scotland but also the rest of the UK. Furthermore, against ALL sensible advice, we believe that the Scottish Government are sleepwalking into very dangerous territory. The unintended consequences of this legislation have been highlighted, making them now INTENDED CONSEQUENCES, and therefore will the Scottish Government accept responsibility for the ensuing lawlessness and inevitable injuries?**

**Instead of this Bill, the BFA would encourage the Justice Committee to recommend that the Scottish Government consider the 10-point plan already proposed by the BFA. A plan which will and is making a real difference.**

#### **The British Fireworks Association**

##### **10 Point Plan to improve firework safety and reduce anti-social behaviour.**

- 1. There should be an annual national safety awareness campaign agreed and funded jointly between industry and Government.**
- 2. Enforcement agencies should receive additional, seasonal funding, to help tackle the growth in illegal fireworks.**
- 3. Enforcement agencies to receive better training in the detection and apprehension of illegal fireworks.**
- 4. The minimum age for buying fireworks should be raised to 21.**
- 5. Illegal fireworks sold via social media should have their sites taken down immediately.**

6. Fines for selling, possessing or using illegal fireworks should be increased – along with robust minimum sentencing.
7. There should be a central contact point for reporting all firework related misuse issues.
8. There should be a standardised reporting structure for injuries caused solely by fireworks – to include the cause.
9. Better resources for border control to prevent illegal fireworks entering the country.
10. Tougher sentencing for letting fireworks off in a public place such as streets and shopping arcades. Tougher sentencing for using fireworks as weapons – especially against police officers and other emergency services.

Yours sincerely

**Lawrence Black Secretary BFA**  
**Steve Raper Chairman BFA**  
**Fraser Stevenson Vice Chairman BFA**

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*Attached:- Copy of the opening statement to the Community Safety Minister Ash Regan during an industry meeting on the 10th March 2022 at St Andrews House, EH1 3DG. (Annex A)*

**Annex A to The Criminal Justice Committee response Dated 17 February 2022**

**Minister, thank you for taking the time to meet with us today.**

**In response to ANY anti-firework question, we have provided fact and evidence-based support to help our industry. This is invariably met with contempt, distrust, and the words “Well you would say that” Here are seven very powerful, incisive, and considered quotes:**

**Quote 1 “If a black market became available, it would be even more difficult to police than the situation we currently have, which would be a really unhelpful unintended consequence.**

**Quote 2 “I am sure that there would be unintended consequences.”**

**Quote 3 “If sections of the public who already misuse fireworks are prepared to purchase illegal fireworks, then the safety course will only be of benefit to those safety conscious members of the public who already follow the fireworks' code.” ... “The Northern Ireland experience is that a possession and use licence scheme does not, in itself, prevent the anti-social behaviour of setting fireworks off in public places and using rockets as weapons.” ... “This proposed restriction may have the unintended consequence of increasing the illegal importation of fireworks.”**

**Quote 4 "We see kids, and adults and young teenagers, with their fingers blown off. Some people their whole arm can be blown off,"... "Fireworks, because they are illegal in this country, they don't come in with a safety certificate and even though some [people] think they can light them and throw them, sometimes when you light them, they explode straight away. It is terrible to see the devastation that it [a firework] can do to the body."**

**Quote 5 "We feel this could likely lead to consumers seeking to purchase fireworks online or from "underground" sources such as unlicensed sellers or 'white vans'. This could lead to less traceability of product, unsafe storage, and unsafe product."**

**Quote 6 "It is a minefield that does not need to be created."**

**Quote 7 "...there's a number of people - a small number of people - that are using fireworks inappropriately.."**

**All the above clearly warning of the dangers and heavy-handedness of the approach the Scottish Government are wanting to take. These are not the words of the Firework Industry. They are the words of very senior people within the enforcement communities who see the situation now and have the foresight to see what the unintended consequences will be.**

**Quote 1 is by Assistant Chief Constable (ACC) Andy Prophet, the anti-social behaviour lead of the National Police Chiefs Council**

**Quote 2 is by Chis Kemp, National Fire Chiefs Council.**

**Quote 3 is by Ian Hillier Chartered Trading Standards Institute**

**Quote 4 is by David Kavanagh, District Officer with Dublin Fire Brigade**

**Quote 5 is by Fife Council Trading Standard.**

**Quote 6 is by The Association of Scottish Police Superintendent, , but most telling of all is Quote 7...**

**This is from Community Safety Minister Ash Regan in October 2021!**

**What the industry WILL say on this is we wholeheartedly support the warnings issued above. The Scottish Government is sleepwalking into a very dangerous future, where there will be no control over the subject of fireworks. This is in opposition to the sage advice and clear, evidence-based warnings given by the respected parties above.**

**We have warned of the serious and harmful unintended consequences the introduction of this Bill will bring; if the Scottish Government continues to push the Firework Bill they become Intended Consequences which is a polar opposite to what the Minister should be achieving as the Minister for Community Safety.**

**CJ/S6/22/12/1**

**This Bill must stop now, and the existing laws used to their fullest and proper extent. Further legislation is not required.**

**...but of course, as an industry, we would say that wouldn't we?**

## **Name of organisation: British Pyrotechnists Association**

### Information about your organisation

The British Pyrotechnists Association (BPA) is the trade body that represents the majority of professional firework display companies in the United Kingdom. The Association is committed to maintaining high standards amongst its members, whose activities include the manufacture, importation, sale, transportation, training and use of display fireworks both by members of the public and professionals.

### Overall views on the Scottish Government's plans

The British Pyrotechnists Association (BPA) is the trade organisation dedicated to the professional fireworks display industry in Great Britain. Our members are responsible for over 90% of the professional firework displays in the UK, and if you think of any large or small display in Scotland, one of our members has probably fired the display.

It would be easy for us to say that we were content with the Bill as introduced because it largely affects the retail trade of fireworks in Scotland, and contains many protections for professional displays like those arranged by our members, in order that established and new events throughout the year can still have fireworks providing they are carried out by a display organiser. Without these protections long established traditional events would have seen the same restrictions as members of the public, with fireworks permitted only on certain days of the year and fireworks effectively banned for occasions not specified in the regulations such as Burns Night, the Edinburgh Festival and the Scottish Whisky Festivals. Without these protections daytime fireworks at some of the major sporting events that Scotland has hosted would not be possible, and without the protections there would be no alternative to firework control zones; people could be banned from using consumer fireworks in a particular zone but not given an alternative to attend such as an organised community fireworks display.

However, the reality is that we cannot give our support to this Bill because it will completely miss its objectives and create a very dangerous and unacceptable situation within the retail fireworks market, with terrible, unintended consequences.

The Bill as it stands will effectively ban the retail sale of fireworks in Scotland. Technically it is not a ban, but it will be a ban because supermarkets and small retailers will stop selling fireworks because it will not be profitable for the small volumes they will now sell. Specialist retailers will close because it will become uneconomical to operate a specialist fireworks retail business for only 37 days per year. Less well-off families who already have a difficult financial decision to make on whether for example they can afford two or three packets of sparklers for their children to enjoy, will now also be banned because they may not be able to afford the cost of a licence as well. With retail fireworks effectively banned, people will turn to alternative sources to get their

**fireworks. Following the introduction of a minimum price for alcohol Scotland saw an increase in alcohol tourism with people crossing over into England to buy cheaper price product. Firework retailers are already looking at establishing new stores just across the border so that fireworks can be sold in greater quantities and all year round. Border trade is only the tip of the iceberg.**

**The black market is rife in many other countries. Ireland has banned consumer fireworks, and yet they have very high numbers of injuries from fireworks let off at home every year. Hawaii, an island state isolated from the mainland by thousands of miles of water has also banned fireworks, and yet every July 4th the skies are full of thousands upon thousands of fireworks being let off with huge numbers of associated injuries; there is plenty of video evidence of this online.**

**Just a few months ago on New Years Eve 2021 the Netherlands, Germany and Austria all banned the retail sale of fireworks as part of COVID measures to prevent gatherings and parties. Yet, despite these bans all three countries recorded accident numbers far higher than the UK and sadly all three countries reported a fatality as a result of fireworks. The Netherlands fatality was a result of a form of home made fireworks, but would people have felt it necessary to make their own if the normal consumer fireworks had still been on sale?**

**The United Kingdom enjoys very low accident rates in comparison to European neighbours (including those who have banned fireworks). It was British experts who helped draft the European Standards upon which we rely today and upon which we are likely to continue implementing for many years to come. The European Standard covers a wide range of firework types, but the United Kingdom only permits certain types and has continued a ban on the sale of bangers, air bombs, screamer rockets and other firework types that were removed from sale because they were the tools of the hooligan, they caused a nuisance, they were used for weeks on end by youngsters and against law enforcers and caused distress for our animals and the vulnerable. If you travel to Spain or Poland or many other countries though, these fireworks are still on sale and permitted under the European Standard.**

**If Scotland effectively bans consumer fireworks a whole new black market of fireworks will take its place. This will be the reintroduction of the firework types that we have banned for over 25 years, noisy ones that caused so much distress that we banned them in the first place. Deafening air bombs, loud bangers, mini screamer rockets will all make a return and instead of being stored in controlled, licensed locations where the authorities are aware of where they are being kept, will be kept at the backs of warehouses, in vans, under the counter, in potentially unsafe locations where they may catch fire and escape scrutiny.**

**The black market is not just about the return of types that been outlawed for decades, it is also about an increase in the power of fireworks. It may not be a surprise to hear that the UK is very strict in terms of product compliance with relevant standards and equally not a surprise to hear that some European nations take a more relaxed approach. The fireworks in some European**

**countries are many times more powerful than the ones you will find in the supermarkets in Scotland. The prevalence of serious firework related injuries is so much higher in other countries, with lost fingers, eyes, limbs occurring regularly due to the increased blast power contained in some of the fireworks that we have banned, rather than just isolated incidents like we see in Scotland today. UK authorities have already intercepted shipments of powerful bangers and air bombs arriving on our shores, but with a Scottish ban on consumer fireworks the sheer volumes arriving will be overwhelming, as they are in places like Hawaii and Ireland.**

**The BPA will usually support new legislation that affects fireworks and pyrotechnics and has worked with legislators for many years in drafting new regulations covering fireworks, their storage and use. However, on this occasion we must criticise the flawed approach taken by the Minister's team in reaching the conclusions that have led to this Bill. The fireworks working group was originally established in part following a large survey of around 16,000 respondents who were demanding action about fireworks in Scotland. Over the past decade the use of social media to garner support for particular causes has increased massively. If you want to ban diesel cars you will find a large group of like-minded people who will support you and if you want to control fireworks then likewise you will always find a group of people to support that cause too. The opening survey had respondents even claiming to be from North Korea.**

**The Scottish Government then introduced a more targeted survey run by a professional organisation, the opening question of which effectively asked people if they wanted to see more controls or legislation covering fireworks. Most people answering that question will say 'yes', even the BPA supports the principle of sensible regulation for fireworks, but the next question on that survey should have then asked whether people wanted to see a ban on consumer fireworks, or an introduction of licensing, or restrictions on the volumes that could be sold so that people could understand exactly what more regulation might look like.**

**In our opinion, far too much weight has been given to the voices of those in the Working Group who wanted to see more restrictions, and woefully insufficient weight has been given to the industry who have been warning of the serious unintended consequences that the changes in the Bill will introduce. The Working Group did not adequately consider the popularity of fireworks in Scotland, and how that popularity clearly also manifests itself in all the countries where fireworks are banned but where accidents frequently happen in much greater numbers than over here.**

**This Bill will not give the Police any more power than they already have in relation to the discharge of fireworks in the street, which has been an offence for nearly 150 years under the Explosives Act 1875. It will though mean those Police, and our Scottish communities will instead face more powerful fireworks, louder fireworks, fireworks capable of producing far greater injuries on far more occasions than at present.**

**The British Pyrotechnists Association would be very happy to work together with the Scottish Government to increase firework safety measures in**

Scotland, particularly with respect to organised fireworks displays. This Bill though cannot be allowed to become law because it will not achieve its objectives, it will not improve safety, it will lead to an increase in antisocial behaviour and nuisance noise experienced from fireworks, an increase in injuries and hospitalisations and inevitably as is seen in other European countries where fireworks have been banned, before long Scotland may become the first country in the United Kingdom in 25 years to report a death associated with the use of consumer fireworks.<sup>16</sup>

Instead, we encourage greater engagement with the industry, engagement which has been effective for decades with respect to other legislation that has been introduced, and engagement that so far has never seen the risk of a development of a large and established black market for fireworks in Great Britain.

Types of fireworks covered by licensing system

This will lead to effectively a ban on retail fireworks, due to supermarkets and small shops withdrawing from the sale of consumer fireworks due to low volumes of sales, and specialist shops closing due to a very limited 37-day sales period per year. As a result, consumers who evidently really enjoy fireworks around the world will look to other sources, such as black-market imports and cross-border sales. This would be the first large-scale creation of a black market for fireworks on Great Britain.

What are your views on the proposed restricted periods on which CAT F2 and CAT F3 fireworks can be purchased by the public?

This is a dangerous proposal for the previously mentioned reasons that it will effectively ban the sale of consumer fireworks in Scotland and lead to the development of a black market and cross-border sales.

What are your views on the proposed changes to the days on which fireworks can be used?

Please see our main answer and the concerns we have about black market and cross-border sales.

What are your views on these new criminal offences?

We support the introduction of a criminal offence for under age sales, but point out that the age requirement has been 18 years for almost twenty years. We would support an increase to 21 years or over to buy CAT F2 and CAT F3 fireworks.

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<sup>16</sup> - note there have been firework related deaths in the past 25 years but not of the type being considered (eg: Marlie Fire, East Sussex firework storage site explosion, Lake District wedding fireworks display deaths, SP Plastic Tilcon Avenue shop deaths). There have not been deaths as a result of consumer 'use' as discussed here.

What are your views on a proposed compensation scheme?

Livelihoods will be lost as a result of these regulations. People who have sold consumer fireworks for decades will suddenly find their businesses no longer viable. The costs of insurance, storage, licensing, specialist premises require minimum turnovers to break even. and with sales limited to just a few days each year business owners are likely to be forced to close. Compensation is crucial to mitigate the losses, to cover the costs of stock already held by a business and provide for retraining of staff in other industries together with other individual costs.

What are your views on the proposals for Firework Control Zones?

The Bill as introduced introduces exemptions for Firework Control Zones in Schedule 1 exemption 12. This would permit our members to fire professional fired fireworks displays in FCZ's using CAT F4 fireworks (or any category of firework). This is the correct approach because otherwise (i) FCZ's could be introduced to control the consumer use of fireworks without an alternative such as an organised community firework display being made available or possible, (ii) major national or community events could become affected by zone restrictions - it is not within the powers of local authorities to specify which fireworks or occasions may or may not be permitted within a zone, their power is limited to simply designating a specific location for a zone.

What are your views on the restrictions of the use of fireworks and pyrotechnic articles at certain events, and the restricted use of pyrotechnic articles more generally?

The British Pyrotechnists Association supports proposals that will help reduce the antisocial use of fireworks at certain events or by certain groups of people (for example by consumers or the public who are not professional firework display companies).

Those issues which the Scottish Government proposes to deal with in regulations after the Bill has been passed into law? (Set out in the Delegated Powers Memorandum)

The Bill completely fails to give consideration to the introduction of a wide scale black market in fireworks in Great Britain, fuelled by a lack of consumer fireworks and restrictions on the mass that may be purchased in a single transaction. This illegal black market which has been seen in many other European countries which proportionately suffer far greater numbers of firework related injuries and more serious injuries than Scotland, will not just impact Scotland but will have a serious, negative impact on England and Wales too.

**CJ/S6/22/12/1**

*Are there any other issues you think the Bill should address relating to the use of fireworks or pyrotechnic articles?*

**We have made clear that the Bill does not consider the consequences of an illegal black market for fireworks that will be created, as has occurred in other countries that have banned or restricted consumer firework sales. The Bill seriously underestimates the popularity of fireworks in Scotland, and gives undue weight to the voices of anti-fireworks campaigners. The Scottish Government in general has failed to engage with the fireworks industry who could undoubtedly offer cooperation and concessions in areas that will help achieve mutual objectives.**

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## **Name of organisation: NJE Fireworks Displays**

### Information about your organisation

**I am the owner of NJE FIREWORK DISPLAYS. We sell fireworks all year round via our shop in Aberdeen and we sell online. We also provide professional firework displays for all occasions. We are a family run business that have been in business for over 6 years.**

### Overall views on the Scottish Government's plans

**Absolute crazy. The Scottish public have enjoyed fireworks for many years. If you restrict the sale of them it will create a black market where the fireworks will not be regulated, feed the pockets of criminals and be highly dangerous. This will also put me and other firework stores out of business. The public will buy online or drive down to England. This will be impossible to police. There is also the total lack of equality as the bill favours Chinese new year, Diwali and discriminates against the Scottish public.**

### Types of fireworks covered by licensing system

**This would discriminate low income families. Most only spend about £30 as a once a year treat. This would put fireworks out of reach for them. Yet again NO equality. A lot of my customers are older and do not have internet, so it would be impossible for them to obtain a Licence. This system was introduced in N Ireland in 2002 and as from 2019 they had only issued 550 licences, yet there are 1000s of fireworks going off there every year.**

**These are bought online, bought from England or they are from the Black market. Fireworks have been used by law abiding citizens for many years and the safety instructions are on every single firework. A licence will NOT stop the miss-use of fireworks.**

### What are your views on the proposed restricted periods on which CAT F2 and CAT F3 fireworks can be purchased by the public?

**This would put me out of business and would be very dangerous as it will encourage stockpiling and hoarding. This scares me.**

### What are your views on the proposed changes to the days on which fireworks can be used?

**Cat 4 can only be used by professionals and the bill states that they are exempt from the new bill. If I am wrong please let me know as we have hundreds of bookings for Wedding firework displays out with these dates.**

**As I said before this is Absolute crazy. This will be impossible to police. There is also the total lack of equality as the bill favours Chinese new year, Diwali and discriminates against the Scottish public.**

**CJ/S6/22/12/1**

What are your views on these new criminal offences?

**Great idea, should have been in place years ago 100% agree.**

What are your views on a proposed compensation scheme?

**Yes, 100% agree.**

What are your views on the proposals for Firework Control Zones?

**This will be impossible to police, sound travels. Yet again no equality. This would also impact on professional displays, are the SNP going to refund all my bookings and compensate me?**

What are your views on the restrictions of the use of fireworks and pyrotechnic articles at certain events, and the restricted use of pyrotechnic articles more generally?

**Yes I agree**

Are there any other issues you think the Bill should address relating to the use of fireworks or pyrotechnic articles?

**The bill, in no shape or form will help prevent the miss-use of fireworks and will only put people out of business, stop families having fun and they will see a vast rise in firework injuries with the black market fireworks flooding Scotland. This is a backward bill which is dangerous, discriminating and lacks any equality.**

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