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Committee Assistant
Finance and Public Administration Committee
Scottish Parliament
Edinburgh
EH99 1SP

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Our ref: 110322FS1302

Dear Committee Members,

FORMAL COMMENTS: Fireworks and Pyrotechnic Articles (Scotland) Bill - Financial Memorandum

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 all of the points raised in the Fireworks and Pyrotechnic Articles (Scotland) Bill - Financial Memorandum. Notwithstanding this, below are listed just some of the many objections: -

Point 18. Assumptions

The Scottish Government has stated that of the estimated 250,000 firework sales that occur each year, "It has also been assumed, as a reasonable scenario in the absence of further data, that F2 and F3 sales account for 70% of total sales. Therefore, the number of unique customers assumed to purchase F2 and F3 fireworks is estimated to be currently around 175,000. For the purposes of estimating costs in this Memorandum 175,000 is taken as the potential maximum number of licence applications.". This assumption is wrong. The figures quoted by the BFA were based on 100% of the sales being associated with F2 & F3 fireworks. Therefore, any references to the assumed figure of 175,000 should be amended.

Point 19. Assumptions

The Scottish Government states "The second and less important factor is an assumption that subsequent to this reduced demand, some sales are diverted away from Scottish retailers and toward other avenues." The BFA (and other enforcement authorities) would disagree with this statement. One of the primary concerns is the diversion of legitimate sales towards blackmarket sales.

Point 20. Assumptions

The Scottish Government states "In the absence of data to inform the analysis, it is assumed that a 75% reduction in the number of people wishing to purchase fireworks and therefore applying for a licence will result from a high demand reduction scenario; 50% under a medium demand reduction scenario; and 25% under a low demand reduction

scenario.” The BFA would disagree with this statement and assumptions. Instead the Scottish Government should have stated the reduction of legitimate sales. The BFA does not anticipate that demand will reduce, there have numerous examples to show that when greater restrictions are introduced, legitimate sales will reduce but illegal sales flourish. Hawaii, Italy, Germany, Netherlands and the Republic of Ireland confirm this.

Furthermore, the Scottish Government states “1% under a low displacement scenario, 2% under a medium impact scenario and 5% under a high impact scenario.” The BFA strongly objects to these assumptions. The reasons for this are simple, there are two examples which demonstrate this. The first is the Republic of Ireland, which introduced the most severe restrictions (an effective ban) in 2006, yet still experiences substantial issues with illegal black market fireworks, including having a higher firework injury rate than the UK. The second is Northern Ireland, which introduced a form of licensing 9in some respects more strict than the proposed measure, but in many respects less strict). Northern Ireland has a population of around 1.8 million people, yet one average there are around 500 licences issued each year. We know from our industry contacts in Northern Ireland, that there are far more than 500 people using fireworks in Northern Ireland each year, indeed that vast majority of firework sourced in Northern Ireland and the whole process is being questioned. If similar statistics were applied to the population of Scotland, it would result in around 1,500 licences being issued. Where would the other 248,500 purchases go? Therefore the percentage figures being quoted by the Scottish Government are woefully inadequate.

Point 21. Assumptions

With regard to the creation of a blackmarket, the Scottish Government state “While there is no evidence available from which to estimate potential levels of displacement, it is not anticipated that this will be on a large scale based on advice from Police Scotland. Police Scotland has advised that it has no evidence to suggest there will be any significant increase in illegal sales following the introduction of these proposed measures.” The BFA disagrees with this statement on the basis that numerous enforcement agencies, including Trading Standards have stated that greater restrictions would create a blackmarket. Indeed during a Westminster Enquiry in 2019, the National Police Chiefs Council cautioned against greater restrictions on the sale and use of fireworks for the very reason that it WOULD create a blackmarket and stated “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.”

The BFA would also question the validity of the following statement made by the Scottish Government “The international case study review undertaken by the Scottish Government did not identify the emergence of illegal markets when similar restrictions were introduced.” We simply cannot accept this statement and cannot find any evidence within the cited report (The impact of fireworks regulations: case studies) to support this, indeed other enforcement authorities in Scotland agree (Fife Trading Standards for example).

Point 22. Assumptions

The BFA objects to all of the assumptions on the grounds that the starting figures and other assumptions are wrong. The BFA has attached an alternative chart to demonstrate this, based on the experience of NI. We have assumed the worst case scenario is based on the current NI ratio, and multiplied the licence uptake rate by 4 for Medium Impact and 16 for Low Impact.

	Scenario (based on NI)		
	Low Impact	Medium Impact	High Impact
Estimated annual sales before the introduction of the Bill			
Estimated volume of F2/F3 fireworks sales before the Bill	250,000	250,000	250,000
Illustrative estimates of impact of reduction in demand and subsequent displacement of sales			
Licence Demand (based on NI ratio)	24,000	6,000	1,500
Reduction in legal demand (volume of sales)	226,000	244,000	248,500
Displaced sales (% who will purchase from online or "white van")	20%	40%	60%
Displaced Sales (volume)	45,200	97,600	149,100
Sales value of illegal fireworks (Based on average sale of £50)	£2,260,000	£4,880,000	£7,455,000
Sale value of legal fireworks (Based on average sale of £50)	£1,200,000	£300,000	£75,000
Licence Revenue based (based on NI Ratio)			
Licence Revenue based on £20 fee	£480,000	£120,000	£30,000
Licence Revenue based on £30 fee	£720,000	£180,000	£45,000
Licence Revenue based on £50 fee	£1,200,000	£300,000	£75,000

Point 24. Licence Fee

The Scottish Government has stated that the “Licence fees will be set at a level which is not intended to present an excessive cost barrier to users of fireworks.” The BFA would question the validity of this statement. If the average sale value is £50, then the licence fee represents anywhere from 40% to 100% of the average sale value. Even if this fee was for an extended period of time, it still represents a significant financial burden to consumers, and discriminates against those who are less well off. Anything which places an increased barrier to consumers (either financially or regulatory) will lead to consumers seeking alternative sources to avoid this restriction. Chris Kemp of the National Fire Chiefs Council stated in 2019 at Westminster when asked about black market fireworks “Whatever threshold and whatever legislation there is, we will always have people trying to evade it and go under the radar.” The BFA has suggested to the Scottish Government that a voluntary system should be introduced where the link to safety videos can be incorporated on product packaging, encouraging consumers to use fireworks in a safe, considerate and responsible manner. Such a system would minimise the risk of creating a black market, would not involve the expense of creating a licensing scheme and would not require any substantial and sustained resource.

Point 25. Assumption

Again, the Scottish Government cites the licensing scheme in Northern Ireland, however we would highlight (again) the poor success of that scheme.

Point 26. Income

Again, we would highlight that the revenue fees are woefully overestimated. The Scottish Government states that revenue (based on £50 licence fee) will range from £4.9m to £1.6m. The BFA estimates that in reality it could be at best, £1.2m and at worst, £75,000 (see Table in Point. 22), thus making any scheme financially unviable, before considering the cost of enforcement!

Point 37. Policy Officer (Licence Applications)

Based on our understanding of the document, it is estimated that “a Policy Officer checking and verifying, on average, 30 applications per day”. So based on the Scottish Government's projects (at the bottom end) of 31,172 applications, that would equate to a total of 1,039 days, or 4 man years to process applications. At the top end (97,453 applications), that would equate to 12.73 man years. It is unclear if the Policy Officer will be doing 100% checks on all applications or anywhere between 5% and 25% (as stated in Point 37). Although the BFA does not believe a licensing scheme for consumers will be effective, we would question even further the effectiveness of any licensing scheme that did not check 100% of applications!

Point 38. Assumptions

Again, the financial assumptions are flawed for the reasons already stated.

Point 41. Assumptions

The BFA questions the statement that effective communication of any new legislation to around 250,000 consumers in Scotland who buy fireworks each year, can be achieved for £45,000 across all media platforms.

Point 48. Assumption

It is stated that “In that period, the highest yearly charge total was 2013-14 with 22 charges (nine of which were prosecuted) and the lowest was 2016-17 with six charges (of which four were prosecuted), with the average figure across this period being 11.4 per year. It is also likely that during this period a small number of charges for Culpable and Reckless Conduct involved pyrotechnic article misuse.” It is the statement that the number of charges brought was low because of failings in the existing legislation?

Point 49. Assumption

The Scottish Government states “Police Scotland’s Health and Safety reports show that, since 2017, an average of 78 accidents/near miss incidents per year were recorded at events where police officers could potentially have intervened to prevent an accident/near miss **had powers been available to them**. Some of these incidents may have been prosecuted under existing legislation, but others will not have been captured.” We would question the validity of this statement. Extensive legislation already exists to cover the misuse of fireworks, including the use as an offensive weapon and in a public space. We would seek clarity of what specific incidents had occurred and where the exiting legislation was short.

Point 55. Misleading

Having sat on the Working Group, it was my understanding that the information did NOT specifically state that “Fireworks” were a contributing factor. It was that “fireworks” could have been mentioned in the report. Such as, attending a bonfire at a Firework party. The BFA considers that this statement is misleading.

Point 57. Misleading

The Scottish Government states “Two-fifths (40%) of the acts of violence directed against firefighters (physical abuse, verbal abuse, objects thrown at firefighters/appliances and other acts of aggression)” There is no breakdown of the details associate specifically with the misuse of fireworks and the time period also encapsulates Halloween. The BFA feels it is misleading for the Scottish Government to imply that all such incidents are associated with Fireworks. Furthermore, extensive legislation exists to deal with the misuse of Fireworks, however there appears to be very little emphasis being placed on enforcement.

Point 58. Misleading

The injury rates for a firework related injury in Scotland are extremely low, in fact lower than the countries that the Scottish Government cite as examples for justification of the Bill! The BFA does not wish to see any injuries, however consideringation must be given for the fact that over 1 million Scots enjoy using fireworks at home each year, which compared with the injury rates published by the Scottish Government (49 in total for 2019), equals to less than 0.0001%

Point 62. Police Scotland

The BFA would ask that if Police Scotland have witnessed incidents of misuse, why have there been no prosecutions? Once again, we would remind the Committee that extensive legislation already exists, carrying a £5,000 fine and/or 6 months in prison, yet there appears to be a failure to enforce this.

The BFA would welcome the opportunity to discuss this Bill in more detail directly with members of the Committee and are available to do so.

Yours sincerely

Lawrence Black
Secretary BFA

Steve Raper
Chairman BFA

Fraser Stevenson
Vice Chairman BFA

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.