

# Fireworks and Pyrotechnic Articles (Scotland) Bill

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## Groupings of Amendments for Stage 3

This document provides procedural information which will assist in preparing for and following proceedings on the above Bill. The information provided is as follows:

- the list of groupings (that is, the order in which amendments will be debated). Any procedural points relevant to each group are noted;
- the text of amendments to be debated on the day of Stage 3 consideration, set out in the order in which they will be debated. **THIS LIST DOES NOT REPLACE THE MARSHALLED LIST, WHICH SETS OUT THE AMENDMENTS IN THE ORDER IN WHICH THEY WILL BE DISPOSED OF.**

### Groupings of amendments

#### **Group 1: Licensing: removal of licensing scheme**

2, 3, 4, 6, 10, 12, 14, 19, 21, 23, 24, 27, 28, 29, 30, 31, 37, 39, 40, 41, 42, 43, 44, 45, 46, 47, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67

#### **Group 2: Licensing: proof of licence**

68, 69

#### **Group 3: Licensing: fees**

70, 71

*Notes on amendments in this group*

Amendment 70 pre-empts amendment 71

#### **Group 4: Licensing: procedure for regulations**

5, 7, 11, 18, 20, 32, 33, 34

#### **Group 5: Licensing: Disclosure of offences**

8, 72, 73, 74, 75, 9, 76, 48

#### **Group 6: Licensing: appeals and conditions**

13, 15, 16, 17, 77, 22, 25, 26

#### **Group 7: Review and report on operation of provisions**

78, 87, 88, 89

*Notes on amendments in this group*

Amendment 88 pre-empts amendment 89

**Group 8: Changes to dates of supply and use**

79, 80, 81

**Group 9: Firework control zones**

35, 36, 82, 1, 83

**Group 10: Aggravation of offences relating to emergency workers**

38

**Group 11: Review of existing legislation**

84

**Group 12: Improvement of firework safety**

85

**Group 13: Increasing penalties for existing firework offences**

86, 90

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**Amendments in debating order**

**Licensing: general**

**Katy Clark**

**2** Leave out section 3

**Katy Clark**

**3** Leave out section 4

**Katy Clark**

**4** Leave out section 5

**Katy Clark**

**6** Leave out section 6

**Katy Clark**

**10** Leave out section 7

**Katy Clark**

**12** Leave out section 8

**Katy Clark**

**14** Leave out section 9

**Katy Clark**

**19** Leave out section 10

**Katy Clark**

**21** Leave out section 11

**Katy Clark**

**23** Leave out section 12

**Katy Clark**

**24** Leave out section 13

**Katy Clark**

**27** Leave out section 14

**Katy Clark**

**28** Leave out section 15

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**Katy Clark**

29 Leave out section 16

**Katy Clark**

30 Leave out section 17

**Katy Clark**

31 Leave out section 18

**Katy Clark**

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

**Katy Clark**

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

**Katy Clark**

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

**Katy Clark**

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

**Katy Clark**

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

**Katy Clark**

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

**Katy Clark**

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

**Katy Clark**

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

**Katy Clark**

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

**Katy Clark**

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

**Katy Clark**

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

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**Katy Clark**

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

**Katy Clark**

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

**Katy Clark**

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

**Katy Clark**

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

**Katy Clark**

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

**Katy Clark**

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

**Katy Clark**

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

**Katy Clark**

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

**Katy Clark**

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

**Katy Clark**

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

**Katy Clark**

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

**Katy Clark**

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

**Katy Clark**

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

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### **Katy Clark**

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

### **Katy Clark**

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

### **Katy Clark**

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

### **Katy Clark**

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

### **Katy Clark**

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

### **Licensing: proof of licence**

#### **Jamie Greene**

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

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

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

#### **Jamie Greene**

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

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

### **Licensing: fees**

#### **Pauline McNeill**

70 In section 6, page 4, line 5, leave out subsection (4) and insert—

<(4) When setting the fees payable under this section the Scottish Ministers may only charge a nominal fee or remit the fee altogether.>

#### **Russell Findlay**

71 In section 6, page 4, line 6, at end insert—

<( ) must have regard to the rate of inflation,>

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### **Licensing: procedure for regulations**

**Katy Clark**

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

**Katy Clark**

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

**Katy Clark**

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

**Katy Clark**

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

**Katy Clark**

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

**Katy Clark**

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

**Katy Clark**

- 33 Leave out section 19

**Katy Clark**

- 34 After section 19, insert—

#### **<Regulations: pre-laying procedure**

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

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**Licensing: Disclosure of offences**

**Russell Findlay**

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

**Russell Findlay**

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

**Russell Findlay**

- 73 In section 7, page 4, line 29, at end insert—  
<( ) an offence of—  
(i) common law fraud,  
(ii) uttering, or  
(iii) embezzlement, >

**Russell Findlay**

- 74 In section 7, page 4, line 29, at end insert—  
<( ) an offence—  
(i) under the Antisocial Behaviour etc. (Scotland) Act 2004, or  
(ii) in respect of which the court has made an order under section 234AA of the Criminal Procedure (Scotland) Act 1995,>

**Russell Findlay**

- 75 In section 7, page 4, line 29, at end insert—  
<( ) an offence in respect of which the court has made an order under section 51 of the Police, Public Order and Criminal Justice (Scotland) Act 2006,>

**Russell Findlay**

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



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### **Russell Findlay**

76 After section 7, insert—

#### **<Applying for fireworks licence: disclosure**

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

### **Russell Findlay**

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

### **Licensing: appeals and conditions**

#### **Jamie Greene**

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

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

#### **Fulton MacGregor**

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

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

#### **Jamie Greene**

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

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

#### **Fulton MacGregor**

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

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

### **Russell Findlay**

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

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- <( ) Where regulations under subsection (3) determine the length of time for which licences may be granted, the Scottish Ministers must undertake a review of that length of time—
- (a) no later than 1 year the day after the regulations come into force, and
  - (b) each subsequent 1 year period thereafter. >

### **Jamie Greene**

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

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

### **Jamie Greene**

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

### **Fulton MacGregor**

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

## **Review and report on operation of provisions**

### **Jamie Greene**

78 After section 19, insert—

#### **<Review on operation of fireworks licensing scheme**

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

### **Jamie Greene**

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

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

### **Jamie Greene**

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

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<( ) The reporting period is—

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

**Jamie Greene**

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

### **Changes to dates of supply and use**

**Pauline McNeill**

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

**Pauline McNeill**

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

**Pauline McNeill**

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

### **Firework control zones**

**Katy Clark**

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

**Katy Clark**

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

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

**Jamie Greene**

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

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

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### Pauline McNeill

1 After section 28, insert—

#### <Publicising firework control zones

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

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

### Pauline McNeill

83 After section 28, insert—

#### <Firework control zones: further designation

- (1) A relevant person may make representation to a local authority that a place within its area be designated a firework control zone where the person can demonstrate—
  - (a) evidence of anti-social behaviour in the place within which the zone would apply, and
  - (b) the anti-social behaviour relates to the use of fireworks.
- (2) Sections 27, 28 and 29 apply to this section.
- (3) On receipt of a representation under subsection (1), the local authority must respond to the relevant person.
- (4) The Scottish Ministers may by regulations make provision about—
  - (a) the form and content in which a representation under subsection (1) is to be made,
  - (b) the procedure by which a local authority is to determine a representation under subsection (1), including—
    - (i) the number of times a representation may be made within a specified period,
    - (ii) the ability of a local authority to decline an application where the local authority has recently consulted on a firework control zone proposal under section 27.
  - (c) how a local authority is to discharge its functions for the purposes of this section,
  - (d) the meaning of “acting together” for the purposes of subsection (6)(b),
  - (e) any other matters as the Scottish Ministers consider appropriate.
- (5) Regulations under this section are subject to the affirmative procedure.
- (6) In this section, a “relevant person” means—
  - (a) a community body within the meaning of section 4(9) of the Community Empowerment (Scotland) Act 2015,

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- (b) a group of residents or persons who work in the place acting together where the zone would apply. >

### **Aggravation of offences relating to emergency workers**

**Ash Regan**

**Supported by: Jamie Greene**

**38** After section 40, insert—

*<Aggravation of offences against emergency workers*

#### **Aggravation of offences against emergency workers**

- (1) An offence is aggravated by the use of a firework or pyrotechnic article if—
  - (a) the offence is committed in a manner that involves the use of a firework or pyrotechnic article which is currently lit or ignited (or which has recently been lit or ignited), and
  - (b) a victim (or intended victim) of the offence is an emergency worker.
- (2) For the purpose of subsection (1), an emergency worker is—
  - (a) a person—
    - (i) acting in a capacity mentioned in section 1(3) or 2(3) of the Emergency Workers (Scotland) Act 2005,
    - (ii) acting in a capacity mentioned in section 90(3)(a), (c) or (d) of the Police and Fire Reform (Scotland) Act 2012,
    - (iii) who is a constable of the British Transport Police Force and is acting in that capacity,
  - (b) a person who is assisting such a person in responding to an emergency circumstance.
- (3) Evidence from a single source is sufficient to prove that an offence is aggravated by the use of a firework or pyrotechnic article.
- (4) Subsection (5) applies where it is—
  - (a) libelled in an indictment, or specified in a complaint, that an offence is aggravated by the use of a firework or pyrotechnic article, and
  - (b) proved that the offence is so aggravated.
- (5) The court must—
  - (a) state on conviction that the offence is aggravated by the use of a firework or pyrotechnic article,
  - (b) record the conviction in a way that shows that the offence is so aggravated,
  - (c) take the aggravation into account in determining the appropriate sentence, and
  - (d) state—
    - (i) where the sentence in respect of the offence is different from that which the court would have imposed if the offence were not so aggravated, the extent of and the reasons for that difference, or
    - (ii) otherwise, the reasons for there being no such difference.

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- (6) For the purposes of this section, a person is responding to emergency circumstances if the person—
  - (a) is going anywhere for the purpose of dealing with emergency circumstances occurring there, or
  - (b) is dealing with emergency circumstances or preparing to do so.
- (7) For the purposes of this section, circumstances are “emergency” circumstances if they are present or imminent and—
  - (a) are causing or are likely to cause—
    - (i) serious injury to or the serious illness (including mental illness) of a person,
    - (ii) serious harm to the environment (including the life and health of plants and animals and the fabric of buildings), or
    - (iii) a worsening of any such injury, illness or harm, or
  - (b) are likely to cause the death of a person.
- (8) For the purposes of this section, circumstances to which a person is responding are to be taken to be emergency circumstances if the person believes and has reasonable grounds for believing they are or may be emergency circumstances.>

### **Review of existing legislation**

**Jamie Greene**

**84** After section 44, insert—

#### <PART

#### REVIEW OF EXISTING LEGISLATION

##### **Review of existing legislation**

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

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

### **Improvement of firework safety**

**Jamie Greene**

85 After section 44, insert—

#### <PART

#### IMPROVEMENT OF FIREWORK SAFETY

##### **Improvement of firework safety**

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

### **Increasing penalties for existing firework offences**

**Russell Findlay**

86 After section 44, insert—

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## <PART

### PENALTIES FOR EXISTING FIREWORKS OFFENCES

#### **Offences relating to fireworks regulations: penalties**

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

#### **Russell Findlay**

**90** After section 44, insert—

#### **<Offence of throwing fireworks in thoroughfare: penalties**

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



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