



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Criminal Justice Committee

**Wednesday 30 March 2022**

**Session 6**



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**CRIMINAL JUSTICE COMMITTEE**

**13<sup>th</sup> Meeting 2022, 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:**

- David Bell (Scottish Government)
- Elinor Findlay (Scottish Government)
- Ash Regan (Minister for Community Safety)
- Natalie Stewart (Scottish Government)

**CLERK TO THE COMMITTEE**

Stephen Imrie

**LOCATION**

The David Livingstone Room (CR6)



# Scottish Parliament

## Criminal Justice Committee

Wednesday 30 March 2022

*[The Convener opened the meeting at 09:00]*

### Fireworks and Pyrotechnic Articles (Scotland) Bill: Stage 1

**The Convener (Audrey Nicoll):** Good morning, and welcome to the 13th meeting in 2022 of the Criminal Justice Committee. We have received no apologies this morning.

Our main item of business is our final evidence session on the Fireworks and Pyrotechnic Articles (Scotland) Bill. I refer members to papers 1 and 2.

I am very pleased to welcome Ash Regan, the Minister for Community Safety; Elinor Findlay, the bill team leader; David Bell, the pyrotechnics policy lead; and Natalie Stewart, a solicitor in the Scottish Government legal directorate. Ms Stewart joins us remotely. We appreciate the time that you are taking to join us this morning. I invite the minister to make some brief opening remarks.

**The Minister for Community Safety (Ash Regan):** In 2019, I launched a public consultation following incidents over the bonfire season in previous years. There was an overwhelming response of more than 16,400 replies. Analytical work was also undertaken, including an opinion poll, to provide views representative of adults in Scotland. A strong message emerged from that work that the status quo was not an option.

It was clear that people wanted change and to see tighter controls on the sale and use of fireworks in Scotland. The representative opinion poll showed that a majority of adults in Scotland felt that there should be more controls over the sale of fireworks, at 71 per cent, and over their use, at 68 per cent. Contributing factors included the misuse of fireworks and the wider harm, noise and disturbance that fireworks can cause. People thought that there is a place for well-organised firework displays, but the unpredictable use of fireworks by members of the public was identified as a problem.

I established the independent firework review group to consider all the available evidence and the legislative options for change. The group reached a majority consensus that a fundamental change is required in how fireworks are accessed and used by the public. The misuse of pyrotechnics is a growing problem that can cause injury, distress, alarm and damage to property. Although we are not aware of any fatalities due to

pyrotechnic misuse in Scotland, there have been severe injuries. There have been fatalities in other countries, and I want to do all that I can to prevent fatalities or further injuries from happening in Scotland.

In response to the significant concerns that have been raised, the Scottish Government hosted a series of discussions with stakeholders to look at what more could be done. As a result, I made the decision to consult more widely on the misuse of pyrotechnics as part of the broader 2021 consultation. The results of the consultation show that a majority of those who responded agree with each of the provisions that are included in the bill, that 84 per cent agree that a fireworks licensing system should be introduced and that 83 per cent agree with the introduction of no-firework areas.

The bill has five key policies. First, it proposes a firework licensing system, which will require the public to apply for a licence to purchase, acquire, possess and use F2 and F3 fireworks. Secondly, it proposes restrictions on the days on which fireworks can be supplied to and used by the public, which will broadly align with existing traditional firework periods. Thirdly, it proposes firework control zones, which will provide local authorities with the power to designate areas where it is not permitted for the public to use fireworks, so that communities can have a much greater say in how fireworks can be used in their local area. Fourthly, the bill proposes a proxy purchase and supply offence to ensure that adults who supply fireworks or pyrotechnic articles to children, under any circumstances, can be held accountable. Finally, it proposes an offence of being in possession of a pyrotechnic without reasonable excuse while travelling to, being in the immediate vicinity of or attending a designated sporting or music venue or event, or a public procession or public assembly.

I am aware that legislation was introduced in the United Kingdom to ban certain types of fireworks, such as bangers. That has been successful, as has been highlighted by the fireworks industry. It is clear that legislation can have a positive and direct impact in reducing harm.

To conclude, convener, these issues are complex, but the bill strikes a proportionate balance between introducing the necessary restrictions and ensuring that robust checks and balances are in place to mitigate unintended consequences, while fully utilising the powers of the Parliament to reduce harms and help us to protect our communities.

**The Convener:** Thank you very much, minister. We will move directly to questions. I ask members to make their questions as succinct as possible.

I will open up with a general question for you, minister. One of the policy objectives of the bill, as you outlined, is to support what is almost a cultural shift in how fireworks and pyrotechnics are used, changing our relationship with them. Can you explain in broad terms how you envisage that cultural change being brought about through the provisions of the bill that we are discussing today?

**Ash Regan:** A cultural shift is how I described what we are trying to do here when I launched the action plan. We have a long-standing relationship with fireworks in this country. Lots of people are used to using them and going to organised displays, so I do not think that we are going to achieve overnight a change in the culture of how they are sold and used. It is going to take some time.

I set out the action plan—it was published in 2019—with a view to beginning to take steps to change the culture. A range of actions were included in it, such as awareness raising, communication and working with local communities, because we know that some local communities are much more affected than others. I would sum those up as a range of actions that were not just legislative changes but non-legislative actions as well. The bill that is in front of the committee is the final stage, if you like, in that part of the process. It is a package of key actions, and it brings to fruition the final recommendations that the fireworks review group made for how we can go about changing the culture.

The main thing that I am trying to do with the bill is protect public safety—enhancing the wellbeing of us all is a good way to think of it—by ensuring that pyrotechnics or fireworks do not cause harm, serious distress or injury. The legislative part sits alongside the non-legislative actions that we are also taking. The bill's provisions are designed to support the change in how we use fireworks. I think that the best way to describe that change is that, instead of fireworks being something that you can go into a shop and spontaneously buy and use, we are making them something that you cannot buy spontaneously. Buying them would have to be a planned purchase, with everything thought through and planned in advance. I think that that is the right way for us to go forward, and it should result in a culture change over time.

**The Convener:** Thanks very much, minister. I will hand over to Russell Findlay to ask some other questions.

**Russell Findlay (West Scotland) (Con):** The bill establishes penalties of up to six months' imprisonment for some offences, yet the Scottish Government has extended the presumption against short sentences to sentences of up to 12 months. I wonder whether there is a possible inconsistency in that respect. I am trying to

understand how that particular proposed sentence was arrived at.

**Ash Regan:** The starting point for considering what penalties to put in place was looking at the ones that were in place under the existing fireworks legislation. I am sure that the committee will know this, but that legislation sets out

“imprisonment for a term not exceeding six months”

or

“a fine not exceeding level 5 on the standard scale”,

or both. When we looked at the issue in detail, there did not seem to be any suggestion that the levels that the penalties were set at were not appropriate.

On the presumption against short sentences, the committee will be well aware that it is a presumption and not a ban. That means that, in any given case, a court is able to decide what is appropriate, depending on the circumstances and the particulars of the case. There is some interest in the question—I am sure that this has come up in evidence to the committee—whether having stronger or harsher penalties would have more effect or act as more of a deterrent. However, I have not seen any compelling evidence to suggest that that would be the case.

**Russell Findlay:** We have heard that there is a lack of evidence on the number of cases that are currently prosecuted. We have struggled to get that information, and the British Fireworks Association witness expressed similar frustrations in trying to ascertain how much lawbreaking and associated prosecution there already is. How can we establish that? If, as the suspicion might be, the law is, indeed, not being used to its fullest extent just now, why add to that if there is a risk that the new legislation would not be fully enforced either?

**Ash Regan:** We did a review of the evidence and published a lot of the information that Russell Findlay is talking about. I will ask Elinor Findlay to give the committee a bit more detail on that in a moment.

A lot of enforcement activity goes on, specifically in the run-up to bonfire night. As we know, that is the busiest time of year for the emergency services, which do an immense amount of preventative work, as do our partners. We all recognise that there is an issue once fireworks get into the wrong hands, and we potentially need to look at that. However, I am quite clear that a lot of enforcement activity is already being undertaken.

I ask Elinor Findlay, who has, no doubt, now had time to find that information, to give us a bit more detail.

**Elinor Findlay (Scottish Government):** Yes, certainly. Data covering the past 10 years, from 2010-11 through to 2019-20, shows that nearly 300 people—the figure is 297—were either proceeded against in court or given a non-court disposal for a firework-related offence. Data from the Crown Office was published as part of a wider evidence review, alongside the consultation analysis from the first consultation, in 2019. That was all published as a package of reports in October 2019, and I can certainly share that with the committee if it would be helpful.

**Russell Findlay:** Yes, I think so. It would be useful to know the geographical breakdown and the dates of those offences. I presume that they are centred around fireworks night, but it would be good to see the detail. In addition, I do not know whether the data would include the age of the offenders and the outcomes.

**Elinor Findlay:** I do not currently have all that data in front of me. I can tell you that the average age of conviction is 22 years and that the offenders tend to be male, but I do not have the geographical data in front of me at the moment.

**The Convener:** I will bring in Katy Clark, who has some questions on prosecution. We will then move to questions on licensing.

**Katy Clark (West Scotland) (Lab):** My first question is not so much about prosecution, minister. Why do you think that emergency legislation is required, given that—apart from the provision on proxy purchase—most of the provisions will not be in place for November? A very complicated system is being proposed, and some witnesses have questioned whether the bill is actually necessary, given that there is already UK legislation that makes it illegal to supply fireworks to those under 18 and that prohibits the use of fireworks in a public place.

With regard to what you said to Russell Findlay on prosecutions, we would like more information on that subject, because we have not had any evidence on how the current legislation is being used. Why could the existing legislation not be amended or more action not be taken under its provisions? What consideration was given to taking such approaches instead of introducing primary or, indeed, emergency legislation?

**Ash Regan:** There are well-established processes for enforcing the existing regulations. I return to my previous point that the legislation is an attempt to change primarily the way in which we buy fireworks and to a lesser extent the way in which we use them.

09:15

As I said, an immense amount of work goes into preparing for the run-up to bonfire night. As the committee may have heard, it is no longer just one night—it has turned into a season that is spread out over a longer period. Once fireworks get into the hands of people who are intent on misusing them, there is a much bigger challenge for us in dealing with that. The legislation in front of the committee is an attempt to go some way towards addressing that. I think that, once we see a change in how we use fireworks and in the culture of their use, that will, over time, have an impact on enforcement.

There were quite a few parts to your question. I will try to cover all those points, but you can come back to me if I do not cover them all. You asked about existing legislation and, in particular, the issue of under-18s. There is already UK legislation on that—it is currently illegal to supply fireworks on a commercial basis to those who are under 18. However, we have heard—I do not know whether the committee has heard this—significant anecdotal evidence that parents, and certainly adults, are purchasing fireworks and supplying them to children. The proxy purchasing offence was developed in order to close that loophole. Children will not be criminalised at all, but the provision is an attempt to hold those adults to account for that. It also ensures that we are limiting where fireworks potentially end up. Fireworks are explosive devices, and we want to be careful about who is able to use them.

In addition, the measures in the bill give us the opportunity to intervene at an earlier stage. We can then prevent some of the issues that many of us see in our constituencies from happening.

Does Elinor Findlay want to add anything on that point?

**Elinor Findlay:** No, I do not think so, other than to say that alternative legislative solutions were considered as the bill and the policy were being developed, and those are outlined in the policy memorandum. In particular, the fireworks review group considered alternative legislative solutions as part of its options appraisal—as I said, that is outlined in further detail in the policy memorandum.

**The Convener:** Does Katy Clark want to come back in?

**Katy Clark:** Yes. The minister has been very clear on the issue of proxy purchase, and I can see the case that she is making there.

Minister, did you or other ministers look at how the current legislation is being used? Concerns have been raised with the committee that police and prosecutors are not putting in the resources to

pursue cases for things that are currently illegal. We are being asked to consider what is quite a complicated system on a truncated timeline, given that the bill is emergency legislation. However, it is not clear that the current legislation is being properly enforced.

It is really a question for politicians and, therefore, for the minister. Have you really looked at reports on the level of offending and taken a view as to whether the amount of effort that should be being put into prosecuting people under the existing legislation is currently being put in? Perhaps the minister could give us a view on that.

**Ash Regan:** The bill is not emergency legislation—it is not right for the member to characterise it in that way. I admit that the timetable has been slightly speeded up, but the bill would certainly not come into the category of emergency legislation.

We have already covered some of the specific information with regard to the prosecution data, both in my answers and in Elinor Findlay's answer to Russell Findlay. If the committee has not seen, or is unable to get hold of, that data, which was part of the evidence review in 2019, we can certainly send that over—I think that we have already committed to doing so. That data shows that enforcement is already taking place.

I reiterate what I said in my previous answer. Scotland spends an immense amount of resources on preparing for bonfire night and on getting people to adhere to the current regulations. If you speak to the police or the fire service, or to local government, they will tell you that themselves. That is why we need to go further, with stricter controls than we have now. The amount of effort that we expend on something that happens on only a few days of the year is disproportionate, as is the impact that that has on the people of Scotland. The people of Scotland have told us that they want to see change in this area.

I accept that some of this is a bit more complicated than we might have wanted it to be. If Scotland was an independent country, we would probably be able to do things in a slightly different way. However, various complicating factors have affected how we have had to produce the legislation, for reasons that I am sure we will touch on later.

When we were considering developing legislation, of course, we looked at the existing legislation in the area and evaluated how it was being used. The fireworks review group had all the stakeholders represented on it, including those from the fireworks industry. The group was tasked specifically with looking at the current regime, at whether there were gaps in the law and at other

regimes internationally to see whether it could come up with something that would help us to change the culture around how we use fireworks in Scotland. The group presented recommendations to me, and this legislation is part of my work in taking those recommendations forward.

**The Convener:** If that is all from Katy Clark, I will bring in Jamie Greene with a follow-up question, and we will then move on to licensing.

**Jamie Greene (West Scotland) (Con):** Good morning to our guests. I would like to dig a little deeper into the statistics. The committee is trying to grapple with the scale of the problem, and whether the proposed legislation both is fit for purpose and fills the gaps in a way that meets the policy intention and the premise behind it.

Some of the data that I have heard today is news to some of us, but it is also three years out of date. You said that it was from the 2019—what was the description that you used?

**Ash Regan:** The 2019 evidence review.

**Jamie Greene:** We are now in 2022, and we are creating new legislation.

I have some questions on relativities. How many offences occur each year? That can be an average or a total over 10 years—whatever you have available to you. How does that convert into prosecutions, and what are the outcomes of those prosecutions? Specifically, how many of those offences result in non-court outcomes, and how many of them proceed to court and are prosecuted? For those that proceed to prosecution, what sort of penalties are given?

We know what the existing legislation—the Explosives Act 1875, the Fireworks (Scotland) Regulations 2004 and so on—is and does, and we know what the maximum penalties are. I am keen to understand whether those maximum penalties are being utilised as things stand under the existing legislation before we start introducing new legislation.

**Ash Regan:** I feel that we have already answered that question; it is very similar to the question that Russell Findlay asked about enforcement and statistics. In fact, Elinor Findlay has already read out those statistics, and we have said—

**Jamie Greene:** I am sorry if I did not take them down. However, I specifically asked for the statistics in the order that I did because that would give us an idea of the scale of the problem.

**Ash Regan:** The scale of the problem is not limited to enforcement and the number of people who would end up in prison. That is not how people in Scotland would characterise it.



**Jamie Greene:** What is the scale of the problem? That is what I am trying to get to. How many offences are reported to the police or local authorities per year? How many of them convert into some form of judicial action, whether that is prosecution, being taken to court or being settled out of court? What are the outcomes of those prosecutions, using the existing maximum penalties that are available? Are those penalties being used to their full extent?

**Ash Regan:** I will let Elinor Findlay come in and give that information again. We have already given that information—it has been freely available and was published by the Government several years ago, and we have said that we will share it with the committee.

**Jamie Greene:** Do you have the numbers now? This is our last evidence session, so that is why I am pushing you—I am sorry.

**Elinor Findlay:** I will read out some of the bullet points. As I mentioned before, between 2010-11 and 2019-20, which represents the last available data that we have, just under 300 people—297—were either proceeded against in court or given a non-court disposal for a firework-related offence.

Over the past six years, from 2016-17 through to 2020-21, the most common firework-related charges related to throwing, casting or firing a firework in a public place—basically, letting off fireworks in the street; under-18 possession of an adult firework; and use of an adult firework at night outside the permitted days.

The average age of those who are convicted is 22 years, and they tend to be male.

**Jamie Greene:** What percentage of those 297 people were given a non-court disposal and what percentage were prosecuted more harshly? You can give the numbers instead of a percentage. What sort of penalties were given to those who were prosecuted in court? We know what penalties are available to the courts. I am trying to get a feel for whether we are using the powers that we currently have to their full extent.

**Elinor Findlay:** The two routes would be people being proceeded against in court and people being given a non-court disposal. A non-court disposal would be given in the majority of cases. That would include penalties such as a fiscal fine, a fiscal warning, a police restorative justice warning, a police recorded warning and a police formal adult warning.

**Jamie Greene:** Thank you.

The point is, minister, that over the past 10 years, we are looking at an average—it is just an average; I am sure that there are peaks and troughs—of around 30 people being prosecuted each year, with the majority being given non-court

disposals. Against the backdrop of a quarter of a million people buying fireworks each year, that is a relatively low number.

I still do not understand the correlation between how many incidents are reported to the authorities and how many proceed to prosecution. Do you understand why some people feel that the bill is overkill in terms of what we are trying to achieve? We are simply not using the existing powers that the judiciary have to prosecute those who are breaking the law. Those are quite robust laws—they are some of the most robust laws on fireworks in Europe—but we are simply not seeing them convert into the prosecutions that might act as the sort of deterrent that you want. Why, therefore, is there a need for new powers?

**Ash Regan:** I think that I have already answered that question, and I have been quite clear about it. With regard to proceedings, it is up to our independent court service how it chooses to take things forward. We can give that information to the committee.

I come back to the point that I was trying to make earlier. I am not sure that the scale of the problem is reflected in the way that Jamie Greene is trying to characterise it. The evidence that the review group and the Government looked at included emergency services incident data, for example. That evidence includes the volume of firework-related incidents that were reported to the police, and data on attacks on emergency service workers, which tells us that there is a spike in attacks on fire crews over the bonfire period. I know that Jamie Greene has a personal interest in that issue, and I am sure that he would be keen to see an improvement in those figures. Around 40 per cent of those acts of violence happen around the bonfire night period. I am sure that Jamie Greene would say that we should take that evidence very seriously—

**Jamie Greene:** Oh, for sure.

**Ash Regan:** Another piece of evidence is national health service injury data, which includes firework-related diagnosis. I will say—if I do not, my officials will get very cross with me—that we have to be a bit cautious about that data but, nonetheless, broadly, it tells us that such injuries have increased fairly consistently over the past 10 years.

The final example of evidence is lived experience. We know that that has been reflected very strongly in all the consultations that the Government has done, and I am sure that it will have been reflected back to the committee. It includes powerful testimonies about the significant impact that not only the misuse but the legitimate use of fireworks can have on people and on animals.

09:30

The bill has been carefully constructed to reflect the evidence that I have gone through and to be proportionate. Many people have said to me over the past few years that we should just ban fireworks. Under the devolution settlement, Scotland does not have the power to do that, so that is a legal reason why we did not go down that route. However, there is also a policy reason, which has a kernel of Jamie Greene's question about whether the bill is proportionate. It is proportionate because there is still an obvious route for people to go through to purchase fireworks. Albeit that we are putting slightly more restrictions on it by suggesting that we set up the licensing scheme, if people want to, they will still be able to buy fireworks and use them.

People have made it clear that they want tighter controls on fireworks so that people can continue to use them safely. I hope that that answers Jamie Greene's question.

**The Convener:** I will bring in Katy Clark. I apologise, Katy, because I do not think that you had finished your line of questioning earlier.

**Katy Clark:** It is more that the minister's answers raised issues that I want to ask about. She has partly answered my question in that she said that there was a constitutional problem with introducing the legislation that she might want to introduce. I think that she said that there are problems with banning fireworks. It would be good to get more information on that.

The complicated part of the bill is the licensing scheme. Are there any constitutional problems with the Parliament's powers that affect that aspect of the bill?

**Ash Regan:** I touched on that in my answer to Jamie Greene. Many people would just like fireworks to be banned. I think that people want that for a couple of reasons: they think that it is simple and would be easy for everybody to understand. The powers that are available to the Scottish Parliament mean that we do not have the ability to introduce a ban in Scotland. That approach is not available to us under the constitutional settlement. Therefore, we considered what powers were available to us and have used the maximum amount of powers of the Scottish Parliament to put in place the system that we are introducing because I wanted to reflect the Scottish public's desire for tighter controls on fireworks.

As I said, there is a legal reason not to have a ban but there is also a strong policy reason. Personally, I enjoy going to organised fireworks displays, as I am sure many people do. I know that many people use fireworks responsibly and want to continue to do so. That is important. It also

reflects the debate that we are having about proportionality. We do not want to be seen to be punishing people who use fireworks responsibly. We want people to be able to continue to do that if that is what they want to do.

The measures that we have come up with in the bill are an attempt to change the way we use fireworks, respond to what the public have asked us to do, examine the evidence and use as many of the powers that are available to the Scottish Parliament as we can to make that happen.

**Katy Clark:** Will you share something in writing with the committee or bring in your officials on why a ban would not be within the Parliament's powers?

The bill process has been truncated. The committee has been asked to consider the bill in a way that means that it does not have as much time as it would have otherwise to examine it. The licensing part of the bill is complicated. Given that the committee is considering the bill and has the view that the licensing measures are complicated, and given that the bill will not be in force this year, why do you feel that it has to be on the statute book by November?

**Ash Regan:** We hope that some parts of it will be in force this year. It is my attempt to reflect what I saw as the will of the Parliament in the previous session. I gave an update to the Parliament on the action plan. I think that I gave a statement to Parliament in two consecutive years on what we plan to do and what legislation we were introducing.

We realised that we were able to deal with some of this through secondary legislation, so, as the committee will be aware, we did that last year. The bill is an attempt to keep up the pace of change and to keep moving and working towards creating the new regime. The will of Parliament, which I felt came across strongly, was that we work on the bill as quickly as possible, so I am very grateful that the committee agrees that it is important to do so.

The sooner the bill can go through and be agreed to by Parliament, the more time we will have to work on the implementation and enforcement parts of the bill.

I will ask Natalie Stewart, who is appearing remotely, whether she wants to speak to the earlier part of Ms Clark's question about the constitutional angle.

**Natalie Stewart (Scottish Government):** Without going into too much detail, I will add that a ban would appear to have an inevitable link to product safety, and product safety is a reserved matter under the Scotland Act 1998. If there was a ban, the link to product safety could be a problem,

and there could be a disproportionate effect on individual rights.

**The Convener:** Thanks very much. I am keen to move questions on, because I have a few other themes to cover. I will bring in Pauline McNeill and then I would like to move to questions on licensing.

**Pauline McNeill (Glasgow) (Lab):** First, I have a quick supplementary question on the data.

You will have heard that the committee is keen to pursue the issue of the data. The culture change that you talked about relates to the general public, but some people are behaving antisocially and using fireworks as weapons. Therefore, I hope that you agree that we need to scrutinise whether we are using existing powers to act against those who will clearly not be applying for licences, given their antisocial behaviour.

I will ask Elinor Findlay about the example of Pollokshields. I have been involved with the Pollokshields community because I am a Glasgow regional MSP. No action was taken in Pollokshields, which is also the evidence that we had from the industry. I have tried to get to the bottom of the matter with the Crown Office, but I have failed to do so.

Pollokshields is one of the communities in which this is an issue—fireworks are being thrown at members of the emergency services, and they are being used dangerously. A serious question for the Crown Office is why are there no prosecutions? If we cannot see the information, or if it does not exist, or if prosecutions are not happening, there is a danger that we might miss the target. Elinor, are you aware that there have been no prosecutions in Pollokshields, and could you pursue the matter? I certainly will do so, but it would help if you could also ask about it. If the evidence that you gave to Jamie Greene is correct and the matter is being taken seriously, that question needs to be answered. Do you agree?

**Ash Regan:** I agree with that, but first I will respond to your point that people who use fireworks antisocially are unlikely to apply for a licence. Previously, they would just go into a shop and buy the fireworks or—we have anecdotal evidence on this—adults would buy the fireworks for them if they were under the age of 18.

I was in Pollokshields with a group of boys, who I think were between the ages of 15 and 17, who had been involved in antisocial behaviour with fireworks. I sat with them while they were going through a programme that was being run specifically in the area for people who had been involved in antisocial behaviour with fireworks. The programme was about safety, the law and how to use fireworks appropriately. When we change the legislation, we hope that people who are under 18

will not be able to just go to the shop to buy fireworks. In addition, hopefully, their parents will understand that they are not allowed to buy fireworks to give to under-18s. Therefore, I hope that the legislation will bring right down the numbers for the spontaneous purchasing of fireworks for antisocial use.

A lot of work has been done in Pollokshields. I have seen some of it for myself. I do not remember when I went there; it was probably more than two years ago because it was before the pandemic. I can try to find out a little more about that programme. That example comes from the non-court disposal side of things. We will try to get more information from the Crown Office to answer your question.

**Pauline McNeill:** I accept that, but you will be aware that people in white vans turn up in those communities to sell illegal fireworks.

I want to scrutinise the licensing scheme. I support what the Government is trying to achieve but I have the same concern as other members, which is that the scheme might miss the target.

Last week, industry representatives told us about Northern Ireland, which has a population of 1.85 million and where 515 licences were issued. The suggestion was that the people who should be applying for licences were not doing so. If those figures were extrapolated to Scotland, there would be around 1,500 licences, but 250,000 fireworks are bought in Scotland each year. You can see the issue.

I have been trying to get my head around the legislation. I think that I understand it. You are talking about a culture change. Ordinary families and individuals may misuse fireworks, which are not illegal. That is where the concern comes from. They do not realise that the noise can disturb animals or children with autism. That would be dealt with by the licensing scheme. How confident are you that people or families who want to set off fireworks will sit down to apply for a licence and pay the £20, £30 or £50?

**Ash Regan:** I am quite confident, because it works with other controlled goods. People do apply for licences. I will ask Elinor Findlay to give us more data about Northern Ireland in a moment.

The key thing is to make the scheme as simple as possible and not too expensive, so that people can apply for and get a licence quickly and easily. We need to ensure a level of awareness, so that people know that they must have a licence. We have to do really good work on our public campaigns so that we get that message out and people know what they have to do when the law changes.

There is often a question whether people will change their behaviour when we change the law. It can feel strange. I am old enough to remember when kids sat in the back of cars with no car seats and nobody wore seat belts. When I was small, it would not have occurred to someone to get into a car and put a seatbelt on. No one would have asked them to do that. It was not normal. The law changed and there were some really good public awareness-raising campaigns. I can think of some of the lines in the adverts. We do not think twice now. We get in the car and just put our seatbelt on. People get used to it. I am confident.

We all accept that legislation in itself will not fix all the problems. Through the work of the review group and the work that the Government has done, we have tried to find something that will go some way towards addressing all the concerns. That includes concerns about misuse and the concerns that a lot of people have told the committee about regarding the distress that is caused to animals or is felt by neurodivergent people. That distress is caused by legitimate firework use that happens sporadically in their neighbourhoods. The scheme also addresses safety concerns about people being injured. We have tried to do that in a balanced and proportionate way.

I have explained that some parts of the scheme are slightly more complicated than they might have been if we had a different set-up, but I am confident that we can make it as simple as possible for people to apply for a licence and I hope that they will do so. I do not want it to be a barrier for people who are using fireworks legitimately and safely. I want them still to be able to buy fireworks from a local shop and enjoy them with their families.

**Elinor Findlay:** We have looked at the licensing system that exists in Northern Ireland and have been in fairly regular contact with our counterparts there. The system that has been developed and that is outlined in the bill is unique to Scotland and is different from that in Northern Ireland.

For example, the system in Northern Ireland requires people to have a licence to purchase, possess and use fireworks, but that is aligned to a single display, whereas in Scotland it is intended that a licence will be for a longer period of time and will not align only to one occasion for which someone wants to purchase and use fireworks. People in Scotland will be able to have a licence for multiple uses of fireworks and over a longer period.

09:45

**Pauline McNeill:** Thank you. I take the point that the system is different, but we had powerful

evidence from the industry about concerns that people will turn to the black market. I have a serious concern that we will not have any control over that. That sparks safety concerns. You have probably heard the same evidence. What do you think of that evidence, and do you have any concerns that people will turn to more white vans that might turn up in the streets, because they will not have to get a licence if they do that? They probably think that they are just setting off a few fireworks. The safety checks will not be there. Do you have concerns about that?

**Ash Regan:** Yes. That is part of what I was saying earlier about making sure that there is awareness raising and that people are clear that what they will be doing is an offence. Black market or illegal fireworks—however you want to describe them—will not have the same kinds of safety checks, so will potentially be dangerous, and people could injure themselves by using them.

There is a potential risk of displacement of sales and, as the bill has been developed, we have carefully considered that in three areas, about which I will ask Elinor Findlay to speak in a second. However, I come back to wanting tighter controls because that is what the public wants, because of some of the evidence we have talked about. We are trying to strike the right balance between introducing restrictions to ensure public safety and not introducing things that are too much of a barrier to buying fireworks.

I take your point about the black market. However, I am sure that you have spoken to Police Scotland about the fact that there has been a lot of national, multi-agency work by the enforcement agencies, including the Scottish Fire and Rescue Service and trading standards, to tackle illegal sellers of the type that we have been talking about, to tackle illegal products, which I have no doubt we will talk about later, and to undertake various actions such as removing websites, referring cases on and reporting breaches to the Health and Safety Executive. Routes are in place and are already being taken, and if people see white vans selling fireworks to kids in the street, I am confident that they will ring the police and that the police will deal with that. I ask Elinor Findlay to add a little more detail.

**Elinor Findlay:** I will talk through the consideration that was given to displacement through a number of different routes, one of which is the black market. When it comes to the licensing system, the first option for displacement is people crossing the border to purchase fireworks and bring them back into Scotland. The licensing system that is set out in the bill includes a requirement for people to have a licence to possess as well as to use and purchase fireworks in Scotland. Although the bill cannot regulate for

activity outside Scotland, once someone crosses the border back into Scotland they must have a licence to possess those fireworks.

The second displacement involves the legitimate sale of legal firework products online. Someone could go online, order the products from a country outside Scotland, and have them delivered. Again, when it comes to what is outlined in the bill, if any part of that supply takes place in Scotland, including for example the delivery of firework products, suppliers will be required to check the licence status of the individual who is receiving the firework product. It is anticipated that that would work in a similar way to arrangements for other age-restricted products. It is probably helpful for me to say at this point that it is illegal to send a firework product through the normal postal system. All delivery of fireworks needs to be done through a special courier system, and they need to be clearly marked as explosives.

You specifically referred to the third area of displacement that we have considered: the illegal online sales of illegal firework products. As the minister has set out, the purchase of fireworks will continue to be subject to existing legislation and enforcement routes through trading standards, the police and the courts.

The importation of dangerous goods obviously includes fireworks, and that is a matter for the UK Government, as well as for the Health and Safety Executive. People self-importing fireworks into the country would substantively come under the remit of Border Force.

I hope that that has given you an idea of the areas of displacement that we considered as the licensing system was being developed.

**Pauline McNeill:** Thank you.

**Russell Findlay:** I have a question on licensing, but I will first make a couple of observations on the data. We have learned today what the Crown Office has done with the numbers from the past 10 years or so, but we still do not know how many actual incidents have been reported to the police or recorded by the police. Perhaps we can get that information.

**Ash Regan:** I think that we have that.

**Russell Findlay:** Secondly, on your observation that we might be able to ban fireworks if Scotland was independent, I do not know if that is what you are seriously proposing.

Going back to the licensing question, we heard evidence from a responsible fireworks shop owner, Norman Donald. He said that the licensing rules under the bill would most likely put him and others out of business. We have also heard evidence about the fabled white-van man of Blackburn, who roams around selling fireworks to

children. The suggestion is that the unintended consequence of the bill would be to put legitimate operators out of business, while it is an absolute gift to the white-van men. Is that really something that you want to happen?

**Ash Regan:** There were about five questions there, convener.

**Russell Findlay:** Ignore the first part if you want. I am really asking about the unintended consequences of putting legitimate and responsible traders out of business while fuelling a black market in fireworks.

**Ash Regan:** We do not have evidence that suggests that the bill will fuel a black market. We have looked carefully at evidence from countries where restrictions have been tightened, and we did not find any that it has fuelled the black market. There does not seem to be much evidence of a black market in Scotland at the moment. Clearly, the agencies at work in the area will continue to review that. I hope that we will be able to come back to the committee with evidence on that in a few years, so that we can discuss what impact the measures have had.

When we talk about restricting fireworks, people will often talk about the merits of a ban or not having a ban. As I set out, we considered that. I think the member will accept that, for constitutional reasons, Scotland is not able to do everything exactly the way it would want to; we have to work within the constitutional arrangements. Natalie Stewart and I have explained how that impacted on what we are doing here. We also decided not to pursue a ban for policy reasons anyway, because we did not think it was proportionate. I have already set that out in detail.

On businesses, about 650 retailers supply fireworks to the public, I think, most of which do so on a seasonal or temporary basis. They supply them at the typical times of year, as you might expect: around bonfire season and new year. The provisions in the bill broadly align with that. A small number of businesses—nine, I think—sell fireworks all year round, and another business sells and also imports them, which takes us up to 10. Elinor Findlay will correct me if I am getting this wrong. Those 10 businesses have a different licence to sell. Clearly, the provisions on supply that are contained in the bill will potentially have an impact on those businesses.

We have said, therefore, that when we are able to receive evidence on the type of effect that the bill has had on those businesses, we will develop a compensation scheme for them to ensure that they will not suffer in that way.

**The Convener:** I will bring in Rona Mackay, and then we will move on to questions on restriction of use and supply.

**Rona Mackay (Strathkelvin and Bearsden) (SNP):** I will stick with the licensing theme. We know that there is widespread support for licensing—I think that the minister said that the level of support was 84 per cent. I know that the detail of the scheme is probably not fixed yet, because that part of the bill will not be implemented until next year. Nevertheless, is it possible for you to give us a timeline for when the scheme will be up and running?

**Ash Regan:** We want to get the licensing scheme right. As I said in my exchange with Pauline McNeill, we want to ensure that it works really well, so we need to do quite a lot of work on the implementation. We think that the scheme should be set up and working by the end of 2023, but I am afraid that we cannot be any more specific than that. We have to do some consultations and, as you would imagine, we have a lot of work to do with stakeholders on the scheme in order to get it right. We will also have to introduce secondary legislation on it.

Does Elinor Findlay want to add anything to that?

**Elinor Findlay:** One of the main tasks will be to bring in a new information technology system that is robust and fit for purpose. We will need to develop a specification for that in partnership with Police Scotland and our other stakeholders, and commission it from the relevant providers.

**Rona Mackay:** On the timescale, a licence will be valid for five years. Has any thought been given to the possibility that, during that five years, someone might commit an offence? What would be the process in that case? Would the licence be revoked?

**Elinor Findlay:** If somebody is convicted of a fireworks-related offence and they have a valid fireworks licence, a court will have the power to revoke that licence. If the court does so, it has a duty to inform Scottish ministers. If a court convicts someone of a fireworks-related offence but does not, for whatever reason, revoke their licence, it would still have a duty to inform Scottish ministers that the person had been convicted of a fireworks-related offence.

Individual licence holders themselves are also mandated to provide updates on any material change in circumstance to Scottish ministers. We would expect that duty to cover a fireworks-related offence.

**Rona Mackay:** So it would apply only to convictions for firework-related offences. It would not apply if an individual had been convicted of assault, antisocial behaviour or anything like that.

**Elinor Findlay:** It covers offences under existing fireworks legislation, as well as offences under the bill. It also covers

“any other offence where the misuse of fireworks or pyrotechnic articles has been a factor.”

For example, if somebody is charged with an antisocial behaviour offence or an offence of attacking an emergency service worker, and fireworks have been an element of that offence, it is possible for that to be considered. However, a duty that applies to wider offences is not set out in the bill.

**Rona Mackay:** I have a question on cost—again, this is a detail that you probably do not yet have. We know that in Northern Ireland, a licence costs anywhere between £100 and £160. Minister, you said that you were conscious that you did not want to make the cost prohibitive for families who wanted to purchase fireworks. Do you have any idea of the scale of what a licence might cost? Can you give us a ballpark figure just now?

**Ash Regan:** The financial memorandum, which has been provided to the committee, notes that we did a financial modelling exercise on that. We modelled fees of £20, £30 and £50 for a five-year licence. We looked at those amounts because we took into account similar licensing schemes that are already operating in Scotland, particularly the air weapons licensing scheme. We will undertake a further consultation on that, if Parliament agrees to the legislation, and go on to seek views on an appropriate level of fee.

10:00

The fees for licences in Northern Ireland are significantly higher. You make an important point—the cost must not act as a barrier to people. Nevertheless, if a community group wanted to put on a firework display, I would imagine that that would involve fairly significant costs, and in that context, potentially paying £30 for a five-year licence might not seem disproportionate.

**Rona Mackay:** Finally, a licensing scheme could involve a pretty big workload and could have an impact on local authorities that have to issue the licences. Has any impact assessment been done for local authorities to look at the resources or staff that they may need?

In addition, Elinor Findlay mentioned a new IT system. Would that be provided to every local authority?

**Elinor Findlay:** For clarification, I note that the bill sets out that the licensing scheme will be managed by the Scottish Government on behalf of Scottish ministers. It will not be devolved to individual local authorities.

The consultation that we ran over the summer of 2021 asked people's opinions on who should run and administrate the licensing system. The options included national Government, other national organisations and local authorities. The feedback that we got was that it would be most appropriate for the Scottish Government to do so, in order to ensure that we had a national system and that there were no barriers with regard to people being able to purchase a licence in one local authority and use it in another. The licensing system will be administrated and run by the Scottish Government.

**Rona Mackay:** So people will apply to the Scottish Government for a licence. Okay—I had not appreciated that. Thank you.

**The Convener:** I want to pick up on the point about licences. You have helpfully explained that it would be the Scottish Government's role to administrate the licensing scheme. However, in some of your earlier responses on licensing, you mentioned that Police Scotland would potentially have a role. Did I pick that up incorrectly?

**Elinor Findlay:** No, you did not. The IT system that is developed for the licensing scheme will need to be aligned with Police Scotland's system, because it will have to have real-time information and data on licence holders in order to enforce the relevant offences. The scheme will be administrated by the Scottish Government, but we will do that very much in partnership with Police Scotland to ensure that it works for all stakeholders.

**The Convener:** That is helpful—thank you.

Pauline McNeill, do you have a follow-up question on licensing or are you happy for us to move on?

**Pauline McNeill:** I have a quick supplementary to Rona Mackay's line of questioning.

Minister, you said clearly that you would not want the cost of a licence to be prohibitive. I think that there would be a big difference between £20 and £50, given the cost of living crisis, so it would be useful to know when that information becomes available. I might not be so concerned about a charge of £20, but a charge of £50 would concern me, as I think that, in these times, it would definitely be prohibitive for a lot of families.

**The Convener:** Collette Stevenson has a follow-up question, and then we will move on to restrictions on use and supply, on which I will bring in Fulton MacGregor.

**Collette Stevenson (East Kilbride) (SNP):** Good morning. A recurring area of my questions to the witnesses who have appeared before the committee has been the possible use of silent or low-noise fireworks. Have you explored that area,

in particular with regard to the nuisance aspect of fireworks?

We have touched on the impact that fireworks have on animals and on people with neurodiversity issues. Silent or low-noise fireworks would go some way towards mitigating that. Is it possible for something to be implemented in that regard? How would that work?

In addition, I would like to know more about cost. If you were to reduce the cost of a licence for low-noise fireworks, would that be an incentive for people to purchase those rather than fireworks from among the categories that are listed in our papers?

**Ash Regan:** Collette Stevenson makes a good point. I am really interested in that. We can all see that reduced-noise or silent fireworks, while not addressing misuse, would go a long way towards addressing concerns about noise disturbance. There can be sporadic noise over quite a long period, which can be very disturbing for people who have animals.

We looked into that. Industry experts advised us that, at present, there is no recognised standard or specification to identify or distinguish lower-noise fireworks. I think that the industry might be working on that; Elinor Findlay might be able to say more. It is an interesting development that could be beneficial. In an attempt to future proof the bill, we have put in the ability to update it. Should it become possible to identify and use low-noise fireworks, we will be able to update the bill on that accordingly.

Elinor, do you have anything to add?

**Elinor Findlay:** No.

**Collette Stevenson:** That is welcome. It will be good news for my dog; I will be sure to let her know.

**The Convener:** On that happy note, I bring in Fulton MacGregor.

**Fulton MacGregor (Coatbridge and Chryston) (SNP):** Good morning. Unfortunately, I do not have a dog to represent at the committee.

I have some questions about the restrictions, but I also want to pick up on some details from last week's evidence. As Jamie Greene and Pauline McNeill indicated, industry representatives gave powerful evidence, which the minister will have read. What was most striking was that that was the only evidence that we have heard that has been counter to the bill. All the other evidence that we have heard from stakeholders has been very supportive. I know that you are pleased about that.

The Republic of Ireland and other countries were mentioned last week. What evidence was taken from those countries as the bill was

developed? I know that there is more or less a full ban on fireworks in the Republic of Ireland. The evidence that we heard last week challenged the committee in our scrutiny of the legislation. A black market has formed in Ireland, which you have talked about a little.

The clerks asked for and got information from Ireland, which I have scanned through. There seems to be a mixed picture regarding firework incidents, seizures and the value of items seized. There is a general downward trend, although the figures go up and down from year to year. There has certainly been an overall decline in prosecutions, from 11 in 2015 to two in 2020, which is good. That seems to be the general trend.

Most importantly, the Government inspector of explosives at the Irish Department of Justice told us:

“While instances of illegal firework use do still occur in Ireland, in particular in the run up to Halloween, the Department believes the restrictions in place considerably mitigate against their widespread misuse, and the associated distress and risk they can cause to public safety and property.”

That seems positive, given the evidence that we heard last week.

What evidence or information do you have from other countries? That came from the Republic of Ireland; I think that Hawaii was mentioned last week.

**Ash Regan:** It is important to look at what other countries are doing. There is no point in reinventing the wheel with this policy. It is obviously a good idea to look at things that have worked well elsewhere. The converse is also true. We want to look at where things have not worked well, if we can find the data. The problem is that it can often be difficult to find data that can be used to illustrate the policy. The data also comes from a different setting. It is not advisable to take something that works well somewhere else and just drop it into Scotland, because of the different context. We took all that into account.

The review group spent some time looking at other jurisdictions, particularly Northern Ireland and Ireland, to see what was working elsewhere. Obviously, those two jurisdictions are not the same—Northern Ireland has a licensing system, while Ireland has a complete ban—so, again, the context is quite different. Nevertheless, from the data that we have been able to see, it looks as though there has been a reduction in harms in both those settings.

I think that Elinor Findlay has found the right page of the briefing, so I will let her give you a bit more detail on that point.

**Elinor Findlay:** The firework review group commissioned international case study research in order to consider the international approaches that were aligned with the options that it was looking at and, where it was possible to look at the data, to examine the benefits and drawbacks of similar measures. That report, which was published alongside the review group report, included, as the minister has said, case studies of the approaches taken in Northern Ireland and the Republic of Ireland.

Of course, the drivers for introducing restrictions will vary in different countries. One of the broad conclusions from all that work is that there tends to be a lack of metrics and data to allow anyone to say definitively what the impact has been, but what we have seen from some of the data that is available is that, in the specific examples of Ireland and Northern Ireland, there have been positive changes. In Northern Ireland, for example, the introduction of the licensing scheme has coincided with a marked reduction in firework-related injuries. However, we need to be cautious about any claims of definitive evidence on the impact of the approaches taken in those two countries.

**Fulton MacGregor:** That note of caution is fair enough, but given the evidence that we received last week, I thought that the question was worth asking.

Last week, we also heard about the industry’s 10-point plan, which I know that the minister will be aware of. To what extent has that been taken into account? Did it inform the development of the bill?

In the interests of time, I will join up my questions. I do not have a pet at the moment, but I have three young kids, and I was struck by the evidence that we heard last week that a lot of firework-related injuries are associated with sparklers. Did the minister, the Government and the review group take that into account when formulating the legislation?

**Ash Regan:** In answer to your first question, we have seen the industry’s 10-point plan. Some of it does not relate specifically to the Scottish Government—I think that it contains action points for the United Kingdom Government—but there are some interesting things in there.

I met representatives of the industry about two weeks ago, to listen to what they had to say and to take on board their views. Of course, the industry was also part of the review group, so it has been involved in the process from the very start, although I accept that it did not support the group’s final recommendations and that it has some concerns about the bill.

I am sorry—what was your second question?



**Fulton MacGregor:** It was about the evidence that we received last week on sparkler use.

**Elinor Findlay:** We do not have complete data on firework-related injuries. Someone who is injured by a sparkler or a firework might choose to go to the pharmacist or their doctor, and we just do not have that data.

We have data on attendance at minor injury units and accident and emergency departments, although, as I think that the minister has already said, we cannot disaggregate that data by type of firework. However, in 2019, our colleagues in NHS Greater Glasgow and Clyde carried out a fairly detailed survey of all A and E and minor injury departments. That survey has been published, and I can share it with the committee if that would be helpful. It shows that the majority of injuries were caused by F2 and F3 fireworks. Specifically, 68 per cent of injuries were caused by those fireworks, while 13—I do not have the percentage—were due to sparklers.

I would say that that is to be expected. After all, an injury caused by a sparkler might not be severe enough for the person to attend hospital. Similarly, we have more detailed data from Greater Glasgow and Clyde for 2021, which again shows that most injuries come from fireworks rather than sparklers.

10:15

**Fulton MacGregor:** It is good to have that clarified. I would also highlight the sensible suggestion that the industry made last week about promoting the use of gloves by young children when fireworks are used at organised events and suchlike.

I will now move on to the questions that the convener thought that I was going to ask, which are about the restrictions on the use and supply of fireworks. This is a line of questioning that I have pursued with various panels. The bill seeks to introduce certain days and times for the sale and use of fireworks, but are you able to say a little bit about the rationale behind that measure? It has received quite widespread support from the majority of stakeholders, which is really reassuring, but we have also heard concerns that, if you pick one date, that means that you cannot pick another—if that makes sense. Have you given any consideration to that?

Again, I will join my questions together. Do you think that it would be worth giving local authorities some flexibility to take into account other occasions—sporting or other cultural events, for example—that people could perhaps apply to use fireworks at?

**Ash Regan:** I am sure that the committee will have heard this point being made really strongly in

evidence, too, but in the consultations in 2019 and 2021, we heard repeated evidence about the disturbance caused to people by what we would characterise as more unpredictable use of fireworks, which led to the perception that periods of firework use had become a lot more prolonged than they used to be.

When I visited the Scottish Society for the Prevention of Cruelty to Animals a couple of weeks ago, it suggested that knowing when fireworks are going to be used allows pet owners in particular, but anyone who has issues in this area, including neurodivergent people, to undertake whatever mitigation might be needed. Those with neurodivergent conditions could plan to be somewhere else, for example, and people with pets that get seriously disturbed by fireworks could seek veterinary advice ahead of their use. I strongly feel that more predictability of use will benefit everybody.

The review group commissioned analytical work on the issue and looked at the international evidence that I have already mentioned. Something similar has been introduced in parts of Australia and New Zealand, but Elinor Findlay can say more about that and the effects that those measures have had.

**Elinor Findlay:** The international case study research that the review group commissioned looked at a number of areas that had shorter sales windows. Those areas were one of the Australian states—I do not have the name of it in front of me—and New Zealand. Again, I give the caveat that, for a number of reasons, it is not possible for us to make direct comparisons, but we saw some positive consequences of that approach in both cases.

**Fulton MacGregor:** I understand that caveat, and on balance I am probably convinced by the approach of having set days for the sale and use of fireworks. It still seems a wee bit unfair for people with autism, pet owners and whoever to have to put in place mitigation measures, including leaving their own homes, come new year. Of course, that option would not have been open to them the past two new years, when fireworks were used.

I have a final question. Has the Government carried out any assessment of the impact of picking the specific dates that are included in the bill on event organisers and retailers such as the independent retailer from Aberdeen who gave evidence last week?

**Ash Regan:** To go back to your point about reducing the times when fireworks can be used, the use of fireworks during those periods will still affect people, but it seems like a proportionate approach to take. Reducing the times when

fireworks can be used will allow people to prepare. They will not be taken by surprise because they will have been able to prepare, which means that the use of fireworks will become a bit more tolerable, if I can describe it in that way.

I forgot to answer your question about flexibility. We consulted various faith groups and so on, and we wanted to be sure that the dates that we picked would align with dates when other faiths' traditional celebrations involve fireworks and that we would be able to capture that. Having done that, we need to be careful that we do not introduce any more confusion. Allowing local authorities further flexibility to change those dates might not be a good idea. It could introduce an element of confusion. We have a lot of work to do to communicate to the public exactly what the changes are. Once we have done that, I hope that people will have a good level of knowledge about what they are allowed to do, when and where. That is important.

Elinor will be able to provide more information about impact assessments.

**Elinor Findlay:** A full range of impact assessments has been undertaken and published. The specific impact assessment that relates to your question is the business and regulatory impact assessment, and it certainly recognises the potential impact of the restricted days of supply on those retailers who sell fireworks, particularly the small number who are permitted to supply them throughout the year.

Limited economic data is available from those retailers. Back in 2021, while the consultation was live, we held a specific consultation event with specialist firework retailers. We have reflected on the economic data that we have, although it is limited.

It is important to say that retailers will be able to continue to supply fireworks to those who are in the exempt groups outwith the permitted periods. That will include community groups and professional firework operators. We do not have firm data on this, but we know that some of those specialist firework retailers are also professional display operators, so that element of their business might be enhanced by the measures that are included in the bill.

**The Convener:** I will bring in Jamie Greene with a follow-up question in a moment, but I want to briefly jump back to a question on licensing. Members have been looking for a bit more detail on the licensing proposals and one issue has come up repeatedly. Might this be an opportunity for us to ask a wee bit about the practicalities of the licensing scheme that is being put in place? For example, will there be an online option? Will people be required to produce identity

documents? What sort of timescale will there be from the point at which somebody applies to the point that their application is completed and endorsed? I would like to hear a bit more practical detail about the process for people who apply for licences.

**Ash Regan:** That is a good line of questioning. We anticipate that the majority of it will be done online. Most people are able to do that now and it is a highly efficient method. However, we will have a paper-based alternative for people who are not able to access or use an online method. Perhaps Elinor Findlay could add more detail.

**Elinor Findlay:** I can certainly talk the committee through the process, if that would be helpful. Forgive me if this is a slightly long answer. The basic principle is that all members of the public, including community groups, will be required to apply for a firework licence if they are not in one of the exempt groups that are set out in the bill, and they will be required to have that licence before they can purchase, possess or use fireworks.

On what that would involve, first, a person would be required to complete a training course on the safe, appropriate and responsible use of fireworks in the three months preceding a licence application. That is set out in the bill.

As the minister has said, future regulations will set out the operational detail of the training. At this stage, we envisage that the course will primarily be online. The bill does not set out that the course must be online, but we imagine that that is what it will be. Of course, consideration will be given to people who might not have internet access. The regulations will cover information on the course content, which will include things such as how to use, store and dispose of fireworks safely; rules on where and when they can be used; and consideration in relation to their appropriate use.

Secondly, the person would then be required to apply to the Scottish Government for a licence. That will involve filling out an application form, providing proof of successful completion of the training course, disclosing any previous convictions related to the misuse of fireworks or pyrotechnics and disclosing any previous licences that have been revoked or cancelled.

Again, future regulations will set out the operational detail of the system. That will include the content of the application form; the information that is required from applicants; the fee that needs to be paid; the time in which an application must be made, to manage spikes in demand coinciding with traditional firework periods; the content of the training course, as I have already mentioned; and the length of time for which the licence is valid.

**The Convener:** Thank you very much—that is helpful. I have more questions around that but I will not ask them right now. I will bring Jamie Greene back in.

**Jamie Greene:** Minister, you have talked quite a lot about the firework review group and its various members. Last week, I raised with industry representatives an issue that one of the witnesses had raised in their written evidence. In that evidence, they said that they believe that

“too much weight has been given to the voices ... in the ... 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”

of the bill.

I challenged the witness on that. Basically, I said, “You would say that, wouldn’t you? Your interest is in the commercial success of your members.” Interestingly, the British Pyrotechnists Association said that the majority of its members put on professional displays and have no vested interest in the retail market, or in the restriction of the sale, purchase or use of over-the-counter fireworks. It said that its views on the bill’s unintended consequences on the black market and other aspects on which the legislation will impact are purely based on their professional judgment and decades of experience in the firework industry. How do you respond to that?

**Ash Regan:** You are right to say that—we have covered this already—industry representatives were members of the firework review group. They were full members, like all the other members. The review group decided on its remit and what evidence it would look at, and it came up with an action plan at the end of that process. The recommendations that were made form part of the bill—not all the recommendations are in it—that is in front of you. As a Government, we are working through all the recommendations.

The industry was fully involved in the process. It gave very helpful information that has been worked into the draft legislation. As I said, I met the industry a couple of weeks ago, and we had a long, full and frank discussion. Obviously, its views are different, and the conclusion that it draws is that it would have liked things to have gone differently. However, the industry was fully involved from the start of the process. Some of its views have been taken on board; others have not.

There were probably members of the review group who—this happens in a lot of similar situations—would have liked the measures to go even further. In this case, that would be further measures on public safety, animal welfare and so on. The industry was perhaps more on the side of wanting to maintain the status quo.

I suggest to the committee that we have ended up somewhere in the middle, with a view to creating a bill that responds to what the public want. At the beginning of the meeting, I set out clearly that there is a strong desire from the public to change the way in which we sell and use fireworks, and that the measures in the bill have a lot of support, of which we must be cognisant.

10:30

We looked very carefully at the issue of unintended consequences through three different lenses, which we have spoken about. There is not a lot of data, but we used the data that we could find to inform the issue. That comes back to our exchanges with other members of the committee about ensuring that the licence system is easy to use and is not too expensive, so that we do not create barriers to people buying fireworks.

We have accepted that a very small number of firework suppliers might be adversely impacted by the provisions of the bill. We have said that, if that is the case, we will set up a compensation scheme for them.

**Jamie Greene:** I am sure that that would be very welcome. What struck me was how adamant the BPA was that its opposition to the Government’s plans is based not on the commercial interests of its members but on its direct experience of the fireworks industry in this country and overseas. That point was very pronounced, and it came through in the evidence, which is why I asked about it.

The sale, use and purchase of fireworks are the three prongs that the Government is using to introduce restrictions. I have two questions. First, are you cognisant of concerns that people will stockpile fireworks by purchasing them and then storing them in their homes or other locations outwith the prescribed periods for legally purchasing them? Secondly, are you confident that there will be no legal challenges to the rather arbitrary dates for the sale and use of fireworks that are prescribed by the bill?

**Ash Regan:** I am just asking my official to look out the relevant sheet of paper. Sorry—I have so many pieces of paper in my pack; it is really difficult to find the one that I need at the right time.

We looked into the issue of stockpiling. We do not want stockpiling to happen, because we all understand the inherent dangers of storing large amounts of explosives if it is not done correctly. The permitted days of use extend slightly beyond when fireworks can be supplied. That has been done because we want to avoid a situation in which, say, someone buys fireworks at the very end of the supply period—for example, because they are planning to have a fireworks event in their

garden—but they cannot use them because the weather is appalling or something else happens. We do not want them to store the fireworks until the next period during which they can use them. Therefore, we have added in a period of grace to prevent that from happening.

There does not seem to be an awful lot of evidence that stockpiling might be a problem, but we want to keep an eye on it. At the moment, at new year, there is a fairly short period of time during which people can use fireworks. Therefore, we already have some experience of dealing with a fairly short period of time for the use of fireworks, and we do not see much stockpiling in that case. However, we intend to keep an eye on it. Elinor, do you have anything to add on stockpiling?

**Elinor Findlay:** No.

**Jamie Greene:** On the legal challenge question, it might help if I give the context. You have picked five periods in the year: a Chinese festival, Diwali, a Sikh festival and two secularly celebrated festivals of new year and the Halloween and Guy Fawkes period.

If someone wants to celebrate other religious or secular events with their family in their backyard or another prescribed space, will the fact that the Government has chosen those very specific dates leave you open to legal challenge by other religious organisations or other groups or communities, which might feel that, by default, you have created a zone of dates that is exclusive and not inclusive?

**Ash Regan:** I think I mentioned earlier that we consulted all the faith groups, and we feel that we captured all the dates that have religious significance and on which fireworks are traditionally used as part of the celebrations.

The days that we have set out broadly align with the existing dates. We are quite confident that that does not fall foul of any legislation.

Natalie Stewart might want to add to that.

**Natalie Stewart:** There is a power in the bill to add to or amend the dates if required, if it came to light that we had missed a particular date that we would want to include.

**Jamie Greene:** That sounds like something that would have made a marvellous amendment, which we would have introduced anyway.

Is it the case that, under the proposals, the only way that someone who wanted to use fireworks to celebrate an occasion outwith the defined periods could do so would be through an organised display company or someone who is exempt from the regulations? If so, will that lead to a bizarre situation in which someone who can afford to celebrate with fireworks can do so but others will

be restricted? Are we not just creating a class division in relation to fireworks? Does that seem fair and proportionate?

**Ash Regan:** On balance, taking all the provisions across the bill, I think that it achieves the aim of being fair and proportionate. With regard to the example that you use, I would say that there is quite adequate provision across the year for people to use fireworks, but I completely accept your point that that might not align with an individual's desire to use fireworks on a day when, if the Parliament agrees to the bill, they would not be able to do so. However, I think that there is enough flexibility in the bill to allow the use of fireworks—for example, through public displays, as you mention.

The issue relates in part to Fulton MacGregor's point about local authorities, because some areas have specific days that are important to them. If one such day falls within a restricted period, a community group could hire a professional display company, and the cost could be mitigated by spreading it across a number of people. However, we have to look at the bill as a whole with regard to what we are trying to do. The provisions have been specifically designed to enable us to consider the evidence, ensure that we do not create too many unintended consequences and meet the public's desire for the misuse of fireworks to be reduced. On balance, the bill does what it was intended to do.

**The Convener:** We are coming into the final 20 or 25 minutes of the session, and members have a few areas that they want to ask questions about. It would be helpful, therefore, if we could have succinct questions and answers.

**Russell Findlay:** Last week, Fraser Stevenson of the BFA told us that, in 2020, his organisation had sent the minister a 10-point plan, point 4 of which concerned raising the age at which someone can buy fireworks from 18 to 21. Given that we have heard today that the average age of those who are prosecuted is 22, that seems like quite a sensible proposal from the industry and is perhaps a more sensible and effective starting point than the legislation, which seems to be quite convoluted and confusing. Why was that suggestion not taken on?

**Ash Regan:** I think that I mentioned to Fulton MacGregor that we received that 10-point plan, and that some of those recommendations were for the UK Government to consider, not us. There were some good suggestions in the plan, and we considered the issue that you mention.

However, we do not have plans to raise the minimum age for buying fireworks at the moment, because a blanket ban on the sale and use of fireworks for adults between the ages of, let us

say, 18 and 21 or 25 could be disproportionate and, potentially, discriminatory, particularly compared with other relevant age limits on comparable goods and services.

**Russell Findlay:** Right. If that age group is causing most of the criminality, is it not quite a simple fix?

**Ash Regan:** There are no other age-restricted products, including air weapons, that require people to be a minimum age greater than 18 to purchase them.

**The Convener:** When we took evidence from previous witnesses, we asked about alternative options for the proposal in the bill on proxy purchases for under-18s. That is one of the key measures that the Government is keen to enact earlier than the other provisions. However, the section on alternative legislative solutions in the policy memorandum does not seem to mention how the proxy purchase scheme could have been achieved through a route other than the bill. Could a different legislative route be explored for that provision?

**Ash Regan:** There was a lot of support for the proxy purchasing offence, because it was considered an obvious gap in the law. To go back to the exchange that I had with Pauline McNeill, the first time that it was raised with me was in Pollokshields. A youth worker there identified it as a gap in the law that he thought should be closed. That was several years ago.

It is already unlawful for category F2 and F3 fireworks and other pyrotechnics to be supplied to children under the age of 18, but that is just on a commercial basis. The introduction of the specific proxy purchasing offence makes it clear to all adults that any giving or supplying of fireworks or pyrotechnics to people under the age of 18 is a criminal offence with appropriate penalties.

I ask Natalie Stewart to pick up the point about other legislative options for that.

**Natalie Stewart:** I confirm that, as you said, minister, at the moment, it is illegal to supply a firework commercially but, to apply that to all adults, it is necessary to introduce the measure through primary legislation. The secondary legislation that is available under the Fireworks Act 2003 relates to commercial supply and is a provision under which the UK Government, not the Scottish Government, would have to lay regulations.

**The Convener:** That is a helpful clarification because we have been considering the option to pull off that part of the bill and deal with it separately so that we would not be restricted to the current timescales in considering the other provisions.

**Rona Mackay:** I have a couple of brief questions, one of which I meant to ask earlier when we discussed licensing. I apologise if I missed this information in a previous answer, but do we have any detail on who will provide the registered training course? Has someone been chosen to do it? It seems that the answer is no. Is it likely to be a commercial body or the Scottish Fire and Rescue Service?

**Elinor Findlay:** That will be considered as part of the consultation on regulation that will take place once the bill has passed. We will consider options including commercial suppliers and third sector organisations such as the Royal Society for the Prevention of Accidents, which produces the firework code, as well as other organisations.

**Rona Mackay:** That is fine. I just wondered whether there was a firm view on that.

My other question is about public awareness, which the convener alluded to. If the bill passes this year, the public might expect big changes in November around the purchasing and setting off of fireworks, which, with the best will in the world, will not happen. Do you have any detail on the communications and the public awareness campaign that will come out to manage people's expectations, as it were?

10:45

**Ash Regan:** I agree that public messaging and the public awareness campaign are an extremely important part of the whole picture. In advance of bonfire night in 2021 and 2020, we ran three different awareness-raising and public safety campaigns. I will speak about them, because we will repeat them this year.

The first is the nationwide campaign on the impact of fireworks, which aims to improve people's awareness and understanding of the impacts that fireworks can have on people and animals. It encourages people who will use fireworks to think about the impact on others and to follow the safety instructions and the firework code.

The second campaign is run in partnership with the charity Crimestoppers and it is supported by Police Scotland. It is focused on areas where there are higher levels of misuse. It focuses on improving people's awareness and understanding of the existing rules and regulations, in particular, and how and when people should report misuse of fireworks, potentially anonymously. That goes back to the points that were made earlier about people seeing illegal fireworks being sold in their areas. It gives them an anonymous way to report that information.

The third campaign provides advice in retail outlets, at the point of sale for consumer fireworks, on the safe and appropriate use of fireworks.

We plan to run those campaigns again this year. If Parliament agrees to the provisions in the bill, we also hope that some of them will be in operation before bonfire night—the proxy purchasing offence and the provisions relating to pyrotechnics.

**Rona Mackay:** Are you saying that a message about which of the bill's provisions will be in operation this year will be part of the communication campaign, as well as the stuff that you have run before?

**Ash Regan:** Absolutely, because it is key. The best way to achieve the culture change on fireworks that we talked about at the beginning is to make sure that the public have that awareness of how to use fireworks safely, and for everyone to respect everyone else. People also need to have a strong knowledge of how to keep themselves safe. We provide that through consistent public messaging, which we repeat year on year. Every time the regulations change, we will update the messaging accordingly.

**The Convener:** We will move swiftly on to some questions about control zones.

**Russell Findlay:** I want to ask about no-firework zones, as they were called at some stage in the consultation process—[*Interruption.*] Okay—they were called no-firework areas, but they have become firework control zones. Given that there is a risk that people will not understand what that means, would it not have been easier to have no-firework zones?

There appear to be two broad problems. One is fireworks being misused in a violent or antisocial way and the other is the noise from their legitimate use and the distress that that causes to pets and certain people. If you want to go down this route, why not create no-firework zones so that people can have peace and quiet?

**Ash Regan:** I think that they were called firework control areas. Elinor Findlay will correct me if I am wrong, but I think that that was in the first consultation.

**Elinor Findlay:** Yes—that was just in the first consultation.

**Ash Regan:** We changed the name to firework control zones in the bill because that more accurately reflects what the provision is designed to do.

I believe that the provision will have an impact on both the misuse of fireworks, as the member suggested, and their legitimate use, which can be problematic for a number of people. The idea is to

reduce the use of fireworks in particular areas where they are impacting on people because of their prolonged and unpredictable nature. It will give local authorities the ability to look at what is happening in their area and take action to address it.

When we were developing the provisions in the bill, it came through strongly to me that local authorities were very interested in having that provision because they felt that it would help them to address the issues that they see and it would give them control over setting the areas. Areas near care homes, older people's homes, shelters for animals and that type of thing might be designated in that way. The provision allows a degree of flexibility. We have said that public displays could still take place in the areas, and community groups could still put on displays, too.

I can see that there is an argument that the provision has possibly not struck the right balance, so I am interested to hear the committee's view.

**Russell Findlay:** It is not just those two criteria that would apply in control zones, because private home owners could bring in a fireworks company, too. People who live in those areas might think that they will have some peace and quiet, but nothing will have changed, because fireworks could still go off there. That might confuse people.

**Ash Regan:** I envisage that the provision will result in an overall reduction in the number of fireworks going off and in the unpredictable and sporadic nature of that. However, I take your point about the use of private displays. I am open to considering the Parliament's view on that. I am particularly interested to see what the committee says about that provision in its report.

**Russell Findlay:** The Scottish Police Federation has given evidence to the effect that the good intent behind the bill might be undermined by what it calls "bad legislation", given the current drafting. One of its specific concerns is on pyrotechnics and their increased use at football matches and other large-scale events. The SPF says that the bill should be amended so that simple possession of pyrotechnics is an offence, with provisions to protect their reasonable use or possession by legitimate users. Since we received that evidence, Police Scotland has written to us and said much the same thing. It believes that the law should have "simple possession" written into it. Will you take that on board?

**Ash Regan:** We considered that. In a moment, I will ask David Bell to explain the process that we went through to get to the point that we are now at.

The misuse of pyrotechnics is a growing problem at certain events and in certain places. That was evidenced to us by Police Scotland, so

we were really keen to get a provision in the bill that worked to address that. There are gaps in the existing legislation in relation to the carrying and possession of pyrotechnics, which might inhibit the police from taking proactive and preventative action before a situation becomes dangerous and difficult to control. That is key, and that is what we seek to achieve with the provision.

In 2017, Police Scotland had a working group on the issue, which presented recommendations. In 2021, the Scottish Government hosted stakeholder discussions, which proposed

“an offence of being in possession of a pyrotechnic in a public place without a reasonable excuse or lawful authority”.

That proposal was considered and consulted on as part of the 2021 consultation. However, when we were developing the bill, we felt that there was potential for unintended consequences to arise from the wider provisions in the bill as it was drafted at that time. There was potential that it would deter the legitimate and necessary use of pyrotechnic articles for personal safety, such as visual distress signals. That became a concern, so we thought that a more specific offence should be developed, which resulted in the provision that is now in the bill.

Perhaps David Bell will add some more details.

**David Bell (Scottish Government):** It is probably important to add that we had discussions with Police Scotland throughout that process, so it was aware of the narrower offence that was proposed. It told us that it was satisfied, in relation to the evidence that we had been able to gather on that, that it was a proportionate way forward.

We absolutely accept Police Scotland’s point that a narrower offence is more difficult for it to deal with than a broader offence. However, a key consideration was our obligation to use the least obtrusive method to fulfil the policy objective. We had to demonstrate that anything that we did would be proportionate and necessary. Our approach had to be evidence based, and in this case the evidence was the document that Police Scotland provided, which I understand it has also provided to the committee. That is the best evidence that we have about the misuse of pyrotechnics, and it suggests that it happens in particular areas. We accept that that evidence is not perfect, but it is the best evidence that is available to us.

In addition, any provisions must be compatible with human rights. As the minister mentioned, it is important, especially in relation to pyrotechnics, that we do not inhibit legitimate use for safety purposes. We were extremely conscious of the need to make it clear that we would not inhibit people from taking safety flares when they go out

to sea or into the hills, for example. We took such issues into account.

On that basis, we feel that what is proposed in the bill represents a proportionate response to the evidence that we have. We accept that a narrower offence is more difficult to deal with than a broader offence, but we do not feel that we have the evidence to go for a broader offence. That is how we have ended up where we are.

**Russell Findlay:** The Scottish Police Federation said that its officers have the common sense not to arrest people on mountain tops or in marinas who have flares for legitimate reasons, which would help with the purpose of keeping the provision very simple. Is it now the case that that is completely off the table?

**Ash Regan:** The way that I look at it is that we are responding to a public safety issue. Over the past few years, we have worked with stakeholders to develop the right provision. We need a provision that is workable, and we think that the provision in the bill is workable. As a minister, it is my job to use the least intrusive legislation that is possible to achieve the public safety objective. As we have said, Police Scotland was aware that the provision was to be included in the bill. I think that it is workable. However, the fact that Police Scotland has raised concerns means that we can continue to work with it to make sure that we get the provision right.

My view is that the approach that we are taking is a proportionate response. I hope that Parliament will agree, but it is for the committee to decide whether what is in the bill treads the line of responding to the issue and meeting the objective in the least intrusive way.

**The Convener:** I cannot resist the temptation to comment on this point. Legislative provisions are available to Police Scotland on the carrying of offensive weapons, whereby, if someone has a lawful reason for carrying a particular object or is doing so within the curtilage of a premises for a lawful reason, that is fine. I agree with Russell Findlay’s comment that police officers probably err on the side of caution. If they are aware that there is a provision in a piece of legislation whereby, say, a pyrotechnic can be carried lawfully, I anticipate that they would invoke that legislation proportionately. I am therefore keen for the provision to be reconsidered and explored a bit further.

Do you want to comment, Mr Bell?

**David Bell:** Yes. I just wanted to say that we take on board the points that have been made. We are certainly not implying that the police cannot use their common sense. They do that every day in making judgment calls.

The key thing for us is the issue of proportionality given the evidence that we have. We have said that, if more evidence was available, we would consider it. You have the evidence that is available to us and, if you feel that our response is not a proportionate one, it is up to you to say that. However, the key thing for us has been to respond in a way that is proportionate to the evidence that we have available to us.

11:00

**The Convener:** Of course. Thank you.

Jamie Greene has a supplementary question. I ask him to make it his last question, as it is now 11 o'clock.

**Jamie Greene:** Minister, you said that the Government is trying to introduce legislation that responds to the public safety situation. Ultimately, however, it is the police who will enforce the legislation that the Parliament passes, and the police have been clear in their supplementary evidence that they would like the bill to be amended to include a "simple possession" offence. Given that it is the police—not us or the Government—who will have to enforce the law, can you see why we would be minded to support them on that?

**Ash Regan:** Yes. We greatly value the input from Police Scotland and the Scottish Police Federation on these matters. They have played an important role in developing the bill. The evidence that we have received from Police Scotland is that the provision as drafted is workable but, as we have said, we are happy to listen to the committee's views on whether it strikes the appropriate balance.

**The Convener:** We have a very final question from Pauline McNeill. I will then bring the session to a close.

**Pauline McNeill:** I just want to be clear in my mind about how the bill would work. There are 37 days when people would be allowed to set off fireworks. Does that mean that it would be an offence if someone set off fireworks in their back garden on another day? I am hearing a yes to that.

In evidence last week, someone who was representing the retail trade—I think that Jamie Greene mentioned this earlier—talked about the growing desire to set off fireworks for gender reveals, big birthdays or whatever. Personally, that fills me with dread, to be honest. I support the Government's view that we need a culture change and that setting off fireworks every day of the year causes a nuisance.

I just want to be clear that it would be a police reporting matter if someone's neighbour set off

fireworks outwith the 37 days. Would that be a reportable offence?

**Ash Regan:** Yes.

**Pauline McNeill:** Would you expect the police to act against the individual if they did that?

**Ash Regan:** Enforcement is a matter for our operational partners, but yes. The key thing is to make sure that the public are aware of what they are and are not allowed to do, with a view to creating that culture change. People should be quite clear that they are not allowed to set off fireworks at those times.

**The Convener:** Thank you very much. We have some more questions on the impact of the United Kingdom Internal Market Act 2020, on some financial issues and on delegated powers, but we will write to you and ask for written responses to those.

I thank the minister and her team for joining us. We will now move into private session.

11:03

*Meeting continued in private until 13:10.*



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