

## Criminal Justice Committee

**13th Meeting, 2022 (Session 6), Wednesday  
30 March 2022**

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

### **Note by the clerk**

### **Introduction**

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

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

5. A [SPiCe Bill Briefing on the Bill](#) has been produced, to inform oral evidence sessions.
6. The Committee's online public call for written views on the Bill closed on Friday 11 March. The Committee received in excess of [150 written submissions](#) and these are available online to read.
7. The Parliament's Participation and Communications Team (PACT) has now published the final report on the public engagement contributions from the public

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on the Committee's scrutiny on the Bill. The engagement process ran alongside the Committee's call for views and closed on Friday, 11 March.

8. The full report from PACT, entitled [Fireworks and Pyrotechnic Articles \(Scotland\) Bill: Digital Engagement - Summary of Online Forum Submissions to support the Criminal Justice Committee's scrutiny of the Bill](#), is now published online.

## Participants

9. At its first meeting on [16 March](#) the Committee took oral evidence from Alasdair Hay, Chair of the Scottish Government's Fireworks Review Group, Assistant Chief Officer Stuart Stevens, Scottish Fire and Rescue Service, David Hamilton, Scottish Police Federation, Rob Holland, National Autistic Society Scotland, Lorraine Gillies, Scottish Community Safety Network, and Gilly Mendes-Ferreira, Scottish SCPA.
10. As its second meeting on [21 March](#) the Committee took evidence from Chief Inspector Nicola Robison of Police Scotland, David MacKenzie of the Society of Chief Officers of Trading Standards in Scotland, and Julie Whitelaw, from West Lothian Council.
11. At its third meeting on [23 March](#), the Committee took evidence from Fraser Stevenson, Vice Chairman of the British Fireworks Association, Andy Hubble, Chairman of the British Pyrotechnists Association and Norman Donald, Owner of NJE Fireworks Displays.
12. This is the Committee's final oral evidence session on the Bill, and the Committee will hear from one panel of witnesses:
  - **Ash Regan MSP**, Minister for Community Safety;
  - **Elinor Findlay**, Bill Team Leader, Scottish Government;
  - **David Bell**, Pyrotechnics Policy Lead, Scottish Government;
  - **Natalie Stewart**, Solicitor, Scottish Government.

## Format

13. Minister Regan, Ms Findlay and Mr Bell will be attending the meeting in person along with Members of the Committee. Ms Stewart will be joining the meeting remotely.

## Written evidence

14. Following the Committee's previous evidence sessions, various stakeholders have undertaken to provide additional written evidence to the Committee.

15. Following its meeting on Wednesday 23 March, the Committee is awaiting information from the British Fireworks Association and the Crown Office and Procurator Fiscal's Office (COPFS). This will be provided to Members and published online as soon as it is available.

16. The following follow-up submissions have been received. These are linked below or set out in **Annex A** as follows-

- Submission from Police Scotland on pyrotechnic articles at certain venues/events, possession offences and cross-border matters (Page 4);
- General briefing from the Irish Department of Justice on the regulation of fireworks in Ireland (Page 6);
- Submissions from the Finance and Public Administration Committee on the Financial Memorandum on the Bill (Page 11);
- A note on the Report from the Delegated Powers and Law Reform Committee on the delegated powers in the Bill (Page 13).

**Clerks to the Committee**  
**25 March 2022**

## **ANNEX A – Written submissions**

**Name of organisation: POLICE SCOTLAND**

24 March 2022

Dear Convener,

### **FIREWORKS AND PYROTECHNIC ARTICLES (SCOTLAND) BILL – POLICE SCOTLAND SUPPLEMENTARY INFORMATION**

I refer to the ongoing scrutiny of the above Bill by the Criminal Justice Committee and wish to bring to your attention some additional information to supplement the oral evidence given recently by Chief Inspector Nicola Robison.

In relation to the illicit use of fireworks and pyrotechnics, Police Scotland's preferred solution is the use of education and engagement to promote a prevention message and to encourage users to act responsibly. It is therefore important to note that we do not seek additional police powers without a firm belief that they are necessary and proportionate to the risks posed by fireworks and pyrotechnics. However, it is our belief that for those individuals who remain resistant to prevention messaging, additional enforcement options are necessary.

Police Scotland's view is that current legislation has gaps which, if filled, would allow our officers to deal with the illicit use of fireworks and other pyrotechnics more proactively and more safely. As such, Police Scotland has for over five years been exploring the potential for the introduction of a possession offence in relation to pyrotechnics, along with an associated search power. Similarly, Police Scotland has been working with Scottish Government and other partners for many years to enhance the safe use of fireworks.

At the Committee session on 21 March 2022 there was discussion regarding the options for legislative change in relation to pyrotechnics. This firstly related to the possession offence as published in the Bill in relation to specific types of event and secondly there was discussion regarding a 'simple possession' offence in relation to public places with a 'lawful authority / reasonable excuse' clause, as favoured by the Scottish Police Federation (and referred to as a blanket ban during the evidence session). It is anticipated both would be accompanied by an associated search power and it is desirable that both would be accompanied by a presumption of contents clause.

Police Scotland acknowledges the care that has been taken to ensure the provisions within the Bill are proportionate and also concedes that the evidence available from police systems is largely limited to the risk of fireworks and pyrotechnics at various events, rather than across society more generally. As an evidence and rights-based organisation, Police Scotland must be mindful that, while having the wider powers referred to as a blanket ban is attractive in terms of being a practical method of reducing the impact of the illicit use of such articles, the majority of people use these articles safely and responsibly.

However, Police Scotland in its previous submission to the Committee highlighted that its own short life working group in 2017 identified that a 'simple possession' offence with a 'lawful authority / reasonable excuse' clause would be beneficial. Police Scotland also highlighted that

there may be operational challenges with the Bill as published around, for example, the definition of a public assembly, evidencing that a person is in the immediate vicinity of an event and the need for the legislation to be readily amended to address other emerging problematic classes of events or patterns of behaviour.

It is likely that a 'simple possession' offence for pyrotechnics in a public place with a 'lawful authority or reasonable excuse' clause would be more straightforward for Police Scotland to apply than the provisions in the Bill and we are confident that this would still strike a balance between continuing to permit legitimate use of pyrotechnics, whilst addressing their illicit use.

Restricting the 'simple possession' offence to public places provides a safeguard against any over-reach into individuals' private space, while the 'lawful authority / reasonable excuse' clause gives scope for professionals to continue to use these articles and for leisure users such as sailors, to have the safety equipment they need. This type of clause is well-established in policing and it is therefore anticipated that it could be implemented without any need for extensive additional training or any significant change to operational practices. A wider 'simple possession' offence also removes concerns over the timescales for reacting to emerging patterns of behaviour in circumstances where additional types of event or other societal contexts see an increase in the illicit use of pyrotechnics.

For these reasons, Police Scotland would welcome any proposals to amend the Bill to include a 'simple possession' offence and our position on this has been communicated to the Scottish Government for consideration.

In relation to cross border matters, the introduction of new legislation as outlined in the Bill, may generate occasions where individuals will attempt to circumnavigate the restrictions to their own advantage. An example of this could be cross border supply, where individuals or businesses may look to other areas within the United Kingdom to obtain fireworks out with the restricted dates imposed by regulations outlined in this Bill, resulting in potential stock piling. If intelligence of this nature were received, Police Scotland would work with partners, primarily Local Authority Trading Standards, to assess the circumstances and take appropriate and proportionate action.

The potential for cross border movement to circumvent legislation in Scotland is not new and was recently considered in relation to the Minimum Unit Pricing of alcohol where Public Health Scotland found there was little evidence of this affecting alcohol consumption in Scotland ([Cross-border purchasing unlikely to affect alcohol consumption - News - Public Health Scotland](#)).

Similarly, differing regulations in Scotland and England, introduced to reduce the spread of Coronavirus, created a potential for cross border displacement. This was monitored by Police Scotland and partners and any issues were addressed as and when they were identified. Any cross border issues which arise as a result of the regulations proposed in the Fireworks and Pyrotechnic Articles (Scotland) Bill will also be considered and addressed through a multi-agency approach, as appropriate through established channels.

If you require any further information, please do not hesitate to contact me.

Yours sincerely

Emma Bond MBE  
Assistant Chief Constable

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**Name of organisation: DEPARTMENT OF JUSTICE,  
GOVERNMENT OF IRELAND**

**General response on fireworks legislation in Ireland  
March 2022**

**Overall Situation:**

In Ireland the sale of fireworks is legal under the Explosives Act 1875. The provisions of the 1875 Act are mostly focused on improving safety and preventing public nuisance by introducing controls on the manufacture, keeping, sale, conveyance and importation of fireworks and also creating an offence of throwing, casting, or firing fireworks in or into any highway, street, thoroughfare, or public place.

In 2005 the Department issued a consultation document to get feedback from other relevant authorities, and the public, on whether there should be a change of law or policy. The Department also commissioned Millward Brown to conduct a public survey to get a clear idea on the public's attitude toward the availability of fireworks.

Following from this the Department amended the Explosives Act and introduced explicit offences with realistic penalties for possession of an unlicensed firework or throwing a firework at another person or property. These restrictions were strengthened by the Criminal Justice Act 2006 (copy attached), which amended the 1875 Act to introduce new offences, penalties and policing powers relating to misuse and possession of fireworks and increased the penalties.

The restrictions applied to fireworks have remained in place due to concerns regarding health and safety, quality assurance, public nuisance and potential misuse by criminal and subversive groups. As Ireland does not have any fireworks manufacturers, the policy of the Irish Government has long been to restrict access to fireworks by not issuing any importation licenses for fireworks to members of the general public.

The EU Pyrotechnic Directive 2007/23/EC (copy attached) was published in 2007 and one of its aims was to facilitate the free movement of pyrotechnics, including fireworks, throughout the EU. However it did allow for Member States "to prohibit or restrict the possession, use and/or the sale to the general public of Category F2 and F3 fireworks (see below for definition).....which was justified on the grounds of public order, security, health and safety, or environmental protection".

Category F1: fireworks which present a very low hazard and negligible noise level and which are intended for use in confined areas, including fireworks which are intended for use inside domestic buildings; eg sparklers, party poppers, throw downs, Christmas crackers etc

Category F2: fireworks which present a low hazard and low noise level and which are intended for outdoor use in confined areas; These are consumer fireworks and the Directive does not require specialist knowledge to use them

Category F3: fireworks which present a medium hazard, which are intended for outdoor use in large open areas and whose noise level is not harmful to human health;

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These are consumer fireworks and the Directive does not require specialist knowledge to use them.

When Ireland transposed this Directive we used this provision to restrict the sale or supply of Category F2 and F3 fireworks to persons with specialist knowledge (professional pyrotechnic operators who would conduct public displays). We did permit the sale and supply of Category F1 fireworks to the general public over the age of 12. This Directive has been repealed and replaced by Directive 2013/29/EU but the same provisions still apply. This S.I is transposed by S.I 174 of 2015 (copy attached).

A clear policy position in respect of the fireworks ban has been in place for a number of years now and that there has not been any political opposition or efforts made by civil society bodies or other representative groups to change that position.

In fact, the vast majority of feedback to the Minister and the Department in response to the use of illegal fireworks, for example during the Halloween period, suggests that many members of the general public support current legal position and are in fact seeking greater enforcement by An Garda Síochána (the Irish Police Force).

Anecdotal evidence suggests that should the use of fireworks be more widespread we would naturally expect more serious injuries etc. when they are being used unsupervised by children, or other members of the public. The latest available figures from the Department of Health indicates a decrease in hospitalisations due to firework injuries between 2009 and 2018.

### Overview Offences:

It is also illegal to possess any fireworks that may have been legally purchased outside of the jurisdiction and then brought into the State. Gardaí confiscate any fireworks found in the possession of persons. Such persons are also liable to prosecution.

An Garda Síochána have provided the following figures in relation to explosives seized in Fireworks Offences, and that the recording of these figures is an indication of seized explosives for the purposes of sale/supply, rather than use.

Reporting Year	Fireworks Incidents, with Seizures	Count of Seized	Items	Value of Seized Items
2007	121	188		€48,150
2008	170	185		€20,079
2009	168	241		€20,185
2010	191	219		€32,227
2011	149	184		€40,638
2012	119	130		€21,670
2013	74	83		€31,071
2014	61	89		€22,051
2015	38	47		€6,460
2016	79	111		€18,366
2017	54	93		€6,360
2018	72	131		€19,199
2019	68	102		€20,506
2020	125	283		€42,939
2021	66	127		€15,637

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Furthermore the Irish Courts Service report the following prosecutions relating to fireworks offence between 2015 and the first half of 2020.

	2015		2016		2017		2018		2019		Jan- July	2020
Offence	Offences	Persons	Offences	Persons								
Possession of a Firework for the Purpose of Sale/Supply	10	9	7	6	5	5	3	3	5	5	1	1
Igniting Firework	1	1							3	3		
Throw/Direct/Propel Ignited Firework							1	1			1	1
Total	11	10	7	6	5	5	4	4	8	8	2	2

### Preventative Measures:

In order to dissuade persons from illegal importing fireworks or creating their own homemade pyrotechnical articles, Ireland permits fireworks displays be organised by persons with specialist knowledge. Therefore, fireworks can still be used at organised public displays and at other events such as sporting occasions, weddings and concerts. The Department issues import licences for F2, F3 and F4 for organised displays, which are conducted by professional and competent operators. Before issuing any licence for the importation of fireworks the Department conducts checks to ensure that the fireworks are in full compliance with EU and Irish law. This ensures that only CE marked and safe fireworks are made available on the market in Ireland. Persons who import fireworks can also be subject to inspection by the Government Inspector of Explosives.

Between 2015 and 2020 the Department issued 2,096 licenses for the importation of Category F2, F3 and F4 fireworks for use in organised public displays and 23 licenses for the importation of Category F1 fireworks for sale to the general public.

	2015	2016	2017	2018	2019	2020	Total
Import Licences Issued							
Display Fireworks (Category F2, F3 and F4)	348	371	422	448	428	79	2096
Category F1 Fireworks	5	3	4	4	5	2	23

In the weeks preceding Halloween, the Department of Justice runs an annual awareness raising campaign to highlight the dangers and penalties associated with the use of illegal fireworks. As well as the awareness raising work undertaken by the Department of Justice in the run up to Halloween, additional efforts are made by An Garda Síochána at this time of year to combat the illegal importation, sale and use of fireworks.

This initiative is known as “Operation Tombola” and seeks to disrupt and prevent firework related anti-social behaviour around peak periods such as Halloween. Policing plans under the auspices of “Operation Tombola”, include:

- Producing a resource pack that can be used by parents, guardians and schools to educate children and adolescents on the danger and illegality of fireworks.
- Engaging with relevant stakeholders including the local authorities, local Fire Brigades, Animal Welfare charities and groups representing vulnerable members of society to identify, coordinate and implement an appropriate multi-agency strategy for the Halloween period, as part of their policing plans.
- Ensuring open social media is monitored for any information in connection with anti-social behaviour and fireworks that may inform local Garda operations and initiatives.
- Requisitioning a Garda National Public Order Unit (GNPOU) capability on Halloween night that will be available, if necessary, to support local policing plan in the Dublin Metropolitan Region.

In advance of Halloween each year the Department of Justice writes to all known importers, distributors and sellers of Category F1 fireworks to remind them of their obligations with regard to the importation and storage of Category F1 fireworks. In addition, the Department writes to representative associations to ask them to inform all their members about the obligations involved should they wish to either import, store or sell Category F1 fireworks.

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**Overall Effect:**

The Department considers that the restrictions in place do have a net-positive societal effect. The Department of Justice Fireworks Awareness Raising Campaign for 2021 was completed in collaboration with the Irish Society for Prevention of Cruelty to Animals, Dublin Fire Brigade and An Garda Síochána. Last year's campaign requested people to consider the significant distress that fireworks cause to vulnerable members of the communities and to animals, as well as the very real risk they cause to public safety.

Apart from the risk of injury, fireworks can cause great distress across the wider community. They can set off intruder alarms, causing unnecessary extra demands on Garda resources. Finally, there is always the possibility of outbreaks of fires in properties if fireworks continue to burn after landing, or land in unoccupied property.

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 the against their widespread misuse, and the associated distress and risk they can cause to public safety and property.

**Colm Farrell**

Government Inspector of Explosives  
24 March 2022

Firearms and Explosives,  
Justice Service Delivery  
Department of Justice  
Government of Ireland  
51 Saint Stephen's Green,  
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## **Name of organisation: SCOTTISH PARLIAMENT FINANCE AND PUBLIC ADMINISTRATION COMMITTEE**

The Finance and Public Administration Committee's call for views on the Financial Memorandum on the Fireworks and Pyrotechnic Articles (Scotland) Bill closed on 11 March. The Committee received the following five responses-

- [British Fireworks Association](#)
- [Glasgow City Council](#),
- [Scottish Fire Rescue Service](#),
- as well as 2 individual responses [Colin McNair](#) and [Barbara Prater](#).

Glasgow City Council and the Scottish Fire Rescue Service are broadly content with the cost estimates provided in the FM. The two individual responses do not provide additional information.

The only substantive response received was from the British Fireworks Association (BFA), who expressed their disagreement with the general provisions of the Bill. I'm aware the Criminal Justice Committee is due to take evidence on the Bill from the BFA at its meeting tomorrow.

On this basis, the Convener has agreed that we should pass on the five submissions to the Criminal Justice Committee, as the lead committee, to take into account in its evidence session with the Minister and in its Stage 1 report. The five responses are attached. The FPA Committee will not publish a report on the FM. One thing I would highlight, however, is that the Scottish Fire Rescue Service pointed out a mistake in the FM.

[SFRS email attached in the appendix below]

Alexandra Gherghiniş  
Assistant Clerk  
Finance and Public Administration Committee

**Appendix**

**From:** Perry, Alasdair

**Sent:** Wednesday, March 9, 2022 3:39 PM

**To:** Finance and Public Administration

**Subject:** A question regarding the SFRS response to Financial Memorandum Fireworks and Pyrotechnic Articles

Hi Joanne,

I hope my email finds you well, I wanted to sight you on an error in the documents listed with the financial memorandum. The information is correct within the Policy memorandum but for those reading only the Financial memorandum, it could be determined that SFRS are being misleading, suggesting a far greater rate of fireworks involvement in fires than actually has been recorded. Policy states a total of 342 incidents over 10 years, Financial states an annual average of 342 incidents.

Policy memorandum states (p.11) - "For the Scottish Fire and Rescue Service (SFRS), 342 incidents were identified with 'fireworks' as a contributing factor between 2009-10 and 2019-20"

Financial memorandum states (p.19) - "For SFRS, an annual average of 342 incidents with 'fireworks' as a contributing factor were identified between 2009-10 and 2019-20"

Just to confirm the dataset from 2009-10 to 2019-20 provided 342 incidents That was, 342 incidents where crews specifically identified 'fireworks' having an involvement with a fire related incident. So the Policy is accurate but the Financial Memorandum is inaccurate.

I wanted to raise this with you as I'm not sure if this matter should be addressed through a consultation response or separately.

Could you please advise

Many thanks

Ali

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**Name of organisation: SCOTTISH PARLIAMENT  
DELEGATED POWERS AND LEGISLATIVE REFORM  
COMMITTEE**

**Note from the clerk**

1. The Delegated Powers and Law Reform Committee has scrutinised the various delegated powers in the Fireworks and Pyrotechnic Articles (Scotland) Bill, as required by Standing Orders. [The DPLR Committee's full report to the Criminal Justice Committee is available online here.](#)
2. The DPLR Committee raised certain questions with the Scottish Government on the following delegated powers in the Bill.
3. In a number of cases the DPLR Committee recommended various delegated powers in the Bill be amended from the negative procedure to the affirmative procedure so as to ensure a light level of parliamentary scrutiny in relation to those powers. These are set out below.

**Section 7(2) – Power to provide for additional mandatory requirements relating to the fireworks licence application process**

4. The DPLR Committee was content with the Scottish Government's reply to its questions on this regulation and made no recommendations on it.

**Section 18(1) – Power to make further provision for the purposes of the operation of the licensing system**

5. The DPLR Committee noted the Government's reply to its questions on this regulation. However the DPLR Committee made the following recommendation in relation to this-
  - **The [DPLR] Committee notes the Scottish Government's response. It is therefore content with the power in principle. Nevertheless, the Committee recommends that the Scottish Government brings forward an amendment to the Bill at Stage 2 to make regulations under section 18(1) subject to the affirmative procedure such that there can be enhanced scrutiny of any proposals to make further provision for the purposes of the operation of the licensing system.**

**Section 24(1) – Power to make provision for compensation for specialist firework businesses affected by section 22**

6. The DPLR Committee noted the Government's reply to its questions on this regulation. However the DPLR Committee made the following recommendation in relation to this-
  - **The [DPLR] Committee notes the Scottish Government's response. It is therefore content with the power in principle. Nevertheless, the**

**Committee recommends that the Scottish Government brings forward an amendment to the Bill at Stage 2 to make regulations under section 24(1) subject to the affirmative procedure such that there can be enhanced scrutiny of proposals to make provision for or about the payment of compensation for specialist firework businesses affected by section 22.**

**Section 30(1) – Power to make further provision about firework control zones**

7. The DPLR Committee was content with the Government's reply to its questions on this regulation and made no recommendations on it.

**Section 35(2)(b) – Power to make further provision as to requirements to determine whether a person may be treated as within an exempt category for the purposes of schedule 1**

8. The DPLR Committee noted the Government's reply to its questions on this regulation. However the DPLR Committee made the following recommendation in relation to this-
  - **The [DPLR] Committee notes the Scottish Government's response. It is therefore content with the power in principle. Nevertheless, the Committee recommends that the Scottish Government brings forward an amendment to the Bill at Stage 2 to make regulations under section 35(2)(b) subject to the affirmative procedure such that there can be enhanced scrutiny of any proposals to make further provision as to requirements to determine whether a person may be treated as within an exempt category for the purposes of schedule 1.**