



# Fireworks and Pyrotechnic Articles (Scotland) Act 2022

2022 asp 9

## PART 2 **S**

### FIREWORKS LICENSING

PROSPECTIVE

#### *Process for licensing*

#### **6 Applying for fireworks licence: general requirements **S****

- (1) A person aged 18 years or over may apply to the Scottish Ministers for the grant of a fireworks licence.
- (2) An application for a fireworks licence must—
  - (a) comply with any regulations made under subsection (3), and
  - (b) comply with the mandatory requirements in section 7.
- (3) The Scottish Ministers may by regulations—
  - (a) set out the form and content of the application,
  - (b) specify the manner in which applications must be made,
  - (c) specify the information to be provided in the application,
  - (d) specify any supporting documents to be provided by an applicant,
  - (e) set the fees payable (if any) and specify to whom the fees are payable, and
  - (f) make provision for the time in which an application must be made.
- (4) Without limiting the generality of subsection (3)(e), when setting the fees payable under this section the Scottish Ministers—
  - (a) must have regard to the reasonable costs of carrying out functions under this Part, but
  - (b) if it is considered appropriate to do so, may charge a nominal fee or remit the fee altogether.

*Status: This version of this cross heading contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Fireworks and Pyrotechnic Articles (Scotland) Act 2022, Cross Heading: Process for licensing. (See end of Document for details)*

(5) Regulations under subsection (3) are subject to the negative procedure.

#### Commencement Information

**11** S. 6 not in force at Royal Assent, see [s. 56\(2\)](#)

### 7 Applying for fireworks licence: mandatory requirements **S**

- (1) When applying for a fireworks licence, an applicant must—
- (a) disclose any convictions in relation to a relevant offence,
  - (b) disclose details of any previous fireworks licences that were revoked or cancelled, and
  - (c) provide evidence of having completed a fireworks training course on the safe, lawful and appropriate use of fireworks that complies with section 8 no earlier than 3 months before making the application.
- (2) The Scottish Ministers may by regulations specify additional mandatory requirements that an applicant for a fireworks licence must meet.
- (3) Regulations under subsection (2) are subject to the negative procedure.
- (4) In this section, “relevant offence” means—
- (a) an offence under this Act,
  - (b) an offence under—
    - (i) the Fireworks Act 2003 and any regulations made under that Act,
    - (ii) the Pyrotechnic Articles (Safety) Regulations 2015 ([S.I. 2015/1553](#)),
    - (iii) the Explosives Substances Act 1883, or
    - (iv) the Explosives Act 1875,
  - (c) wilful fire-raising or culpable and reckless fire-raising, or
  - (d) any other offence where the misuse of fire, fireworks or pyrotechnic articles has been a factor.

#### Commencement Information

**12** S. 7 not in force at Royal Assent, see [s. 56\(2\)](#)

### 8 Fireworks training course **S**

- (1) The Scottish Ministers may by regulations make provision in relation to fireworks training courses for the purposes of section 7(1)(c).
- (2) Regulations under subsection (1) may include provision for—
- (a) training requirements, such as—
    - (i) the content of such courses,
    - (ii) the accreditation by the Scottish Ministers of such courses and the persons providing such courses, and
    - (iii) requiring that any person providing training or any particular description of training in accordance with the regulations holds such qualification as may be specified in the regulations,

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- (b) the form of such courses,
  - (c) the minimum criteria for successful completion of such courses, and
  - (d) how successful completion of such courses is recorded.
- (3) Any person providing a fireworks training course must have regard to any guidance issued by the Scottish Ministers for the purposes of this section.
- (4) The Scottish Ministers must publish any such guidance (and may revise or revoke that guidance).
- (5) Regulations under subsection (1) are subject to the negative procedure.

#### Commencement Information

I3 S. 8 not in force at Royal Assent, see [s. 56\(2\)](#)

### 9 Grant of fireworks licence **S**

- (1) The Scottish Ministers may grant a fireworks licence only if—
- (a) a valid application and any applicable fees have been received,
  - (b) the requirements under sections 6 and 7 have been met, and
  - (c) they are satisfied that the applicant can be permitted to possess and use fireworks safely, lawfully and appropriately.
- (2) If the Scottish Ministers decide to refuse to grant a fireworks licence, they must inform the person of the right under section 14 to appeal the decision at the same time as notifying the person of that decision.

#### Commencement Information

I4 S. 9 not in force at Royal Assent, see [s. 56\(2\)](#)

### 10 Fireworks licence: conditions and further provision **S**

- (1) All fireworks licences are subject to the following conditions—
- (a) a licence is valid only for the person named on the licence and is not transferable,
  - (b) a licence is valid only for the period specified on the licence, and
  - (c) a licensed person must inform the Scottish Ministers of any change of circumstances specified in regulations under subsection (4)(c).
- (2) The Scottish Ministers—
- (a) must attach to a fireworks licence any additional conditions specified in regulations under subsection (4)(d)(i), and
  - (b) may attach to a fireworks licence any optional conditions specified in regulations under subsection (4)(d)(ii).
- (3) If the Scottish Ministers decide to attach an optional condition to a fireworks licence, they must inform the person of the right under section 14 to appeal the decision at the same time as notifying the person of that decision.

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- (4) The Scottish Ministers may by regulations—
- (a) specify the form and content of a fireworks licence,
  - (b) determine the length of time for which licences may be granted,
  - (c) specify the changes of circumstances that a licensed person must inform the Scottish Ministers of, and
  - (d) make provision for any—
    - (i) additional conditions that must be attached to a fireworks licence, and
    - (ii) optional conditions that may be attached to a fireworks licence.
- (5) Regulations under subsection (4) are subject to the negative procedure.

#### Commencement Information

**I5** S. 10 not in force at Royal Assent, see [s. 56\(2\)](#)

## 11 Register of fireworks licence applications and licensed persons **S**

- (1) The Scottish Ministers must establish and maintain a register of fireworks licence applications and licensed persons.
- (2) The Scottish Ministers may by regulations make provision for—
- (a) the details of licence applications required to be kept on the register, including whether or not an application was granted and, if applicable, the grounds for refusal,
  - (b) the details about licensed persons required to be kept on the register, and
  - (c) the length of time such details are to be kept on the register.
- (3) Regulations under subsection (2) are subject to the negative procedure.

#### Commencement Information

**I6** S. 11 not in force at Royal Assent, see [s. 56\(2\)](#)

## 12 Revocation of fireworks licence **S**

- (1) The Scottish Ministers may revoke a person's fireworks licence if—
- (a) the person breaches any condition of the licence, or
  - (b) the person is convicted of a relevant offence (whether or not the convicting court cancelled the fireworks licence under [section 13](#)).
- (2) A person whose fireworks licence is revoked under [this section](#) is prohibited from applying for a new fireworks licence—
- (a) in a case where the licence was cancelled by a court under [section 13](#), within the period specified in [section 13\(3\)](#), or
  - (b) in any other case, within the period of 12 months beginning with day on which the licence was revoked.
- (3) A fireworks licence is revoked by the Scottish Ministers giving notice of the revocation to the person who has the fireworks licence.

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- (4) A notice under subsection (3) must—
  - (a) be given no later than 7 days before it is to take effect, and
  - (b) require the person to surrender—
    - (i) the person’s fireworks licence, and
    - (ii) any firework to which **this Part** applies in the person’s possession, in the manner and by the date specified in the notice.
- (5) It is an offence for a person, without reasonable excuse, to fail to comply with the requirements of a notice given under subsection (3).
- (6) A person who commits an offence under subsection (5) is liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.
- (7) If the Scottish Ministers decide to revoke a fireworks licence, they must inform the person of the right under section 14 to appeal the decision at the same time as notifying the person of that decision.
- (8) If a person appeals under section 14 against a decision to revoke the person’s fireworks licence—
  - (a) the revocation does not take effect, but
  - (b) the person must still comply with the requirements of the notice given under subsection (3),pending the determination or withdrawal of the appeal.
- (9) In **this section**, “relevant offence” has the meaning given in section 7(4).

#### Commencement Information

**I7** S. 12 not in force at Royal Assent, see **s. 56(2)**

### **13 Notification of convictions and cancellation of fireworks licence** **S**

- (1) This section applies if a person who has a fireworks licence is convicted of a relevant offence.
- (2) The court may cancel the person’s fireworks licence.
- (3) A person whose fireworks licence is cancelled under this section is prohibited from applying for a new fireworks licence within the period of 12 months beginning with the day on which the licence was cancelled.
- (4) If the court cancels the person’s fireworks licence, it—
  - (a) must notify the Scottish Ministers of the cancellation, and
  - (b) may make an order for forfeiture under section 48.
- (5) If the court does not cancel the person’s fireworks licence, it must notify the Scottish Ministers of the conviction.
- (6) In this section, “relevant offence” has the meaning given in section 7(4).

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#### Commencement Information

**18** S. 13 not in force at Royal Assent, see [s. 56\(2\)](#)

## 14 Appeals **S**

- (1) A person may appeal to the appropriate sheriff against a decision of the Scottish Ministers—
  - (a) to refuse to grant the person a fireworks licence under section 9,
  - (b) to attach an optional condition to the person’s fireworks licence under section 10(2)(b), or
  - (c) to revoke the person’s fireworks licence under section 12(1).
- (2) An appeal must be made within the period of 21 days beginning with the day on which the decision appealed against was made.
- (3) An appeal under this section is to be determined on the merits (and not by way of review).
- (4) The sheriff hearing the appeal may consider any evidence or other matter, whether or not it was available at the time the Scottish Ministers made the decision being appealed against.
- (5) On determining the appeal, the sheriff may—
  - (a) dismiss the appeal,
  - (b) give the Scottish Ministers such direction as the sheriff considers appropriate in respect of the decision that is the subject of the appeal.
- (6) The determination of the sheriff may be appealed against only on a point of law.
- (7) In this section, “the appropriate sheriff” means—
  - (a) in a case where the appellant resides in Scotland, a sheriff of the sheriffdom in which the appellant resides, or
  - (b) in a case where the appellant resides outwith Scotland, a sheriff of the sheriffdom of Lothian and Borders, sitting at Edinburgh.

#### Commencement Information

**19** S. 14 not in force at Royal Assent, see [s. 56\(2\)](#)

**Status:**

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