



Fireworks and Pyrotechnic Articles (Scotland) Act 2022

2022 asp 9

PART 2

FIREWORKS LICENSING

Fireworks which require a licence

3 Application of Part

- (1) This Part applies to the following fireworks—
 - (a) category F2 fireworks, and
 - (b) category F3 fireworks.
- (2) The Scottish Ministers may by regulations modify [subsection \(1\)](#) to add, amend or remove categories, types, classifications or descriptions of fireworks.
- (3) Regulations under [subsection \(2\)](#) are subject to the affirmative procedure.

Fireworks licensing

4 Requirement to have fireworks licence

- (1) It is an offence for a person, without reasonable excuse, to purchase, acquire, possess or use a firework to which this Part applies without having a fireworks licence.
- (2) A person who commits an offence under [subsection \(1\)](#) is liable, on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale (or both).
- (3) It is not an offence under [subsection \(1\)](#) for a non-natural person to purchase, acquire, possess or use a firework without having a fireworks licence if such purchase, acquisition, possession or use is done on its behalf by a person who has a fireworks licence.

(4) This section is subject to section 38 and schedule 1 (exemptions).

5 Supply of fireworks to unlicensed persons

- (1) It is an offence for a person, without reasonable excuse, to supply a firework to which [this Part](#) applies to a person who does not have a fireworks licence.
- (2) A person who commits an offence under subsection (1) is liable, on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale (or both).
- (3) It is a defence for a person charged with an offence under subsection (1) to show that the person took reasonable steps to establish that the person to whom the firework was supplied had a fireworks licence or was exempt under schedule 1.
- (4) It is the duty of each local weights and measures authority to enforce [this section](#) in its area in so far as it relates to the supply of fireworks by a person in the course of business.
- (5) In this section, “supply” of a firework includes—
 - (a) selling it,
 - (b) exchanging it for a consideration other than money,
 - (c) giving it as a prize or otherwise making a gift of it,
 - (d) otherwise making the firework available.
- (6) This section is subject to section 38 and schedule 1 (exemptions).

Process for licensing

6 Applying for fireworks licence: general requirements

- (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.

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

7 Applying for fireworks licence: mandatory requirements

- (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.

8 Fireworks training course

- (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,
 - (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.

9 Grant of fireworks licence

- (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.

10 Fireworks licence: conditions and further provision

- (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.
- (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.

11 Register of fireworks licence applications and licensed persons

- (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.

12 Revocation of fireworks licence

- (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.
- (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).

13 Notification of convictions and cancellation of fireworks licence

- (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).

14 Appeals

- (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.

Offences relating to fireworks licence applications

15 False statements

- (1) It is an offence for a person to knowingly or recklessly make any statement which is false in any material particular for the purposes of obtaining a fireworks licence.
- (2) A person who commits an offence under subsection (1) is liable, on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale (or both).

16 False or altered licences and documents

- (1) It is an offence for a person to produce a false fireworks licence or other false document purporting to prove an exemption under [schedule 1](#).
- (2) A person who commits an offence under subsection (1) is liable, on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale (or both).

General

17 Power of Scottish Ministers to make arrangements for certain functions

- (1) The Scottish Ministers may make arrangements for a person to perform some or all of their functions under this Part.
- (2) Subsection (1) does not include any power of the Scottish Ministers to make regulations under this Part.
- (3) The making of arrangements under this section to perform a function does not—
 - (a) affect the Scottish Ministers' responsibility for the performance of the function, or
 - (b) prevent the Scottish Ministers from performing the function.

18 Power to make further provision

- (1) The Scottish Ministers may by regulations make further provision for the purposes of this Part.
- (2) Without limiting the generality of subsection (1), regulations under that subsection may make provision—
 - (a) about the verification of applications and supporting documents,
 - (b) about the sharing of information (for example, in connection with the verification of applications or the enforcement of this Part).
- (3) Regulations under subsection (1) are subject to the affirmative procedure.

19 Regulations: consultation

- (1) Before making any regulations under this Part, the Scottish Ministers must consult such persons as they consider are likely to be interested in or affected by the licensing of fireworks.

Status: This is the original version (as it was originally enacted).

(2) Subsection (1) does not apply to regulations under section 3.