

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

## SCHEDULE 1 (introduced by section 38)

### EXEMPTIONS

PROSPECTIVE

#### *Regulatory authorities or those acting under the direction of a regulatory authority*

- 1 It is not an offence under [section 4\(1\)](#) (requirement to have fireworks licence) for a person to purchase, acquire, possess or use a firework without having a fireworks licence if the person is employed by a regulatory authority (and is acting in that capacity).

#### **Commencement Information**

- I1** Sch. 1 para. 1 not in force at Royal Assent, see [s. 56\(2\)](#)

- 2 It is not an offence under [section 4\(1\)](#) for a person to purchase, acquire, possess or use a firework without having a fireworks licence if the person is acting under the direction of a regulatory authority.

#### **Commencement Information**

- I2** Sch. 1 para. 2 not in force at Royal Assent, see [s. 56\(2\)](#)

- 3 It is not an offence under [section 5\(1\)](#) (supply of fireworks to unlicensed persons) for a person to give or otherwise make available a firework to a person who does not have a fireworks licence if—
- (a) the person giving or otherwise making available the firework is employed by, or acting under the direction of, a regulatory authority (and is acting in that capacity), and
  - (b) the unlicensed person is employed by, or acting under the direction of, a regulatory authority (and is acting in that capacity).

#### **Commencement Information**

- I3** Sch. 1 para. 3 not in force at Royal Assent, see [s. 56\(2\)](#)

- 4 It is not an offence under [section 24\(1\)](#) (restriction on days of use of fireworks) for a person to use a firework contrary to [section 24\(3\)](#) if—
- (a) the person is employed by, or acting under the direction of, a regulatory authority, and
  - (b) the firework is used in connection with the regulatory authority's functions.

#### **Commencement Information**

- I4** Sch. 1 para. 4 not in force at Royal Assent, see [s. 56\(2\)](#)

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#### Commencement Information

- I1** Sch. 1 para. 1 not in force at Royal Assent, see [s. 56\(2\)](#)
- I2** Sch. 1 para. 2 not in force at Royal Assent, see [s. 56\(2\)](#)
- I3** Sch. 1 para. 3 not in force at Royal Assent, see [s. 56\(2\)](#)
- I4** Sch. 1 para. 4 not in force at Royal Assent, see [s. 56\(2\)](#)

- 5 It is not an offence under section [27\(2\)\(a\)](#) (firework control zones) for a person to ignite a firework in a firework control zone if—
- (a) the person is employed by, or acting under the direction of, a regulatory authority, and
  - (b) the firework is used in connection with the regulatory authority’s functions.

#### Commencement Information

- I5** Sch. 1 para. 5 not in force at Royal Assent, see [s. 56\(2\)](#)
- I6** [Sch. 1 para. 5](#) in force at 22.6.2023 by [S.S.I. 2023/176](#), [reg. 2](#), [sch.](#)

- 6 It is not an offence under section [36\(1\)](#) (prohibition of pyrotechnic articles at designated venues or events) for a person to possess a pyrotechnic article in a designated venue or while at a designated event if the person is employed by a regulatory authority (and is acting in that capacity).

#### Commencement Information

- I7** Sch. 1 para. 6 not in force at Royal Assent, see [s. 56\(2\)](#)
- I8** [Sch. 1 para. 6](#) in force at 6.6.2023 by [S.S.I. 2023/99](#), [reg. 2](#), [sch.](#)

### PROSPECTIVE

#### *Professional organisers or operators of fireworks displays or pyrotechnics displays*

- 7 It is not an offence under [section 4\(1\)](#) (requirement to have fireworks licence) for a person to purchase, acquire, possess or use a firework without having a fireworks licence if—
- (a) the person is employed by, or in business as, a professional organiser or operator of fireworks displays, and
  - (b) the firework is purchased, acquired, possessed or used in connection with that business.

#### Commencement Information

- I9** Sch. 1 para. 7 not in force at Royal Assent, see [s. 56\(2\)](#)

- 8 It is not an offence under [section 5\(1\)](#) (supply of fireworks to unlicensed persons) for a person to supply a firework to a person who does not have a fireworks licence if the unlicensed person is employed by, or in business as, a professional organiser or operator of fireworks displays.

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#### Commencement Information

**I10** Sch. 1 para. 8 not in force at Royal Assent, see [s. 56\(2\)](#)

- 9 It is not an offence under section [21\(1\)](#) (prohibition on providing fireworks or pyrotechnic articles to children) for a person to give or otherwise make available a firework or pyrotechnic article to a person under the age of 18 if—
- (a) the person under the age of 18 is employed by, or in business as, a professional organiser or operator of fireworks displays or pyrotechnic displays, and
  - (b) the firework is given or made available for the purposes of putting on a fireworks display or pyrotechnics display for the person’s employer or in the course of the person’s business (as the case may be).

#### Commencement Information

**I11** Sch. 1 para. 9 not in force at Royal Assent, see [s. 56\(2\)](#)

#### Commencement Information

**I9** Sch. 1 para. 7 not in force at Royal Assent, see [s. 56\(2\)](#)

**I10** Sch. 1 para. 8 not in force at Royal Assent, see [s. 56\(2\)](#)

**I11** Sch. 1 para. 9 not in force at Royal Assent, see [s. 56\(2\)](#)

- 9 It is not an offence under section [21\(1\)](#) (prohibition on providing fireworks or pyrotechnic articles to children) for a person to give or otherwise make available a firework or pyrotechnic article to a person under the age of 18 if—
- (a) the person under the age of 18 is employed by, or in business as, a professional organiser or operator of fireworks displays or pyrotechnic displays, and
  - (b) the firework is given or made available for the purposes of putting on a fireworks display or pyrotechnics display for the person’s employer or in the course of the person’s business (as the case may be).

#### Commencement Information

**I11** Sch. 1 para. 9 not in force at Royal Assent, see [s. 56\(2\)](#)

**I12** [Sch. 1 para. 9](#) in force at 10.10.2022 by [S.S.I. 2022/280](#), reg. 2, [sch.](#)

PROSPECTIVE

- 10 It is not an offence under section [22\(1\)](#) (restriction on days of supply of fireworks) for a person to supply a firework contrary to section [22\(3\)](#) if the firework is supplied to a person who is employed by, or in business as, a professional organiser or operator of fireworks displays.

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#### Commencement Information

**I13** Sch. 1 para. 10 not in force at Royal Assent, see [s. 56\(2\)](#)

- 11 It is not an offence under section [24\(1\)](#) (restriction on days of use of fireworks) for a person to use a firework contrary to section [24\(3\)](#) if—
- (a) the person is employed by, or in business as, a professional organiser or operator of fireworks displays, and
  - (b) the firework is used for the purposes of putting on a fireworks display for the person’s employer or in the course of the person’s business (as the case may be).

#### Commencement Information

**I14** Sch. 1 para. 11 not in force at Royal Assent, see [s. 56\(2\)](#)

#### Commencement Information

**I13** Sch. 1 para. 10 not in force at Royal Assent, see [s. 56\(2\)](#)

**I14** Sch. 1 para. 11 not in force at Royal Assent, see [s. 56\(2\)](#)

- 12 It is not an offence under section [27\(2\)\(a\)](#) (firework control zones) for a person to ignite a firework in a firework control zone if—
- (a) the person is employed by, or in business as, a professional organiser or operator of fireworks displays, and
  - (b) the firework is used for the purposes of putting on a public fireworks display for the person’s employer or in the course of the person’s business (as the case may be).

#### Commencement Information

**I15** Sch. 1 para. 12 not in force at Royal Assent, see [s. 56\(2\)](#)

**I16** [Sch. 1 para. 12](#) in force at 22.6.2023 by [S.S.I. 2023/176](#), reg. 2, [sch.](#)

- 13 It is not an offence under section [36\(1\)](#) (prohibition of pyrotechnic articles at designated venues or events) for a person to possess a pyrotechnic article in a designated venue or while at a designated event if—
- (a) the person is employed by, or in business as, a professional organiser or operator of firework displays or pyrotechnics displays, and
  - (b) the pyrotechnic article is possessed in connection with that business.

#### Commencement Information

**I17** Sch. 1 para. 13 not in force at Royal Assent, see [s. 56\(2\)](#)

**I18** [Sch. 1 para. 13](#) in force at 6.6.2023 by [S.S.I. 2023/99](#), reg. 2, [sch.](#)

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PROSPECTIVE

*Business or supply in accordance with Pyrotechnic Articles (Safety) Regulations 2015*

- 14 It is not an offence under [section 4\(1\)](#) (requirement to have fireworks licence) for a person to purchase, acquire, possess or use a firework without having a fireworks licence if—
- (a) the person is employed by a business engaged in, or whose trade or business (or part of whose trade or business) is, the manufacture, importation, distribution or supply of fireworks in accordance with the provisions of the Pyrotechnic Articles (Safety) Regulations 2015 ([S.I. 2015/1553](#)), and
  - (b) the firework is purchased, acquired, possessed or used for purposes which are necessary in connection with that trade or business.

**Commencement Information**

**I19** Sch. 1 para. 14 not in force at Royal Assent, see [s. 56\(2\)](#)

- 15 It is not an offence under [section 5\(1\)](#) (supply of fireworks to unlicensed persons) for a person to supply a firework to a person who does not have a fireworks licence if the unlicensed person is employed by a business engaged in, or whose trade or business (or part of whose trade or business) is, the manufacture, importation, distribution or supply of fireworks in accordance with the provisions of the Pyrotechnic Articles (Safety) Regulations 2015.

**Commencement Information**

**I20** Sch. 1 para. 15 not in force at Royal Assent, see [s. 56\(2\)](#)

- 16 It is not an offence under [section 22\(1\)](#) (restriction on days of supply of fireworks) for a person to supply a firework contrary to [section 22\(3\)](#) if the firework is supplied to a person who is employed by a business engaged in, or whose trade or business (or part of whose trade or business) is, the supply of fireworks in accordance with the provisions of the Pyrotechnic Articles (Safety) Regulations 2015.

**Commencement Information**

**I21** Sch. 1 para. 16 not in force at Royal Assent, see [s. 56\(2\)](#)

- 17 It is not an offence under [section 24\(1\)](#) (restriction on days of use of fireworks) for a person to use a firework contrary to [section 24\(3\)](#) if—
- (a) the person is employed by a business engaged in, or whose trade or business (or part of whose trade or business) is, the manufacture, importation, distribution or supply of fireworks in accordance with the provisions of the Pyrotechnic Articles (Safety) Regulations 2015, and
  - (b) the firework is used for purposes which are necessary in connection with that trade or business.

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#### Commencement Information

**I22** Sch. 1 para. 17 not in force at Royal Assent, see [s. 56\(2\)](#)

#### Commencement Information

**I19** Sch. 1 para. 14 not in force at Royal Assent, see [s. 56\(2\)](#)

**I20** Sch. 1 para. 15 not in force at Royal Assent, see [s. 56\(2\)](#)

**I21** Sch. 1 para. 16 not in force at Royal Assent, see [s. 56\(2\)](#)

**I22** Sch. 1 para. 17 not in force at Royal Assent, see [s. 56\(2\)](#)

- 18 It is not an offence under section [27\(2\)\(a\)](#) (firework control zones) for a person to ignite a firework in a firework control zone if—
- (a) the person is employed by a business engaged in, or whose trade or business (or part of whose trade or business) is, the manufacture, importation, distribution or supply of fireworks in accordance with the provisions of the Pyrotechnic Articles (Safety) Regulations 2015, and
  - (b) the firework is used for purposes which are necessary in connection with that trade or business.

#### Commencement Information

**I23** Sch. 1 para. 18 not in force at Royal Assent, see [s. 56\(2\)](#)

**I24** [Sch. 1 para. 18](#) in force at 22.6.2023 by [S.S.I. 2023/176](#), [reg. 2](#), [sch.](#)

- 19 It is not an offence under section [36\(1\)](#) (prohibition of pyrotechnic articles at designated venues or events) for a person to possess a pyrotechnic article in a designated venue or while at a designated event if—
- (a) the person is employed by a business engaged in, or whose trade or business (or part of whose trade or business) is, the manufacture, importation, distribution or supply of fireworks or pyrotechnic articles in accordance with the provisions of the Pyrotechnic Articles (Safety) Regulations 2015, and
  - (b) the pyrotechnic article is possessed in connection with that business.

#### Commencement Information

**I25** Sch. 1 para. 19 not in force at Royal Assent, see [s. 56\(2\)](#)

**I26** [Sch. 1 para. 19](#) in force at 6.6.2023 by [S.S.I. 2023/99](#), [reg. 2](#), [sch.](#)

PROSPECTIVE

#### *Organiser of a public fireworks display*

- 20 It is not an offence under section [22\(1\)](#) (restriction on days of supply of fireworks) for a person to supply a firework contrary to section [22\(3\)](#) if the firework is supplied to a person who is the organiser of a public fireworks display on behalf of a charitable, religious, youth, recreational, community, political or similar organisation.

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#### Commencement Information

**I27** Sch. 1 para. 20 not in force at Royal Assent, see [s. 56\(2\)](#)

- 21 It is not an offence under section [24\(1\)](#) (restriction on days of use of fireworks) for a person to use a firework contrary to section [24\(3\)](#) if—
- (a) the person is the organiser of a public fireworks display or is assisting such an organiser, and
  - (b) the firework is used for the purposes of putting on a public fireworks display on behalf of a charitable, religious, youth, recreational, community, political or similar organisation.

#### Commencement Information

**I28** Sch. 1 para. 21 not in force at Royal Assent, see [s. 56\(2\)](#)

#### Commencement Information

**I27** Sch. 1 para. 20 not in force at Royal Assent, see [s. 56\(2\)](#)

**I28** Sch. 1 para. 21 not in force at Royal Assent, see [s. 56\(2\)](#)

- 22 It is not an offence under section [27\(2\)\(a\)](#) (firework control zones) for a person to ignite a firework in a firework control zone if—
- (a) the person is the organiser of a public fireworks display or is assisting such an organiser, and
  - (b) the firework is used for the purposes of putting on a public fireworks display on behalf of a charitable, religious, youth, recreational, community, political or similar organisation.

#### Commencement Information

**I29** Sch. 1 para. 22 not in force at Royal Assent, see [s. 56\(2\)](#)

**I30** [Sch. 1 para. 22](#) in force at 22.6.2023 by [S.S.I. 2023/176](#), reg. 2, [sch.](#)

- 23 It is not an offence under section [35\(1\)](#) (prohibition of pyrotechnic articles in public places) for a person to possess a pyrotechnic article in a public place if—
- (a) the person is the organiser of a public fireworks display or is assisting such an organiser, and
  - (b) the pyrotechnic article is possessed for the purposes of putting on a public fireworks display on behalf of a charitable, religious, youth, recreational, community, political or similar organisation.

#### Commencement Information

**I31** Sch. 1 para. 23 not in force at Royal Assent, see [s. 56\(2\)](#)

**I32** [Sch. 1 para. 23](#) in force at 6.6.2023 by [S.S.I. 2023/99](#), reg. 2, [sch.](#)

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- 24 It is not an offence under section 36(1) (prohibition of pyrotechnic articles at designated venues or events) for a person to possess a pyrotechnic article in the circumstances described in that paragraph if—
- (a) the person is the organiser of a public fireworks display or is assisting such an organiser, and
  - (b) the pyrotechnic article is possessed for the purposes of putting on a public fireworks display on behalf of a charitable, religious, youth, recreational, community, political or similar organisation.

**Commencement Information**

**I33** Sch. 1 para. 24 not in force at Royal Assent, see [s. 56\(2\)](#)

**I34** Sch. 1 para. 24 in force at 6.6.2023 by [S.S.I. 2023/99](#), reg. 2, [sch.](#)

*Persons under 18 in education, training or employment*

- 25 It is not an offence under section 21(1) (prohibition on providing fireworks or pyrotechnic articles to children) for a person to buy, attempt to buy, give or otherwise make available a firework or pyrotechnic article to a person under the age of 18 if—
- (a) the person under the age of 18 is undertaking education or training, or is in employment,
  - (b) the possession or use of a firework or pyrotechnic article is necessary in connection with that education, training or employment, and
  - (c) the person buying, attempting to buy, giving or otherwise making available the firework or pyrotechnic article intends that the person under the age of 18 will possess or use the firework or pyrotechnic article only in connection with that education, training or employment.

**Commencement Information**

**I35** Sch. 1 para. 25 not in force at Royal Assent, see [s. 56\(2\)](#)

**I36** Sch. 1 para. 25 in force at 10.10.2022 by [S.S.I. 2022/280](#), reg. 2, [sch.](#)

PROSPECTIVE

*Persons outwith Scotland*

- 26 It is not an offence under [section 5\(1\)](#) (supply of fireworks to unlicensed persons) for a person to supply a firework to a person who does not have a fireworks licence if the unlicensed person is outwith Scotland and the firework is to be delivered outwith Scotland.

**Commencement Information**

**I37** Sch. 1 para. 26 not in force at Royal Assent, see [s. 56\(2\)](#)

- 27 It is not an offence under [section 22\(1\)](#) (restriction on days of supply of fireworks) for a person to supply a firework contrary to [section 22\(3\)](#) if the firework is supplied



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to a person who is outwith Scotland, but only where the firework is to be delivered outwith Scotland.

**Commencement Information**

**I38** Sch. 1 para. 27 not in force at Royal Assent, see [s. 56\(2\)](#)

**Commencement Information**

**I37** Sch. 1 para. 26 not in force at Royal Assent, see [s. 56\(2\)](#)

**I38** Sch. 1 para. 27 not in force at Royal Assent, see [s. 56\(2\)](#)

*Public servants and volunteers in similar roles*

- 28 It is not an offence under section 21(1) (prohibition on providing fireworks or pyrotechnic articles to children) for a person to give or otherwise make available a pyrotechnic article to a person under the age of 18 if—
- (a) the person who is under the age of 18 is—
    - (i) a member of the armed forces of Her Majesty,
    - (ii) a member of the armed forces of another country when that member is serving with the armed forces of Her Majesty,
    - (iii) a member of a cadet force listed in paragraph 30(2),
    - (iv) a member of a cadet force of another country when that member is undertaking activities with a cadet force listed in paragraph 30(2) or the armed forces of Her Majesty,
    - (v) a member of a service or organisation whose functions (whether as an officer, employee or volunteer) include law enforcement, search and rescue services or the preservation of life, and
  - (b) the pyrotechnic article is given or made available to the person under the age of 18 in connection with activities the person is undertaking as a member of such a force, service or organisation.

**Commencement Information**

**I39** Sch. 1 para. 28 not in force at Royal Assent, see [s. 56\(2\)](#)

**I40** [Sch. 1 para. 28](#) in force at 10.10.2022 by [S.S.I. 2022/280](#), [reg. 2](#), [sch.](#)

- 29 It is not an offence under section 35(1) (prohibition of pyrotechnic articles in public places) or section 36(1) (prohibition of pyrotechnic articles at designated venues or events) for a person to possess a pyrotechnic article in the circumstances described in that subsection if—
- (a) the person is—
    - (i) a member of the armed forces of Her Majesty,
    - (ii) a member of the armed forces of another country when that member is serving with the armed forces of Her Majesty, or
    - (iii) a member of a cadet force listed in paragraph 30(2),

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- (iv) a member of a cadet force of another country when that member is undertaking activities with a cadet force listed in paragraph 30(2) or the armed forces of Her Majesty,
  - (v) a member of a service or organisation whose functions (whether as an officer, employee or volunteer) include law enforcement, search and rescue services or the preservation of life, and
- (b) the pyrotechnic article is possessed by the person in connection with activities the person is undertaking as a member of such a force, service or organisation.

**Commencement Information**

- I41** Sch. 1 para. 29 not in force at Royal Assent, see [s. 56\(2\)](#)  
**I42** Sch. 1 para. 29 in force at 6.6.2023 by [S.S.I. 2023/99](#), reg. 2, [sch.](#)

- 30 (1) In paragraphs 28 and 29, “armed forces” means naval, military or air forces (and includes reserve forces).
- (2) For the purposes of paragraphs 28(a)(iii), 28(a)(iv) and 29(a)(iii), the cadet forces are—
- (a) the Combined Cadet Force,
  - (b) the Sea Cadet Corps,
  - (c) the Volunteer Cadet Corps,
  - (d) the Army Cadet Force,
  - (e) the Air Training Corps.

**Commencement Information**

- I43** Sch. 1 para. 30 not in force at Royal Assent, see [s. 56\(2\)](#)  
**I44** Sch. 1 para. 30 in force at 10.10.2022 by [S.S.I. 2022/280](#), reg. 2, [sch.](#)

PROSPECTIVE

**SCHEDULE 2**

*(introduced by section 39)*

**INVESTIGATORY POWERS OF A LOCAL WEIGHTS AND MEASURES AUTHORITY**

*General*

- 1 (1) A local weights and measures authority (and its officers) may exercise the powers under [this schedule](#) for the purpose of ascertaining whether an offence under [section 5](#) (supply of fireworks to unlicensed persons) or [section 22](#) (restriction on days of supply of fireworks) has been, or is being, committed.
- (2) A local weights and measures authority (and its officers) may exercise the power under [paragraph 6](#) (power to seize and retain items) in relation to—

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- (a) an item which an officer of the authority reasonably suspects may disclose (by means of testing or otherwise) the commission of an offence under [section 5](#) or [22](#),
  - (b) a firework or pyrotechnic article which an officer of the authority reasonably suspects is liable to forfeiture under this Act, and
  - (c) an item which an officer of the authority reasonably suspects may be required as evidence in proceedings for an offence under [section 5](#) or [22](#).
- (3) A local weights and measures authority (and its officers) may not exercise the power under [paragraph 7](#) (powers in relation to documents) or [paragraph 9](#) (power of entry with warrant) for the purpose mentioned in [sub-paragraph \(1\)](#) unless an officer of the authority reasonably suspects that an offence under [section 5](#) or [22](#) has been, or is being, committed.

#### Commencement Information

**I45** Sch. 2 para. 1 not in force at Royal Assent, see [s. 56\(2\)](#)

#### *Power to purchase fireworks*

- 2 (1) An officer of a local weights and measures authority may—
- (a) make a purchase of a firework to which [Part 2](#) or [section 22](#) applies, or
  - (b) direct or enter into an agreement with a person to secure the acquisition or supply of such a firework.
- (2) For the purposes of exercising the power under [sub-paragraph \(1\)](#), the officer may—
- (a) at any reasonable time, enter premises to which the public has access (whether or not the public has access at that time), and
  - (b) inspect any product on the premises which the public may inspect.
- (3) The power of entry in [sub-paragraph \(2\)](#) may be exercised without first giving notice or obtaining a warrant.
- (4) In [this paragraph](#), “premises” includes any—
- (a) land or building,
  - (b) vehicle, vessel, trailer, aircraft or hovercraft,
  - (c) tent or moveable structure,
- except where the premises are used wholly or mainly as a private dwelling.

#### Commencement Information

**I46** Sch. 2 para. 2 not in force at Royal Assent, see [s. 56\(2\)](#)

#### *Power to observe carrying on of business etc.*

- 3 (1) An officer of a local weights and measures authority may enter premises to which the public has access in order to observe the carrying on of a business on those premises.
- (2) The power under [sub-paragraph \(1\)](#) may be exercised at any reasonable time (whether or not the public has access at that time).

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- (3) The power of entry under [sub-paragraph \(1\)](#) may be exercised without first giving notice or obtaining a warrant.
- (4) In this paragraph, “premises” includes any—
  - (a) land or building,
  - (b) vehicle, vessel, trailer, aircraft or hovercraft,
  - (c) tent or moveable structure,
 except where the premises are used wholly or mainly as a private dwelling.

#### Commencement Information

**I47** Sch. 2 para. 3 not in force at Royal Assent, see [s. 56\(2\)](#)

#### *Power to enter premises without warrant*

- 4 (1) An officer of a local weights and measures authority may enter premises at any reasonable time.
- (2) In the case of a routine inspection, the power of entry in [sub-paragraph \(1\)](#) may only be exercised if a notice has been given to the occupier of the premises in accordance with the requirements in [sub-paragraph \(3\)](#), unless [sub-paragraph \(4\)](#) applies.
- (3) Those requirements are that—
  - (a) the notice is in writing and is given by the officer,
  - (b) the notice sets out why the entry is necessary and indicates the nature of the offence under [section 42](#) (obstruction), and
  - (c) there are at least two working days between the date of receipt of the notice and the date of entry.
- (4) A notice need not be given if the occupier has waived the requirement to give notice.
- (5) In [this paragraph](#) “routine inspection” means an exercise of the power under [sub-paragraph \(1\)](#) other than where—
  - (a) the power is exercised by an officer who reasonably suspects that an offence has been, or is being, committed under [section 5](#) or [22](#), or
  - (b) the officer reasonably considers that to give notice in accordance with [sub-paragraph \(2\)](#) would defeat the purpose of the entry.
- (6) If an officer enters premises under [sub-paragraph \(1\)](#) that are occupied, otherwise than in the course of a routine inspection, the officer must provide to an occupier a document that—
  - (a) sets out why the entry is necessary, and
  - (b) indicates the nature of the offence under [section 42](#).
- (7) If an officer enters premises under [sub-paragraph \(1\)](#) that are occupied, the officer must produce evidence of the officer's identity and authority to an occupier.
- (8) An officer need not comply with [sub-paragraph \(6\)](#) or [\(7\)](#) if it is not reasonably practicable to do so.
- (9) Proceedings resulting from the exercise of the power under [sub-paragraph \(1\)](#) are not invalid merely because of a failure to comply with [sub-paragraph \(6\)](#) or [\(7\)](#).

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- (10) An officer entering premises under [sub-paragraph \(1\)](#) may be accompanied by such persons, and may take onto the premises such equipment, as the officer considers necessary.
- (11) In [this paragraph](#)—
- “occupier”, in relation to premises, means any person an officer of a weights and measures authority reasonably suspects to be the occupier of the premises,
- “premises” includes any—
- (a) land or building,
  - (b) vehicle, vessel, trailer, aircraft or hovercraft,
  - (c) tent or moveable structure,
- except where the premises are used wholly or mainly as a private dwelling,
- “working day” means any day other than—
- (a) Saturday or Sunday,
  - (b) Christmas Day or Good Friday, or
  - (c) a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in Scotland.

#### Commencement Information

**I48** Sch. 2 para. 4 not in force at Royal Assent, see [s. 56\(2\)](#)

#### *Power to inspect and test fireworks*

- 5 (1) An officer of a local weights and measures authority may—
- (a) inspect a firework or an item suspected to be a firework on the premises,
  - (b) arrange for a firework or an item suspected to be a firework to be tested (and may seize and retain the firework or item under [paragraph 6](#) to do so).
- (2) Inspection and testing under [this paragraph](#) may be carried out only for the purposes of determining—
- (a) whether or not an item is a firework, or
  - (b) the category of a firework (or suspected firework) for the purposes of this Act (see [section 2](#)).

#### Commencement Information

**I49** Sch. 2 para. 5 not in force at Royal Assent, see [s. 56\(2\)](#)

#### *Power to seize and retain items*

- 6 (1) An officer of a local weights and measures authority may seize and retain an item other than a document (for which see [paragraph 7](#)).
- (2) An officer seizing an item under [this paragraph](#) from premises which are occupied must produce evidence of the officer's identity and authority to an occupier of the premises before seizing it.

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- (3) The officer need not comply with [sub-paragraph \(2\)](#) if it is not reasonably practicable to do so.
- (4) An officer seizing an item under [this paragraph](#) must take reasonable steps to—
  - (a) inform the person from whom it is seized that it has been seized, and
  - (b) provide that person with a written record of what has been seized.
- (5) An item seized under [this paragraph](#) (except an item seized for the purpose in [paragraph 1\(2\)\(b\)](#)) may not be detained—
  - (a) for a period of more than 3 months beginning with the day on which it was seized, or
  - (b) where the item is reasonably required to be retained for a longer period by the officer for a purpose for which it was seized, for longer than it is required for that purpose.

#### **Commencement Information**

**I50** Sch. 2 para. 6 not in force at Royal Assent, see [s. 56\(2\)](#)

#### *Powers in relation to documents*

- 7 (1) An officer of a local weights and measures authority may, at any reasonable time—
- (a) require a person who is offering to supply fireworks to the public in the course of a business (“the trader”), an employee of the trader or any other person acting on behalf of the trader, to produce any document relating to the trader's business to which the trader, employee or other person has access,
  - (b) take copies of, or copies of any entry in, any such document,
  - (c) seize and retain any such document which the officer reasonably suspects may be required as evidence.
- (2) The powers in sub-paragraph (1) include power to require the trader, employee or other person to give an explanation of the document.
- (3) Where a document required to be produced under [sub-paragraph \(1\)](#) contains information recorded electronically, the power under that sub-paragraph includes power to require the production of a copy of the document in a form in which it can easily be taken away and in which it is visible and legible.
- (4) [This paragraph](#) does not permit an officer to require a person to create a document other than as described in [sub-paragraph \(3\)](#).
- (5) An officer seizing a document under [this paragraph](#) from premises which are occupied must produce evidence of the officer's identity and authority to an occupier of the premises before seizing it.
- (6) The officer need not comply with [sub-paragraph \(5\)](#) if it is not reasonably practicable to do so.
- (7) An officer seizing a document under [this paragraph](#) must take reasonable steps to—
- (a) inform the person from whom it is seized that it has been seized, and
  - (b) provide that person with a written record of what has been seized.

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- (8) [This paragraph](#) does not permit an officer to require a person to produce or seize any document which the person would be entitled to refuse to produce in proceedings in the Court of Session on the grounds of confidentiality of communications.
- (9) In [sub-paragraph \(8\)](#), “communications” means—
- (a) communications between a professional legal adviser and the adviser's client, or
  - (b) communications made in connection with or in contemplation of legal proceedings or for the purposes of those proceedings.
- (10) In [this paragraph](#), “occupier”, in relation to premises, means any person an officer of a weights and measures authority reasonably suspects to be the occupier of the premises.

#### Commencement Information

**I51** Sch. 2 para. 7 not in force at Royal Assent, see [s. 56\(2\)](#)

#### *Power to break open container etc.*

- 8 (1) An officer of a local weights and measures authority may, for the purpose of exercising the powers under [paragraph 5](#), [6](#) or [7](#), require a person with authority to do so to—
- (a) break open any container, or
  - (b) access any electronic device in which information may be stored or from which it may be accessed.
- (2) Where a requirement under [sub-paragraph \(1\)](#) has not been complied with, the officer may, for the purpose of exercising any of the powers in [paragraph 7](#)—
- (a) break open the container, or
  - (b) access the electronic device.
- (3) [Sub-paragraph \(1\)](#) or [\(2\)](#) applies if and to the extent that the exercise of the power under that sub-paragraph is reasonably necessary for the purposes for which that power may be exercised.
- (4) In [this paragraph](#) “container” means anything in which an item or document may be stored.

#### Commencement Information

**I52** Sch. 2 para. 8 not in force at Royal Assent, see [s. 56\(2\)](#)

#### *Power of entry with warrant*

- 9 (1) A sheriff may grant a warrant under this section authorising an officer of a local weights and measures authority to enter premises if the sheriff is satisfied, by evidence on oath, that—
- (a) there are reasonable grounds for suspecting—
    - (i) that an offence under [section 5](#) or [22](#) has been, or is being, committed at the premises, or



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- (ii) that there is an item or document on the premises that the officer has the power to inspect or require to be produced, and
- (b) one of the following conditions is met—
  - (i) access to the premises has been or is likely to be refused and notice of the officer’s intention to apply for a warrant under [this paragraph](#) has been given to the occupier of the premises,
  - (ii) it is likely that items or documents on the premises would be concealed or interfered with if notice of entry on the premises were given to the occupier of the premises, or
  - (iii) the premises are unoccupied or the occupier of the premises is absent and it might defeat the purpose of the entry to wait for the occupier’s return.
- (2) A warrant granted under this section remains in force for a period of 28 days beginning with the day on which it was granted.
- (3) An officer may be accompanied by such persons, and may take onto the premises such equipment, as the officer considers necessary.
- (4) A warrant granted under this section may authorise an officer to—
  - (a) enter the premises by force if necessary,
  - (b) exercise the powers in [paragraph 5, 6, 7 or 8](#).
- (5) If the premises are occupied when the officer enters them, the officer must produce the warrant for inspection to an occupier of the premises.
- (6) [Sub-paragraph \(7\)](#) applies if the premises are unoccupied or the occupier is temporarily absent.
- (7) On leaving the premises, the officer must—
  - (a) leave a notice on the premises stating that the premises have been entered under a warrant under [this paragraph](#), and
  - (b) leave the premises as effectively secured as the officer found them.
- (8) In [this paragraph](#)—
  - “occupier”, in relation to premises, means any person an officer of a weights and measures authority reasonably suspects to be the occupier of the premises,
  - “premises” includes any—
    - (a) land or building,
    - (b) vehicle, vessel, trailer, aircraft or hovercraft,
    - (c) tent or moveable structure,

(whether or not the premises are used wholly or mainly as a private dwelling).

**Commencement Information**

**I53** Sch. 2 para. 9 not in force at Royal Assent, see [s. 56\(2\)](#)

*Power to require assistance from person on premises*

- 10 If an officer of a local weights and measures authority has entered premises under [paragraph 4\(1\)](#) or under a warrant under [paragraph 9](#), the officer may require



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any person on the premises to provide such assistance or information as the officer reasonably considers necessary.

#### Commencement Information

**I54** Sch. 2 para. 10 not in force at Royal Assent, see [s. 56\(2\)](#)

#### *Access to seized items and documents*

- 11 (1) [This paragraph](#) applies where a thing seized by an officer of a local weights and measures authority under [this schedule](#) is retained by the authority.
- (2) If a request for permission to be granted access to that thing is made to the local weights and measures authority by a person who had custody or control of it immediately before it was seized, the authority must allow that person access to it under the supervision of an officer of the authority.
- (3) If a request for a photograph or copy of that thing is made to the local weights and measures authority by a person who had custody or control of it immediately before it was seized, the authority must—
- (a) allow that person access to it under the supervision of an officer of the authority for the purpose of photographing or copying it, or
  - (b) photograph or copy it, or cause it to be photographed or copied.
- (4) Where anything is photographed or copied under [sub-paragraph \(3\)](#), the photograph or copy must be supplied to the person who made the request within a reasonable time from the making of the request.
- (5) [This paragraph](#) does not require access to be granted to, or a photograph or copy to be supplied of, a thing if the local weights and measures authority has reasonable grounds for believing that to do so would prejudice the investigation for the purposes of which it was seized.
- (6) A local weights and measures authority may recover the reasonable costs of complying with a request under [this paragraph](#) from the person by whom or on whose behalf it was made.
- (7) References in [this paragraph](#) to a person who had custody or control of a thing immediately before it was seized include a representative of such a person.

#### Commencement Information

**I55** Sch. 2 para. 11 not in force at Royal Assent, see [s. 56\(2\)](#)

#### *Notice of testing of item*

- 12 (1) [Sub-paragraphs \(2\)](#) and [\(3\)](#) apply where—
- (a) a firework purchased (or acquired under direction or by arrangement) by an officer of a local weights and measures authority under [paragraph 2](#) is submitted to a test and as a result proceedings are brought for an offence under [section 5](#) or [22](#), or

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- (b) a firework or item seized by an officer of a local weights and measures authority under [paragraph 6](#) is submitted to a test.
- (2) The local weights and measures must inform the relevant person of the results of the test.
- (3) The local weights and measures authority must allow a relevant person to have the firework or item tested if it is reasonably practicable to do so.
- (4) In [sub-paragraph \(2\)](#), “relevant person” means the person from whom the firework or item was purchased or seized.
- (5) In [sub-paragraph \(3\)](#), “relevant person” means—
  - (a) in a case within [sub-paragraph \(1\)\(a\)](#), a person who is a party to the proceedings, or
  - (b) in any other case, a person referred to in [sub-paragraph \(4\)](#).

**Commencement Information**

**I56** Sch. 2 para. 12 not in force at Royal Assent, see [s. 56\(2\)](#)

*Application for release of firework, item or document*

- 13 (1) [This paragraph](#) applies where a firework, item or document is being retained as the result of the exercise of a power under [this schedule](#).
- (2) A person with an interest in the firework, item or document may apply to a sheriff for an order requiring it to be released to that or another person.
- (3) The sheriff may make an order requiring a firework, item or document to be released only if satisfied that condition A or B is met.
- (4) Condition A is that—
- (a) no proceedings have been brought for an offence as the result of the investigation in the course of which the firework, item or document was seized, and
  - (b) the period of 12 months beginning with the day on which the firework, item or document was seized has expired.
- (5) Condition B is that—
- (a) proceedings of the kind mentioned in [sub-paragraph \(4\)\(a\)](#) have been brought, and
  - (b) those proceedings have been concluded without the firework, item or document being forfeited.

**Commencement Information**

**I57** Sch. 2 para. 13 not in force at Royal Assent, see [s. 56\(2\)](#)

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### Compensation

- 14 (1) [This paragraph](#) applies where an officer of a local weights and measures authority has seized and retained a firework or item under [this schedule](#) for a purpose within [paragraph 1\(2\)\(a\)](#).
- (2) The local weights and measures authority must pay compensation to any person with an interest in the firework or item in respect of any loss or damage caused by the seizure and retention if—
- (a) the firework or item has not disclosed an offence under [section 5](#) or [22](#), and
  - (b) the power to seize and retain the firework or item was not exercised as a result of any neglect or default of the person seeking the compensation.
- (3) Any dispute about the right to or amount of any compensation payable under [this paragraph](#) is to be determined by a single arbitrator appointed by the parties or, if there is no agreement between the parties as to that appointment, by the sheriff.

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#### Commencement Information

**I58** Sch. 2 para. 14 not in force at Royal Assent, see [s. 56\(2\)](#)

**Changes to legislation:**

There are currently no known outstanding effects for the Fireworks and Pyrotechnic Articles (Scotland) Act 2022.