



Fireworks and Pyrotechnic Articles (Scotland) Act 2022

2022 asp 9

PART 6

EXEMPTIONS, ENFORCEMENT AND OTHER MATTERS

Aggravation of offences against emergency workers

44 Aggravation of offences against emergency workers

- (1) An offence is aggravated by the use of a firework or pyrotechnic article if—
 - (a) the offence is committed in a manner that involves the use of a firework or pyrotechnic article which is currently lit or ignited (or which has recently been lit or ignited), and
 - (b) a victim (or intended victim) of the offence is an emergency worker.
- (2) For the purpose of subsection (1), an emergency worker is—
 - (a) a person—
 - (i) acting in a capacity mentioned in section 1(3) or 2(3) of the Emergency Workers (Scotland) Act 2005,
 - (ii) acting in a capacity mentioned in section 90(3)(a), (c) or (d) of the Police and Fire Reform (Scotland) Act 2012,
 - (iii) who is a constable of the British Transport Police Force and is acting in that capacity,
 - (b) a person who is assisting such a person in responding to an emergency circumstance.
- (3) Evidence from a single source is sufficient to prove that an offence is aggravated by the use of a firework or pyrotechnic article.
- (4) Subsection (5) applies where it is—
 - (a) libelled in an indictment, or specified in a complaint, that an offence is aggravated by the use of a firework or pyrotechnic article, and
 - (b) proved that the offence is so aggravated.

Status: This is the original version (as it was originally enacted).

- (5) The court must—
- (a) state on conviction that the offence is aggravated by the use of a firework or pyrotechnic article,
 - (b) record the conviction in a way that shows that the offence is so aggravated,
 - (c) take the aggravation into account in determining the appropriate sentence, and
 - (d) state—
 - (i) where the sentence in respect of the offence is different from that which the court would have imposed if the offence were not so aggravated, the extent of and the reasons for that difference, or
 - (ii) otherwise, the reasons for there being no such difference.
- (6) For the purposes of this section, a person is responding to emergency circumstances if the person—
- (a) is going anywhere for the purpose of dealing with emergency circumstances occurring there, or
 - (b) is dealing with emergency circumstances or preparing to do so.
- (7) For the purposes of this section, circumstances are “emergency” circumstances if they are present or imminent and—
- (a) are causing or are likely to cause—
 - (i) serious injury to or the serious illness (including mental illness) of a person,
 - (ii) serious harm to the environment (including the life and health of plants and animals and the fabric of buildings), or
 - (iii) a worsening of any such injury, illness or harm, or
 - (b) are likely to cause the death of a person.
- (8) For the purposes of this section, circumstances to which a person is responding are to be taken to be emergency circumstances if the person believes and has reasonable grounds for believing they are or may be emergency circumstances.