

Draft Order laid before the Scottish Parliament under section 141(11J) of the Criminal Justice Act 1988, for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2022 No.

CRIMINAL LAW

The Criminal Justice Act 1988 (Offensive Weapons) (Amendment, Surrender and Compensation) (Scotland) Order 2022

Made - - - - 2022
Coming into force - - 2022

The Scottish Ministers make the following Order in exercise of the powers conferred by section 141(2) of the Criminal Justice Act 1988(1) and all other powers enabling them to do so.

In accordance with section 141(11J)(2) of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Criminal Justice Act 1988 (Offensive Weapons) (Amendment, Surrender and Compensation) (Scotland) Order 2022 and comes into force on the day after the day on which it is made.

(2) This Order extends to Scotland only.

(3) In this Order—

“the 2019 Act” means the Offensive Weapons Act 2019(3),

“the 2022 Regulations” means the Surrender of Offensive Weapons (Compensation) (Scotland) Regulations 2022(4),

“claimant” means a person who has made a claim under article 6(3),

“officer” means a person authorised to accept surrender of weapons in accordance with arrangements made under article 3(1),

“required period” means the period of 3 months beginning with 1 July 2022,

(1) 1988 c. 33; the functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

(2) Section 141(11J) was inserted by section 60(1)(b) of the Custodial Sentences and Weapons (Scotland) Act 2007 (asp 17).

(3) 2019 c. 17.

(4) S.S.I. 2022/XX.

“surrendered” means surrendered in accordance with arrangements made by the Scottish Ministers under article 3(1) and similar expressions are to be construed accordingly,

“zombie knife” means a weapon sometimes known as a “zombie knife”, “zombie killer knife”, or “zombie slayer knife”, being a blade with—

- (a) a cutting edge,
- (b) a serrated edge, and
- (c) images or words (whether on the blade or handle) that suggest it is to be used for the purpose of violence.

Amendment of the schedule of the Criminal Justice Act 1988 (Offensive Weapons) (Scotland) Order 2005

2. In paragraph 1 of the schedule of the Criminal Justice Act 1988 (Offensive Weapons) (Scotland) Order 2005(5) after sub-paragraph (r) insert—

- “(s) the weapon sometimes known as a “zombie knife”, “zombie killer knife”, or “zombie slayer knife”, being a blade with—
 - (i) a cutting edge,
 - (ii) a serrated edge, and
 - (iii) images or words (whether on the blade or handle) that suggest it is to be used for the purpose of violence.”.

Arrangements for the surrender of a zombie knife

3.—(1) The Scottish Ministers may make such arrangements as they think fit to secure the orderly surrender at designated police stations in Scotland of zombie knives.

(2) The Chief Constable of the Police Service of Scotland may designate any police station in Scotland as being suitable for the receipt of zombie knives surrendered under arrangements made under paragraph (1).

Compensation payments

4.—(1) Subject to paragraph (3) and article 7(5), the Scottish Ministers must pay compensation in accordance with paragraph (2) for a surrendered zombie knife.

(2) Subject to article 7(4), the level of compensation payment to be made for each surrendered zombie knife is £10.

(3) A person may claim compensation under paragraph (1) if they—

- (a) owned the zombie knife on 29 April 2022, or had contracted to acquire the zombie knife on or before 29 April 2022,
- (b) surrendered the zombie knife within the required period, and
- (c) make a declaration that they are the legal owner of the zombie knife and that it was lawfully acquired.

Receipt for weapon surrendered

5.—(1) When an officer receives a surrendered zombie knife the officer must, if satisfied that the criteria in article 4(3) have been met, issue a receipt containing a unique reference number to the person who surrendered the zombie knife.

(2) The officer must ensure that a copy of the receipt is retained with the surrendered zombie knife.

Claim for compensation

6.—(1) The claim form to be used for the purposes of this article is set out in the schedule .

(2) A person who has surrendered a zombie knife and meets the conditions in article 4(3) may make a claim to the Scottish Ministers using the claim form.

(3) The claimant must submit the claim form at the same time as the zombie knife is surrendered.

(4) The claim form must contain—

- (a) the claimant's full name, date of birth and address,
- (b) details of the bank account into which any compensation is to be paid, if the payment is to be made by electronic transfer,
- (c) the number of zombie knives surrendered,
- (d) the unique reference number contained on the receipt issued under article 5(1),
- (e) the amount of compensation sought, and
- (f) a declaration that the claimant is the legal owner of the zombie knife and that it was lawfully acquired.

(5) An officer must forward a claim form submitted in accordance with paragraph (3) to the Scottish Ministers.

(6) A claimant may seek compensation for a surrendered zombie knife which is higher than the level of compensation provided at article 4(2).

(7) If a claimant seeks compensation for a zombie knife which is higher than the level of compensation provided at article 4(2), the claimant must provide sufficient evidence of the valuation of that zombie knife to enable the Scottish Ministers to determine the claim.

(8) Evidence of a valuation of a zombie knife may include—

- (a) a valuation from an auction house,
- (b) evidence of the price paid for the purchase of the zombie knife and the date of purchase, or
- (c) published evidence of the value of the zombie knife.

(9) If not satisfied that the evidence of valuation supplied under paragraph (7) is sufficient to enable a determination of the claim to be made, the Scottish Ministers may request additional evidence to be supplied.

Determination and payment of claims

7.—(1) The Scottish Ministers must determine a claim under article 6 as soon as reasonably practicable.

(2) The Scottish Ministers must determine the amount of compensation payable in accordance with paragraphs (3) to (8).

(3) The amount of compensation payable for a zombie knife is the amount provided in article 4(2) unless the claimant has claimed a higher amount of compensation.

(4) Where the claimant has sought a higher amount of compensation than the amount provided in article 4(2), the Scottish Ministers must determine the amount payable, if any, taking account of the valuation evidence supplied.

(5) Subject to paragraph (6), no compensation is payable in respect of a claim which amounts to less than £30.

- (6) The Scottish Ministers may pay compensation in respect of a zombie knife surrendered during the required period which amounts to less than £30 if—
- (a) the claimant has surrendered a weapon in accordance with arrangements made under section 48(2) of the 2019 Act,
 - (b) the claimant surrendered that weapon within the required period provided at regulation 1(3) of the 2022 Regulations,
 - (c) the claimant has made a claim for compensation in respect of that weapon under regulation 5(3) of the 2022 Regulations, and
 - (d) the total value of the claim for the weapon surrendered in accordance with arrangements made under section 48(2) of the 2019 Act (as determined in accordance with the 2022 Regulations) and the claim for the surrendered zombie knife (as determined in accordance with this Order) amounts to £30 or more.
- (7) If satisfied that compensation is payable under this article, the Scottish Ministers must—
- (a) notify the claimant in writing of the amount of compensation that the Scottish Ministers consider is payable and give reasons for the decision, and
 - (b) make payment of the amount determined either—
 - (i) to the bank account nominated for this purpose on the claim form, or
 - (ii) by cheque sent to the address provided on the claim form.
- (8) If not satisfied that compensation is payable, the Scottish Ministers must notify the claimant in writing that no compensation is to be paid and give reasons for the decision.

St Andrew's House,
Edinburgh
Date

Name
A member of the Scottish Government

SCHEDULE

Article 6(1)

Claim Form for compensation

Surrender and Compensation Scheme Claim Form

SG Logo

For Police Scotland use only

Unique reference number:

SURRENDER AND COMPENSATION SCHEME CLAIM FORM

If you want to claim financial compensation for the item(s) you are surrendering to Police Scotland please complete Parts A, B, C and D.

(Please ensure that you have read the accompanying Guidance and Privacy Information Notice before completing this form.)

PLEASE COMPLETE IN BLOCK CAPITALS

PART A – Your details

Title

Forename(s)

Surname

Date of Birth

Day

Month

Year

Your address

House number

Street

Village, Town or City

County

Postcode

Contact number

5

Email

PART B – Your bank/building society account

Compensation payments can be made by BACS payment (i.e. a secure electronic system of making payments directly to your bank or building society account) or by cheque if it is determined that compensation is payable. Please note, payment by cheque will mean it will take longer for you to receive payment.

Only complete this section if you wish to receive a BACS payment instead of payment by cheque.

Name of account holder

Name of Bank/Building Society

Bank/BS Address

Bank/BS Town/City

Bank/BS Post Code

Account number

Sort code

PART C – Declaration and signature:

I declare that I have read the guidance and the Privacy Information Notice for the scheme.

I declare that I am the legal owner of the weapon(s) that I am surrendering to Police Scotland and it was/they were lawfully acquired by me.

I confirm that I understand that in surrendering the item(s) described in Part D of this form to Police Scotland, I have relinquished any entitlement to the ownership or use of the item(s).

I confirm that I owned the weapon(s) on the relevant date or contracted to acquire it/them on or before that date in order to be eligible to make a claim. These dates are as follows:

I confirm I owned or contracted to acquire the weapon on or before 20 June 2018 (unless this is a cyclone knife, see below; in the case of a cyclone knife owned or contracted to acquire the weapon on or before 22 January 2019 and in the case of a zombie knife owned or contracted to acquire the weapon on or before 29 April 2022.

If seeking compensation: I will accept the listed value in relation to the items for which I am making a claim. Tick which box applies.

Yes

No

Some

To the best of my knowledge and belief all the items surrendered are listed in Part D of this application and are eligible for payment under the published terms of this scheme.

By signing this declaration, I authorise Police Scotland to pass on the information contained in this form to the Scottish Government for the purposes of processing any claim that I am making for financial compensation.

Signature of legal owner

Date.....

NSIVE WEAPONS

THE PROPERTY BEING SURRENDERED (TO BE COMPLETED BY THE CLAIMANT)

Item	How many?	Seeking compensation? Enter Y or N	If Y, do you accept standard value? Enter Y or N	If N and claiming individual value, enter value (£)	Has evidence to support individual value been provided? Enter Y or N	Total claim for item(s) (£)
Flick knife (or flick gun)			Standard Value £20			
Gravity knife			£40			
Zombie knife			£10			
Knuckleduster			£2			
Swordstick			£12			
Handclaw			£9			
Belt buckle knife			£5			
Push dagger			£2			
Hollow kubotan			£3			
Footclaw			£7			
Shuriken (aka Shaken or Death star)			£5			
Balisong (aka Butterfly knife)			£9			
Telescopic truncheon			£20			

Blowpipe (aka Blow gun)	£14
Kusari gama	£35
Kyoketsu shoge	£20
Manrikigusari (aka Kusari)	£10
Disguised knife	£5
Stealth knife	£3
Straight, Side handled or Friction lock truncheon (sometimes known as a Baton) ∞	£10
Cyclone knife or Spiral knife	£30

ANNEX A

Guidance for completing the Surrender and Compensation Scheme Claim Form

This section provides guidance for individuals completing this form. Further information can be found in the ‘A surrender and compensation scheme in Scotland for certain offensive weapons - Guidance for surrender and claiming compensation’. This is available online. The Scottish Government Privacy Impact Notice is also available alongside this information.

Alternatively you can ask for assistance from the Scottish Government by emailing any questions to OWACompensationSchemeEnquiries@gov.scot

The Police Scotland Privacy Impact Notice can be found at:

<https://www.scotland.police.uk/access-to-information/data-protection/privacy-notice>

PART A – Your details

Please use this Part to provide the relevant details in the correct boxes. Police Scotland will need to verify your identity and it is important to provide correct contact details so you can be contacted regarding your claim(s) for compensation. Your phone number can be a landline or mobile.

Part A should include an email contact address. At the present time, some Scottish Government staff may still be working from home, and contact by email rather than by post will avoid any delays in considering claims or paying compensation.

PART B – Your bank account

Under the Surrender and Compensation Scheme, **only** legitimate and eligible owners of offensive weapons are entitled to financial compensation to cover the value of any item surrendered.

The Scottish Government has published a values list containing the standard amount of compensation that will be paid to the lawful owners of items that are surrendered to Police Scotland under this scheme.

If you consider that your item is worth more than the standard amount of compensation published, it is open to you to make a claim for the higher amount and if you wish to do so you must provide acceptable supporting evidence of this value. This evidence, which must be submitted at the time of surrendering the item to Police Scotland, will be forwarded to the Scottish Government for consideration alongside a copy of your compensation claim. The amount of compensation due to you will be decided by the Scottish Government. If your claim is for over £250 for any single item it is recommended that you provide a photograph of the item along with the evidence of its value.

If you wish to receive payment by BACS you must complete Part B of this form in order to receive payment.

If you would rather be paid by cheque you do not need to complete Part B of this form and payment will be made using the details provided in Part A of this this form.

PART C – Declaration

You are required to complete this Part to confirm that you are the legal owner of the item(s) that you are surrendering, that it was lawfully acquired and that you are eligible to claim compensation, if applicable.

You should have also read and ensured that you understood the guidance for the scheme and the Privacy Information Notice before signing. Signing this Part also signals that you understand that in surrendering the item(s) you relinquish your ownership of the item(s) you are surrendering.

If you are claiming financial compensation, you are also required to use this Part to confirm whether:

- you will accept the compensation value listed in this document for your item(s) under Part D;
- you will not accept the compensation value listed in this document for your item(s) under Part D and are seeking a higher amount;
- you will accept the compensation value listed in this document for some of your item(s) but will not accept the compensation value listed for other item(s) under Part D.

You must tick which box applies to your application.

If you are claiming compensation for an offensive weapon, you must have been the lawful owner on 20 June 2018 (or otherwise lawfully contracted to acquire the weapon on or before that date) unless the item is a cyclone knife or a zombie knife. In the case of a cyclone knife, you must have been the lawful owner on 22 January 2019 (or otherwise lawfully contracted to acquire the weapon on or before that date). In the case of a zombie knife, you must have been the lawful owner on 29 April 2022 (or otherwise lawfully contracted to acquire the weapon on or before that date).

If you acquired any of the above items after the relevant dates, you will still need to safely dispose of the items and should do so by surrendering them to Police Scotland at a designated police station during the 3 month period when the scheme is open. You will not, however, be eligible to claim compensation under this scheme.

Signing the declaration also confirms that you agree that Police Scotland can send on the information contained in this form to the Scottish Government for the purposes of processing any claim that you are making for financial compensation.

Further information on your potential entitlement and how to claim compensation can

It is important that you accurately complete these parts to ensure we know how many items you are surrendering, which of these items you are seeking compensation for, and what you consider the value of each individual item to be.

If you are seeking more than the standard value compensation, you must complete these Parts to state the value you believe the item to be worth and to confirm that you have provided evidence to support this value. If you are claiming more than £250 for any offensive weapon, it is recommended that the supporting evidence you provide includes a photograph of the weapon.

Further information on your potential entitlement and how to evidence your valuation if you are claiming an amount higher than the standard value can be found in ‘A surrender and compensation scheme - Guidance for surrender and claiming compensation’ which is available online.

ANNEX B

This section is to be completed by Police Scotland

Once completed, a copy of the receipt will be provided to the claimant.

Application unique reference number:

Name of receiving officer or staff (please print)

Receiving station name

Date received

Identity of claimant confirmed? (Y/N)

Ownership by claimant confirmed? (Y/N)

All surrendered items correctly detailed in Part D? (Y/N) If no, use box below for details

Is the value of the claim £30 or over? (Y/N)

Valuation of relevant items provided and attached? (Y/N)

Declarations completed and signed by applicant (Y/N)

Additional comments: This space is for Police Scotland to record any other information not provided elsewhere in this form. If required, further detail can be recorded on another page.

For police use: Once completed a copy of the entire form with all supporting documents should then be sent to OWACompensationSchemeEnquiries@gov.scot with the compensation claim's unique reference number added to the subject line.

The Scottish Government will review the claim and respond directly to the claimant to confirm progress and next steps in due course.

A copy of the completed receipt at Annex B should be given to the claimant.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Criminal Justice Act 1988 (Offensive Weapons) (Scotland) Order 2005 (“the 2005 Order”).

Section 141(1) of the Criminal Justice Act 1988 (“the 1988 Act”) makes it an offence to manufacture, sell or hire, or offer for sale or hire, expose or have in a person’s possession for the purpose of sale or hire, or lend or give to any other person, a weapon to which that section applies. Section 46 of the Offensive Weapons Act 2019 will amend section 141 of the 1988 Act to make it an offence to possess a weapon to which section 141 of the 1988 Act applies on domestic premises. The schedule of the 2005 Order specifies the descriptions of weapons to which section 141 of the 1988 Act applies.

Draft Legislation: This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Criminal Justice Act 1988 (Offensive Weapons) (Amendment, Surrender and Compensation) (Scotland) Order 2022 No. 218

Article 2 of this Order adds the weapon sometimes known as a “zombie knife”, “zombie killer knife”, or “zombie slayer knife” to the descriptions of weapons set out in the schedule of the 2005 Order.

Article 3 provides that the Scottish Ministers may make arrangements for the surrender of zombie knives at designated police stations. The Chief Constable of Police Scotland will designate police stations at which zombie knives can be surrendered .

Article 4 makes provision as to the standard level of compensation payments which are to be made in respect of weapons surrendered in accordance with arrangements made under article 3(1). It also makes provision as to eligibility for compensation.

Article 5 provides for police officers accepting the surrendered items to issue a receipt. Article 6 provides for a claim to be submitted where the item has been surrendered, and for a claim form to be transmitted to the Scottish Ministers (with the schedule setting out the claim form to be used). Article 7 provides for determination of claims and payments by the Scottish Ministers. No payment is due for claims amounting to less than £30. In determining the value of a claim, the Scottish Ministers may take into account weapons surrendered under arrangements made under section 48 of the Offensive Weapons Act 2019 for which compensation is claimed under the Surrender of Offensive Weapons (Compensation) (Scotland) Regulations 2022.