

Draft Regulations laid before the Scottish Parliament under section 68(4) of the Offensive Weapons Act 2019 for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2022 No.

COMPENSATION

**The Surrender of Offensive Weapons
(Compensation) (Scotland) Regulations 2022**

<i>Made</i>	- - - -	2022
<i>Coming into force</i>	- -	2022

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 49(4) of the Offensive Weapons Act 2019(1) and all other powers enabling them to do so.

In accordance with section 68(4) of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

Citation, commencement, extent, and interpretation

1.—(1) These Regulations may be cited as the Surrender of Offensive Weapons (Compensation) (Scotland) Regulations 2022 and come into force on the day after the day on which they are made.

(2) These Regulations extend to Scotland only.

(3) In these Regulations—

“the 2019 Act” means the Offensive Weapons Act 2019,

“the 2022 Order” means the Criminal Justice Act 1988 (Offensive Weapons) (Amendment, Surrender and Compensation) (Scotland) Amendment Order 2022(2),

“claimant” means a person who has made a claim under regulation 5(3),

“officer” means a person authorised to accept surrender of weapons in accordance with arrangements made under section 48(2) (surrender of prohibited offensive weapons) of the 2019 Act,

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

“standard level of compensation” means the level of compensation specified as payable for a weapon surrendered as set out in schedule 1 of these regulations,

(1) 2019 c. 17.

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

“surrendered” means surrendered in accordance with arrangements made by the Scottish Ministers under section 48(2) of the 2019 Act and similar expressions are to be construed accordingly.

Standard level of compensation payments

2. The standard level of compensation payments to be made for a surrendered weapon surrendered is set out in schedule 1.

Eligibility for compensation

3.—(1) Subject to paragraph (2) and regulation 6(5), the Scottish Ministers must pay compensation in accordance with these Regulations for a surrendered weapon.

(2) A person may claim compensation—

- (a) in respect of a weapon, possession of which will become unlawful by virtue of—
 - (i) section 44 (prohibition on the possession of certain dangerous knives) of the 2019 Act (by itself or in combination with section 43 (amendments to the definition of “flick-knife”) of the 2019 Act), or
 - (ii) section 46 (prohibition on the possession of offensive weapons) of the 2019 Act (by itself or in combination section 47 (prohibition on the possession of offensive weapons: supplementary) of the 2019 Act),
- (b) if, in the case of a weapon other than a cyclone knife, they—
 - (i) owned the weapon on 20 June 2018, or
 - (ii) on or before 20 June 2018 had contracted to acquire the weapon,
- (c) if, in the case of a cyclone knife, they—
 - (i) owned the cyclone knife on 22 January 2019, or
 - (ii) on or before 22 January 2019 had contracted to acquire the cyclone knife,
- (d) if they surrender the weapon within the required period, and
- (e) if they make a declaration that they are the legal owner of the weapon and that it was lawfully acquired.

(3) In paragraph (2)(c), “cyclone knife” means the weapon sometimes known as a “cyclone knife” or “spiral knife” being a weapon with—

- (a) a handle,
- (b) a blade with two or more cutting edges, each of which forms a helix, and
- (c) a sharp point at the end of the blade.

Receipt for weapon surrendered

4.—(1) When an officer receives a surrendered weapon the officer must, if satisfied that the criteria in regulation 3(2) have been met, issue a receipt containing a unique reference number to the person who surrendered the weapon.

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

Claim for compensation

5.—(1) The claim form to be used for the purposes of this regulation is set out in schedule 2.

(2) A person who has surrendered a weapon and meets the conditions in regulation 3(2) 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 weapon 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 weapons surrendered,
- (d) the unique reference number contained on the receipt issued under regulation 4(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 weapon which is higher than the standard level of compensation provided for that weapon in schedule 1.

(7) If a claimant seeks compensation for a weapon which is higher than the standard level of compensation for that weapon, the claimant must provide sufficient evidence of the valuation of the weapon to enable the Scottish Ministers to determine the claim.

(8) Evidence of a valuation of a weapon may include—

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

(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

6.—(1) The Scottish Ministers must determine a claim made under regulation 5 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 weapon, if any, is the standard level of compensation, unless the claimant has claimed a higher amount of compensation.

(4) Where the claimant has sought a higher amount of compensation than the standard level of compensation for that weapon, 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 weapon surrendered during the required period which amounts to less than £30 if—

- (a) the claimant has surrendered a zombie knife in accordance with arrangements made under article 3(1) of the 2022 Order,

- (b) the claimant surrendered that zombie knife within the required period provided at article 1(3) of the 2022 Order,
 - (c) the claimant has made a claim for compensation in respect of that weapon under article 6(3) of the 2022 Order, and
 - (d) the total value of the claim for the zombie knife surrendered in accordance with arrangements made under article 3(1) of the 2022 Order (as determined in accordance with the 2022 Order) and the claim for the surrendered weapon (as determined in accordance with these Regulations) amounts to £30 or more.
- (7) If satisfied that compensation is payable under this regulation, 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 1

Regulation 2

Standard level of compensation payments

<i>Item</i>	<i>Standard level</i>
Flick knife (or flick gun)	£20
Gravity knife	£40
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

SCHEDULE 2

Regulation 5(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

6

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

If “Yes” is ticked, I accept that the police may dispose of the item(s) concerned

Draft Legislation: This is a draft item of legislation and has not yet been made as a Scottish Statutory Instrument. This draft has been replaced by a new draft, The Surrender of Offensive Weapons (Compensation) (Scotland) Regulations 2022 ISBN 978-0-11-105469-7

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			

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wpipe (aka Blow	£14
ari gama	£35
ketsu shoge	£20
rikigusari (aka ari)	£10
guised knife	£5
lth knife	£3
ight, Side lled or Friction truncheon	£10
ometimes known Baton)	
lone knife or al 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.

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

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 be found in ‘A surrender and compensation scheme in Scotland for certain offensive weapons’ which is available online.

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)

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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 Regulations)

Sections 44 and 46 of the Offensive Weapons Act 2019 (“the Act”) amend various pieces of legislation with the effect that it becomes an offence to possess certain dangerous knives and offensive weapons. Section 48 of the Act allows the Scottish Ministers to make arrangements for the surrender of such items.

These Regulations provide for a scheme of compensation to be payable to persons surrendering certain prohibited knives and offensive weapons with a value of £30 or more.

Regulation 2 and schedule 1 make 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 section 48 of the Act.

Regulation 3 makes provision as to eligibility for compensation. Regulation 4 provides for police officers accepting the surrendered items to issue a receipt. Regulation 5 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 schedule 2 setting out the claim form to be used). Regulation 6 provides for determination of claims and payment 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 Criminal Justice Act 1988 (Offensive Weapons) (Amendment, Surrender and Compensation) (Scotland) Order 2022 for which compensation is claimed under that Order.

The standard level of compensation for a weapon, as specified in schedule 1, is the amount of compensation payable unless the person claiming the compensation contends that the value exceeds the standard level of compensation payable. If no standard level of compensation is specified for the weapon surrendered, or if the person claims that the value exceeds the standard level, valuation evidence must be submitted and the level of compensation payable is to be determined by the Scottish Ministers.