

FIREWORKS AND PYROTECHNIC ARTICLES (SCOTLAND) ACT 2022

EXPLANATORY NOTES

THE ACT

Overview

Part 3: Restrictions on supply and use of fireworks and pyrotechnic articles

Days of supply and use of fireworks

Section 22—Restrictions on days of supply of fireworks

59. The Fireworks Regulations 2004 (S.I. 2004/1836) and the Fireworks (Scotland) Regulations 2004 (S.S.I. 2004/393) restrict the days and hours of the day during which category F2, F3 and F4 fireworks may be sold by unlicensed suppliers.
60. The Act builds on that with section 22 restricting the days on which any person may supply category F2 and F3 fireworks to the general public (see also section 20(1)(b)). Those days are listed in subsection (3) and cover specified periods in relation to Vaisakhi, Guy Fawkes Day, Hogmanay, Chinese New Year and Diwali.
61. A person who supplies a category F2 or F3 firework on a day that is not specified in subsection (3) commits an offence and is liable (on summary conviction) to a fine not exceeding level 5 on the standard scale (currently £5,000) or to a term of imprisonment not exceeding 6 months, or both (see subsections (1) and (2)).
62. The definition of “supply” in subsection (8) means that the offence applies to the sale or exchange of fireworks for consideration and the giving away or gifting of fireworks, but **only** when carried out in the course of a business. It does **not** therefore apply to the actions of individuals in their private lives. For example, an individual who gifts fireworks to a friend on a day when this is not allowed will not commit an offence under this section. But both the person who gifted them and the recipient will still commit offences under sections 4(1) and 5(1), respectively, if the recipient does not have a fireworks licence (and no exemption otherwise applies under schedule 1).
63. **Section 22** is subject to some exemptions (see section 38 and paragraphs 10, 16, 20 and 27 of schedule 1). Section 22 does not remove the requirement for a person to have a fireworks licence to acquire these types of firework in the first place unless the person is exempt from this requirement e.g. as a professional organiser of fireworks displays. The exemptions from section 22 mean that a person who falls within the exemptions from section 22 *and* has a fireworks licence (or who is exempt from the requirement to have a licence) may be supplied with this type of firework on a day that is not specified in section 22. For example, an organiser of a public fireworks display on behalf of a charitable or community organisation (see paragraph 21 of schedule 1) may be sold fireworks on any day of the year but must also have a fireworks licence (or be a professional organiser of fireworks displays) in order to acquire the fireworks.

*These notes relate to the Fireworks and Pyrotechnic Articles (Scotland)
Act 2022 (asp 9) which received Royal Assent on 10 August 2022*

A defence to the offence under section 22(1) is available (see subsection (4)) where a person took reasonable steps to ensure that the recipient of the firework was exempt under schedule 1.