
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations repeal certain provisions of the Criminal Law (Consolidation) (Scotland) Act 1995 (“the 1995 Act”), in consequence of the commencement of provisions in Part 5 of the Fireworks and Pyrotechnic Articles (Scotland) Act 2022 (“the 2022 Act”) by the Fireworks and Pyrotechnic Articles (Scotland) Act 2022 (Commencement No. 2) Regulations 2023. Part 5 of the 2022 Act creates new offences in relation to possession of pyrotechnic articles including fireworks. In particular, section 36 makes it an offence for a person, without reasonable excuse, to possess a relevant pyrotechnic article at a designated venue or event (which may, by regulations, include sports grounds and events). In consequence, provision for offences under section 20(3) and (4) of the 1995 Act (concerning the possession of such articles at sport grounds) together with provisions in support of the operation of such offences in section 20(5), (6) and part of (8) are no longer required.

Regulation 2 provides that the repeal of those provisions is to take effect on 6 June 2023.

Regulation 3 preserves the defence of “lawful authority” in section 20(6) of the 1995 Act in respect of proceedings relating to an offence under section 20(3) or (4) of that Act committed before 6 June 2023. It also modifies the effect of section 20(6) so that the defence includes any other reasonable excuse. This ensures that the reasonable excuse defence which is available to a person in relation to the new offence under section 36 of the 2022 Act is also available to a person in respect of proceedings for offences under section 20(3) and (4) of the 1995 Act committed before 6 June 2023.