

Draft Regulations laid before the Scottish Parliament under section 53(3) of the Fireworks and Pyrotechnic Articles (Scotland) Act 2022, for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2023 No.

FIREWORKS

The Fireworks and Pyrotechnic Articles (Scotland)
Act 2022 (Consequential Modifications, Saving
and Transitional Provisions) Regulations 2023

Made - - - - 2023
Coming into force - - 6th June 2023

The Scottish Ministers make the following Regulations in exercise of the powers conferred on them by section 53 of the Fireworks and Pyrotechnic Articles (Scotland) Act 2022(1) and all other powers enabling them to do so.

In accordance with section 53(3) 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) These Regulations may be cited as the Fireworks and Pyrotechnic Articles (Scotland) Act 2022 (Consequential Modifications, Saving and Transitional Provisions) Regulations 2023 and come into force on 6 June 2023.

(2) In these Regulations, “the 1995 Act” means the Criminal Law (Consolidation) (Scotland) Act 1995(2).

Repeals

2. The following provisions are repealed—

- (a) section 20(3), (4), (5), (6) of the 1995 Act, and
- (b) the definition of “controlled article or substance” within section 20(8) of the 1995 Act.

(1) 2022 asp 9.
(2) 1995 c. 39.

Saving and transitional provisions

3.—(1) Despite regulation 2, the provisions of the 1995 Act referred to in that regulation continue to have effect on and after 6 June 2023 as they did immediately before that date in respect of any criminal proceedings relating to an offence under section 20(3) or (4) of that Act committed before that date, subject to the modification in paragraph (2).

(2) In respect of any criminal proceedings referred to in paragraph (1), section 20(6) of the 1995 Act has effect as if after the words “lawful authority” (in that section) there were inserted “or any other reasonable excuse”.

St Andrew’s House,
Edinburgh
Date

Name
Authorised to sign by the Scottish Ministers

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.