



OFFICIAL REPORT
AITHISG OIFIGEIL

Criminal Justice Committee

Wednesday 1 June 2022

Session 6



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CRIMINAL JUSTICE COMMITTEE

18th Meeting 2022, Session 6

CONVENER

*Audrey Nicoll (Aberdeen South and North Kincardine) (SNP)

DEPUTY CONVENER

*Russell Findlay (West Scotland) (Con)

COMMITTEE MEMBERS

*Katy Clark (West Scotland) (Lab)
*Jamie Greene (West Scotland) (Con)
*Fulton MacGregor (Coatbridge and Chryston) (SNP)
*Rona Mackay (Strathkelvin and Bearsden) (SNP)
*Pauline McNeill (Glasgow) (Lab)
*Collette Stevenson (East Kilbride) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Philip Lamont (Scottish Government)
Ash Regan (Minister for Community Safety)

CLERK TO THE COMMITTEE

Stephen Imrie

LOCATION

The David Livingstone Room (CR6)

Scottish Parliament

Criminal Justice Committee

Wednesday 1 June 2022

[The Convener opened the meeting at 09:16]

Fireworks and Pyrotechnic Articles (Scotland) Bill: Stage 2

The Convener (Audrey Nicoll): I wish you a very good morning. Welcome to the 18th meeting in 2022 of the Criminal Justice Committee. We have received no apologies.

We have two main items of business today: completion of stage 2 of the Fireworks and Pyrotechnic Articles (Scotland) Bill, and consideration of a number of Scottish statutory instruments.

Before we move on to amendments to the Fireworks and Pyrotechnic Articles (Scotland) Bill, I remind members that we need to complete our stage 2 scrutiny before the deadline next Wednesday, 8 June. Although I am keen for members to fully debate and scrutinise the remaining amendments, I intend that we will complete stage 2 today. If necessary, I will run the meeting until 1.45 pm. I am anxious to avoid that, but if we do not manage to get to the SSIs today, we will need to rearrange consideration at an additional meeting for members and the minister early next week.

Agenda item 1 is to recommence our stage 2 consideration of the bill where we stopped last week, which was at amendment 80 to section 10. I ask members to refer to their copy of the bill, the marshalled list of amendments and the groupings of amendments.

I welcome back the Minister for Community Safety, Ash Regan, and her officials. I remind the officials that they are there to assist the minister during the stage 2 debate and are not permitted to participate in the debate. For that reason, members should not direct questions to them.

Section 10—Grant of fireworks licence subject to conditions

The Convener: Amendment 81, in the name of Jamie Greene, is grouped with amendments 82 and 83.

Jamie Greene (West Scotland) (Con): Good morning. We have a lot to get through today.

The amendments in this small group are technical ones that seek to improve the licensing scheme, should it proceed. Amendment 81 to

section 10 would simply ensure that ministers make provision for there being paper copies of a person's licence if, for example, it has been issued digitally. That is simply to provide for people who are unable to access, or are excluded from, the digital world. As we know, that is a common theme that crops up.

Amendments 82 and 83 are also technical amendments on that subject, but they relate to section 12 and when a licence has been revoked. Amendment 83 would require that a licence holder must return a paper copy of a licence should the licence be revoked or expire. We might come on to the length of licences.

The amendments are aimed at improving the bill by providing commonsense arrangements for issuing and returning licences. They would simply ensure that someone who should no longer have a licence could not still use a licence that has expired or use it in the unlikely event of its having been revoked.

I press on the Government the point that we want the licensing scheme to be accessible and open, including digitally, to as many people as possible. For example, in relation to Covid certification over the past couple of years, we have seen where such a system can work well and where it can go wrong.

I hope that the amendments are helpful. I appreciate that the minister will probably say that much of what is in them will be dealt with in the secondary legislation that will be introduced when the nature of the scheme has been agreed and pinned down. I respect that, but I think that it would be helpful to include my amendments to improve, where possible, the licensing scheme in advance of its production.

I move amendment 81.

The Minister for Community Safety (Ash Regan): The amendments in group 11 make provisions relating to the format of a fireworks licence. In particular, they set out entitlement to a paper licence and specific steps in the licence revocation process based on the format of the licence.

As Jamie Greene picked up, it has always been planned that, for operation of the system, paper licences be developed and made available. I think that I made reference to that at stage 1. I recognise that, in the 2020 Scottish household survey, about 14 per cent of people with access to the internet did not have access to a smartphone. I do not want to create a licensing system that prevents anyone from holding a licence simply because of the format in which it is available.

Although I agree that entitlement to non-digital forms of licence is essential, I do not believe that it

is necessary to make provision in regulations to ensure that there is an entitlement to a paper licence. In my opinion, that is an operational detail that will be put in place as the system is designed.

However, should that become an issue in practice, my amendment 18, which was agreed to last week, provides the Scottish ministers with adequate powers to deal with the matter through secondary legislation, if required.

Regarding revocation of licences, it is intended that information regarding the date on which revocation takes effect will be included in the revocation notice, and that that will apply to all forms of licence.

I do not believe that amendments 82 and 83 are necessary. Indeed, they could even create confusion about what is necessary for the different forms of licence, because by leaving it open we cater for all the various possibilities—a digital licence, a paper licence, a combination of the two or another format that might emerge in the future that we are, at this point, not aware of.

On that basis, I ask Mr Greene not to press amendment 81 and not to move his other amendments in the group. If he does, I ask the committee not to support them.

Jamie Greene: I thank the minister for that response. The reassurance that has been given, with her accepting the point, is helpful and appreciated. For that reason, I will not press amendment 81 and will not move the other amendments in the group.

Amendment 81, by agreement, withdrawn.

Amendment 50 not moved.

Section 10, as amended, agreed to.

Section 11—Register of fireworks licence applications and licensed persons

Amendment 51 not moved.

Section 11 agreed to.

Section 12—Revocation of fireworks licence

The Convener: I call Jamie Greene to move amendment 82, which has already been debated with amendment 81.

Jamie Greene: Can I have clarification of the difference between withdrawing and not moving an amendment?

Seán Wixted (Clerk): If a member is content not to move an amendment, they do not have to—it will not be debated. If an amendment is moved, it must be debated by the committee, and its withdrawal must be agreed by the committee. The member is not required to move the amendments.

Amendments 82 and 83 not moved.

Section 12 agreed to.

Section 13 agreed to.

After section 13

The Convener: Amendment 84, in the name of Jamie Greene, is in a group on its own.

Jamie Greene: Amendment 84 is quite self-explanatory—unusually for an amendment—and is based on the premise of an appeals process. It says:

“The Scottish Ministers must provide information to a person about how the person may appeal—

(a) at the point of applying for a fireworks licence under section 9,

(b) when a decision has been made by the Scottish Ministers under section 14(1).”

Information would be given up front to an applicant for a licence about the application process and about the appeal process in the scenario in which their application was rejected.

I intentionally did not go into great detail about who, when and where; in the spirit of being helpful, I thought that that information could be clarified before stage 3 or in regulations. As public awareness of the licensing scheme develops, and given our debate last week about taking account criminal convictions and other factors, there is the possibility that some applications will be rejected. Those people will want to know why, and how to appeal the decision.

That approach would be in line with other licensing schemes that include some form of independent appeals process. As I said, I have not gone into detail: I just ask that the information be given to applicants at specific points in the process. It would be for ministers to make regulations in that regard.

I hope that this is a helpful discussion point that will elicit from the minister information about what an appeal process might look like.

I move amendment 84.

Ash Regan: Amendment 84 would require the Scottish ministers to provide information about how to appeal a decision to refuse a licence application, attach a condition to a licence or revoke a licence.

The bill sets out the process that an applicant or licence holder can follow to appeal a decision, but Mr Greene is right that there is no requirement in the bill for the Scottish ministers to share that information when someone applies for a licence or when a decision is made.

I confirm that it has always been the Scottish Government's intention that information about the ability to appeal a decision will be made available as part of the process. The approach will be further developed as part of implementation of the provisions, to ensure that people have access to the necessary information when it is required.

I have concerns that amendment 84, as drafted, could be restrictive, but I agree that there is value in including such a provision in the bill. I will therefore be grateful if Mr Greene does not press his amendment, so that we can, for stage 3, explore an amendment that would have the same effect.

The Convener: Jamie, do you want to wind up or press or withdraw amendment 84?

Jamie Greene: I thank the minister for the offer. I am happy to kick off the morning on a consensual note and agree to work with the minister and her team ahead of stage 3 on suitable wording for an amendment that I would be happy to move, or support, if the minister lodges it. On that basis, I seek to withdraw amendment 84.

Amendment 84, by agreement, withdrawn.

Section 14 agreed to.

09:30

Section 15—False statements

Amendment 85 not moved.

Amendment 86 moved—[Russell Findlay].

The Convener: The question is, that amendment 86 be agreed to. Are we all agreed?

Members: No.

The Convener: There will be a division.

For

Findlay, Russell (West Scotland) (Con)
Greene, Jamie (West Scotland) (Con)

Against

Clark, Katy (West Scotland) (Lab)
MacGregor, Fulton (Coatbridge and Chryston) (SNP)
Mackay, Rona (Strathkelvin and Bearsden) (SNP)
McNeill, Pauline (Glasgow) (Lab)
Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
Stevenson, Collette (East Kilbride) (SNP)

The Convener: The result of the division is: For 2, Against 6, Abstentions 0.

Amendment 86 disagreed to.

Section 15 agreed to.

Section 16—False or altered licences and documents

Amendments 87 and 88 not moved.

Section 16 agreed to

Section 17 agreed to.

Section 18—Power to make further provision

Amendment 19 moved—[Ash Regan]—and agreed to.

Amendment 20 moved—[Ash Regan].

The Convener: The question is, that amendment 20 be agreed to. Are we all agreed?

Members: No.

The Convener: There will be a division.

For

Clark, Katy (West Scotland) (Lab)
MacGregor, Fulton (Coatbridge and Chryston) (SNP)
Mackay, Rona (Strathkelvin and Bearsden) (SNP)
McNeill, Pauline (Glasgow) (Lab)
Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
Stevenson, Collette (East Kilbride) (SNP)

Against

Findlay, Russell (West Scotland) (Con)
Greene, Jamie (West Scotland) (Con)

The Convener: The result of the division is: For 6, Against 2, Abstentions 0.

Amendment 20 agreed to.

Amendment 21 moved—[Ash Regan]—and agreed to.

Section 18, as amended, agreed to.

Section 19—Regulations: consultation

Amendment 89 moved—[Jamie Greene].

The Convener: The question is, that amendment 89 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Clark, Katy (West Scotland) (Lab)
Findlay, Russell (West Scotland) (Con)
Greene, Jamie (West Scotland) (Con)
McNeill, Pauline (Glasgow) (Lab)

Against

MacGregor, Fulton (Coatbridge and Chryston) (SNP)
Mackay, Rona (Strathkelvin and Bearsden) (SNP)
Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
Stevenson, Collette (East Kilbride) (SNP)

The Convener: The result of the division is: For 4, Against 4, Abstentions 0.

There is an equality of votes. Therefore, as convener, I shall use my casting vote to vote against the amendment.

Amendment 89 disagreed to.

Amendment 52 not moved.

Section 19 agreed to.

After section 19

Amendment 53 not moved.

The Convener: Amendment 90, in the name of Jamie Greene, is grouped with amendments 56, 129 and 57.

Jamie Greene: I have two amendments in this group and Colette Stevenson has the other two, which I will come on to.

My two amendments are on post-legislative scrutiny, which is a theme that often crops up at stage 2 and is often notably absent in the first draft of legislation. Nevertheless, it is a common feature, and the wording that I am proposing is based on wording that has been not only debated already but agreed and included in legislation.

Amendment 90 seeks to introduce a review of the licensing scheme. It is further to the debate that we had last week about the concept and nature of the scheme and to the long conversation that we had about the fee structure and the effect that it might have on applications. Although there is consensus—or, at least, acceptance—among the committee that there will be a licensing scheme of sorts, members have sought to improve it.

Because much of the scheme will be subject to future legislation, although not primary legislation, with limited opportunity—and I say that respectfully—for the committee to review the nature of the Government's proposals, I felt it important to introduce a review that would ask ministers to

“carry out a review of the operation and”—

more important—the

“effectiveness of the ... scheme.”

Subsection (2) of the proposed new section to be inserted by amendment 90 makes three asks of the review that the Government must undertake, the first of which is that there be a review of the “fee ... and its appropriateness”. I am stipulating that the Government review not the nature of the fee—we have had the debate about rises and whether there should be a fee at all—but simply the “fee ... and its appropriateness”, which is the key word in that paragraph.

Secondly, the review should consider

“whether there is any evidence that a fee is a deterrent to a person or persons applying for a fireworks”

licence. The Government will not know that until after the scheme has been launched and it has quantitative data on whether the scheme is putting

people off, as members have suggested and as the committee discussed robustly at stage 1.

Lastly, the review should include consideration of

“whether there is any evidence that the ... scheme is contributing to illegal activity including the illegal supply and purchase of fireworks.”

It is clear that, by “illegal activity”, I mean the black market in any form.

I am also asking that, on completion of the review, ministers

“(a) prepare and publish a report of the review's findings,

(b) lay a copy of the report before ... Parliament,”

and, thereafter,

“(c) make such proposals ... as they consider appropriate”

to change the licensing scheme where it is clear that there is a need to do so.

It might transpire that the review of those three points concludes that the licence scheme is working well, effectively and appropriately, in which case no further changes need to be made. However, without putting a requirement on the face of the bill for such a review to take place, there is, first of all, no guarantee that it will take place, other than the minister promising, “Of course we will do that.” Secondly, and more important, such a requirement might give comfort to members who have genuine concerns.

Of course, this concerns not just members. Yesterday, the committee received a letter from the British Fireworks Association, which stated that

“this Bill will NOT reduce the misuse of Fireworks. It will have precisely the opposite effect and will create a blackmarket ... in Scotland, the likes of which has never been seen before.”

I do not have a particular view on that theory, but that is the view of the people who are at the coalface of the industry. As it is clear that people do have reservations about the proposals, a review is a sensible way of allowing the Government to proceed with its plans while making good on its promise to be open-minded and transparent about their efficacy.

Amendment 129 is slightly different, because it seeks a review of the legislation itself, and its requirements are not as specific as the asks with regard to the licensing scheme. Again, the wording is fairly straightforward; I am asking the Government to prepare and publish a review on the legislation itself. In doing so, ministers would again be required to prepare and publish a report and lay it before Parliament for discussion. More important, in carrying out the review, ministers should

“consult such persons as they consider appropriate.”

In previous amendments, I have tried to outline the people whom I think should be consulted, but they were rejected by the Government, which is fine. I hope that this amendment is more helpful in that respect.

In my view, the timescales are reasonable; the review period is

“no later than 3 years after the commencement”

of the act and

“at least once ... every ... 3 years thereafter.”

That will ensure a cross-parliamentary session review of the legislation. If the Government has a problem with the timescales, I am very happy to work with it on changing them.

Post-legislative scrutiny and review is an important concept and accepted practice. I therefore welcome and support amendments 56 and 57, lodged by Collette Stevenson, which also impose a requirement on ministers to report on how effective the legislation has been. However, amendment 90 itself goes further by seeking a review of the licensing scheme, which would be additional to post-legislative scrutiny, and I hope that members will carefully consider, debate and support it.

I move amendment 90.

Collette Stevenson (East Kilbride) (SNP): I am pleased to propose amendments 56 and 57, having raised the issue of post-legislative scrutiny of the bill alongside my colleagues on the Criminal Justice Committee in our stage 1 report.

As a committee, we spent considerable time discussing the data available on the impact of fireworks and the importance of a post-legislative scrutiny review of the bill’s implementation. I therefore welcome the minister’s response to our recommendations on those issues, her willingness to give them further consideration and the opportunity to meet her to discuss them further.

Amendments 56 and 57 seek to place a duty on Scottish ministers to report to Parliament on the operation of the bill’s provisions within five years following royal assent. As we heard from the minister at stage 1 and as is outlined in the bill’s accompanying documents, it is expected that the provisions will come into force over the first two years following royal assent. In practice, that provides three years for gathering the required information and for monitoring and reporting on any change. That appears to me a proportionate timescale to allow for the implementation and initial operation of the proposed measures and, therefore, to ensure that the report that is submitted is sufficiently detailed and worthwhile. Amendment 56 also sets out that the report would

be required to include appropriate information about criminal proceedings and convictions, the number of incidents in the reporting period and, importantly, the views and experiences of people in Scotland on how firework use has been impacted in their communities.

09:45

Amendment 129, in the name of Mr Greene, would, like my amendments, require Scottish ministers to

“review the operation and effectiveness of this Act.”

I believe that we are aligned in our desire to make certain that the legislation is working as intended, and to afford Parliament due levels of scrutiny, but I consider that commencing the reporting period on the day of royal assent, as set out in my amendments, will mean that there is no delay. The period is easily understandable and will not be tied to individual provisions coming into force. In my view, my amendments improve the transparency of the bill’s implementation, allowing members to develop a full understanding of how requirements are being met and to ensure that the legislation is working effectively.

I hope that members will support amendments 56 and 57.

Rona Mackay (Strathkelvin and Bearsden) (SNP): I support Collette Stevenson’s amendments 56 and 57 for the reasons that she has just outlined, which I will not repeat.

I do not think that Jamie Greene’s amendments are necessary, again for the reasons that have been outlined. As I understand it, Mr Greene wants to review the “appropriateness” of a fee, but I do not think that that can be done retrospectively. The fee is very much part of this bill, as is the licensing system. I do not think that we can go back and almost undermine the bill’s purpose and effect. For those reasons, I will not be supporting his amendments.

Pauline McNeill (Glasgow) (Lab): I thank Jamie Greene and Collette Stevenson for their amendments, which are critical. They all align with the committee’s stage 1 report, in which we all expressed a lot of concerns about the bill.

On Jamie Greene’s amendments 129 and 90, the biggest weakness in the bill for me is the licensing scheme and the lack of detail on it, given that a lot will be done through statutory instruments. That seems to warrant a review of the scheme.

I was concerned about the letter from the British Firework Association that Jamie Greene referred to and which we got only a couple of days ago. I

presume that the minister has had the opportunity to read it, but it says:

“In respect of the licensing requirements, the Minister stated that a delivery driver would have a legal obligation to check for a licence, as they do with other age restricted products. Delivery drivers have a duty to check for age verification on age restricted products, not a licence. Notwithstanding this, the way to circumvent this (and we see already) is to send the product in plain packaging.”

It also says:

“for the record, the Minister states that Fireworks can only be delivered by specialist couriers. This is incorrect, fireworks (under ADR regulations) can be delivered in limited quantities (up to 500kg ...)”.

That alludes to the knock-on effect of people not using the licensing scheme. We do not know yet whether people will see the scheme as onerous or not, and that is where the whole debate about the black market comes in. It all ties together.

Whether the issue can be tied up at stage 3 with amendments on a review of the legislation, I do not know. For me, a specific review of the licensing scheme is important, given my concerns about whether such a scheme is the best way of controlling fireworks. I would like to hear from the minister, but I welcome and intend to vote for both pairs of amendments.

Fulton MacGregor (Coatbridge and Chryston) (SNP): I speak in support of amendments 56 and 57, in the name of Collette Stevenson, which are a fair reflection of where the committee got to in its discussion of the matter. Although I am sympathetic to Jamie Greene’s amendment 129, I think that amendments 56 and 57 capture the spirit of that discussion. Given what Collette Stevenson has said about working with the minister before lodging the amendments and given that they are very similar to amendment 129, I hope that Jamie will consider not moving his amendment.

I hear what Pauline McNeill said in relation to amendment 90. Something could be lodged at stage 3 to capture the point that she highlighted, but I do not think that the amendment is necessary as currently drafted. One of the main reasons for taking that view is that it will be quite complicated to get an idea of the effect of the scheme, given that other factors such as education and training courses will be taken into account. I will listen to what the minister has to say, but I am not minded to support amendment 90.

The other three amendments in the group are good, but amendments 56 and 57 will get my support.

Ash Regan: I thank Ms Stevenson for meeting me to discuss her amendments. I welcome the detail that she has given in highlighting the

importance of post-legislative scrutiny in implementing the legislation.

The Scottish Government set out in the business and regulatory impact assessment its intention to undertake a full review of the measures that are introduced through the legislation within three to five years of implementation. However, I recognise that enshrining that in the legislation would strengthen that commitment and reassure the committee with regard to the contents and timeframe of any review.

I consider that amendments 56 and 57 strike an appropriate balance; they provide enough time for meaningful data to be reported, for the lived experience of people in Scotland to be taken into account and for the Scottish Government to be held to account. I welcome the committee’s call in its stage 1 report for such amendments and Ms Stevenson’s work in bringing them before Parliament, and I therefore support amendments 56 and 57.

Amendment 90, lodged by Mr Greene, requires a review solely of the licensing scheme and, in particular, of the potential for unintended consequences as a result of its implementation. I understand that the amendment has been lodged to ensure that there will be no upsurge in illegal activity following the licensing scheme’s implementation and that the licensing fee does not deter those who would enjoy fireworks responsibly. However, I do not consider that the requirement for a review of the licensing scheme is necessary, given that both Ms Stevenson’s amendments—and, indeed, Mr Greene’s amendment 129—would require a review of the implementation of the legislation as a whole. A review of the licensing scheme would be required to take place under any such review.

On amendment 129, as I have said, I welcome the committee’s call for a review of the implementation of the legislation. However, I consider amendments 56 and 57 to be more robust in that regard by providing for the information that any such review must include while leaving no room for interpretation regarding the reporting period.

I note that a key addition of amendment 129 is for a review to be required to take place every three years. All policies are, of course, continually monitored, but I do not believe that a review every three years thereafter is either proportionate or necessary. I therefore ask Mr Greene not to press amendment 90 and not to move amendment 129.

Although I consider that Ms McNeill was significantly off-topic in her contribution, I will take this opportunity to rebut one of her points, if that is okay with you, convener.

Pauline McNeill: I talked about the licensing scheme, which Jamie Greene's amendment 90 refers to.

Ash Regan: I have already said that that aspect will be covered under the review, as was set out in the BRIA.

Section 5 already provides that the supplier must take

"reasonable steps to establish that the person"

who they are supplying

"had a ... licence or was exempt under schedule 1."

That extends to wider parts of the supply process. At that point, the supplier would be required to check the licence status of the recipient to ensure that they do not commit the offence of supplying to an unlicensed person.

I reiterate the point that I made at last week's committee that it is not possible to send fireworks through the normal postal service. Sending dangerous items in the post is an offence, and because of the risks and required safety precautions, most couriers will not deliver fireworks to people's homes. Fireworks retailers who provide online mail-order sales generally rely on specialist couriers to deliver them.

Jamie Greene: I thank members for their contributions. From the outset, I have been happy to support Collette Stevenson's approach to a review of the legislation's operation. Her amendment is probably worded better than mine—perhaps she had assistance from people who draft amendments better than I do. Because I am happy to support her approach, I will not move amendment 129, which does the same thing as amendment 56.

However, amendment 90 is a different matter. Rona Mackay said that the fee cannot be reviewed retrospectively, but the whole point is that I want it to be reviewed retrospectively. At the moment, it is unclear from the proposal for reviewing the legislation that there will be a specific review of the fee; whether it has been effective or has led to a lack of uptake in the scheme; and whether that has led to a black market or has had unintended consequences, as I propose it will. The committee discussed those possibilities at stage 1.

Pauline McNeill was right to say that there are still concerns and issues. What is key is that we think about the number of people who currently purchase fireworks each year, which is estimated at around 250,000, with each person probably making multiple purchases. We have a rough idea of usage, so what we are looking from the Government is a commitment to looking at how many licences are issued annually. We will not know what, when and how much people purchase,

for all the reasons that we debated last week, but if it transpires that only a low number has been issued, that clearly raises an issue.

Last week, we had a wide-ranging discussion about the fee amount. Although we do not want to set the fee amount in the bill, it is important that the Government does some work to identify whether the fee is putting people off acquiring a licence. The point of the licence is that people need to take the training certification course to get it, which we all think will be useful in improving firework use and safety.

Rona Mackay: Will the member take an intervention?

Jamie Greene: I will, in one second.

We want to encourage people to take up the licence. I am simply asking the Government to review the scheme itself, because it might become apparent that, for whatever reason, it is not working. That is what makes amendment 90 different from amendment 129, which takes a much more general approach to, for example, some of the statistics and data around crime and so on.

I look for a commitment from the minister that she will be forthcoming and transparent with the data about crime that we have struggled to get throughout this process. As a result, we should carry out an annual review of prosecution rates, the maximum fines received and the number of people prosecuted not just under this legislation but under all fireworks-related legislation and that information should come either to the committee or the Parliament. Ideally, that would happen on an annual basis—although that has not been proposed in the wording with regard to the review, as I would have liked—and it would mean that we could have a sensible conversation about whether this bill and other legislation are being used to their full extent and properly. The numbers speak for themselves, and existing legislation is clearly not being used to its full capacity.

I will now take your intervention, Ms Mackay.

Rona Mackay: I want to clarify a point about the fee. I understand that amendment 90 is about the appropriateness of the fee, but I am not sure whether you want the review to look at reducing the fee amount or abandoning the fee altogether. We cannot abandon the fee, because it is an integral part of the scheme and goes with the bill as a whole. I am just unclear about why you want to review the fee and any reduction in uptake—which, by the way, I am not sure how you would measure.

10:00

Jamie Greene: I am happy to clarify that. I have on purpose not said what the Government should specifically do after its review—all I have proposed is that it should make proposals in relation to the scheme as it considers appropriate. That would give ministers a wide-ranging power. If through consultation or analysis—academic or otherwise—it transpires that the fee is putting people off, and the Government makes a policy decision to ditch the fee but to continue with the licence scheme, that will be a political decision for the Government of the day. If it transpires that the fee is too low and does not cover, say, operating costs, and therefore needs to go up—and modelling has been done on the effect that that would have—ministers can do that, too.

Ministers would have the flexibility after carrying out the review to decide what effect the scheme is having on firework safety and whether the fee is playing any part in take-up. That is not an onerous ask. The suggestion that the information would not be available is unhelpful—it should be. In any case, the reason that I have not been specific is to give ministers that flexibility.

I will press amendment 90 for that reason, but I am happy to concede amendment 129 in favour of my colleague's alternative.

The Convener: The question is, that amendment 90 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Clark, Katy (West Scotland) (Lab)
Findlay, Russell (West Scotland) (Con)
Greene, Jamie (West Scotland) (Con)
McNeill, Pauline (Glasgow) (Lab)

Against

MacGregor, Fulton (Coatbridge and Chryston) (SNP)
Mackay, Rona (Strathkelvin and Bearsden) (SNP)
Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
Stevenson, Collette (East Kilbride) (SNP)

The Convener: The result of the division is: For 4, Against 4, Abstentions 0.

There is an equality of votes. Therefore, I, as convener, shall use my casting vote to vote against the amendment.

Amendment 90 disagreed to.

Section 20 agreed to.

Section 21—Prohibition on providing fireworks or pyrotechnic articles to children

Amendments 91 and 92 not moved.

Section 21 agreed to.

Section 22—Restriction on days of supply of fireworks

The Convener: Amendment 93, in the name of Jamie Greene, is grouped with amendments 96, 2, 97 and 22. I remind members that, if amendment 96 is agreed to, I cannot call amendment 2 due to pre-emption.

Jamie Greene: Group 14 relates to the restrictions on days of supply of fireworks, and group 15 relates to the restrictions on days of use of fireworks. Some of the amendments are consequential and relate to the main theme of this group but, essentially, they seek to remove the Government's proposed restrictions on days when fireworks may be supplied.

There was a wide-ranging discussion at stage 1 about the arbitrary nature of when fireworks can be sold and by whom. There is a spectrum of views on that. There are people who want to ban the sale of fireworks altogether, for lots of reasons, and we have spoken about those. There are people who believe that restricting the sale and supply of fireworks altogether is not something that they could support. To be fair, the Government has been trying to find a middle ground throughout the process, but its proposal raises some problems.

When the House of Commons Petitions Committee reviewed the issue, one of its conclusions, notably, was that greater restrictions and controls on the sale of fireworks would not be appropriate because of the very real risk of creating a black market and making matters worse, not better. When the BFA gave evidence to this committee, it claimed that the measures will

“basically ... encourage people to source product from unlicensed or unauthorised dealers.”—[*Official Report, Criminal Justice Committee*, 23 March 2022; c 14.]

The Government's proposal in effect shuts down those in the industry who work all year round. As we identified and spoke about at great length in our stage 1 report, two types of retailers are involved: those who are specialist fireworks retailers who sell all year round, and other types of physical retailers who sell occasionally or at different times of the year, for whom the bill may be less of a problem. The committee has to accept that, by passing the bill, we will be shutting down that cottage industry, whether we like it or not.

The industry has told us that it does not want to have to come back in a couple of years and say, “We told you so—we told you about the unintended consequences of people purchasing dangerous unregulated products from unregulated and unlicensed people.”

Questions remain over the sale of fireworks by larger retailers. I have to say on the record that none of those retailers spoke to us, which was

unhelpful. Unfortunately, we do not know whether they will even bother to stock fireworks if they are limited to selling them on certain days of the year. We do not know how they will approach the issue from a staffing point of view, what training will be provided on the licensing scheme, and whether it is even worth the hassle for them. If they choose not to stock fireworks, we do not know what effect that will have on the potential for stockpiling or on the black market, whether that is online illicit sales or the scenario of a white van man selling fireworks in communities where there is problematic behaviour. We do not know whether retailers will be able or willing to store hundreds of kilograms of fireworks if they can sell only on certain days.

We do not have the answer to any of those questions, either because retailers have not been consulted or because they have been consulted and have not been forthcoming with their views. There is an explicit point of view that the proposals may lead to more injuries, which defeats the point of the bill. In effect, we are taking the ability to purchase fireworks on nearly 365 days a year and condensing that into 37 days.

With my amendments in the group, I am not saying that there should not be restrictions on the supply of fireworks, but I am asking the Government to take a step back and revisit its consultation process with stakeholders on the issue, have a proper think about the dates and make a better case as to why it has chosen particular dates. I am asking the Government to answer some of those unanswered questions and consult the people who have told us that they have not been consulted properly or that the consultation process that they have been through was “inadequate”—that is their word, not mine. The Government can then come back to the Parliament with further proposals for regulations to restrict the supply.

Before anyone claims otherwise, I point out that I am not seeking to simply remove the restriction on supply and keep the status quo, in which there is supply all year round. I understand that that would defeat the point of the bill, but that is not what I am trying to achieve. Under amendment 97, ministers would have to consult and then lay draft regulations that we could debate and discuss, and on which we could hear from stakeholders. I have suggested some stakeholders but, if members do not like that list, it is no problem to change it at stage 3. More importantly, under proposed new section 22 (5D)(c), which amendment 97 would insert, when laying the regulations, the Government would have to explain how they will improve public safety.

That is at the core of all this—we all want to improve public safety. However, there are

misgivings that the proposed restricted dates in the bill will achieve the opposite. I do not know what the future holds, but I like to think that we will pass legislation that improves public safety and that does not have unintended consequences.

I am keen to hear what members and the minister have to say about my amendments. The same goes for my amendments in the next group, which is on restrictions on use, although I will make a slightly different argument on that.

I move amendment 93.

Pauline McNeill: Amendment 2 is a consequence of what I am seeking to do in the next group of amendments, which relates to the days on which fireworks can be used. This amendment, which is about the days of supply of fireworks, is consequential to the amendments that relate to the days of use, so I will leave the substantive debate for the next group of amendments.

I have some sympathy with Jamie Greene’s argument about the arbitrary nature of the days on which fireworks can be sold. That needs to be clear as we approach stage 3. On the connection between the supply and the use of fireworks, my concern is that, given that part of the concept of the bill is to deal with the stress that communities feel around the times when fireworks are used, there is quite a wide range of days on which they can be used. As a consequence, amendment 2 is designed to reduce the number of days on which fireworks are supplied. I will leave my other arguments until the debate on the next group of amendments.

Ash Regan: Currently, all retailers who wish to sell fireworks are required to have an appropriate storage licence in place, and they are able to sell fireworks on set dates throughout the year without holding an additional sales licence. The dates on which an additional sales licence is not required are set out in the Fireworks Regulations 2004. Therefore, I have lodged amendment 22 to align the permitted days of supply in the bill with the periods where an additional sales licence is not required by those regulations. That will permit Scottish retailers to supply fireworks during the permitted periods of supply that are set out in the bill without requiring an all-year storage licence. I hope that members will support amendment 22.

Amendments 93, 96 and 97, which were lodged by Mr Greene, seek to remove the permitted days of supply as set out in the bill and replace them with a regulation-making power to set those out instead. A majority of those who responded to our 2021 consultation on the bill’s provisions agreed with the introduction of restrictions on the days on which fireworks can be sold to the general public. The proposed permitted periods were clearly set

out in the consultation. The support for that proposal in the consultation was primarily on the basis that it would provide more clarity to the public as to when fireworks are likely to be used and therefore enable people to better predict their use and plan and mitigate accordingly.

Therefore, I consider that the provision in the bill provides the right balance of certainty and flexibility. It is the result of extensive consultation with relevant groups and is aligned with existing legislation. The bill includes a power to amend the days if necessary. Therefore, I do not support those amendments.

Mr Greene and Ms McNeill referred to the permitted dates as “arbitrary”. I want to rebut that in the strongest possible terms. The permitted dates broadly align with existing periods. Therefore, they are not arbitrary, and they have been consulted on extensively. On the black market issue that Mr Greene raised in his contribution, I sent a letter to the committee last week that set out the extensive steps that will be taken on that issue.

Mr Greene also raised a point about the retailers that would continue to supply and sell fireworks. There is an established group of major retailers. We have had some engagement with them, and there have been no indications by any of the retailers in that group that they intend to change their plans to sell fireworks. Therefore, it is quite simply not correct for Mr Greene to say that the bill will shut down the industry. The vast majority of retailers can continue to sell fireworks at the traditional times of the year.

Jamie Greene: Is the minister seriously suggesting that businesses that sell fireworks all year round, which will now be restricted to selling them on only 37 days of the year, will feasibly be able to continue to operate as going concerns? Nobody whom I have spoken to in the industry believes that.

Ash Regan: That is a different point altogether. The member referred to supermarkets and so on, which represent the vast majority of the retailers concerned—there are more than 300. At the moment, they sell fireworks only at the traditional times of the year. The permitted dates of supply in the bill align broadly with those dates, so these changes to the permitted dates of supply do not involve a huge change for those retailers.

The specialist retailers that Mr Greene has mentioned are, of course, a different category. They sell all year round. There is a very small number of those retailers in Scotland—we estimate that there are nine or 10 such businesses—and we will discuss them when we discuss the compensation scheme. If it is okay with Jamie Greene, I suggest that we leave that

argument for now and pick it up as we move through the groups.

10:15

Amendment 2, which was lodged by Ms McNeill, looks to shorten the permitted period of supply over the bonfire period to nine days as opposed to the 15 days currently provided for in the bill. The bill will, for the first time, set out the permitted periods in which people in Scotland can be supplied with fireworks. We have set out in the bill the periods that we think, based on the consultation, reflect the right balance between the desire to celebrate special days in our communities while still curtailing the general supply and use of fireworks. I believe that limiting the supply further at that time could risk a situation in which people have a very limited number of days to purchase fireworks and are inadvertently encouraged to store them in domestic settings. It also risks squeezing the supply chain over the very busiest periods for fireworks purchases and retailers overstocking, which could lead to safety issues around storage. If there is evidence that permitted periods of supply should be reduced further in the future, the bill provides an opportunity to do that via secondary legislation. Therefore, I cannot support amendment 2, and I encourage Ms McNeill not to move it.

Fulton MacGregor: I am happy to support amendment 22, which is in the name of the minister.

On Jamie Greene’s amendments, we talked a lot about this area at stage 1, as the minister will know, and I led the questioning of witnesses on the area for a number of weeks. Jamie Greene talks about there being a debate and different views, but I think that the debate and the different views are among members as opposed to the witnesses, because we had quite consistent feedback from the witnesses. I hope that the minister does not mind my saying that I tried to find some doubt among the witnesses that restricting the days was required, but I could not find any. From the criminal justice agencies to witnesses involved in the welfare of people or animals, they were all pretty supportive of the approach. That backs up the consultation results that the minister referred to. I accept that the exception was possibly the fireworks industry, but that was not its primary concern about the bill; the issue was way down its list. It had other concerns about the bill as a whole, which have already been articulated.

As a result, I do not see the point in taking evidence at quite substantial lengths, as we have done, just to say that we still do not agree with what has been proposed. I am therefore not minded to support what has been proposed.

Although I initially had some concerns about restricting the days, they were not backed up by the evidence that we received. The evidence was pretty solid, and it alleviated any concerns that I had, so I do not feel inclined to vote for those amendments.

On Pauline McNeill's amendment 2, she has said that she will develop her arguments in the debate on the next group, so, out of fairness, I will leave that issue until then.

Jamie Greene: There are different types of retailer, and they interact with consumers in very different ways. This is not about compensation—that is an entirely different conversation. By talking about compensation, the minister has essentially concluded that she is shutting down the industry; otherwise there would not be a need for compensation.

It is clear from the retailers in question that they are trying to protect small, family-run businesses—it is human nature to do so—but their relationship with their consumers is very different from the relationship that someone who is purchasing online has or someone's relationship with any large retailer that sells a million other products. Their ability to interact with customers, to make them aware of safety concerns and to recommend products is different. For example, the theme of lower-volume fireworks came up commonly. They specifically are in a very good place to promote and push things, and I think that we would all prefer to see more of that. Those products are widely available. That one-to-one relationship with the consumer will be lost, and no one has really answered that question. The case has not been made clear.

I understand that the Government wants to restrict the use of fireworks but the effect that the specific 37-day restriction on the sale of fireworks will have on people's behaviour is unclear. I refer to the issues of stockpiling and people looking elsewhere for products outside of that environment. People who do not have a licence and still want to buy fireworks will do it anyway, but if they cannot buy them in a legal setting from a legal retailer who has specialist knowledge of the product, where else will they get them? That is what bothers us and the wider public.

I have put those questions through my amendments and I do not think that they have been answered adequately. I think those questions are justified as we look at the proposed legislation. As is often the case with amendments, however, I feel like I am fighting a futile battle. The numbers on the committee speak for themselves, and none of my amendments will pass, but it is important to make the point.

Amendment 93, by agreement, withdrawn.

Amendments 94 to 96, 2 and 97 not moved.

Section 22 agreed to.

After section 22

Amendment 22 moved—[Ash Regan]—and agreed to.

Section 23—Restriction on days of use of fireworks

The Convener: Amendment 98, in the name of Jamie Greene, is grouped with amendments 101, 3, 4, 102, 103 and 5. If amendment 101 is agreed to, I will be unable to call amendments 3 and 4, because of pre-emption.

Jamie Greene: My amendments in this group, which is on restrictions on the days of use of fireworks, follow on from the previous group, which was on restrictions on the days of supply. For the benefit of those who have not been following the bill, I note that the number of days of use is greater than the number of days of supply that the Government proposes. In response to previous comments, the minister said that the word "arbitrary" does not appropriately describe the dates, but I will argue to the contrary.

I understand that there is a spectrum of views on the issue that goes from those who do not want fireworks to be used at any point to those who wish for the status quo. At some point, the Government will have to choose a set of dates if its proposal is to restrict the use of fireworks. I have a couple of problems with the 57 days that the Government has chosen, and the first problem is that they might cause confusion. Although I understand the reason why the dates have been chosen, it is unclear why other dates have not been chosen. That is the core of my argument.

It is welcome that the Chinese new year and Diwali are included, which shows sensitivity towards and respect for the communities who use fireworks at those times. I do not challenge that approach. It is the case that fireworks are also used around bonfire night—that used to be the only day when they were used, to be honest—as well as at new year and other celebrations. However, 57 days is quite a lot of days. Some people will argue that ministers might be forced to add to the list, which they will have the power to do.

It is in no way clear why certain religious groups are excluded from the list. I have no idea why Eid and Hanukkah are excluded. I also have no idea why other, secular festivals are excluded. It is not true that fireworks are not used at such festivals. While we were debating the bill, during Ramadan, fireworks were going off during the day to celebrate that period, which is also not included in the list. People of other religions and none might

challenge the Government in that regard, and rightly so.

The good intention of the bill is to restrict the use of fireworks, but we are in essence encouraging the use of fireworks on specified dates and we could end up with a scenario in which those dates are added to. It will take only one organisation challenging the bill successfully in court to open up a Pandora's box of having to add more dates to the restrictive list. I do not have a view on whether there are too many days in the list or not enough. I understand that the Government is seeking to strike a balance. However, we often try to avoid putting lists in bills, because lists are by their nature exclusive and exclusionary.

A specialist fireworks provider who provided a written submission to the committee said:

"There is also the total lack of equality as the bill favours Chinese new year, diwali and discriminates against the Scottish public."

It made a good point. There is also confusion among the public about dates, because the dates of certain festivals in the annual calendar change. Diwali is one of them. How many members of the wider public know that? How many people will phone the police when they hear fireworks, not knowing that the date is permitted in the current year even though it was not permitted in the previous year and it will not be permitted in future years?

If fireworks go off on a restricted day, how will the police know whether they are part of an organised display that a group or a private individual has paid a company to put on? What is to prevent the Muslim community from paying a company that is exempt from the licensing scheme and the restrictions to put on a display on its behalf? It makes a mockery of the scheme.

When a witness from the Scottish Police Federation gave evidence to us, they summed up another point about the confusion when it comes to the police's interaction with the legislation. They said that the public

"need to know what is in the legislation".

They added:

"I have already spoken to people who have told me that fireworks are going to be banned next year, which means that they have got the wrong message. I suggest that we need to get ahead of the game."—[*Official Report, Criminal Justice Committee*, 16 March 2022; c 14.]

I do not disagree with that.

Amendment 98 and other amendments in the group, like amendments in the previous group, ask the Government to go away and have a proper think. I ask the Government to think about the dates that it is proposing, to ensure that it is

confident that it has consulted everyone who will be affected and to come back with draft regulations and all the other processes that I propose. It is clear that amendment 98 will not be agreed to if I press it. Nonetheless, the questions that I have raised have not been answered. I look forward to hearing what the minister has to say.

I move amendment 98.

10:30

Pauline McNeill: To continue the debate that Jamie Greene has begun, it is important to be clear about what we are attempting to do. I make it clear that my amendments in the group are probing amendments, for that reason; I want to hear all the arguments.

The minister made a fair point when she said that a lot of the requirements around dates are already in existence. To be honest, however, I am not sure that members of the public understand that those are the dates on which fireworks are permitted and that some additional dates have been provided. I am happy to be contradicted if I have misunderstood this but, in my mind, bonfire season is in November, when you expect to hear fireworks going off in people's back gardens more than at any other time of the year.

Even if the dates are in previous legislation, we should debate why the period in which fireworks are permitted is from 27 October to 12 November, which is quite a long period. People might be concerned about the social aspect of fireworks going off in people's back gardens and the nuisance that it causes. People also want to set off fireworks at new year, so why is one of the dates 26 December, which is not new year? I am just probing the issue. I know that those are the existing dates, but what is the logic of that?

I will take a slightly different tack from the one that Jamie Greene has taken. My understanding is that the dates have been chosen not necessarily to capture all religious festivals but to capture festivals, whether they are religious or not, that have a traditional firework element to them. I am happy to be more informed on what those festivals are. I am aware that the minister was asked in Parliament why Eid is not included, and I felt satisfied with her answer. I would be concerned if Eid was included, because there is more than one Eid and the dates move. Given that the dates of other festivals also move, we can see why we need to debate the issue. How will the public understand on which dates setting off fireworks is an offence and on which dates it is not?

Jamie Greene: That is my point. My amendments ask the Government to go away, have a proper think about the dates and come back to us. The committee could then have the

debate again, quickly and soon. It will not make sense to people that two religions—or arguably three, if we include the Christian religion—have been included, with the Government being specific about the dates on which fireworks are permitted to be used, but others have been excluded. As you said, the wider public will not understand why this is included but that is excluded. Whether an awareness-raising exercise needs to take place is another matter.

Pauline McNeill: I agree 100 per cent.

Jamie Greene: That is why I said that it is arbitrary.

Pauline McNeill: The most important point is that people should understand on which days they can use fireworks and on which days they cannot. I am less concerned about the choosing of festivals. I might need to be more informed about this, but I have attended many Eid celebrations and none involved fireworks. Personally, I did not see that that is the division that the minister is choosing. If it is, there will be more problems.

My primary concern relates to the point that the 57 days can be added to, and I agree with Jamie Greene in that regard. If ministers felt that they had to add other periods, the number of days would expand beyond 57, which would somewhat undermine the response to the concerns that the public might have about the days on which fireworks can be set off.

I know that we will have a discussion about information, but it is important that someone at home who hears fireworks going off knows whether they can lift the phone because it is an offence. We need to tie things together so that people know when they are entitled to phone the police to say, “Fireworks are going off on a day on which that is not permitted—please take action.” It is important that that is addressed so that this can work.

My biggest concern is that, if the 57 days become 67 days, we will get to a place where fireworks will be permitted for a substantial part of the year.

I would have thought that there will have been organised displays for a lot of the festivals and dates that have been mentioned. I have been to Diwali and Vaisakhi displays, and they tend to be organised. In my mind, organised displays should be encouraged for larger groups. I do not see that the bill’s purpose is to try to regulate what religious organisations or communities such as the Chinese community are doing. I do not think that that is what the bill was designed to do, and the discussion is getting a bit confusing at times. I will leave it there.

Russell Findlay (West Scotland) (Con): I agree with Jamie Greene in respect of the dates. It seems that the only direction that the number of dates is going to go in is upwards when people from other cultures, religions or causes that use fireworks seek to have their dates included. I am not entirely sure what the mechanism for that will be, whether it will be straightforward, whether it will involve going to court or whether the Government will be sympathetic to applicants. An obvious example is 4 July. Americans living in Scotland celebrate 4 July with fireworks, as they do in their homeland. Under the bill as it stands, they would be prohibited from doing so. I dare say that, if I went through a calendar, I could find dates that are relevant to all sorts of other groups, some of which Jamie Greene has already identified.

Pauline McNeill: We received good evidence from a retailer, but it was slightly concerning when he said that he was selling fireworks for birthdays and big anniversary events. Are you concerned that there might be a growing culture of people using fireworks for big events that we have not factored into the legislation?

Russell Findlay: Indeed.

Going back to the number of days, it might surprise people who are watching to hear that, right now, people can let off fireworks 365 days of the year. That is correct, is it not? The bill seeks to prohibit that but, in so doing, it potentially creates the problem of the exclusion of other groups. We have the additional phenomenon of people using fireworks to mark big occasions such as weddings and birthdays.

Going back to a point that was made earlier, I note that limiting sales will mean that there is a risk of stockpiling. If people realise that their date of intended use does not fall within the 57 days and there is no clear or sympathetic mechanism to have it included—or if that is a non-starter because the event is, for example, a wedding—we might find that people tend to stockpile. They could get a licence, buy fireworks and hold on to them for the date in question.

The issue requires clarification, so I agree with Jamie Greene’s amendments.

Rona Mackay: I am a bit confused. There seems to be an argument for agreeing with restricting the dates but, on the other hand, you are saying, “What about everyone else?” and wanting to make it open ended. I am confused about what Jamie Greene is trying to do and what the point of the amendments is.

Russell Findlay: The point is that, whether we are arguing for more or fewer dates, we have a bill that defines what Jamie Greene has described as arbitrary dates—the minister disagrees with that description—and it seems inevitable from the

discussions that we have had that there will be challenges and that the number of days is likely to grow. Whether the use of fireworks on more days happens through a legal expansion of the dates or through the black market, we need to be mindful that it is a likely consequence.

Rona Mackay: I thought that we all understood that there has been extensive consultation with stakeholders, but I am happy to let the minister answer.

Fulton MacGregor: This debate is illustrative of the debate around the whole bill and the difficult position that the Government, the minister and her colleagues have been in. I know from all my time as an MSP—colleagues have spoken about this already—that, at certain times of the year, our inboxes are flooded with messages from people who have children with learning difficulties or who own pets, and who are distressed about the impact of fireworks. On the other hand, we are trying to allow some freedom. The current group of amendments and the debate on them capture the essence of the bill and the difficult position that the Government has been in.

I have some sympathy with what Jamie Greene said about Eid and other festivals. I raised that point in committee at stage 1. It came across clearly, however, that the proposed dates have been very well thought out. They have not just been plucked out of the air, and I do not think that anybody is suggesting that they have been. A lot of work has been put into them and it appears that all the relevant bodies have been consulted. There is scope in the bill for the dates to be added to if things change and if fireworks become an important part of certain celebrations. I do not get the sense that anybody has been excluded or left out, and that view has not come to us in evidence.

I therefore do not think that Pauline McNeill's amendments in the group are necessary. I accept that they are probing amendments and that her purpose is to get more information. My worry about the way that they are written is that increasing the number of days would potentially lead to people stockpiling fireworks in their homes and so on. I know that Pauline McNeill has reflected on that point.

Pauline McNeill: In response to Rona Mackay, I note that, in my amendments, I was seeking to probe the need to have 57 days and to reduce that to include only what I see as the seasons of fireworks. I have a similar concern in that, whatever days we choose by regulation, we could end up with even more days, which would be of concern to everyone.

Fulton MacGregor: Thank you for clarifying that.

Ash Regan: The permitted periods in the bill are broadly in line with the traditional fireworks periods, as we discussed under the previous group. That is when most retailers in Scotland are permitted to sell fireworks, and it is when the use of fireworks by the general public is most prevalent. Our intention in introducing restricted days of use is to address the negative impacts of unpredictable firework use while retaining periods during which fireworks may be used appropriately by the general public. It was recognised that setting permitted periods for use provides flexibility to allow celebrations to go ahead on or around the date, which allows for postponement or delays due to inclement weather or unsafe conditions.

Katy Clark (West Scotland) (Lab): It occurred to me during our evidence taking that one issue is potential challenges under the Equality Act 2010. Jamie Greene has spoken specifically in relation to religious communities, which would be directly covered by equalities legislation. We also heard in evidence that fireworks are being used for gender reveal events. Has there been an equality impact assessment? What consideration has been given to aspects under the 2010 act, given that—as Pauline McNeill has outlined—the 57 days would be a baseline, and that, if challenges under the act were successful, they would add to the number of days?

Ash Regan: I can confirm that there has been an equality impact assessment. In general, the provisions in the bill aim to strike that right balance. We are looking to reduce the unpredictable use of fireworks, which I think most people would agree with. We have spent a lot of time engaging with stakeholders, members of the public and community groups in order to get that balance right. That aspect has been consulted upon extensively.

Just to confirm this—and picking up on points made by several members about faith groups—we engaged with the Muslim Council of Britain, the Hindu community, the Scottish Council of Jewish Communities and Interfaith Scotland, which all confirmed that the proposed permitted periods were not problematic. I hope that that gives the member some comfort on those points.

10:45

I turn to amendments 98, 101, 102 and 103, which seek to remove the permitted days of use that are set out in the bill and to replace those with a regulation-making power. I think that that would reduce clarity for members of the public. We all agree that clarity for members of the public will be important to how the legislation works. The amendments in question would remove clarity for the public on the permitted days of use and would

significantly increase the time and resources that would be required for implementation.

As I have said, the dates that we picked have undergone a considerable amount of public and stakeholder consultation. I mentioned the faith groups that we spoke to; we also spoke to community groups, retailers and members of the public. The issue was consulted on extensively prior to our setting out the provisions in the bill.

When we consulted on the proposed dates, concerns were raised with us and additional evidence was presented, and the dates were updated in the light of that engagement. For example, the period from 7 to 16 April was included to cover the Sikh festival of Vaisakhi.

I believe that the provisions in the bill provide the right balance of certainty and flexibility, so I cannot support Mr Greene's amendments.

Amendments 3 and 4 seek to shorten the permitted days of use to eight days over the bonfire period, and three days over the new year period. With the provisions in the bill, we have tried to balance the introduction of permitted periods to reduce the negative effects on our vulnerable populations with the enjoyment that members of the public can and do get from using fireworks. Of course, we also want to reduce the impact on businesses and to ensure that adequate safety measures remain in place.

By limiting the period further, we could risk finding ourselves in a situation in which people have a very limited number of days to use fireworks and might inadvertently be encouraged to use them in situations in which it would not be safe to use them, because they have run out of days on which they can use them. For example, people might end up using them in bad weather, when it would be less safe to do so.

Amendments 3 and 4 would also mean that fireworks would be available to purchase for a number of days before they were permitted to be used. I am concerned that that could lead to issues around stockpiling. The permitted days of use that are provided for in the bill deliberately extend slightly beyond when fireworks can be supplied. That is to avoid a situation in which people buy fireworks towards the very end of the supply period but are not able to use them.

Pauline McNeill: I am listening carefully to everything that you are saying. I am trying to formulate an opinion that makes sense to me, and I want to probe the issue of why we would permit members of the public to let off fireworks on 10 November. Given that bonfire night is on 5 November, does that proposal make sense? Are we not encouraging people to think, "Oh, there's a big period when you can set off fireworks legally"? We all agree that the setting off of fireworks

causes a certain nuisance to communities. I totally acknowledge your point about the need to strike a balance between reducing the negative effects and allowing people to enjoy fireworks—I am with you on that—but I think that the period when they can be used seems really long.

Ash Regan: The date that Pauline McNeill mentioned would be the weekend after bonfire night. Nowadays, we often find—I am sure that this will be true of members' experience—that the fireworks period is not restricted to bonfire night itself. It usually includes the weekend before and the weekend after. That might be to do with what the weather is like or with the fact that bonfire night is on a Tuesday night, say, and people prefer to have their celebrations later on.

The idea behind the period that is proposed in the bill is that that is the most traditional period for people in Scotland and the UK to use fireworks, and we are trying to align with that. I feel that the proposed period strikes the appropriate balance, but in the event that we want to reduce the period further, as we see how the bill beds in and is used, there is a provision that will allow us to do that, if we think that that is appropriate at the time. However, at the moment, I think that it is best to broadly align the days of permitted use with the dates on which fireworks are most traditionally used.

Russell Findlay: I apologise if I have missed this. If a group was to seek to add to the permitted days of purchase and use, what is the mechanism for that? Is it going to court, or is there some kind of application process that the group could go through with the Government?

Ash Regan: Can the committee give me a moment?

As I have explained already, we retain a provision in the bill to add groups or dates that have been missed out. I am confident that, because of the extensive engagement that we have undertaken, we have not missed any out but the mechanism exists. If groups feel that they have been unfairly disadvantaged, they can contact the Government, which would be able to examine the matter and decide whether it was appropriate to add further dates.

The days of use provision as drafted is sufficiently robust and is the result of a period of prolonged consultation. It is coupled with a power in the bill to amend the days of use if necessary, which is subject to the affirmative procedure. Therefore, I am afraid that I cannot support amendments 3 and 4.

Amendment 5, which is also proposed by Ms McNeill, seeks to ensure that information is available, and that public awareness is raised, about the days in each year when it is permitted to

use fireworks. The three existing Scottish Government-funded communication campaigns will be updated and aligned to ensure that there is broad public awareness and understanding of the changes that will be brought in should the bill be passed. I agree with the committee that that is extremely important. The information that is described in amendment 5 will be made available to the public in that way and there is no need to include provision in the bill to achieve that.

For those reasons, I do not support any of the amendments in the group and I urge the committee not to support them if they are pressed.

Jamie Greene: It has been a robust debate and has aired some good points on the record. However, I will make a couple of points.

My first point is in response to Fulton MacGregor. He is absolutely right that, at certain times of the year, our inboxes are flooded with messages from people who see fireworks as a nuisance. The problem is that the bill will not change that because the times of year when our inboxes are flooded are also the permitted days of use. That will not solve the problem. The reason that our inboxes are flooded is the misuse of fireworks. The bill will not fix that either.

Fulton MacGregor: Will Jamie Greene take an intervention?

Jamie Greene: I will in a second.

The dates in the bill are permitted days on which fireworks can be used, which will not solve the problem. If somebody hears fireworks on a permitted day, they will not know whether the use is legal or illegal because they will only hear and see the fireworks. They will still be flooding our inboxes and complaining to the police.

Ash Regan: Will Jamie Greene take an intervention on that point?

Jamie Greene: I will take Mr MacGregor first and then the minister.

Fulton MacGregor: The situation is different in different parts of the country, I guess, but does Jamie Greene accept that the purpose of the bill is to limit the indiscriminate use of fireworks? He said that our inboxes are flooded only at times when fireworks would still be permitted under the bill. First, that has not always been my experience. Sometimes, my inbox is flooded around sporting events, for example. Secondly, the purpose of the scheme is to create a licensing process, which we hope will reduce the number of inappropriate fireworks. Does he accept that point?

Jamie Greene: Indiscriminate use will still happen. It is inevitable that there will still be people who let off fireworks outwith permitted periods. The big point is the enforcement of that.

Let us say that somebody hears fireworks going off on a day that is clearly not a religious festival or permitted day and that the fireworks last a maximum of one minute or usually much less. If they phone the police, it takes about 33 seconds to get through to 999 but, if they phone 101, it is probably a couple of minutes. By that point, it is done and dusted. Would the police get into their car, drive to the street and work out who on earth set off the fireworks? The reality is that we do not know and I very much doubt it. The indiscriminate use will still continue. With regard to whether we agree that a licensing scheme could be a helpful solution to the problem, people who are going to misuse fireworks will do so, whether or not they have a licence. They are more likely not to have a licence, but that is not going to stop them sourcing and using fireworks.

Fulton MacGregor makes a fair point. However, I still note that our inboxes are flooded in the periods around those dates on which firework use will still be permitted. The bill does not solve the fundamental problem of the misuse and antisocial behaviour that are blighting communities, which we all want to resolve.

The minister wanted to intervene on me, so I am happy to give way.

Ash Regan: We are talking about indiscriminate use. Mr MacGregor made an important point about the provisions in the bill that relate to not only the permitted days for supply and use and the licensing scheme, which is a point well made by the member, but firework control zones. That is another provision that attempts to address the issues that the member raises.

If a member of the public is living in a firework control zone, they will not, once the legislation is enacted, be able to use fireworks. It will be clear to people that they are not allowed to use them at that point. I think that the provisions in the bill when they are taken as a whole, rather than individually, are an attempt to address exactly the problem that Jamie Greene has identified, and will, I think, will go some way towards solving that issue.

Jamie Greene: I am pleased that the minister is confident of such, but I think that that itself adds another layer to the confusion that the public will face.

We have been working on the bill for a number of months and scrutinising it line by line. This year, Diwali is on 24 October. In a community where there is problematic behaviour with fireworks, if someone hears a firework going off on 24 October, are they going to say to themselves, "Oh well, it's Diwali—it's okay; there's not a problem there"? Alternatively, are they going to call the police? If so, are the police going to dispatch

someone or not, given that it is a permitted day? Will the police think, “Oh no—this is probably problematic behaviour”?

Whether or not the person using the fireworks has a licence, and whether they bought the fireworks from a retailer or illicitly from white van man, is irrelevant. The problematic behaviour is what lies at the root cause of many of the complaints around usage.

My other point is a concern that, by having permitted days, we will simply be creating firework days. If someone wants to let off fireworks on 24 October, whether or not they are celebrating Diwali, the law says that they can do so on that day, and if they have stockpiled fireworks, they will do it.

There is also a valid point around adverse weather conditions that we have not discussed. It is dangerous to let off fireworks in adverse weather. If someone gets to the last permitted date in the range of permitted dates, so it is the last day on which they are able to use their fireworks, on which they may have spent quite a lot of money, are they going to put them back in the garage or let them off anyway? That could create a safety issue.

I am not querying—

Russell Findlay: Will the member take an intervention?

Jamie Greene: Yes, in a moment.

Again, I am pointing to a pattern of inevitable confusion among the wider public and potential challenges to the dates. Imposing restrictive dates in the way that is being proposed may have unintended consequences, which we will not know about until they happen.

Those are only a couple of our concerns. I am happy to give way.

Russell Findlay: I go back to Jamie Greene’s specific point about people who, for reasons outwith their control, might not be able to use fireworks within the range of permitted dates. The member probably cannot answer this question, but perhaps the minister could do so. What consideration, if any, has been given to those people who have bought fireworks legitimately but who have, for whatever reason, been unable to use them? How do they safely dispose of those fireworks? Has any thought been given to that?

Jamie Greene: I have no idea how one disposes of fireworks; I am sure that we will need to ensure that there is a strong education programme for the wider public in that regard.

Equally, there are issues around whether someone is willing or able to stockpile, and how and where they do that. Most people do not do it

because they do not have to. However, if we suddenly impose restrictions for use on certain dates, and a householder has, for whatever reason, maxed out their opportunity to use their fireworks, they face a conundrum as a licence holder. Do they want to do the right thing, and store the fireworks in order to use them on the next permitted date? That may not be when they originally wanted to use them, but they might use them anyway, as they have probably spent a lot of money on them.

Alternatively, are they able to return the fireworks to the store or dispose of them? If they have bought the fireworks online, are they going to phone a specialist courier company to come and get them? Those are valid questions, and—I think—sensible ones at that, to which we do not know the answer.

I see that the minister wants to intervene.

Ash Regan: Yes—I wanted to come in on that point. That is the reason why the period for the use of fireworks extends slightly beyond the supply period: to give an extra couple of days, for the precise reason that the member has raised. Also, if there is a situation where someone has bought them—as the member said, they might have spent several hundred pounds on fireworks but they have not been able to use them within that permitted period of use—they can store them safely and appropriately if they wish and then use them in the next permitted period of use.

11:00

That is one of the good things about the training course, because, in the training course materials, we will be able to educate people on appropriate ways to store fireworks and on how to use them safely.

Jamie Greene: Arguably, the safest way to dispose of fireworks is to let them off. However, if the law does not permit people to do so, we are creating a problem which, currently, does not exist.

I am happy to leave it there.

The Convener: Do you want to press or withdraw the amendment?

Jamie Greene: I want to withdraw amendment 98 but it is a technical, consequential amendment of the substantive amendment, which comes later, so although I am withdrawing amendment 98, I may move a future substantive amendment, if that makes sense.

The Convener: That is fine.

Amendment 98, by agreement, withdrawn.

Amendments 99 and 100 not moved.

The Convener: Amendment 101, in the name of Jamie Greene, has already been debated with amendment 98. I remind members that if amendment 101 is agreed to, I cannot call amendments 3 and 4 due to pre-emption.

Amendment 101 not moved.

Amendments 3 and 4 not moved.

Amendment 102 moved—[Jamie Greene].

The Convener: The question is, that amendment 102 be agreed to. Are we all agreed?

Members: No.

The Convener: There will be a division.

For

Clark, Katy (West Scotland) (Lab)
Findlay, Russell (West Scotland) (Con)
Greene, Jamie (West Scotland) (Con)
McNeill, Pauline (Glasgow) (Lab)

Against

MacGregor, Fulton (Coatbridge and Chryston) (SNP)
Mackay, Rona (Strathkelvin and Bearsden) (SNP)
Nicoll, Audrey (Aberdeen South and North Kincardine)(SNP)
Stevenson, Collette (East Kilbride) (SNP)

The Convener: The result of the division is: For 4, Against 4, Abstentions 0.

There is an equality of votes. As convener, I will use my casting vote to vote against the amendment.

Amendment 102 disagreed to.

Amendment 103 not moved.

Section 23 agreed to.

After section 23

Pauline McNeill: On the basis that I think that the minister said that the issue is covered in the bill, I will not move amendment 5.

Amendment 5 not moved.

Section 24—Compensation for specialist firework businesses affected by section 22

The Convener: I intend that we will have a short break after we consider the next group of amendments. Amendment 23, in the name of the minister, is grouped with amendments 132 and 133.

Ash Regan: I recognise the potential impact of restrictions on days of supply to specialist firework retailers, and it is right that adequate consideration is given to how such businesses might be supported as a result. I accept the Delegated Powers and Law Reform Committee's recommendation that regulations relating to compensation are subject to the affirmative

procedure, given the interest in such a compensation scheme from those businesses and from Parliament. My amendment 23 proposes that regulations that are made under section 24(1) are subject to the affirmative procedure.

Mr Greene's amendments 132 and 133 seek to ensure that the restricted days of supply and use provisions cannot come into force until regulations for the compensation scheme have been laid.

In my response to the committee's stage 1 report, I accepted the recommendation—although this was already our intention—to commence work with the fireworks retail industry as soon as the bill is enacted, and before the relevant provisions come into force. As the committee's report notes, that will be important "to lay the groundwork" for how such support can be delivered in a timely and proportionate way, in order to help such businesses to adapt and respond in light of the change. Of course, that will involve working closely with those businesses to understand the potential negative impact. Following that work, the detail of the scheme will be developed, and the necessary regulations will be laid in the Parliament. Therefore, I believe that Mr Greene's amendments 132 and 133 are not necessary, and I ask him not to press them.

I move amendment 23.

Jamie Greene: I thank the minister for lodging amendment 23, which will strengthen the scrutiny process. We will support it.

Amendment 132 is a technical means to an end.

Amendment 133, which is the main amendment, does not say very much, but it is quite important. It states:

"Regulations under subsection (2) may not appoint a day for section 22 to come into force until regulations under section 24 have been laid."

I am reliably told that that ensures that the compensation scheme will be set up and in place prior to the restrictions on the supply of fireworks. That goes back to our previous conversation about those who will be affected most.

As we know, there are a small number of specialist businesses—around 10—among around 650 known fireworks retailers in Scotland. It is fair to say that the provisions in the bill will have a substantial impact on those businesses—particularly small, family-run businesses, which have been on our high streets and in communities throughout Scotland for years, if not generations. Those are the sorts of businesses that we would expect to see on high streets. It is a given that, if we restrict the sale and supply of fireworks, which we have previously debated, those businesses will suffer immensely. It is virtually impossible to see how they could keep a shop front open and staff

all year round when they are unable to sell products. The shop would be nothing more than an information centre for people to come and look at fireworks that they cannot buy. I cannot see that being feasible, and the committee has to be honest about that. We would be shutting those businesses down, so it is welcome that the Government has suggested that there might be some form of compensation.

The stage 1 report went into that issue in great detail. It said:

“the Scottish Government must commence work with the fireworks retail industry as soon as the Bill is enacted, and before the relevant provisions of Part 3 comes into force, so as to lay the groundwork for a mechanism by which those retailers can assess the likely impact to their business and seek compensation.”

Someone from one of the businesses that will be having their doors closed as a result of the legislation said to us that the policy will

“put me and other firework stores out of business.”

That is not something that we should take lightly. He went on to say:

“The public will buy online or drive down to England. This will be impossible to police.”

We have debated those points in great detail, and I am concerned that that is his view. I am concerned not just that he is losing his business, but about the effect that the policy might have on where people will go to get fireworks if he is unable to sell to them.

We have to understand that those hard-earned family businesses are people’s real livelihoods and that they have probably already suffered over the past couple of years, as many in the retail sector have. Those people are about to lose their livelihoods, and they will struggle.

The compensation process must be robust, transparent and well thought through. The Government will need to be clear about how people will be compensated, for how long, and under what metrics compensation will be given. It will need to be clear about how the amount of financial compensation will be estimated and what scrutiny will be given in that regard. Will there be a one-off payment? Will there be an annual payment? Will the compensation be based on profit, turnover or loss of earnings—or all of those? Will it relate to loss of stock, if stock is destroyed? Will it relate to the closing down of retail, the breaching of licences and leases, and all the things that people do when a Government comes along and shuts their business down?

The Government must be cognisant of all those things. It must act sensitively and respectfully, and it must be willing to put its money where its mouth is. If the Government introduces a law that shuts

down an industry, it should be willing to accept the consequences of doing so.

Rona Mackay: Will the member take an intervention?

Jamie Greene: I will in a second.

All that I am asking the Government to do is to ensure that restrictions on sale are not put in place until a clear package, which the Parliament has had a chance to consider, is in place. At that point, of course, the restrictions can be put in place.

Rona Mackay: I am not arguing that businesses should not be compensated—of course they should be—but I take a bit of issue with your constantly saying that businesses will be shut down. Retailers will still be able to sell for 57 days of the year; how they rearrange their business models will be entirely up to them, and compensation might come into play, too. It does not necessarily mean that retailers will no longer have their businesses.

Jamie Greene: Let us ask them. This is stage 2; the bill has not yet been passed. If retailers with a vested interest who sell only fireworks and do so all year round want to talk to the committee, I encourage them to do so. The question is simple: what effect will the bill have on your business? If the answer is, “Yes, you’re right, we can move online”, “We can reduce operating costs by shutting a store”, or “We might need less compensation because we are able to operate on a different model”, that is fine, and I am sure that the Government will take heed of that and compensate appropriately. If the answer is, “No, there is no way we can operate and we will shut down”, the Government will need to react to that. We will not know until we ask them, which is precisely what I am trying to do by lodging amendments 132 and 133.

Fulton MacGregor: I support amendment 23 and agree that it means that amendments 132 and 133 are not needed.

I agree with Rona Mackay: Jamie Greene cannot say that the Government is shutting businesses down. However, he makes the good point that businesses could close down as a result of the bill, so it is right that we challenge the Government to say that the compensation scheme will support businesses to stay open. I hope and am sure that that is the primary purpose of the scheme. As Jamie Greene said, the scheme will need to be robust enough to support businesses to keep going for more than the 50-odd days that are provided for. I am sure that that is at the heart of the amendments.

We are talking about not the supermarkets but the small number of family-run businesses that might struggle as a result of the bill. The

compensation scheme might need to include supermarkets, but I do not think that that will be necessary, as supermarkets have other sources of income. The issue is the small businesses.

Russell Findlay: This might be something that the minister can clarify. It is not necessarily about having sympathy for the supermarkets and big suppliers; the issue is more the companies that supply those suppliers, which might well be family businesses that will see a significant downturn in business in Scotland due to what is proposed.

Fulton MacGregor: That is a point. As you said, we can pass that over to the minister.

Ash Regan: That was a good debate. I am very sympathetic to Jamie Greene's points in raising concerns on behalf of specialist retailers. We recognise the issue, which is why the bill includes a provision to support businesses that may be affected. That support will help businesses to adapt and respond to the change.

Rona Mackay picked up on Jamie Greene's point that those businesses will be forced to close their doors. I do not think that we can establish that at the moment. Primarily, the businesses will still be able to sell fireworks all year round to community groups and to professional display organisers. A number of the businesses are also professional display organisers.

We need to understand the impact of the provision to restrict days of supply in practice. Only then will we be able to identify the level of support that is appropriate. That is the right approach. I give an absolute commitment to the committee that, if the bill is passed, engagement will take place with those businesses as soon as possible in order to understand the impact that the bill has on them and, if necessary, we will provide them with compensation.

Amendment 23 agreed to.

Section 24, as amended, agreed to.

Section 25 agreed to.

The Convener: Members will be glad to know that I intend to suspend the meeting for about five minutes for a short comfort break.

11:16

Meeting suspended.

11:26

On resuming—

Section 26—Firework control zones

The Convener: Amendment 104, in the name of Russell Findlay, is grouped with amendments

105 to 109, 54, 55, 112 to 117, 120, 121, 37, 122, 123, 130, 131 and 134.

Russell Findlay: Amendment 104 is connected to 14 other amendments in my name, but I will resist the temptation to be a bingo caller and rhyme them all off.

Other than licensing provisions and the sale and use dates, what pretty much defines the bill is the proposal for firework control zones. A lot has been said about the confusion around licensing and the dates, but a lot can and should also be said about the confusion around the proposed firework control zones. There was significant support for "no-fireworks areas/zones", as they were described in the public consultation, and which seem to be what people want and indeed expect.

As recently as December 2020—just 18 months ago—the minister referred to those areas as "no-fireworks areas/zones" in documents on the Government website. However, members of the public, who are probably in the main still not aware of what they actually mean, might be surprised to discover that those "no-fireworks areas/zones" are now firework control zones, and that, contrary to what people seem to want and expect, the use of fireworks is not prohibited within them.

The firework control zones will allow for the use of fireworks on 57 days per year, not by anyone with a licence but by private companies that can be brought in to hold displays on behalf of members of the public. Jamie Greene has talked about what he called the Pandora's box of those 57 days, which could increase. That remains a live issue going forward.

The greatest support for firework control zones came from pet owners, farmers, animal charities and those with sensory issues or conditions such as some autistic people and people suffering from post-traumatic stress disorder. When Rob Holland of the National Autistic Society Scotland gave evidence to the committee, I asked him whether firework control zones should actually be no-fireworks zones, as initially proposed. He said:

"People might assume that there would be no fireworks in a firework control zone, but it is my understanding that there still might be fireworks within those zones."

That understanding is correct. He went on:

"That could create confusion, which could in turn lead to families having to deal with added unpredictability about when fireworks would be used."—[*Official Report, Criminal Justice Committee*, 16 March 2022; c 38.]

The Scottish Society for the Prevention of Cruelty to Animals has said that firework control zones are welcome. However, I do not appreciate how they will do anything to mitigate the distress caused to animals at its facilities, given that firework use will still be permitted around those areas, albeit limited to professional displays. It is

not as if there will be any predictability, other than in the designated dates. As far as I am aware, there is no requirement for those who are hosting displays in such zones to notify neighbours or the likes of SSPCA facilities.

11:30

The industry has also called for the scrapping of the proposed firework control zones, but for other reasons. It has said that the minister cited overseas examples to justify their effectiveness, but in fact, those examples were about preventing the use of fireworks in public places. There has been a ban on the public use of fireworks in public places in the United Kingdom since 1876—it is the law just now. Although the minister clarified that in evidence that she gave and agreed that that was the case, that seemed to be at odds with earlier claims that we should look at places such as Munich, Berlin and Amsterdam, where zones were deemed to be a success.

I will make a couple of other points. The proposed firework control zones risk creating a two-tier system of haves and have-nots. If Person A is not in a firework control zone, they can get a licence and use fireworks at home, but there will be no point in person B, who happens to live in a zone, getting a licence, as they will have no ability to legally purchase or, indeed, let off fireworks in their private garden. Such people will be penalised by virtue of having to meet the much greater cost of hiring a private company.

Moreover, we know little about where the firework control zones will be and how large an area they might cover—I think that we heard evidence that they could be as big as an entire local authority area. The approach will not only create a two-tier system and penalise some people by virtue of their postcode, but risks fuelling the black market that we have already heard about.

Legislation often requires compromise but, for all the reasons that I have touched on, firework control zones are a real muddle and will cause public confusion and, indeed, disappointment. On the other hand, no-firework zones give clarity. Of course, there is the issue of how such zones would be enforced, but the same issue relates to firework control zones, too.

I do not expect members to agree with all of that but the fact is that, if my amendments are not agreed to, these issues will absolutely remain. I look forward to hearing the views of other members and the minister's response.

I move amendment 104.

Katy Clark: My amendments 54 and 55, which are in some ways similar to Russell Findlay's

amendments, would enable local authorities to designate an area as a firework control zone in which fireworks could not be used by any person and no person or, indeed, professional organisation would be exempt. In effect, fireworks would be banned in the area. Obviously, the statutory defence would remain in place. If the provision were enacted, a local authority could decide to ban fireworks in the vicinity of, for example, an animal rescue centre, riding stables, a hospital, a facility for a vulnerable group or a larger area or neighbourhood in which there were particular problems.

I have a number of statements in support of the amendments. I do not intend to speak to the amendments in detail, because I believe that the minister and the committee are well aware of the antisocial impact and, indeed, the health and safety concerns that can relate to the use of fireworks. As I have said, I have statements from, among others, the Scottish Society for the Prevention of Cruelty to Animals, the Blue Cross, the National Autistic Society and the Scottish Community Safety Network, which I will provide to the clerk and which go into detail as to why those organisations are sympathetic to the amendments.

I am interested in hearing an explanation from the minister as to why there is no provision in the bill similar to the one that I and Russell Findlay have outlined.

Jamie Greene: I support Katy Clark's amendments 54 and 55. They are a simpler method of achieving something similar to my own amendments.

My colleague Russell Findlay has rightly raised the point that what started as no-fireworks zones—which are self-explanatory; there would be no fireworks—have become firework control zones. There is a lack of understanding of what they will be in practice, not only in this discussion but for communities, policing and enforcement.

My amendments in the group—amendments 120 to 123—are to an extent technical and seek to remove exemptions from schedule 1. It is another way of achieving what Ms Clark is trying to achieve. Specifically, they remove the reference to people organising public displays, which I appreciate might be controversial. However, what is the point of having a firework control zone that still has fireworks going off in it? Fundamentally, that is the question that we need to answer in this debate.

It remains the case—and a bizarre consequence of the bill if it is passed as drafted—that there will be 57 days of the year on which members of the public with a licence will be able to privately let off fireworks while, on the other 308 days, they will not be able to do so unless they

employ the services of a professional fireworks company. You could argue that that is pointless, because it creates a two-tier system in which people who can afford to put on a display will use that legal loophole to do so. Equally, creating such an exemption makes a slight mockery of restricting the use of fireworks.

Therefore, I seek to remove—or at least probe the removal of—those exemptions. If the Government thinks that they should remain, I am intrigued to learn why keeping them falls within the spirit and scope of the bill that the minister is trying to pursue.

My other point concerns enforcement. My understanding is that there is not unanimous agreement that the concept of a firework control zone or no-fireworks zone is practical. In its response to the consultation, the Association of Scottish Police Superintendents made two comments that stood out to me. First, it said that no-firework areas

“will only serve to create another battleground”

where

“existing neighbour and community disputes will be fought.”

Secondly, the association feels

“in the strongest terms that this has the potential to cause significant issues.”

I presume that the association is referring to parts of the country where there are concentrated pockets of fireworks misuse.

The creation of firework control zones does not address displacement. It does not address whether people will be driven to move out of control zones into public areas, where, as Russell Findlay has stated, it is already illegal to let off fireworks. My understanding is that at the working group meetings, Police Scotland talked about some issues that it had with the concept of the zones. I do not have the minutes for those meetings; if I can source them ahead of stage 3, I will do so.

Again, no one is against the premise of the zones, but we need to be clear what they are and what they are not. For the reasons that Russell Findlay and Katy Clark elucidated, there is an expectation that, where a zone has been created, the public and those within the zone should not expect to see or hear fireworks and could rightly call the police if they did.

In my view, we will create an absolute minefield if we create these zones and then make a whole bunch of exemptions. If an application to establish a zone in a local authority were to be granted, but someone claimed an exemption under schedule 1 to the bill and proceeded to let off fireworks, it would defeat the point of the zone. That would be

the case, especially if the zone was being established for good reason—for example, because it contained a community with problematic behaviour, animal sanctuaries, farms or other things for which having an exclusion zone would have practical benefits.

I like the idea of simply going back to having no-firework zones, which is what Mr Findlay is trying to achieve. The amendments in this group try to do that. It is a very useful group for us to debate.

Ash Regan: I just want to recap the reason for the firework control zone provisions, as there has been a bit of a general debate about that. They were brought in primarily to curb legitimate use—in other words, to reduce the overall amount of fireworks being used—and to give local authorities an additional tool to help them address the issue in their areas. We know that the issue is not spread across the country. There are hotspots, and some local authorities will no doubt want to take advantage of the provision, which was recommended by the independent firework review group.

I recognise that the provision has attracted a lot of attention and scrutiny. I said to the committee at stage 1 that I would listen to the Parliament, to see whether I had struck the right balance. I have listened carefully to what members said at committee during stage 1 and in the debate with regard to strengthening the provision, making it more straightforward for the public and further reducing the unpredictability of firework use.

Amendment 37 would remove the exemption for professional operators to deliver private firework displays in a designated control zone, meaning that the exemption would apply only for the purpose of a public firework display. That ensures that members of the public will not be able to use the services of a professional operator in a designated zone.

I recognise that, for some members, that might not go far enough. We have heard from Mr Findlay and Ms Clark about the potential for the zones to prohibit all use of fireworks, if the local authority so wishes. My officials and I have considered that possibility at great length, both prior to the bill's introduction and following the committee's recommendations in its stage 1 report.

I will speak first to the current exemption for regulatory authorities, such as trading standards offices, and businesses engaged in the supply of fireworks. It is essential that such exemptions are retained, because they ensure that enforcement bodies are able to continue to carry out their duties as required in a designated zone and, for businesses engaged in manufacture or supply of fireworks, that any safety checks that are carried out on fireworks as part of due diligence can

continue. We have also allowed for community groups and professional operators to use fireworks at publicly organised events. The Scottish Government and I recognise the value of such events and their ability to foster community spirit and bring people together. I do not want to deprive communities of that opportunity.

The provision is in line with the recommendations of the independent firework review group, and with what we heard in our consultations in 2019 and 2021, and I consider that amendment 37 in my name strikes the right balance in further cutting down on the unpredictability of firework use, while allowing for vital work carried out by regulatory authorities and businesses to continue and recognising the values of local public displays. Local authorities are, in many cases, already able to determine the suitability of those displays in a particular place through their public entertainment licence processes.

11:45

Throughout the stage 1 process, much was made of the potential for public confusion regarding where people can and cannot set off fireworks. I would question whether having control zones vary from zone to zone and from local authority to local authority might worsen that confusion. Mr Findlay's amendments appear to allow a local authority to apply any exemption that it wished to an individual zone. That could range from small variations between the position in different areas to very large variations, which would add unnecessary complexity to the zones.

Mr Findlay and, I think, Mr Greene, mentioned renaming firework control zones. Even with the amendments to the exemptions in this group proposed by Mr Findlay and Ms Clark, local authorities would have the ability to set exemptions so that certain uses of a zone would be permitted. Therefore, I consider the zones to be correctly described as firework control zones, as they are places where the use of fireworks is controlled more tightly than it is in other places.

It will be a criminal offence to use fireworks in a control zone, unless an exemption applies. Given that, it is vital that the exemptions are consistently applied in all areas, particularly so that those involved in public firework displays, and others, can understand the law as it applies to their activities.

Mr Findlay also asked about the size of firework control zones. I can clarify that it is not the intention for local authorities to designate their entire local authority area as a firework control zone. Under the bill, Scottish ministers will have the ability, by regulations, to set limits on the size

of a place or area in a local authority that might be designated as a firework control zone. So, I hope that the committee—

Russell Findlay: Will the minister give way?

Ash Regan: Of course.

Russell Findlay: I am curious as to whether you have any indication of the likely size of such zones.

Ash Regan: I do not have any indication of that at the moment. I imagine that local authorities will be very keen to create zones, particularly those authorities that we know have an issue. Indeed, I can speak to the city of Edinburgh's position in that respect; we—certainly those who represent Edinburgh—and the local authority are aware of particular hotspots. I expect that local authorities will seek to set zones to cover just the areas where they have issues. At this stage, they have not indicated to me the likely size of such zones, which is why Scottish ministers retain the power under the legislation to set their size in the event of the circumstance that the member has raised.

I hope that the committee will support my amendment. Unfortunately, I am not able to support Mr Findlay or Ms Clark's amendments. I therefore ask Mr Findlay not to press his amendment and both members not to move their other amendments in the group. However, if they do, I ask the committee not to support them.

The Convener: As no other member wishes to come in, I call Russell Findlay to wind up, and to press or withdraw his amendment.

Russell Findlay: I have heard the responses from the minister and other members. However, even with the minister's amendment, which proposes not to allow for private companies to provide displays in firework control zones, the bill will still allow for the use of fireworks through organised public displays. Given the expectations of members of the public and the views that were expressed in the vast number of consultation responses, that defeats the purpose of a no-fireworks zone as it was originally perceived to be.

Furthermore, there is an inconsistency or duality in relation to people who happen to live somewhere that the local authority designates as a firework control zone. Those people will be prohibited from using fireworks and unable to apply for a licence, so they will become completely peripheral to the entire process. I genuinely think that the purpose of the legislation is, as the minister described it, to curb the legitimate use of fireworks. Therefore, the risk—and the inevitable consequence of the provisions—is that the illegitimate use of fireworks will be fuelled.

Jamie Greene: One of the points that I raised that I did not get a response to—I am unable to

come back in on that debate, because of the groupings—is the issue of the enforceability of the zones, which is one of the concerns that has rightly been raised. I have not had time to go through all the minutes of the working group within the confines of the meeting, but I am keen to do so. However, what we know and have on record is evidence that the police gave in their written response to the consultation on the legislation. It is worth putting on record the fact that, because there were so many responses to the consultation, a lot of evidence has been lost in the online hinterland. However, the following quotation from the Association of Scottish Police Superintendents should raise concerns for us ahead of stage 3. It said:

“In short, it is almost unenforceable. If the Local Authority has overall administration of licensing and zoning, it is the general belief of the Association of Scottish Police Superintendents that the public will still involve the Police to resolve disputes (actual or perceived) over zoning. It is a minefield that does not need to be created.”

I have not heard a response to that valid concern in anything that has been debated today. Does the member share my concern?

Russell Findlay: Yes, absolutely. Although the proposal to have no-fireworks zones is what people who responded to the consultation seem to want, those whose job it would be to enforce them do not want them for all the reasons that they have given, in quite strong terms. That speaks to the fundamental question whether the bill is going to cause more problems than it is attempting to fix. Therefore—and perhaps it reflects a great deal of the committee’s stage 1 report—the amendment would provide some clarity. It is important and it should be accepted.

The Convener: The question is, that amendment 104 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Clark, Katy (West Scotland) (Lab)
Findlay, Russell (West Scotland) (Con)
Greene, Jamie (West Scotland) (Con)
McNeill, Pauline (Glasgow) (Lab)

Against

MacGregor, Fulton (Coatbridge and Chryston) (SNP)
Mackay, Rona (Strathkelvin and Bearsden) (SNP)
Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
Stevenson, Collette (East Kilbride) (SNP)

The Convener: The result of the division is: For 4, Against 4, Abstentions 0. There is an equality of votes. Therefore, as convener, I shall use my casting vote to vote against the amendment.

Amendment 104 disagreed to.

Amendment 105 moved—[Russell Findlay].

The Convener: The question is, that amendment 105 be agreed to. Are we all agreed?

Members: No.

The Convener: There will be a division.

For

Clark, Katy (West Scotland) (Lab)
Findlay, Russell (West Scotland) (Con)
Greene, Jamie (West Scotland) (Con)
McNeill, Pauline (Glasgow) (Lab)

Against

MacGregor, Fulton (Coatbridge and Chryston) (SNP)
Mackay, Rona (Strathkelvin and Bearsden) (SNP)
Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
Stevenson, Collette (East Kilbride) (SNP)

The Convener: The result of the division is: For 4, Against 4, Abstentions 0. There is an equality of votes. Therefore, as convener, I shall use my casting vote and vote against the amendment.

Amendment 105 disagreed to.

Amendments 106 to 111, 54 and 55 not moved.

Section 26 agreed to.

Section 27—Prior consultation on proposals

Amendments 112 and 113 not moved.

Section 27 agreed to.

Section 28—Publication of decision on proposal

The Convener: Amendment 24, in the name of the minister, is grouped with amendments 6 to 8 and 10.

Ash Regan: The bill sets out the requirement for a local authority to publish its decision on a proposed control zone. In doing so, it should set out any changes that have been made to the proposal and explain how the views expressed during the consultation process have been considered.

After the bill’s introduction, we identified that that provision would benefit from slightly amended wording to make the policy intent clear. That intent is that the requirement for a decision to be published at least 60 days before it is to have effect applies only if the local authority has made a decision to proceed with the proposal. Amendment 24 is a technical amendment that simply seeks to provide clarity. I hope that members will support it.

I have carefully considered Ms McNeill’s amendments 6 to 8 and 10. It is true that the bill does not set out how the decision to designate a zone is to be publicised or the detail to be included. The intention is that that will be addressed in guidance issued by the Scottish ministers. That is partly to ensure that the

approach is driven by local circumstances, because what might work in Edinburgh might be vastly different from what might work in Shetland. It is also to ensure that local authorities can adapt to changing methods of communication.

We intend to work closely with local authorities to co-design the guidance to ensure that their needs are accounted for and met. I therefore do not consider that amendment 10 is necessary, and I do not support it.

Amendment 7 sets out that information must be published by every local authority that shows whether any control zones have been designated over the permitted periods of use. As well as the ability to issue guidance for local authorities, the three existing Scottish Government-funded public awareness campaigns will be aligned to ensure that there is broad understanding of the changes that will be brought in should the bill be passed. I therefore consider that the measures that are set out in amendment 7 are unnecessary, and I urge the committee not to support it.

Jamie Greene: The minister is talking about national awareness campaigns and the generality of the bill, which is fine. However, amendment 7 is specifically about firework control zones. That is a specific local issue. What the member who lodged the amendment is seeking to do is make sure that people within a local authority area are given adequate information. Amendment 7 will mandate that that happens. It has nothing to do with the national awareness campaign about the bill.

Ash Regan: I am coming on to that.

Amendments 6 and 8, which were also lodged by Ms McNeill, seek to ensure that, following the consultation on a proposal to designate, amend or revoke a zone, there would be additional requirements on the local authority with regard to the level of detail that is published. That would be done in such a way as to bring that to the attention of people who live and work in the designated zone.

It has always been the Scottish Government's intention that local authorities would be expected to be clear on what the decision means in practice. That includes on the boundaries, the dates, the effect of the zone and so on. The guidance that will be developed will cover how local authorities can best ensure that the general public are aware of what their designated zone means in practice.

12:00

As I have said, we intend to co-design the guidance with local authorities and other relevant stakeholders, including communities, to ensure that it is easily understood and applied in practice. The advantage of having information in guidance

will be that that will allow local authorities to deliver a degree of consistency of approach in different areas while having the discretion to apply their own approach to reflect local circumstances.

Amendments 6 and 8 are in line with the policy intent for firework control zones and how it is expected that the publication of decisions on and information about them will work in practice. In principle, I am happy to commit to considering whether it would be beneficial to lodge an amendment at stage 3 that has the benefit of enabling further discussion and engagement to ensure that we take the right approach. For that reason, I am willing to engage with Ms McNeill on the issue before stage 3. If she is amenable to that, I ask her not to move her amendments on that basis.

I move amendment 24.

Pauline McNeill: I welcome what the minister has just said about being willing to work with me at stage 3. I am genuinely pleased about that, because I want to outline why it is necessary to have something about the issue in the bill.

I acknowledge that it is for every local authority to decide individually on the application of a firework control zone as issues arise, but I would have thought that every local authority also has the duty to provide information so that everyone is clear about when a control zone is being applied. Local authorities already do lots of things to give information to the public—for example, they give information about bin collections. I am not suggesting that that is how prescriptive we would want to be, but such information helps a lot of people, particularly if they are not online. I think that the minister has acknowledged that.

There should be some reference to the issue in the bill to ensure that we cover all of that. As Jamie Greene rightly said, it is very important that people know about the application of a firework control zone.

Firework control zones are a critical and very useful part of the bill. I have spoken about some of the issues in my local area in Glasgow, where fireworks are a very serious issue. I hope that Glasgow City Council will use the powers to apply firework control zones in places such as Pollokshields. The zones are an extremely useful aspect of the bill but, in fairness, it is important that those who live in a zone are absolutely crystal clear. I acknowledge that the minister said that there will be some co-design.

I am sure the minister will appreciate that the reason for lodging the amendments was to give some variety. Amendment 6 says that, if a designated area is amended or revoked, the public should be made aware of that. Amendment 7 looks for clarity for people who live and work in the

area. I appreciate that amendment 8 is much more extensive; its approach is my preferred one. It says that the boundaries of zones, the date from which the designation is to have effect, and the date on which the designation ceases to have effect should be stated.

It is also important that the public are aware of the offence. We need to be clear with local authorities. They must tell people who reside in those areas that it is an offence to let off a firework in the same way that it would be an offence to let a firework off if that is not on a designated date.

I welcome what has been said, and I intend not to move my amendments on that basis.

Jamie Greene: If Pauline McNeill moved her amendments, I would have supported them. They are very well drafted, and they make a wider point. If the issue reappears at stage 3, what we need in the bill—although I agree with the minister that being overly prescriptive is probably unhelpful—is a framework for the process of establishing, notifying and so on. We still do not know how people are to apply for a control zone, who will be eligible to apply, and what we will be asking of local authorities.

We have taken away the licensing scheme from local authorities, which is probably quite helpful, given that that is an onerous, resource-heavy task, but we are now asking them to administer control zones. Cities such as Glasgow or Edinburgh, or Lanarkshire and other councils may seek to use that power, perhaps not even willingly but because they are asked to do so by people in the community.

The changes that Ms McNeill asks for are reasonable and could easily appear in the bill. We do not necessarily need to be overly prescriptive about the rules that have to apply, but I am always concerned by the notion that everything will simply appear in guidance. The rules will not only not be in the bill—they will not even be in secondary legislation. How, therefore, do we ensure that there is consistency in the look and feel of the process across local authorities and that the application rules will be fair and equal? How do we ensure that there will not be a postcode lottery and that someone who applies for an exclusion zone in one part of the country will be treated in the same light, fairly and equally, as someone in another part of the country?

It is important that the matter comes back at stage 3 in some shape or another. We can then take a view on it as and when it is presented. However, I support the premise of what Pauline McNeill is trying to achieve.

Ash Regan: I, too, support the premise of what Pauline McNeill is trying to achieve. I cannot support the amendments as they are currently

drafted, but I have given a commitment, which Ms McNeill has accepted, that we will work on the provision and engage further to get it to the point at which we would be able to accept it at stage 3.

Amendment 24 agreed to.

Section 28, as amended, agreed to.

After section 28

Amendments 6 to 8 not moved.

The Convener: Amendment 9, in the name of Pauline McNeill, is in a group on its own.

Pauline McNeill: Amendment 9 is again about firework control zones. It relates to who can make representations in order to apply a control zone. I am concerned about situations in which a local authority chooses not to apply a control zone. There is other legislation—for example, on rent pressure zones—in which local authorities are the only bodies that can decide to apply a zone. People might be asking for a zone, but there is nothing that they can do about it. In this case, I think that ordinary people should be able to make representations to their local authority that a control zone is needed. Of course, it will ultimately be for the local authority to decide, but it is in tune with the notion of community empowerment that people should have a say, and the bill does not currently allow for that.

I am very keen for community bodies that are not already covered by the bill to have a right to put the matter in front of the local authority. I am seeking to find more than one route to a control zone, with a route other than the local authority being the sole initiator, if you like. The local authority will be the arbitrator in making a final decision as to whether a zone is justified. However, given the nature of the bill, the widespread public interest in it and people's concerns about fireworks in their communities, it makes sense for individuals to be able to make representations.

I move amendment 9.

Ash Regan: I thank Ms McNeill for the time that she spent discussing amendment 9 with me a few weeks ago, in advance of stage 2. Her commitment to empowering local communities is to be admired. Although I am sympathetic to the intention behind her amendment, I think that there are issues with it.

Amendment 9 seeks to provide a formal process for community groups to instigate consideration of a firework control zone, and to impose a duty on local authorities to respond to such groups. Sections 30 and 31 of the bill enable the Scottish ministers to make further regulations about firework control zones and to issue guidance that local authorities must have regard to. I believe that

that guidance, which will be co-designed with local authorities, is a more appropriate route than amendment 9 is for setting out further detail on the procedures for control zones, including procedures for involving local communities.

Amendment 9 could result in a considerable resource burden being put on local authorities. It makes no provision for a limit on the number of times that the same group of relevant people could make a request and it does not say whether a local authority could decline a representation if it had carried out a consultation recently.

With firework control zones, it is intended that more than antisocial behaviour will be taken into account. For example, it will be possible for the impact of noise—even noise that results from responsible use—and the proximity of vulnerable populations to a designated zone, which Katy Clark addressed in the debate on a previous group, to be taken into account.

For those reasons, unfortunately, I cannot support amendment 9.

Pauline McNeill: In summary, I am disappointed that one of the reasons for the minister not supporting my amendment is that it would place a resource burden on local authorities. I would argue that we must strike a balance in what is a serious piece of much-needed legislation. Of course some burden will be placed on local authorities.

Unfortunately for back-bench members, because we had to lodge amendments in a very short timescale, there may well be flaws in our amendments that might not exist in the Government's amendments. However, I do not think that that is a good enough reason for the minister to reject amendment 9. I accept that it might not be drafted perfectly, but its purpose is clear.

I feel really strongly about the issue. If we were to pass the bill such that only local authorities, and not communities, could initiate the designation of a firework control zone, that would go against the grain of what we are trying to do.

Jamie Greene: There are two simple solutions. The first is that the member presses her amendment, the committee votes on it and, if it is agreed to, the Government can tidy it up at stage 3 if it is not competent. Alternatively, the minister can give the member a commitment to take the issue away, consider whether community groups or individuals should be able to make representations to local authorities on the designation of firework control zones, and bring back an alternative proposal, in which case the member will not need to press amendment 9. The amendment raises an important point.

Pauline McNeill: I would be happy if ministers would consider reducing the scope of the amendment to include only a relevant person acting on behalf of a community body. As I understand it, under the bill, only local authorities can decide whether to take forward the designation of a firework control zone. No one else can put the matter in front of a local authority. If Glasgow City Council decides not to designate an area as a firework control zone, the Pollokshields community—

Fulton MacGregor: A question has occurred to me. I do not know whether you have looked into this as part of your work on amendment 9. Could community groups or individuals in the community ask their local councillors to take the matter to the council? Would that mechanism work? Would it satisfy you?

Pauline McNeill: I guess that it would. Again, that would be for the local authority to deal with. You are saying that it would not happen that a council would not act. Why would Glasgow City Council not do that? I do not know the answer to that, but I know that, with previous legislation, councils did not act on pressured areas, whereby the right to buy could be ring fenced. We would have thought that that power would have been used in some areas of Glasgow, but it was not.

Relevant departments that are engaging with ministers may say that they are going to use the provision, but I would have thought that the decisions would be made higher up, by the full council. I do not know where the decision will be taken, but if we do not know the answer to that, we should make it clear that someone can formally ask their local authority to consider—I am not saying that it should be applied—whether a firework control zone is necessary.

I press amendment 9.

12:15

The Convener: The question is, that amendment 9 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Clark, Katy (West Scotland) (Lab)
Findlay, Russell (West Scotland) (Con)
Greene, Jamie (West Scotland) (Con)
McNeill, Pauline (Glasgow) (Lab)

Against

MacGregor, Fulton (Coatbridge and Chryston) (SNP)
Mackay, Rona (Strathkelvin and Bearsden) (SNP)
Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
Stevenson, Collette (East Kilbride) (SNP)

The Convener: The result of the division is: For 4, Against 4, Abstentions 0. There is an equality of votes. Therefore, as convener, I will use my casting vote to vote against the amendment.

Amendment 9 disagreed to.

Section 29—Review of operation and effectiveness

Amendments 114 and 115 not moved.

Section 29 agreed to.

Section 30—Power to make further provision

Amendments 116 and 117 not moved.

Section 30 agreed to.

Section 31—Guidance

Amendment 10 not moved.

Section 31 agreed to.

Section 32—Application of Part

The Convener: Amendment 25, in the name of the minister, is grouped with amendments 26 to 30, 36, 38, 40 and 41.

Ash Regan: In developing the pyrotechnic possession offence, we have been conscious of our obligation to be proportionate in our approach and to consider the least intrusive method of achieving our policy objective while still responding to the evidence around pyrotechnic misuse. However, I share the committee's view that the operational challenges that were raised following the bill's introduction need to be addressed.

I have continued to work with Police Scotland and the Scottish Police Federation on those issues. I have listened to the views of members across Parliament and gained assurances that any extension of the offence to include public places has the necessary safeguards and checks and balances built in to remain proportionate to the issue that is being tackled. As a result of those discussions, I have reassessed the provisions in the bill.

The Government amendments in the group adjust the existing possession offence and create an additional offence of being in possession of a pyrotechnic in public without reasonable excuse. To ensure proportionality and consistency with existing pyrotechnic prohibitions relating to sporting grounds, the amendments set out two offences relating to pyrotechnic possession.

Amendment 26 contains an additional offence that will prohibit the possession of a pyrotechnic article, including fireworks other than category F1 fireworks, in any public place without a reasonable

excuse. That recognises that restricting the carrying of F1 items such as sparklers and party poppers in public would be a disproportionate measure given the low risk that is presented by those items.

However, in excluding F1 fireworks from the public place possession offence, we do not want to relax any existing prohibitions relating to them. Current laws prohibit all fireworks, including F1 fireworks, from being taken into designated sporting grounds. Amendments 27 to 29 adjust the offence in section 33 to cover separately the prohibition of all fireworks and other pyrotechnic articles at designated sporting or music venues and events.

Amendments 36, 38 and 40 relate to exemptions to the prohibition on pyrotechnic articles at those places and events. They adjust those exemptions, which are set out in schedule 1, to ensure that people who carry out legitimate business using fireworks and pyrotechnics in designated sporting and music venues and events can continue to do so without committing an offence.

Amendment 41 will ensure that organised, lawful, public firework displays are not unintentionally impacted by the new pyrotechnic articles in public places offence. It provides an explicit exemption from that offence for such organisers and their assistants.

The amendments will ensure that powers are available to Police Scotland to enable it to take a preventative approach to tackling the misuse of fireworks and pyrotechnics by using intelligence-led policing and undertaking early interventions to stop misuse.

I move amendment 25.

Jamie Greene: I will make two points. First, I am unaware of Police Scotland's response to the amendments. It would have been helpful to be aware of that, given that Police Scotland raised the issue in oral and, I think, written evidence, and members tried to propose changes. It is unhelpful that we will have to vote on the amendments today. I would like to get a feel for whether Police Scotland supports the Government's revised approach. If we knew that, it would help with the decision-making process when we come to vote for or against the amendments.

My second point, which is more technical, is about the classification of devices. The minister might supply guidance in that regard. My understanding is that we do not want to overly penalise the use of category 1 fireworks. I think that the word "sparklers" was used, but the minister will be aware that sparklers can fall into multiple categories. A category 1 sparkler is one

that is up to 7.5g; anything over that is in category 2 and will be excluded. How will that be enforced?

The same goes for flares, which come in three categories. A flare of up to 20g is in category 1, a flare between 20g and 250g is in category 2, and the biggest flares, which are between 250g and 1kg, are in category 3. There seem to be three types of device whose use is problematic in public places and specifically at football matches, demonstrations and other events. There are smoke generators, which I think are pyrotechnic articles; marine flares, which are legally purchased pyrotechnic articles; and other flares, which fall into the category of fireworks. The most commonly used flares at football games are Bengal flames, which are perfectly legal category 1 fireworks when they are up to 20g, but which can be in category 2 or above.

I want to be sure that the Government has considered all the technicalities when it comes to which fireworks are exempt and which are excluded, because it is not as simple as talking about F1, F2, F3 and so on, given the interaction between articles and their use, illicit or otherwise, in different places.

Ash Regan: Police Scotland raised issues in its initial response to the committee after the bill's introduction. That gave me the opportunity to go back to Police Scotland and the Scottish Police Federation to discuss the matter with them. I confirm to the committee that both Police Scotland and the Scottish Police Federation support this set of amendments.

For information, I say to Jamie Greene that F1 covers all sparklers, which is why F1 products are prohibited at sporting events. Everything is categorised appropriately given the hazard levels and so on, and we fully considered all the technicalities in drafting the bill. That is why there are a number of consequential amendments.

The Convener: Do any other members wish to comment? It appears not. Do you wish to wind up, minister?

Ash Regan: I will waive that opportunity, convener.

Amendment 25 agreed to.

Section 32, as amended, agreed to.

After section 32

Amendment 26 moved—[Ash Regan]—and agreed to.

Section 33—Prohibition of pyrotechnic articles at certain places or events

Amendment 27 moved—[Ash Regan]—and agreed to.

Amendments 118 and 119 not moved.

Amendment 28 moved—[Ash Regan].

The Convener: The question is, that amendment 28 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Clark, Katy (West Scotland) (Lab)
MacGregor, Fulton (Coatbridge and Chryston) (SNP)
Mackay, Rona (Strathkelvin and Bearsden) (SNP)
McNeill, Pauline (Glasgow) (Lab)
Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
Stevenson, Collette (East Kilbride) (SNP)

Against

Findlay, Russell (West Scotland) (Con)
Greene, Jamie (West Scotland) (Con)

The Convener: The result of the division is: For 6, Against 2, Abstentions 0.

Amendment 28 agreed to.

Amendment 29 moved—[Ash Regan].

The Convener: The question is, that amendment 29 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Clark, Katy (West Scotland) (Lab)
MacGregor, Fulton (Coatbridge and Chryston) (SNP)
Mackay, Rona (Strathkelvin and Bearsden) (SNP)
McNeill, Pauline (Glasgow) (Lab)
Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
Stevenson, Collette (East Kilbride) (SNP)

Against

Findlay, Russell (West Scotland) (Con)
Greene, Jamie (West Scotland) (Con)

The Convener: The result of the division is: For 6, Against 2, Abstentions 0.

Amendment 29 agreed to.

Section 33, as amended, agreed to.

Section 34—Designation of venues or events

Amendment 30 moved—[Ash Regan]—and agreed to.

Section 34, as amended, agreed to.

Section 35—Exemptions from offences in Act

The Convener: Amendment 31, in the name of the minister, is grouped with amendments 32 to 35, 39, 42 and 43.

Ash Regan: I accept the recommendation from the Delegated Powers and Law Reform Committee that regulations about the requirements that a person must meet in order to be treated as a professional organiser of firework and pyrotechnic displays should be subject to affirmative procedure. While the matter is finely balanced, I understand that, if any regulations are made in this area, it will impact on whether such persons are exempt from certain offences under the bill. Amendment 31 therefore delivers the DPLRC's recommendation that regulations made under section 35(2)(b) are subject to the affirmative procedure. Regulatory authorities, as well as those acting under their direction, are fully exempt from the restrictions on the days of use of fireworks, including on fireworks within a firework control zone, and from the possession of pyrotechnic articles at certain places or events. Those exemptions are necessary to enable regulatory authorities to continue to undertake essential enforcement functions in connection with fireworks legislation and offences—including, for example, test purchasing, testing of firework products, and controlled disposals.

12:30

Following the bill's introduction, we identified that similar exemptions from the licensing requirement for certain activities carried out by third parties on behalf of regulatory authorities, as I have just described, are also required. Amendments 32 to 35 therefore seek to fulfil the original policy intent of the provisions, to allow regulatory authorities to continue to carry out their essential work.

Amendments 39 and 42 ensure that young people under the age of 18 in education, training or employment will be able to access and use fireworks and pyrotechnics when needed for legitimate purposes in direct relation to that education, training or employment.

Amendment 42 adds an exemption from the prohibition on providing fireworks or pyrotechnic articles to children to ensure that those in education, training or employment are not adversely impacted. Amendment 39 removes an exemption relating to under-18s employed in firework businesses, which is no longer necessary as a consequence of amendment 42, which is broad enough to include such persons.

Amendment 43 ensures that certain individuals carrying out vital functions, including armed forces members, cadets, law enforcement and other emergency services, can continue to carry out any of their functions that involve possessing or using pyrotechnic articles. The amendment provides exemptions from the restrictions in the bill for the armed forces of Her Majesty, cadets and overseas

members undertaking activities with the armed forces cadets, as well as for those members of other services or organisations involved in law enforcement, search and rescue services or the preservation of life. That could include, for example, search and rescue volunteers.

I move amendment 31 and I hope that committee members can support it.

Amendment 31 agreed to.

Section 35, as amended, agreed to.

Schedule 1—Exemptions

Amendments 32 to 35 moved—[Ash Regan]—and agreed to.

Amendment 120 not moved.

Amendment 36 moved—[Ash Regan].

The Convener: The question is, that amendment 36 be agreed to. Are we all agreed?

Members: No.

The Convener: There will be a division.

For

Clark, Katy (West Scotland) (Lab)
MacGregor, Fulton (Coatbridge and Chryston) (SNP)
Mackay, Rona (Strathkelvin and Bearsden) (SNP)
McNeill, Pauline (Glasgow) (Lab)
Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
Stevenson, Collette (East Kilbride) (SNP)

Against

Findlay, Russell (West Scotland) (Con)
Greene, Jamie (West Scotland) (Con)

The Convener: The result of the division is: For 6, Against 2, Abstentions 0.

Amendment 36 agreed to.

The Convener: Amendment 121, in the name of Jamie Greene, has already been debated. I remind members that, if amendment 121 is agreed to, I cannot call amendment 37 due to pre-emption.

Amendment 121 not moved.

Amendment 37 moved—[Ash Regan]—and agreed to.

Amendment 38 moved—[Ash Regan].

The Convener: The question is, that amendment 38 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Clark, Katy (West Scotland) (Lab)
MacGregor, Fulton (Coatbridge and Chryston) (SNP)
Mackay, Rona (Strathkelvin and Bearsden) (SNP)
McNeill, Pauline (Glasgow) (Lab)

Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
Stevenson, Collette (East Kilbride) (SNP)

Against

Findlay, Russell (West Scotland) (Con)
Greene, Jamie (West Scotland) (Con)

The Convener: The result of the division is: For 6, Against 2, Abstentions 0.

Amendment 38 agreed to.

Amendment 39 moved—[Ash Regan]—and agreed to.

Amendment 122 not moved.

Amendment 40 moved—[Ash Regan].

The Convener: The question is, that amendment 40 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Clark, Katy (West Scotland) (Lab)
MacGregor, Fulton (Coatbridge and Chryston) (SNP)
Mackay, Rona (Strathkelvin and Bearsden) (SNP)
McNeill, Pauline (Glasgow) (Lab)
Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
Stevenson, Collette (East Kilbride) (SNP)

Against

Findlay, Russell (West Scotland) (Con)
Greene, Jamie (West Scotland) (Con)

The Convener: The result of the division is: For 6, Against 2, Abstentions 0.

Amendment 40 agreed to.

Amendment 123 not moved.

Amendments 41 to 43 moved—[Ash Regan]—and agreed to.

Schedule 1, as amended, agreed to.

Section 36 agreed to.

Schedule 2 agreed to.

Sections 37 and 38 agreed to.

Section 39—Offence of obstructing officer of a local weights and measures authority

Amendments 124 and 125 not moved.

Sections 39 and 40 agreed to.

Section 41—Time limit for prosecution of offences

Amendment 126 not moved.

Section 41 agreed to.

After section 41

The Convener: Amendment 44, in the name of the minister, is grouped with amendment 45.

Ash Regan: There was much discussion at stage 1 regarding enforcement of fireworks legislation and particular emphasis was given to the number of prosecutions in the data provided by the Crown Office.

During stage 1 proceedings, our colleagues in Police Scotland and the Scottish Police Federation made it clear that a presumption of contents clause would be an appropriate and efficient cost saving measure, removing the requirement to submit all items for examination in order to prove an offence. The Criminal Justice Committee heard those concerns and recommended that I bring forward an amendment at stage 2 to address the issues.

I welcome that recommendation from the committee and amendment 44 gives effect to it. It makes provision for an evidential presumption to operate in proceedings for offences under the bill. Evidence will only require to be led to prove that element of the offence if a party seeks to rebut the presumption by contrary evidence. I consider that that will ease the burden on our police forces to evidence offences under the bill, while still allowing for fairness to the accused.

Amendment 45 seeks to reduce the burden falling on evidencing certain matters so that only one source of evidence is required. My officials have engaged with Trading Standards Scotland and the Explosives Industry Group to confirm the existing process that is followed in relation to testing and certification of fireworks and engaged with the Crown Office in the process of drafting the amendment. I am confident that it provides for a robust and appropriate means of reducing the evidential burden on enforcement agencies while maintaining the integrity of Scots law.

I move amendment 44, and hope that members will support it.

The Convener: Thank you, minister. Would any members like to come in?

Pauline McNeill: I just want to make one point. Amendment 44 all makes sense, but subsection (4) says

“A party may lead evidence for the purpose of rebutting the presumption only if the party has given notice of the intention to do so to the other parties”.

My reading of that is that the use of the words “only if” means that if someone does not provide notice they cannot present evidence to the court. I am asking about that because in some legislation there are provisions that say that, on “cause shown”, someone can rebut again. I am happy to support the amendment, but I wanted to put that on the record.

Amendment 44 agreed to.

Section 42—Certificates as to proof of having fireworks licence

Amendment 45 moved—[Ash Regan]—and agreed to.

Section 42, as amended, agreed to.

Sections 43 and 44 agreed to.

After section 44

The Convener: Amendment 127, in the name of Jamie Greene, is in a group on its own.

Jamie Greene: Amendment 127 seeks to insert a new part into the bill, called “Improvement of Firework Safety”. In essence, the whole bill is about improving firework safety. I am asking Scottish ministers to publish and lay before Parliament a firework safety plan, the content of which is detailed in my proposed amendment. I will run through it quickly.

Proposed new subsection (2)(a) provides for “the development of an annual ... safety campaign”,

which will educate the public through a variety of channels about the dangers of fireworks and how they can be used safely. It is not just for those people who go through the licensing process but is much wider than that.

Proposed new subsection (2)(b) goes on to address the sale of illegal fireworks online to ensure that people who are selling or attempting to sell fireworks through non-legitimate channels are deterred from doing so. I ask the Government to work with social media companies, for example, to clamp down on or remove posts that involve illicit selling. That should also provide an opportunity to interact with young people on such platforms and to educate them accordingly.

12:45

Subsection 2(c) of the proposed new section relates to

“the provision of additional, seasonal funding to help tackle any increase in illegal fireworks”.

Specifically, that may be helpful to the emergency services, which experience peaks of problematic behaviour at certain times of the year. We know that, when the emergency services are properly funded and resourced, they do good work. Members may be aware that, last year, for example, around £20,000 of illegal fireworks were seized in the Drumchapel area just ahead of bonfire night. That is one of many examples; there were other examples in Pollokshields. It would be important as part of the safety plan for ministers to

outline what funding will be allocated to the enforcement of the

“detection and apprehension of illegal fireworks”,

which is specifically asked of the Government in paragraph (d).

The next point is an interesting one. I believe that the fireworks safety plan should also include a central point of contact for reporting the misuse of fireworks. One of the big issues that the committee has raised is the inability to identify the scale of the problem and the confusion among the wider public when there is misuse of fireworks. Who should they report that to? Is it illegal, or is it just antisocial? Are calls being made to trading standards officers, to local authorities, to police or to the fire service, whether using emergency or non-emergency numbers? Some centralisation of reporting and data collection would be extremely useful and would help the Government to understand whether legislation such as this has been effective.

Paragraph (f) relates to the standardisation of “reporting for injuries caused solely by fireworks”.

We have heard evidence throughout this process of a lack of clarity as to whether, when people present in accident and emergency units, the injury is solely related to fireworks or is part of a bigger picture. It is difficult to understand the scale and volume of injuries caused by fireworks, and some standardised reporting would be of great benefit.

Paragraph (g) asks the Scottish ministers to co-operate

“at border control for the prevention of illegal fireworks entering Scotland,”

given that we will have a different regulatory regime. That is not asking ministers to enforce things outside our jurisdiction, but there is real potential for an influx of illicit products from England and Europe. That should be part of the safety plan.

Paragraph (h) covers

“co-operation with retailers about their continued supply of fireworks,”

which is fairly self-explanatory. That provision takes into account the results of those provisions in the bill that will change the retail landscape of the sale of fireworks.

As always, there is also a provision to cover

“such other matters as the Scottish Ministers consider appropriate.”

I have created a non-exhaustive list. It will be familiar to many members: it has appeared, in parts, in the industry’s submission to the Government regarding a firework safety plan. In

response, the industry has supported my amendment, saying:

“The Scottish Government has a real opportunity to not only improve fireworks safety, but to also minimise the risk of unintended consequences. By working with the industry, the message of the safe, considerate and responsible use of fireworks would be channelled through official retailers. By working with the industry, we could provide vital training to enforcement authorities on what to look for with regard to illegal storage, selling and illegal product.”

For the benefit of members and the official report, that letter is on the record.

Amendment 127 has been widely well received by the fireworks industry; it was also proposed by the industry. I have tried to remove elements of its plans that I deemed to be outside the competence of the bill or indeed the Scottish Government.

I hope that that is a sensible approach to putting on the statute books a requirement for the Government to publish a plan and lay it before Parliament for consideration—if the Government does not accept the amendment, it could come back with its own proposals at stage 3. Ultimately, the approach proposed in the amendment will produce the beneficial outcomes that we all want, many of which the bill will not produce—as we all know.

I move amendment 127.

Ash Regan: I share Mr Greene’s views on the importance of firework safety.

Much of what is included in Mr Greene’s amendment reflects what was proposed in the British Fireworks Association’s 10-point plan. I have said on a number of occasions that I welcome much of that plan and the good progress that is being made in a number of the areas that are highlighted in it.

However, through my actions, I have already made clear my strong commitment to firework safety, so it is not necessary or appropriate to use the bill to write into legislation stated policy commitments, which follow on from the fireworks action plan that was published in 2019. That plan sets out the range of legislative and non-legislative actions that have been and will continue to be progressed. Those actions will collectively support a change in how fireworks are used in Scotland.

I will address a couple of points that Jamie Greene mentioned. As he will have noted, we provided additional funding to trading standards last year to support enforcement of the Fireworks (Scotland) Miscellaneous Amendments Regulations 2021. That demonstrates our commitment to funding enforcement. Learning from that will be helpful in relation to enforcement measures in general, if the bill is passed. I set out more detail on that in the letter that I sent to the committee last week.

For those reasons, I do not support amendment 127 and urge the committee not to support it.

Jamie Greene: I welcome the minister’s comments that the intention is that much of what the amendment provides will form part of everyday Government policy. However, the problem is that Governments change, so having those measures in the bill would be helpful because it would ensure that, for as long as the bill remained law, any future Government would have a requirement to produce a firework safety plan, rather than it being taken for granted that that would be front and centre of future Governments’ plans. That is the point of putting it in the bill and not just leaving it to policy and manifestos. That was the intention behind amendment 127, which I will press.

The Convener: The question is, that amendment 127 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Clark, Katy (West Scotland) (Lab)
Findlay, Russell (West Scotland) (Con)
Greene, Jamie (West Scotland) (Con)
McNeill, Pauline (Glasgow) (Lab)

Against

MacGregor, Fulton (Coatbridge and Chryston) (SNP)
Mackay, Rona (Strathkelvin and Bearsden) (SNP)
Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
Stevenson, Collette (East Kilbride) (SNP)

The Convener: The result of the division is: For 4, Against 4, Abstentions 0. There is an equality of votes. Therefore, as convener, I will use my casting vote to vote against the amendment.

Amendment 127 disagreed to.

The Convener: Members will be glad to know that we have reached the final group of amendments. Amendment 128, in the name of Jamie Greene, is the only amendment in the group.

Jamie Greene: Members will be very pleased to know that this is the last group. It is a single amendment but an important one. I am pleased that it is the last amendment that we are debating because some of the most shocking evidence that we took was from our blue-light services and front-line emergency service workers who, for many years, have been repeatedly and openly the targets of assaults, violence and abuse in which fireworks are used as weapons.

I appreciate that there is existing legislation to deal with that, but our stage 1 report asked the Government to go a little bit further. Although we acknowledged that there is legislation to deal with such behaviour, we included wording that is not

reflected in any of the Government's amendments. We said:

"In order to deal with the impact that dangerous firework use has on emergency workers, the Committee asks the Scottish Government to consider tougher punishments for those who use fireworks to assault emergency workers."

That was the committee's collective view and my amendment seeks to implement that.

The approach that I have taken is to amend the Emergency Workers (Scotland) Act 2005, to introduce an aggravator for those who assault emergency workers specifically using fireworks or pyrotechnic articles. The effect would be to allow judges the opportunity to impose harsher punishments on those who attack emergency services workers specifically using fireworks or pyrotechnics.

I am pretty sure that we all agree that we do not condone attacks on emergency services workers. We understand that those can be dealt with in the eyes of the law but, if we are going to stay true to our word, in relation to the Government considering the imposition of tougher punishments on those who assault emergency services workers, this would be one way to do it.

Last year, on bonfire night, eight fire crews—that means multiple individuals—and several police officers were attacked and injured. Three firefighters were also injured. Such attacks happen every year—last year, one of the firefighters required hospital treatment. The missiles included not just fireworks but golf clubs and other items. However, this legislation is about the misuse of fireworks.

When the committee reached that conclusion at stage 1, we considered a number of submissions with detailed and alarming anecdotes about fireworks specifically having been used as weapons, particularly around football matches, where it affects not just the individuals but, for example, police officers on horseback as well. It is particularly intimidating in those instances.

I think that our emergency services workers deserve nothing less than what I have suggested. I worked with the legislation team on the best way to approach this and we felt that amending the 2005 act to include an aggravation in relation to the use of fireworks was the best way to go about it.

The minister has the benefit of solicitors who may disagree. I am hoping that the minister will agree to the principle of adding the aggravation. However, if my proposal does not meet the objective and the minister could suggest a better way of doing it in relation to amending the statute books, I would be very open to that, because I think that we all want the same result. I am keen to

hear what other members and the minister have to say.

I move amendment 128.

Fulton MacGregor: I am pleased that this is the last amendment that we are debating today.

I do not think that there is any need for this amendment just now. It takes us back to earlier debates. Possibly, it is an opportunity for my colleague, who I know puts a lot of thought into his amendments, to lay out the wider policies of his party in relation to justice.

I say that because there will be no argument from anybody at all about the serious nature of assaults on emergency workers. We have heard about it in evidence. We all know about it and we all get examples of it in our constituency case work. It is an extremely serious offence but it is already covered by separate legislation, indicating how seriously the Parliament, on a cross-party basis, has treated the issue. I do not think that there is any need for an aggravation to be added, because the courts can already impose an appropriate sentence in relation to such cases.

When the member is summing up, he may talk about the presumption against short-term sentences—something which I very much agree with—but some of the possible offences that we are talking about, in their extreme form, would be likely to incur longer sentences in any case. Also, there might be other situations where there are mitigating factors, such as when a group of young people get together and it is not clear how the offence has been committed. That is the sort of thing that we have talked about in committee. The legislation as drafted already gives flexibility around that and it is pretty good.

This has been a very good debate overall and I would not want anybody who is watching the meeting and listening to this last debating point to think that the bill does not allow for harsher penalties when an emergency worker, for example, is seriously assaulted or even injured by the use of fireworks or pyrotechnics. I do not think that there is any need for the amendment.

Rona Mackay: I agree with my colleague. The amendment is well intentioned, but we run the risk of overlegislation if we agree to it.

13:00

Russell Findlay: I do not doubt the sincerity of Rona Mackay or Fulton MacGregor, but I think that the amendment is important and should be included. It could be argued that the existing legislation addresses attacks on emergency workers, but passing flagship firework and pyrotechnic legislation gives us the opportunity to include a specific aggregator for attacks on

emergency workers, whether those are police officers or firefighters. That would be a worthwhile and positive thing to do. Attacks on firefighters who are trying to deal with events on bonfire night have become an almost annual event.

Pauline McNeill: I have a question for Jamie Greene, specifically about the emergency workers legislation and not about any other legislation. I can sometimes see the need for legislation that might be symbolic or send a message. We have a huge problem and I am sympathetic to that. Are you concerned that the courts would not treat that as an aggravating factor at the moment? Are you concerned that a sheriff looking at the circumstances would not, of their own volition, see that there are aggravating factors or add an additional element to the sentence because of the nature of the problem?

Jamie Greene: Mr Findlay is entitled to intervene.

Pauline McNeill: I have the floor; Mr Findlay can intervene.

Russell Findlay: A difficulty is the lack of detailed information, not only about arrests and prosecutions but about disposals, which are the ultimate test of how seriously the offences are currently taken. The one example cited in the research by the British Fireworks Association was that the maximum fine that they could find out about was of £150 for a 19-year-old in East Lothian who threw fireworks at two police officers. Without knowing the full circumstances of the case, that certainly seems slightly less than one might have expected.

Therefore, I think that adding an aggregator to the bill would focus the mind of the judiciary. Jamie Greene or the minister might be able to correct me, but I assume that if that was what an individual was charged with, the aggregator would be built in, so would be in front of the sheriff at the time of disposal and might therefore serve as a greater deterrent. In general, we have not seen evidence that the laws are being applied as strongly as they could be for the deterrent purpose.

Pauline McNeill: I am sympathetic to that but I wanted some clarification. The Emergency Workers (Scotland) Act 2005 is designed to highlight the fact that an attack on an emergency worker should already be seen as a specific crime. In a sense, it is an indirect aggravation because it applies to the police, workers in hospital accident and emergency departments and ambulance workers.

I am sympathetic to the amendment because of some of the evidence that we have heard about attacks involving fireworks. Some of it is on the extreme end of the spectrum of unacceptable and

violent attacks against our emergency workers. There is other legislation that can be used in prosecution, so I wanted to ask about that.

Ash Regan: I share the member's view that the criminal courts should have the powers that they need in order to respond to assaults on our dedicated and hard-working emergency workers. There is something particularly sickening about the targeting of those who are responding to emergency situations in the service of others.

I have heard what the committee has said, and I note the points that were raised by Fulton MacGregor and others about the current powers that the court has to take such circumstances on board. In relevant cases, a court can and does take into account the circumstances of an offence before deciding on the sentence, but I accept that there may be merit in considering whether some form of statutory aggravation could be assessed, when it comes to the use of pyrotechnics and fireworks against emergency workers, in the context of the Emergency Workers (Scotland) Act 2005.

There are other issues in relation to the amendment, some of which were alluded to by Pauline McNeill. I cannot support the amendment as it is, but I am happy to engage further on the topic with the member.

The Convener: I call Jamie Greene to wind up and press or withdraw amendment 128.

Jamie Greene: This is my last summing-up; what a relief—to all of us.

I thank members for their contributions. I do not doubt for a moment that this issue is taken seriously. As the minister rightly said, it is particularly galling that people use pyrotechnic devices and fireworks as easy-to-buy weapons that they can chuck at ambulance workers or at the people who fight the fires that they have lit. Those stories are shocking.

On the question of whether this is symbolic or has a direct impact on sentencing, if we were to ask rank and file emergency service workers whether they would support their Parliament's strengthening of legislation to include an aggravator of fireworks being used against them, to involve the potential for a harsher sentence, the unanimous answer would be yes. It is what they expect of us because it is what we said we would do and it is what we asked the Government to do.

I hope that the minister's offer—that we can think about how we could do this in a better way—was genuine. As it was a committee recommendation that the deterrent should be increased, it would be good to have something in the bill at stage 3, even if it were to be partially symbolic. I would be happy to sit down with the

minister and work out what that might be. Once we have drafted something, we also need to get feedback from the emergency services on whether they think that it goes far enough or too far.

As has been said, no one wants to overlegislate; however, as lawmakers, legislation is our only tool. It would be an important and poignant move by the committee and the Government to get on with this and make sure that it is very clear to the public that using fireworks as a means of attacking our emergency services workers cannot and will not be tolerated. If amendment 128 is not the way to do it, let us find a way to do it.

Amendment 128, by agreement, withdrawn.

Before section 45

The Convener: We are almost there.

Amendment 56 moved—[Collette Stevenson]—and agreed to.

Amendment 129 not moved.

Section 45—Interpretation

Amendments 130 and 131 not moved.

Section 45 agreed to.

Sections 46 to 49 agreed to.

Section 50—Commencement

Amendment 57 moved—[Collette Stevenson]—and agreed to.

Amendment 132 moved—[Jamie Greene].

The Convener: The question is, that amendment 132 be agreed to. Are we all agreed?

Members: No.

The Convener: There will be a division.

For

Clark, Katy (West Scotland) (Lab)
Findlay, Russell (West Scotland) (Con)
Greene, Jamie (West Scotland) (Con)
McNeill, Pauline (Glasgow) (Lab)

Against

MacGregor, Fulton (Coatbridge and Chryston) (SNP)
Mackay, Rona (Strathkelvin and Bearsden) (SNP)
Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
Stevenson, Collette (East Kilbride) (SNP)

The Convener: The result of the division is: For 4, Against 4, Abstentions 0. As there is an equality of votes, I, as convener, shall use my casting vote to vote against the amendment.

Amendment 132 disagreed to.

Amendment 133 moved—[Jamie Greene].

The Convener: The question is, that amendment 133 be agreed to. Are we all agreed?

Members: No.

The Convener: There will be a division.

For

Clark, Katy (West Scotland) (Lab)
Findlay, Russell (West Scotland) (Con)
Greene, Jamie (West Scotland) (Con)
McNeill, Pauline (Glasgow) (Lab)

Against

MacGregor, Fulton (Coatbridge and Chryston) (SNP)
Mackay, Rona (Strathkelvin and Bearsden) (SNP)
Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
Stevenson, Collette (East Kilbride) (SNP)

The Convener: The result of the division is: For 4, Against 4, Abstentions 0. As there is an equality of votes, I, as convener, shall use my casting vote to vote against the amendment.

Amendment 133 disagreed to.

Section 50, as amended, agreed to.

Section 51 agreed to.

Long Title

Amendment 134 not moved.

Long title agreed to.

The Convener: That ends stage 2 consideration of the bill. The legislation team will now produce the amended version of the bill, showing all the amendments made by the committee. That will be available to members within the next few days.

I take this opportunity to thank all those who assisted the committee during its scrutiny of the bill. We will now have a short pause to allow for a change of Government officials before our next agenda item.

13:13

Meeting suspended.

13:16

On resuming—

Subordinate Legislation

Surrender of Offensive Weapons (Compensation) (Scotland) Regulations 2022 [Draft]

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

The Convener: Agenda item 2 is consideration of two affirmative instruments. I welcome to the meeting Ash Regan, Minister for Community Safety, and from the Scottish Government, Philip Lamont, criminal justice division, and Jamie MacQueen, legal directorate.

I refer members to paper 1 and invite the minister to speak to both instruments.

Ash Regan: I will speak to both instruments at the same time in this short opening statement.

The Surrender of Offensive Weapons (Compensation) (Scotland) Regulations 2022 provide the legislative framework for a scheme to allow legitimate owners of certain highly dangerous offensive weapons to hand them in to the police and receive compensation from the Scottish Government for doing so.

The scheme, which follows that of a similar scheme in England and Wales last year, is required, because a change in the law will shortly be implemented that will criminalise the private possession of such highly dangerous offensive weapons. Before that change can be made, legitimate owners have to be given the opportunity to be compensated in order to protect their property rights under human rights law.

The scheme will operate on very similar terms to the scheme operated in England and Wales by the UK Government and police forces down there. There is no requirement to claim compensation and weapons can be simply surrendered without compensation being given. However, if compensation is wanted, a claim form must be filled in and handed to the police at the same time as the weapon is surrendered. The Scottish Government will then process the claim.

Under the regulations, any overall claim must be for at least £30 to ensure that there are no undue costs in administering individual claims. Again, that is the same as the equivalent scheme in England and Wales.

The type of weapons covered include knuckle dusters, hand claws, foot claws and push daggers, all of which have no benign use and already carry with them tight restrictions such as a ban on sale, manufacture and importation. However, some people might have purchased such weapons prior to the restrictions coming in or might have inherited them, and the scheme protects the rights of owners of such weapons while getting the weapons out of circulation and out of harm's way.

The Criminal Justice Act 1988 (Offensive Weapons) (Amendment, Surrender and Compensation) (Scotland) Order 2022 adds what is called a zombie knife to the list of highly dangerous offensive weapons already subject to the restrictions on their sale, manufacture and importation. In other words, zombie knives will be treated like knuckle dusters, push daggers and so on and will no longer be able to be sold, manufactured or imported.

The type of weapon called a zombie knife has been developed in recent years following its glamorisation in zombie-type films. Although they are not known to be common in Scotland, we think that it is sensible to add those weapons to the existing list. The order will also allow Scottish ministers to make arrangements for a surrender and compensation scheme for those knives in the same way as I have just set out.

The zombie knives scheme is required for the same reasons as the scheme under the 2022 regulations. In other words, it is required to protect the property rights of legitimate owners, as was done in England and Wales by the UK Government.

From the perspective of members of the public, there will be just one overall scheme. It will run from 1 July to 30 September this year for zombie knives and the other weapons covered by the regulations. Once that has happened, the Scottish Government will proceed to commence the new law, which makes it an offence to possess those weapons in private.

The Convener: Thank you, minister. Do members have any questions?

Russell Findlay: What is the legal definition of a "zombie knife"?

Ash Regan: I ask Philip Lamont to answer that question.

Philip Lamont (Scottish Government): It is defined as having a serrated or jagged edge, with wording. The definition is included in the regulations, but it is based on the definition used by the UK Government in its legislation. I do not have it in front of me, but that is the definition that is used. As I have said, it is set out in the

regulations, but it is based on the English and Welsh definition.

Russell Findlay: I am asking partly out of curiosity but also to get confirmation that there is a pre-existing definition.

Ash Regan: The definition used mirrors the one provided in the Offensive Weapons Act 2019.

Jamie Greene: When I read the papers, it was my understanding that the order was intended simply to include so-called zombie knives, as defined, to the list of offensive weapons. However, the impression that I got from the minister's opening statement is that this is actually a wider exercise and that there will be a more general amnesty for knives and weapons. That might not be understood outside this room. Minister, can you clarify whether we are opening up a wider amnesty for knives and weapons, in which members of the public can go to a police station with something that they think might or might not be a weapon and deposit it safely in return for a promise of no prosecution and possible compensation? The public should be aware of that.

Secondly, what public awareness work will the Government carry out to ensure that people know that that is happening?

Ash Regan: There are two instruments in front of you, the first of which provides a legal framework to allow certain offensive weapons to be handed in to the police. The member is right that compensation can be sought in return, but we have to do this ahead of the change in the law that is coming into force in a few months' time and which will criminalise the possession of certain offensive weapons in a private setting. That is the new part of the law, but in order to bring it in, we must provide a compensation scheme.

I can go through the weapons that are listed for the committee, but the list is very long. In any case, all the knives and weapons that are affected by the instrument are listed so, if the member is interested, he can check what they are.

We want to get those weapons out of circulation, and we are encouraging the public to go to a police station at a designated time. However, they should check that their local police station is the right place to hand weapons in. They can be handed in at certain times of day, and there will be certain ways in which people can do so.

The second instrument just adds zombie knives to the list of weapons affected. There are two separate instruments, but they operate as one to all intents and purposes.

We intend to publicise the scheme. I ask Philip Lamont—who has now reached the right page of his briefing—to explain how we will do that.

Philip Lamont: When the scheme opens on 1 July—it will not happen before then—we will put information about it on the mygov.scot website. That will set out exactly what people have to do and will also include the claim form. We will also put out a press release and use social media. However, we do not want to do that before 1 July, because we do not want to create confusion about when the scheme will operate.

Jamie Greene: Initially, there was some confusion in England when zombie knives were added to the list, because there was a perception that the move applied to any form of serrated knife. Indeed, there was confusion among police officers, with some of the unions asking how they would go about enforcing that. For example, a person might have one of these knives at home; although the knife itself might never leave the house, it would now be an offence to have it at all. Under the definition, not only did the knife have to be serrated but it had to be demonstrated that it was to be used for an act of violence or it had to have markings on it.

Philip Lamont: Indeed.

Jamie Greene: It just seems a bit vague. I am worried that people might be alerted to—and alarmed by—things that they might have in their house that it is now illegal for them to have in their house. How might you address those concerns?

Philip Lamont: We can pay special attention to raising awareness of the zombie knives issue. You are right to say that there have been one or two issues with the definition, which, as I have said, is the English and Welsh definition. It is quite a challenge to give exact definitions of different types of weapons. We are not aware of any major issues arising in England and Wales, but I do not doubt that there might have been some issues with understanding exactly what is and is not a zombie knife. We can ensure that our awareness raising highlights that as an issue.

The Convener: As there are no more questions, I invite the minister to move the motions.

Motions moved,

That the Criminal Justice Committee recommends that the Surrender of Offensive Weapons (Compensation) (Scotland) Regulations 2022 [draft] be approved.

That the Criminal Justice Committee recommends that the Criminal Justice Act 1988 (Offensive Weapons) (Amendment, Surrender and Compensation) (Scotland) Order 2022 [draft] be approved.—[Ash Regan]

Motions agreed to.

Offensive Weapons Act 2019 (Prescribed Documents) (Scotland) Order 2022 (SSI 2022/148)

The Convener: Agenda item 4 is consideration of a negative instrument. I refer members to paper 2.

If members have no questions, is the committee content not to make any recommendations to the Parliament on the instrument?

Members *indicated agreement.*

The Convener: Thank you. That concludes today's meeting. Our next meeting will be on Wednesday 8 June, when our main item of business will be consideration of stage 2 amendments to the justice provisions in the Coronavirus (Recovery and Reform) (Scotland) Bill.

I now close the meeting.

Meeting closed at 13:27.

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