

Draft Order laid before the Scottish Parliament under section 141(11J) of the Criminal Justice Act 1988, for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2022 No.

CRIMINAL LAW

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

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

The Scottish Ministers make the following Order in exercise of the powers conferred by section 141(2) of the Criminal Justice Act 1988⁽¹⁾ and all other powers enabling them to do so.

In accordance with section 141(11J)(2) of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Criminal Justice Act 1988 (Offensive Weapons) (Amendment, Surrender and Compensation) (Scotland) Order 2022 and comes into force on the day after the day on which it is made.

(2) This Order extends to Scotland only.

(3) In this Order—

“the 2019 Act” means the Offensive Weapons Act 2019⁽³⁾,

“the 2022 Regulations” means the Surrender of Offensive Weapons (Compensation) (Scotland) Regulations 2022⁽⁴⁾,

“claimant” means a person who has made a claim under article 6(3),

“officer” means a person authorised to accept surrender of weapons in accordance with arrangements made under article 3(1),

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

(1) 1988 c. 33; the functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

(2) Section 141(11J) was inserted by section 60(1)(b) of the Custodial Sentences and Weapons (Scotland) Act 2007 (asp 17).

(3) 2019 c. 17.

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

“surrendered” means surrendered in accordance with arrangements made by the Scottish Ministers under article 3(1) and similar expressions are to be construed accordingly,

“zombie knife” means a weapon sometimes known as a “zombie knife”, “zombie killer knife”, or “zombie slayer knife”, being a blade with—

- (a) a cutting edge,
- (b) a serrated edge, and
- (c) images or words (whether on the blade or handle) that suggest it is to be used for the purpose of violence.

Amendment of the schedule of the Criminal Justice Act 1988 (Offensive Weapons) (Scotland) Order 2005

2. In paragraph 1 of the schedule of the Criminal Justice Act 1988 (Offensive Weapons) (Scotland) Order 2005⁽⁵⁾ after sub-paragraph (r) insert—

- “(s) the weapon sometimes known as a “zombie knife”, “zombie killer knife”, or “zombie slayer knife”, being a blade with—
 - (i) a cutting edge,
 - (ii) a serrated edge, and
 - (iii) images or words (whether on the blade or handle) that suggest it is to be used for the purpose of violence.”.

Arrangements for the surrender of a zombie knife

3.—(1) The Scottish Ministers may make such arrangements as they think fit to secure the orderly surrender at designated police stations in Scotland of zombie knives.

(2) The Chief Constable of the Police Service of Scotland may designate any police station in Scotland as being suitable for the receipt of zombie knives surrendered under arrangements made under paragraph (1).

Compensation payments

4.—(1) Subject to paragraph (3) and article 7(5), the Scottish Ministers must pay compensation in accordance with paragraph (2) for a surrendered zombie knife.

(2) Subject to article 7(4), the level of compensation payment to be made for each surrendered zombie knife is £10.

(3) A person may claim compensation under paragraph (1) if they—

- (a) owned the zombie knife on 29 April 2022, or had contracted to acquire the zombie knife on or before 29 April 2022,
- (b) surrendered the zombie knife within the required period, and
- (c) make a declaration that they are the legal owner of the zombie knife and that it was lawfully acquired.

Receipt for weapon surrendered

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

(5) [S.S.I. 2005/483](#). Paragraph 1 of the schedule is to be amended by section 47(12) of the Offensive Weapons Act 2019.

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

Claim for compensation

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

(2) A person who has surrendered a zombie knife and meets the conditions in article 4(3) may make a claim to the Scottish Ministers using the claim form.

(3) The claimant must submit the claim form at the same time as the zombie knife is surrendered.

(4) The claim form must contain—

- (a) the claimant's full name, date of birth and address,
- (b) details of the bank account into which any compensation is to be paid, if the payment is to be made by electronic transfer,
- (c) the number of zombie knives surrendered,
- (d) the unique reference number contained on the receipt issued under article 5(1),
- (e) the amount of compensation sought, and
- (f) a declaration that the claimant is the legal owner of the zombie knife and that it was lawfully acquired.

(5) An officer must forward a claim form submitted in accordance with paragraph (3) to the Scottish Ministers.

(6) A claimant may seek compensation for a surrendered zombie knife which is higher than the level of compensation provided at article 4(2).

(7) If a claimant seeks compensation for a zombie knife which is higher than the level of compensation provided at article 4(2), the claimant must provide sufficient evidence of the valuation of that zombie knife to enable the Scottish Ministers to determine the claim.

(8) Evidence of a valuation of a zombie knife may include—

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

(9) If not satisfied that the evidence of valuation supplied under paragraph (7) is sufficient to enable a determination of the claim to be made, the Scottish Ministers may request additional evidence to be supplied.

Determination and payment of claims

7.—(1) The Scottish Ministers must determine a claim under article 6 as soon as reasonably practicable.

(2) The Scottish Ministers must determine the amount of compensation payable in accordance with paragraphs (3) to (8).

(3) The amount of compensation payable for a zombie knife is the amount provided in article 4(2) unless the claimant has claimed a higher amount of compensation.

(4) Where the claimant has sought a higher amount of compensation than the amount provided in article 4(2), the Scottish Ministers must determine the amount payable, if any, taking account of the valuation evidence supplied.

(5) Subject to paragraph (6), no compensation is payable in respect of a claim which amounts to less than £30.

(6) The Scottish Ministers may pay compensation in respect of a zombie knife surrendered during the required period which amounts to less than £30 if—

- (a) the claimant has surrendered a weapon in accordance with arrangements made under section 48(2) of the 2019 Act,
- (b) the claimant surrendered that weapon within the required period provided at regulation 1(3) of the 2022 Regulations,
- (c) the claimant has made a claim for compensation in respect of that weapon under regulation 5(3) of the 2022 Regulations, and
- (d) the total value of the claim for the weapon surrendered in accordance with arrangements made under section 48(2) of the 2019 Act (as determined in accordance with the 2022 Regulations) and the claim for the surrendered zombie knife (as determined in accordance with this Order) amounts to £30 or more.

(7) If satisfied that compensation is payable under this article, the Scottish Ministers must—

- (a) notify the claimant in writing of the amount of compensation that the Scottish Ministers consider is payable and give reasons for the decision, and
- (b) make payment of the amount determined either—
 - (i) to the bank account nominated for this purpose on the claim form, or
 - (ii) by cheque sent to the address provided on the claim form.

(8) If not satisfied that compensation is payable, the Scottish Ministers must notify the claimant in writing that no compensation is to be paid and give reasons for the decision.

St Andrew's House,
Edinburgh
Date

Name
A member of the Scottish Government

SCHEDULE

Article 6(1)

Claim Form for compensation

Surrender and Compensation Scheme Claim Form

SG Logo

For Police Scotland use only

Unique reference number:

SURRENDER AND COMPENSATION SCHEME CLAIM FORM

If you want to claim financial compensation for the item(s) you are surrendering to Police Scotland please complete Parts A, B, C and D.

(Please ensure that you have read the accompanying Guidance and Privacy Information Notice before completing this form.)

PLEASE COMPLETE IN BLOCK CAPITALS

PART A – Your details

Title

Forename(s)

Surname

Date of Birth

Day

Month

Year

Your address

House number

Street

Village, Town or City

County

Postcode

Contact number

5

Email