

*Draft Regulations laid before the Scottish Parliament under section 68(4) of the Offensive Weapons Act 2019 for approval by resolution of the Scottish Parliament.*

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## DRAFT SCOTTISH STATUTORY INSTRUMENTS

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**2022 No.**

# COMPENSATION

## The Surrender of Offensive Weapons (Compensation) (Scotland) Regulations 2022

Made	-	-	-	-	2022
Coming into force	-	-			2022

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 49(4) of the Offensive Weapons Act 2019<sup>(1)</sup> and all other powers enabling them to do so.

In accordance with section 68(4) of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

### Citation, commencement, extent, and interpretation

1.—(1) These Regulations may be cited as the Surrender of Offensive Weapons (Compensation) (Scotland) Regulations 2022 and come into force on the day after the day on which they are made.

(2) These Regulations extend to Scotland only.

(3) In these Regulations—

“the 2019 Act” means the Offensive Weapons Act 2019,

“the 2022 Order” means the Criminal Justice Act 1988 (Offensive Weapons) (Amendment, Surrender and Compensation) (Scotland) Amendment Order 2022<sup>(2)</sup>,

“claimant” means a person who has made a claim under regulation 5(3),

“officer” means a person authorised to accept surrender of weapons in accordance with arrangements made under section 48(2) (surrender of prohibited offensive weapons) of the 2019 Act,

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

“standard level of compensation” means the level of compensation specified as payable for a weapon surrendered as set out in schedule 1 of these regulations,

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(1) 2019 c. 17.

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

“surrendered” means surrendered in accordance with arrangements made by the Scottish Ministers under section 48(2) of the 2019 Act and similar expressions are to be construed accordingly.

### **Standard level of compensation payments**

2. The standard level of compensation payments to be made for a surrendered weapon surrendered is set out in schedule 1.

### **Eligibility for compensation**

3.—(1) Subject to paragraph (2) and regulation 6(5), the Scottish Ministers must pay compensation in accordance with these Regulations for a surrendered weapon.

(2) A person may claim compensation—

- (a) in respect of a weapon, possession of which will become unlawful by virtue of—
  - (i) section 44 (prohibition on the possession of certain dangerous knives) of the 2019 Act (by itself or in combination with section 43 (amendments to the definition of “flick-knife”) of the 2019 Act), or
  - (ii) section 46 (prohibition on the possession of offensive weapons) of the 2019 Act (by itself or in combination with section 47 (prohibition on the possession of offensive weapons: supplementary) of the 2019 Act),
- (b) if, in the case of a weapon other than a cyclone knife, they—
  - (i) owned the weapon on 20 June 2018, or
  - (ii) on or before 20 June 2018 had contracted to acquire the weapon,
- (c) if, in the case of a cyclone knife, they—
  - (i) owned the cyclone knife on 22 January 2019, or
  - (ii) on or before 22 January 2019 had contracted to acquire the cyclone knife,
- (d) if they surrender the weapon within the required period, and
- (e) if they make a declaration that they are the legal owner of the weapon and that it was lawfully acquired.

(3) In paragraph (2)(c), “cyclone knife” means the weapon sometimes known as a “cyclone knife” or “spiral knife” being a weapon with—

- (a) a handle,
- (b) a blade with two or more cutting edges, each of which forms a helix, and
- (c) a sharp point at the end of the blade.

### **Receipt for weapon surrendered**

4.—(1) When an officer receives a surrendered weapon the officer must, if satisfied that the criteria in regulation 3(2) have been met, issue a receipt containing a unique reference number to the person who surrendered the weapon.

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

### **Claim for compensation**

5.—(1) The claim form to be used for the purposes of this regulation is set out in schedule 2.

(2) A person who has surrendered a weapon and meets the conditions in regulation 3(2) 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 weapon 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 weapons surrendered,
- (d) the unique reference number contained on the receipt issued under regulation 4(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 weapon which is higher than the standard level of compensation provided for that weapon in schedule 1.

(7) If a claimant seeks compensation for a weapon which is higher than the standard level of compensation for that weapon, the claimant must provide sufficient evidence of the valuation of the weapon to enable the Scottish Ministers to determine the claim.

(8) Evidence of a valuation of a weapon may include—

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

(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**

**6.—**(1) The Scottish Ministers must determine a claim made under regulation 5 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 weapon, if any, is the standard level of compensation, unless the claimant has claimed a higher amount of compensation.

(4) Where the claimant has sought a higher amount of compensation than the standard level of compensation for that weapon, 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 weapon surrendered during the required period which amounts to less than £30 if—

- (a) the claimant has surrendered a zombie knife in accordance with arrangements made under article 3(1) of the 2022 Order,

- (b) the claimant surrendered that zombie knife within the required period provided at article 1(3) of the 2022 Order,
  - (c) the claimant has made a claim for compensation in respect of that weapon under article 6(3) of the 2022 Order, and
  - (d) the total value of the claim for the zombie knife surrendered in accordance with arrangements made under article 3(1) of the 2022 Order (as determined in accordance with the 2022 Order) and the claim for the surrendered weapon (as determined in accordance with these Regulations) amounts to £30 or more.
- (7) If satisfied that compensation is payable under this regulation, 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 1

## Regulation 2

### Standard level of compensation payments

<i>Item</i>	<i>Standard level</i>
Flick knife (or flick gun)	£20
Gravity knife	£40
Knuckleduster	£2
Swordstick	£12
Handclaw	£9
Belt buckle knife	£5
Push dagger	£2
Hollow kubotan	£3
Footclaw	£7
Shuriken (aka Shaken or Death star)	£5
Balisong (aka Butterfly knife)	£9
Telescopic truncheon	£20
Blowpipe (aka Blow gun)	£14
Kusari gama	£35
Kyoketsu shoge	£20
Manrikigusari (aka Kusari)	£10
Disguised knife	£5
Stealth knife	£3
Straight, Side handled or Friction lock truncheon (sometimes known as a Baton)	£10
Cyclone knife or Spiral knife	£30