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Glasgow City Council

Environment and Liveable Neighbourhoods City Policy Committee

Report by George Gillespie, Executive Director of Neighbourhoods, Regeneration and Sustainability

Contact: Gary Walker Ext 78624

Changes to Fireworks Legislation

Purpose of Report:

To update Committee on changes to fireworks legislation.

Recommendations:

- Committee are asked to note the content of the report.

Ward No(s):	Citywide: ✓
Local member(s) advised: Yes ☐ No ✓	consulted: Yes ☐ No ✓

1. Introduction

1.1 The purpose of this report is to update the Committee on new Scottish legislation relating to the sale and use of fireworks. Following on from the work of the Fireworks Review Group, the Scottish Government passed two new pieces of legislation. The legislation brings in restrictions on the amount of fireworks that can be purchased by the general public, the times when fireworks can be purchased and restrictions on times, dates and areas where the general public can use fireworks.

2. Background

2.1 In 2019 the Scottish Government held a public consultation on fireworks *"A consultation on fireworks in Scotland: Your experiences, your ideas, your views".*

2.2 The key findings of this consultation included:

- 70% of respondents reported that they had been affected by fireworks used in an irresponsible way.
- 94% of respondents thought there should be more controls over the sale of fireworks.
- 87% of respondents would welcome a ban on the sale of fireworks to the public in Scotland.
- 92% of respondents thought there should be more controls over how fireworks can be used in Scotland.
- 93% of respondents thought there should be more controls to make sure animals are not caused unnecessary suffering because of the use of fireworks.

3. Fireworks Action Plan and Independent Review Group

3.1 In response to the findings of the consultation, the Scottish Government launched the Fireworks Action Plan and established an Independent Review Group. The remit of the Group was to consider the feasibility of available options within current devolved legislation, and present recommendations for change with a view to tightening regulations on fireworks in Scotland.

3.2 The Group published its findings in November 2020 and made eleven recommendations:

1. A complete ban on the sale of consumer fireworks is not introduced at this time given the risk of unintended consequences.

2. Mandatory conditions are introduced before consumers are able to purchase fireworks.

3. The times of day fireworks can be sold and the volume of fireworks that can be purchased should be restricted. Full consideration should be given to how different people and groups will be impacted by this, and an equalities impact assessment should be carried out to prevent any potential discrimination and identify opportunities to promote equality.

4. The days and times fireworks can be set off should be further restricted.

5. A provision should be made for no fireworks areas / zones to be introduced where it is not possible for fireworks to be set off, with local communities having a key role in influencing this.

6. The introduction of a proxy purchasing offence so adults are not able to give fireworks to children under the age of 18 without prosecution.

7. Sufficient monitoring processes are put in place alongside these changes to fully understand the impact that these have, and a full review of impact should be carried out 3-5 years following implementation.

8. Full consideration is given to which organisation(s) will be required to enforce these new measures while ensuring this is twinned with full consideration of resourcing requirements, and going forward, the Scottish Government works closely with enforcement agencies to identify, share and promote examples of good practice across local community safety partners.

9. Building on the issues we have identified, a full business impact assessment of the recommended changes is carried out to identify the likely costs, benefits and risks of these changes alongside the identification of measures to, where possible, minimise and mitigate these.

10. Adequate monitoring is put in place to proactively track the illegal sale of fireworks in Scotland, and ensure adequate mitigations are put in place to coincide with the introduction of new measures. The Scottish Government keep abreast of work being taken forward by UK Government working with Local Authority Trading Standards to reduce the flow of unsafe products within the UK.

The commissioning of research by the Scottish Government to evaluate the wider health and environmental consequence of firework use in Scotland.

4. The Fireworks (Scotland) Miscellaneous Amendment Regulations 2021

4.1 In response to the recommendations from the review group, the Scottish Government drafted The Fireworks (Scotland) Miscellaneous Amendment Regulations 2021 which amended The Fireworks (Scotland) Regulations 2004.

4.2 The changes implemented by these Regulations, which came into force on 30 June 2022, include three new measures in relation to the way the general public can use and access fireworks:

I. Restrict the times of day fireworks can be used by the general public to between 6pm and 11pm, with the exception of 5 November (when they can be used from 6pm until midnight), New Year's Eve, the night of Chinese New Year and the night of Diwali (when they can be used from 6pm until 1am)

II. Restrict the times of day fireworks can be supplied to the general public to during daytime hours of 7am and 6pm, alongside existing requirements on retailers around the sale and storage of fireworks.

III. Limit the quantity of fireworks that can be supplied to the general public to 5kg (Net explosive quantity) at any one time.

5. Public Consultation: Use and Sale of Fireworks in Scotland

5.1 In June 2021, The Scottish Government ran a further consultation seeking views on the remaining recommendations of the Review Group which required primary legislation to be taken forward. These recommendations were as follows:

I. Requiring that mandatory conditions are introduced before consumers are able to purchase fireworks.

II. Restricting the days fireworks can be sold and set off.

III. The introduction of "No Firework Areas" where it is not permitted for the public to set off fireworks.

IV. The introduction of a proxy purchasing offence to criminalise the supply of fireworks to people under the age of 18.

5.2 The consultation also sought views on how the misuse of pyrotechnic devices, such as hand-held flares and smoke devices which are not being used for their intended purposes, could be reduced.

The Council's response to the consultation can be accessed here GLASGOW CITY COUNCIL RESPONSE

6. The Fireworks and Pyrotechnic Articles (Scotland) Act 2022

6.1 The 2021 consultation informed the development of the Fireworks and Pyrotechnic Articles (Scotland) Bill. The Bill was introduced to the Scottish Parliament on 1 February 2022 and was passed by the Scottish Parliament on 29 June 2022.

6.2 The Bill included:

- A requirement for members of the general public to apply for and obtain a valid fireworks licence before they can purchase, possess or use fireworks (either for personal use, or in connection with a community group).
- Restricting the days fireworks can be sold by retailers to the general public, and the days that fireworks can be used by the general public.
- The power for local authorities to designate an area as a firework control zone, where the general public will not be permitted to use fireworks.
- The creation of offences relating to the possession of pyrotechnics, without reasonable excuse, in a public place and in a designated sporting and music venues/events.
- A proxy purchasing and supply offence to criminalise the supply of fireworks and (without just cause) pyrotechnic articles to people under the age of 18.

6.3 The Bill received Royal Assent on 10 August 2022, becoming the Fireworks and Pyrotechnic Articles (Scotland) Act 2022. Information in relation to anticipated timings and the work that will be required before the provisions in the Bill can take effect was provided at this time and are detailed at section 7 of this report.

7. The Fireworks and Pyrotechnic Articles (Scotland) Act 2022 (Implementation Timetable)

7.1 Proxy Purchasing

7.1.1 The provision that prohibits providing fireworks or pyrotechnic articles to children did not require further substantive legislation or formal guidance before commencement and came into effect on 10 October 2022, along with the statutory aggravation for attacks on emergency workers using fireworks or pyrotechnic articles.

7.2 Implementation of the Remaining Provisions in the Act

7.2.1 On 22 March 2023, Elena Whitham (MSP), Minister for Community Safety, The Scottish Government, provided an update to the Criminal Justice Committee on the Scottish Government's revised implementation timetable for various provisions of The Fireworks and Pyrotechnic Articles (Scotland) Act 2022.

7.3 Fireworks Control Zones

7.3.1 The Act sets out the essential components of Firework Control Zones, including the offences committed within a zone, exceptions to the offences and the requirements of local authorities to develop proposals for zones and consult widely on those.

7.3.2 The implementation of Firework Control Zones will be supported by the publication of Scottish Government guidance for local authorities on the operational and administrative aspects of Firework Control Zones, rather than by use of regulations to set out these aspects.

7.3.3 The ability to designate firework control zones is an important new discretionary power for local authorities, providing the option of a specific targeted response that meets the needs of individual communities. However, this tool is one within the range of enforcement and preventative tools available to resolve issues involving fireworks. Firework control zones should not be the first or only step taken by local authorities to tackle issues associated with firework use, and they are not designed to be used extensively, or to encompass an entire local authority area.

7.3.4 The Scottish Government established a Fireworks Control Zones Working Group involving key stakeholders, including council officers, and practitioners from a number of local authorities has been established Scottish Government. Glasgow City Council is represented on the Group.

7.3.5 A series of Scottish Government run community workshops is also underway across Scotland to ensure that those who live and work in communities have the opportunity to directly feed into the development of the guidance. Two such meetings were hosted in Glasgow (Pollokshields Burgh Hall and Glendale Primary School) on 27th February 2023 as well as an online meeting on 31st March for those who were unable to attend the face to face meetings in Glasgow or elsewhere.

7.3.6 It is anticipated that the guidance will be finalised by early summer 2023 and the provisions of Part 4 of the Act will be commenced as quickly as possible thereafter.

7.3.7 Given the timescales required to consider the guidance in relation to all aspects of the process which will include the application, consideration and publication, it is unlikely that the Fireworks Control Zones will be in effect for bonfire night 2023.

7.4 Fireworks Licensing System (General Public)

7.4.1 The revised timescale for the implementation of the Licensing system that will require to be in place, is mid-2024 calendar year at the earliest.

7.4.2 The original timescales set out in Parliament during scrutiny of the Bill for the Act were that the system would be in place at the end of the 2023 calendar year/at the beginning of the 2024 calendar year at the earliest.

7.4.3 It is still intended that a licensing system will be operational ahead of bonfire night 2024.

7.5 Restricted Days of Supply

7.5.1 The provisions on restricted days of supply and use of fireworks will not require further substantive legislation or formal guidance before commencement. However, it is the intention of the Scottish Government to allow fair and sufficient time for businesses to adapt their processes and existing stock in line with the changes.

7.5.2 It has not been confirmed which financial year the restrictions on supply and use of fireworks will commence.

7.5.3 Regulations will also be required to provide for any compensation that is to be available in relation to the impact of the restricted days of supply on businesses wholly or mainly concerned with the supply, distribution or importation of fireworks in Scotland.

8. Resourcing Impact

8.1 In is anticipated that the introduction of a Fireworks Licensing System (General public) will require additional resources from Trading Standards. It is difficult to anticipate the increase in resources required in relation to enforcement until further details of the new system to be implemented are confirmed by Scottish Government. Additional enforcement visits are likely to be necessary to ensure retailer compliance with the new licensing system.

8.2 Local Authorities will have duties regarding the designation of Fireworks Control Zones, including consultation, preparation, publication and ongoing monitoring. It is anticipated this process will be resource intensive. When the guidance is issued, we will be better placed to identify additional resources to undertake the Council's duties.

9. Policy and Resource Implications

Resource Implications:

Financial:	Additional resources required will be identified when all guidance is available.
Legal:	The Fireworks (Scotland) Miscellaneous Amendment Regulations 2021 The Fireworks and Pyrotechnic Articles (Scotland) Act 2022
Personnel:	Additional staffing resources will be required.
Procurement:	N/A

Council Strategic Plan:	Grand Challenge 4 - Deliver Essential Services in a Sustainable, Innovative and Efficient way for our Communities.
Equality and Socio-Economic Impacts:	
Does the proposal support the Council's Equality Outcomes 2021-25? Please specify.	Reducing health inequalities. Empowering communities.
What are the potential equality impacts as a result of this report?	Positive impacts have been identified as part of the Scottish Govt – Fairer Scotland Duty Assessment and Equality Impact Assessment particularly in relation to the following groups: people with autism and other sensory issues, and people suffering from PTSD who are more sensitive to loud bangs and flashes; pregnant women who are more sensitive to loud bangs during their pregnancy; children and young people who are more likely to be harmed, or to cause harm by fireworks ; and men who are more likely to be harmed, or to cause harm by fireworks.
Please highlight if the policy/proposal will help address socio-economic disadvantage.	Evidence suggests that children and young men from areas of greater deprivation are at greatest risk of sustaining a physical injury due to fireworks. The proxy purchase and supply offence is intended to reduce access by under 18 year olds to pyrotechnic articles, including fireworks, by ensuring that adults do not purchase or otherwise make these available to children and young people. This will reduce the risk of these groups sustaining a physical injury due to a firework or pyrotechnic article, or other adverse health consequences. The introduction of the mandatory licensing scheme for members of the public will make purchasing fireworks more expensive however the Scottish Govt concluded that the anticipated benefits of the changes justify its interventions.

Climate Impacts:

Does the proposal support any Climate Plan actions? Please specify:	N/A
What are the potential climate impacts as a result of this proposal?	N/A
Will the proposal contribute to Glasgow's net zero carbon target?	N/A

Privacy and Data Protection Impacts:

Are there any potential data protection impacts as a result of this report Y/N	No

10. Recommendation

- Committee are asked to note the content of the report.