
ARGYLL AND BUTE COUNCIL

**PLANNING, PROTECTIVE SERVICES
AND LICENSING COMMITTEE**

LEGAL AND REGULATORY SUPPORT

20 SEPTEMBER 2023

**IMPLICATIONS OF THE INTRODUCTION OF THE FIREWORKS AND
PYROTECHNIC ARTICLES (SCOTLAND) ACT 2022 WITH RESPECT TO
FIREWORK CONTROL ZONES**

1.0 EXECUTIVE SUMMARY

Part 6 of the Fireworks and Pyrotechnic Articles (Scotland) Act 2022 was brought into force on 22nd June 2023. This part of the act confers discretionary powers on local authorities to designate a place within their area as a Firework Control Zone (FCZ), and make provision as to how those powers are to be exercised.

This report sets out:

1. Changes to existing legislation; and
2. The new discretionary powers available to the council.

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2.0 INTRODUCTION

- 2.1 In 2019, the Scottish Government launched a national public consultation on fireworks. 16,420 responses were received, displaying a widespread interest from members of the public and stakeholder organisations. Analysis of these responses demonstrated a strong desire for change in the relationship that Scotland has with fireworks, and a desire for greater restrictions on the sale and use of fireworks.
- 2.2 In response, the Scottish Government established a Firework Control Group. This group considered legislative options for change, and made a series of recommendations.
- 2.3 These recommendations have resulted in new enforcement responsibilities being placed on both Police Scotland & Argyll & Bute Council.

3.0 RECOMMENDATIONS

- 3.1 That Members;
- 3.1.1 Note the provisions of the Fireworks and Pyrotechnic Articles (Scotland) Act 2022 and particularly the matter of Firework Control Zones;
- 3.1.2 Agree that there is, currently, no requirement to designate any area as a Firework Control Zone; and
- 3.1.3 Agree that officers will look at establishing a portal with supporting information for “Community Requests” for a Firework Control Zone as set out in para 4.10.

4.0 DETAIL

- 4.1 A number of the Fireworks Control Group's recommendations were taken forward through The Fireworks (Scotland) Miscellaneous Amendments Regulations 2021. These regulations restrict the hours that fireworks can be supplied to and used by the general public, and limit the quantity of fireworks that can be supplied to a purchaser at any one time.
- 4.2 These Regulations were in force in time for the 2021 fireworks season. Enforcement duties were placed upon Police Scotland and Local Authorities. The Scottish Government provided funding for a programme of advice visits and test purchases at retailers. The Council's Trading Standards team (TS) visited all registered fireworks premises in Argyll & Bute, to both provide advice and to determine compliance. This proactive approach assisted in ensuring widespread compliance with the new requirements across Argyll & Bute, and more generally across Scotland.
- 4.3 The Fireworks and Pyrotechnic Articles (Scotland) Act 2022 (the Act) was brought into effect in stages. The first stage related to definitions of fireworks, to redefining ages at which fireworks could be purchased and by introducing a proxy purchasing offence. Again, enforcement duties were placed upon Police Scotland and Local Authorities.
- 4.4 The second stage came into force on 22nd June 2023 and is more wide-ranging than stage 1, as it introduces the concept of FCZs.

Firework Control Zones

- 4.5 The Act enables a local authority to designate a place within its area as a Firework Control Zone. The place designated under this section may typically be a small identifiable place within the local authority area. While it is a matter for local judgement, it is not expected that a local authority could designate the whole local authority area as a Firework Control Zone. It is an offence to ignite a firework within a Firework Control Zone, or knowingly or recklessly throw or cast a lit firework, or fire a firework, into the zone. Previously, the Explosives Act 1875 made it an offence to light or to throw a firework in or into a public place. A FCZ will extend this prohibition into private land (including domestic gardens). However, even if a FCZ is established, it will not completely ban fireworks within the zone, as there is an exemption from FCZ requirements for public fireworks displays on behalf of charitable, religious, youth, recreational, community, political or other similar organisations.
- 4.6 There is a duty on local authorities to prepare and publish key details of any proposal for the designation of a Firework Control Zone, or any proposal to amend or revoke any such zone. Each proposal must set out the reasons behind what is proposed, the boundaries of the zone, the date from which it is to have effect, how long it is to have effect and details of the consultation that the authority is to conduct. The local authority is then required to consult persons who are likely to be affected by or have an interest in the proposed Firework Control Zone. This is

not limited to just residents and businesses located within the proposed Firework Control Zone, but also other members of the community in or near the proposed Firework Control Zone as well as organisations that would be affected by firework activity such as Police Scotland, the Scottish Fire and Rescue Service and the Scottish Ambulance Service. A local authority to publish a decision on a proposal for a Firework Control Zone (or its amendment or revocation) as soon as practicable after the decision is made, and at least 60 days before the proposal is to have effect, in order to give the local community sufficient notice of the designation.

- 4.7 The Scottish Government has established a limited pot of funding to allow local authorities to establish FCZ's. This is available on a first come first served basis, and will be a one-off payment. The guidance relating to this payment also states that local authorities should only express intent to establish FCZ's where there is confidence that they can facilitate the process of community engagement in the terms set out in the statutory guidance.
- 4.8 There are a number of public displays in Argyll and Bute which are, for the most part, well organised and enjoyed by many. It is unlikely that a FCZ would affect these, as these would likely fall under an exemption. There is, currently, no evidence of significant numbers of complaints in relation to public order matters relating to fireworks and their use in Argyll and Bute and in the event that such complaints do arise these can likely be dealt with by use of powers already available to Police Scotland under the 1875 Explosives Act'.

Community Requests for a FCZ

- 4.9 Guidance from the Scottish Government provides that there should be a mechanism whereby a "community request" can be made to the council.

Local authorities should, where possible, establish a local process to give communities the ability to make the case for the designation of a Firework Control Zone, through a "community request".

The purpose of a community request is to provide communities themselves with a route to ask a local authority to formally consider whether a zone should be designated, amended or revoked in a particular place within its area. The Act does not make provision about community requests, however they can be a valuable tool for a local authority to become aware of local concerns about fireworks use.

It is expected that the Council will provide

- Published and accessible details of how to submit a community request, including advising of the format in which community requests should be made;
- Clearly communicated timings involved with submitting a community request, including the overall timing of a FCZ being fully considered and consulted on to manage expectations;
- Who to contact within the local authority to make the request; and

- Where a request is made, an acknowledgement email to be sent within five working days wherever possible, although this may vary due to local circumstances.
- 4.10 Officers will consider an appropriate portal with supporting information to address Community Requests in the expectation that this will be led by the Council's Anti-Social behaviour Co-Ordinator who, in processing any request, will likely liaise across appropriate Council Services such as Legal, Trading Standards; the blue light Services; and relevant communities and community interests.

Further Provisions

- 4.11 Two further provisions of the 2022 Act are still to be brought into force. The Scottish Government intend to bring a licensing scheme for purchasers of fireworks into effect in 2024. This will result in further duties being placed upon both Police Scotland & upon the Local Weights & Measures Authority. Some one-off funding may be available to Trading Standards for trader education and test purchasing initiatives
- 4.12 Finally, "all year round" fireworks licences will be discontinued on a date to be determined. Fireworks will only be available for general sale at specific times of the year. This is unlikely to have any effect in Argyll & Bute, as we currently have no retailers of this type, and are unlikely to receive any new applications, as withdrawal of these licences may be imminent

5.0 CONCLUSION

- 5.1 While the Act enables a local authority to designate a place within its area as a FCZ , there are a number of public displays in Argyll and Bute which are, for the most part, well organised and enjoyed by many. It is unlikely that a FCZ would affect these, as these would likely fall under an exemption. There is, currently, no evidence of significant numbers of complaints in relation to public order matters relating to fireworks and their use in Argyll and Bute and in the event that such complaints do arise these can likely be dealt with by use of powers already available to Police Scotland under the 1875 Explosives Act'. Officers will consider an appropriate portal with supporting information to address Community Requests in the expectation that this will be led by the Council's Anti-Social behaviour Co-Ordinator.

6.0 IMPLICATIONS

6.1 Policy – None

6.2 Financial – There should be minimal costs which can be covered through existing budgets.

6.3 Legal – The proposals in this report are in line with the legislation.

6.4 HR – Will be covered through existing officer resource.

6.5 Fairer Scotland Duty - None

6.5.1 Equalities - protected characteristics – None

6.5.2 Socio-Economic Duty - None

6.5.3 Islands - None

6.6 Climate Change - None

6.7 Risk – None

6.8 Customer Service – takes forward the new legislation and gives the option for residents to send in community requests for FCZs.

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Policy Lead: Councillor Kieron Green

18th August 2023

For further information contact **David Logan - Head of Legal and Regulatory Support**