

The background of the slide features a large, light blue watermark of the City of Vancouver's coat of arms. The crest includes a crown with four maple leaves, a shield divided into four quadrants (top-left: a ship, top-right: a stag, bottom-left: a ship, bottom-right: an eagle), and a banner at the bottom with the motto "A NE FOR A".

## **Agenda Item 7**

### **Fireworks Update**

**Falkirk Council**

**Title:** Fireworks Update  
**Meeting:** Executive  
**Date:** 23 August 2022  
**Submitted By:** Director of Place Services

**1. Purpose of Report**

The purpose of this report is to update the Executive on new legislation relating to the sale and use of fireworks in Scotland. Since the Firework Review Group reported in 2020, the Scottish Government has passed two new pieces of legislation. The legislation implements restrictions on the amount of fireworks that can be purchased at one time and the times fireworks can be purchased, as well as restrictions on the times, dates and areas members of the public can use fireworks in Scotland.

**2. Recommendations**

- 2.1 It is recommended that the Executive notes the content of this update paper.

**3. Impact on Climate Change Targets**

- 3.1 The outputs of this report will have a negligible impact on both the National and organisational climate targets. Encouraging safer, responsible use of fireworks will likely have some additional benefits for flora and fauna within the Falkirk Area.

**4. Background**

- 4.1 The Scottish Government held a public consultation on fireworks in 2019. The results showed that most respondents strongly supported action to be taken to prevent the misuse of fireworks and enabling their fair enjoyment to continue.
- 4.2 This led to the creation of the Fireworks Action Plan and the appointment of an independent Fireworks Review Group by the Scottish Government Minister for Community Safety. The remit of the group was to consider options and develop clear recommendations to tighten firework regulations in Scotland. They concluded that “a fundamental shift is required in how fireworks are accessed and used.”
- 4.3 Their report made 11 recommendations for legislative and non-legislative changes to reduce the harm and the disturbance from firework use including restrictions on the manner in which fireworks are sold and used by the general public in Scotland.

- 4.4 In response to the report the Scottish Government created the Fireworks (Scotland) Miscellaneous Amendments Regulations 2021. These Regulations came into force in June 2021 and amend The Fireworks (Scotland) Regulations 2004. They bring in two recommendations of the Firework Group – restricting the times of day consumer fireworks can be sold to the public, the volume that can be purchased at any one time, and the times fireworks can be set off by the general public.
- 4.5 In June 2021, the Scottish Government also issued a further public consultation concerning the remaining recommendations of the “Fireworks Review Group” which required primary legislation. These were:
- Requiring the public and community groups to meet a number of mandatory conditions before they are able to purchase fireworks.
  - Restricting the days fireworks can be set off by the public. In addition to the Firework Review Group’s recommendations, the Scottish Government also consulted on proposals to restrict the days fireworks can be sold to the public in Scotland by retailers.
  - Introducing firework control zones where it is not permitted for the public to set off fireworks.
  - Introduction of proxy purchasing offence to criminalise the supply of fireworks to people under the age of 18.
- 4.6 In addition, this consultation also sought views on a proposed Fireworks and Pyrotechnics Bill, on the creation of a new offence of carrying a pyrotechnic device in a public place without reasonable excuse or lawful authority, and whether police powers should be extended to allow a “stop and search” provision for anyone reasonably suspected of committing the offence.
- 4.7 Falkirk Council responded to this consultation which closed in August 2021 with the responses published online. An analysis of responses to the public consultation, published in December 2021, showed strong support for key measures in the Bill.

## **5. Considerations**

- 5.1 The Fireworks and Pyrotechnic Articles (Scotland) Bill passed on 29 June 2022.

The Bill’s provisions include:

- the introduction of a fireworks licensing system with mandatory safety training for people wishing to purchase and use fireworks. Licenses are age restricted and will be administered by the Scottish Government (or

under arrangements made by it) on a central register of applications and licence holders.

- A new power for local authorities to designate firework control zones – areas where it is not permitted for the public to use fireworks. The Bill places a duty on local authorities to prepare and publish details of any proposed firework control zones, amendments, and revocations. They must consult people who may be affected by the proposed zone, publishing a document which includes confirmation of their decision, and how they had regard to the views expressed during the consultation process. Local Authorities must also carry out reviews of the operation and effectiveness of the zone and publish the findings of the review.
- restricting the days fireworks can be sold to and used by the public. There are exemptions for organised public firework displays and professionally organised displays.
- a new offence to criminalise the supply of fireworks and pyrotechnics to under-18s to ensure adults do not purchase these on behalf of children
- a new offence of being in possession of a pyrotechnic while at, or travelling to, certain places or events, without a reasonable excuse.

- 5.2 A number of the Bill's provisions require further legislation or guidance and cannot be implemented immediately. The Scottish Government has given timelines for their anticipated implementation.
- 5.3 This report provides an update as requested at March 2021 Executive committee. As further implications on the legislation emerge Councillors will be updated through a members' bulletin. Should there be specific financial implications as a result of the legislation a paper would be presented to the Executive committee for consideration.
- 5.4 The provision prohibiting fireworks/pyrotechnic articles being provided to children doesn't require further substantive legislation or formal guidance before commencement. It is anticipated that this is the only provision of the Bill which will be in place for the forthcoming bonfire season (2022).
- 5.5 The provisions on restricted days of supply and use of fireworks will not require further substantive legislation, however the Scottish Government intends an implementation period to allow sufficient time for businesses to adapt their processes and existing stock in line with the changes. This provision will impact the businesses in the Falkirk Area who apply to register to sell fireworks each year and applies equally to both national retailers and smaller independent businesses.
- 5.6 Regulations will also be required to provide for any compensation available due 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. It is therefore anticipated that these provisions will commence in

2023. There are currently no businesses based in the Falkirk Area who meet these criteria.

- 5.7 The provisions relating to the firework licensing system and firework control zones will require further legislation and/or guidance before they can commence. It is anticipated that the earliest these provisions will commence is in the later part of 2023. It is unknown how many members of the public in the Falkirk Area will apply for a licence, and whether the use of fireworks will reduce as a consequence of the legislation. Nationally, 84% of respondents to the consultation held ahead of the Bill's introduction, agreed that a fireworks licensing system should be introduced in Scotland. These figures have not been broken down by geographical area however, so there is no indication of the level of support for a licensing system or firework control zones in the Falkirk Area.
- 5.8 The provisions on prohibiting pyrotechnic articles at certain places or events will require further legislation before they can commence in full. It is already an offence to use a firework in a public place and illegal to be in possession of a pyrotechnic in a designated sporting venue. This provision takes a further preventative approach to public safety as it relates to travelling to the designated venue or event, public procession, or public assembly. This will impact members of the public attending public events and processions being held in the Falkirk Area, as well as residents travelling from the Falkirk Area to events and public occasions held elsewhere in Scotland. No date has been given for commencement however implementation of all the Bill's provisions is regarded as a priority. Police Scotland will be the enforcement authority.

## **6. Consultation**

- 6.1 The partnership working of the Trading Standards team, officers from Police Scotland and the Scottish Fire and Rescue Service is well established in the Falkirk Area and any further consultation will be in collaboration with our partners.

## **7. Implications**

### **Financial**

- 7.1 There will be extra costs associated with enforcement of the Bills provisions and for considering and designating firework control zones and scoping, establishing, and monitoring their impact. The cost will mainly be in officer time, however there may be costs for test purchases and the storage and disposal of fireworks that officers have purchased or seized.

The Scottish Government have stated that the anticipated increase in costs to the Scottish administration and local government will be offset in part or in full by the income from the charge for licensing fees for members of the public. The Council will be seeking a guarantee of full funding from the Scottish Government through COSLA.

## **Resources**

- 7.2 The Bill will place an additional requirement upon Trading Standards with officers enforcing new offences relating to the supply of fireworks and the associated preparation and support tasks.

The Bill places a duty on Local Authorities regarding the designation of the zones, including preparation for and publication of proposed zones, consultations with members of the local community to the proposed zone and reviews of the operation and effectiveness of the zone.

In relation to the fireworks licensing system, it is unknown what additional resources will be required from both the Trading Standards Team and other Council departments. The Scottish Government intends further engagement with stakeholders before this and other provisions are brought in.

## **Legal**

- 7.3 The Council requires to have regard to powers and duties conferred on it by the new legislation.

## **Risk**

- 7.4 There is a risk that the Council may not receive the full funding to meet the requirements of the legislation. The Scottish Government anticipates that the enforcement and investigatory burden for the Trading Standards team will be greatest in the first two years of the Bill's operation as members of the public and retailers adapt to the new requirements.

## **Equalities**

- 7.5 The Scottish Government have carried out a Fairer Scotland Duty Assessment and Equality Impact Assessment for the Fireworks and Pyrotechnic Articles (Scotland) Bill. Positive impacts have been identified for age, disability, pregnancy/maternity, and sex characteristics as the Bill is intended to reduce the negative impact of firework use in all communities across Scotland, including areas of socio-economic disadvantage. The Bill brings in a mandatory licensing system for members of the public which will make purchasing fireworks more expensive, however the Scottish Government concludes that the anticipated benefits of the Bill justify its interventions.

## **8. Conclusions**

- 8.1 The Bill implements the final legislative recommendations of the Firework Review Group.

It places a duty on Local Authorities regarding the process of setting up firework control zones, implements a licensing system for members of the public to purchase fireworks and creates offences relating to the supply and use of fireworks.

It will place an additional requirement on Trading Standards to enforce the legislation, and those of other Council departments to comply with the requirements for considering and setting up firework control zones.

The Scottish Government intend to have further engagement with stakeholders and bring forward additional legislation to implement some of the Bill's provisions. They have provided a timetable of 2022-2023.

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**Director of Place Services**

**Date: 10 August 2022**

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**Appendices:**

**None**

**List of Background Papers:**

**None**