

Regulatory Committee

10.00am, Monday 1 May 2023

Changes to Legislation on the Sale and Use of Fireworks in Scotland - referral from the Culture and Communities Committee

Executive/routine
Wards
Council Commitments

1. For Decision/Action

- 1.1 The Regulatory Committee is asked to consider if any relevant outputs from the report by the Executive Director of Place should be included within the further update report requested for Autumn 2023 on the legislative changes and implications for the City of Edinburgh Council.

Dr Deborah Smart

Executive Director of Corporate Services

Contact: Lesley Birrell, Committee Services
Legal and Assurance Division, Corporate Services
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Referral Report

Changes to Legislation on the Sale and Use of Fireworks in Scotland

2. Terms of Referral

- 2.1 On 13 December 2022, the Culture and Communities Committee considered a summary of provisions contained in the Fireworks and Pyrotechnic Articles (Scotland) Act 2022, which had been passed by the Scottish Parliament on 29 June 2022.
- 2.2 The Act contained six key provisions designed to support a cultural shift in how fireworks and other pyrotechnic articles were used in Scotland. It did not, however, give the Council any additional powers to further restrict or ban the sale of fireworks in the city.
- 2.3 **Motion**
- 1) To note the report by the Executive Director of Place.
 - 2) To agree that a further report would be submitted in Autumn 2023 providing a more detailed update on the legislative changes and implications for the City of Edinburgh Council.
- moved by Councillor Walker, seconded by Councillor Meagher
- 2.4 **Amendment**
- 1) To note the report by the Executive Director of Place.
 - 2) To agree that a further report would be submitted in Autumn 2023 providing a more detailed update on the legislative changes and implications for the City of Edinburgh Council.
 - 3) To refer the report to the Regulatory Committee for further consideration and any relevant outputs from that referral to be included within the report called for in Autumn 2023.
- moved by Councillor Osler, seconded by Councillor Thornley
- 2.5 In accordance with Standing Order 22(12), the amendment was accepted as an addendum to the motion.

2.6 **Decision**

To approve the following adjusted motion by Councillor Walker:

- 1) To note the report by the Executive Director of Place.
- 2) To agree that a further report would be submitted in Autumn 2023 providing a more detailed update on the legislative changes and implications for the City of Edinburgh Council.
- 3) To refer the report to the Regulatory Committee for further consideration and any relevant outputs from that referral to be included within the report called for in Autumn 2023.

3. Background Reading/ External References

- 3.1 [Minute](#) of the Culture and Communities Committee of 13 December 2022

4. Appendices

- 4.1 Appendix – report by the Executive Director of Place

Culture and Communities Committee

10.00am, Tuesday, 13 December 2022

Changes to Legislation on the Sale and Use of Fireworks in Scotland

Executive/routine Wards Council Commitments	Routine All
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1. Recommendations

- 1.1 It is recommended that the Culture and Communities Committee notes:
 - 1.1.1 The content of this report; and
 - 1.1.2 That a further report will be submitted in Autumn 2023 providing a more detailed update on the legislative changes and implications for the City of Edinburgh Council.

Paul Lawrence

Executive Director of Place

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Report

Changes to Legislation on the Sale and Use of Fireworks in Scotland

2. Executive Summary

- 2.1 This report provides a summary of provisions contained in the Fireworks and Pyrotechnic Articles (Scotland) Act 2022, which has recently been passed by the Scottish Parliament.

3. Background

- 3.1 Following considerable disturbance and antisocial behaviour linked to Bonfire Night 2017, and subsequent local media coverage, the Council raised concerns with both the UK and Scottish Governments.
- 3.2 Motions agreed by the City of Edinburgh Council on [23 November 2017](#) also reflected widespread concerns about the events of 5 November 2017 at many locations city-wide. These motions were discharged by a 2018 report entitled [Sale and Use of Fireworks](#).
- 3.3 In response to these and other concerns, the Scottish Government committed to look at the impact of fireworks and bonfires on safer communities, and to consider any perceived legislative gaps. A public consultation on fireworks in Scotland was conducted in February 2019, followed by the establishment of a Fireworks Review Group to consider the responses and to develop recommendations for amending regulations.
- 3.4 The Fireworks (Scotland) Miscellaneous Amendments Regulations 2021 were introduced in March 2021, implementing initial actions from the Fireworks Review Group to restrict the retail sales of fireworks by volume (5kg maximum) and to limit the permitted sales hours to 7am to 6pm only. The Trading Standards and Licensing Enforcement teams have incorporated proactive inspections and test purchasing around these new requirements into the existing regulatory compliance program, a breakdown of which is attached at Appendix 3.
- 3.5 In June 2021, a further public consultation was held on the introduction of new legislation on the sale and use of fireworks in Scotland and tackling the misuse of pyrotechnics.

- 3.6 The Fireworks and Pyrotechnic Articles (Scotland) Act 2022 ('the Act') was passed by the Scottish Parliament on 29 June 2022 and became law following Royal Assent on 10 August 2022. Specific provisions of the Act will be brought into effect by the Scottish Government.

4. Main report

- 4.1 The Act contains six key provisions designed to support a cultural shift in how fireworks and other pyrotechnic articles are used in Scotland, however it does not give the Council any additional powers to further restrict or ban the sale of fireworks in the city.
- 4.2 This report summarises the key elements of the six provisions, with a more comprehensive Scottish Government overview paper attached in Appendix 1.
- 4.3 The six key provisions are:
- 4.3.1 Introducing a fireworks licensing system;
 - 4.3.2 Introducing a proxy purchase and supply offence prohibiting fireworks or other pyrotechnic articles being provided to children;
 - 4.3.3 Restricting the days when fireworks can be supplied and used;
 - 4.3.4 Enabling local authorities to designate areas as fireworks control zones;
 - 4.3.5 Prohibiting pyrotechnic articles at certain places or events; and
 - 4.3.6 Introducing a statutory aggravation for offences involving pyrotechnic articles and emergency workers.

Fireworks licensing for the purchase and use of fireworks

- 4.4 The Act makes provision for a fireworks licensing system to be established. Once operational, all members of the public will need to apply for and obtain a fireworks licence before they are able to purchase, acquire, possess, or use most types of fireworks in Scotland.
- 4.5 A national licensing system will be developed and operated centrally by the Scottish Government and is separate from the existing licensing requirement for the storage of fireworks or all year round retail of fireworks. Enforcement relating to the new requirement for licensing will be shared between Police Scotland and local authority Trading Standards teams. Trading Standards teams will deal with retailers and the Police will deal with any issue with unlicensed members of the public seeking to purchase fireworks.
- 4.6 Establishing the fireworks licensing system will require further legislation, and it is understood that the earliest the system will be in place will be late 2023/early 2024.

Proxy purchase and supply offence

- 4.7 The Act creates an offence for a person to knowingly buy or attempt to buy, give, or otherwise make available, a firework or other pyrotechnic article to a person under the age of 18. This is known as proxy purchase or proxy supply, and similar offences already exist in relation to the supply of products such as alcohol and tobacco to children.
- 4.8 This offence is enforced by Police Scotland and commenced on 10 October 2022. This is in addition to the current offence for a retailer to sell fireworks to anyone under the age of 18. A Scottish Government guidance paper is attached in Appendix 2.

Restricting permitted days of supply and use

- 4.9 The Act sets out the periods when retailers in Scotland are permitted to supply members of the public with fireworks, as well as periods when people may use fireworks. This would replace the previous voluntary code which had recommended restrictions on the periods in which fireworks should be sold. This does not affect the supply of fireworks to professionals in the fireworks industry or organisers of public fireworks displays.
- 4.10 The provision limits the supply of fireworks to, and use of fireworks by, the general public to specific periods aligning with long established traditional or religious events.
- 4.11 It is anticipated that these changes will be in place in mid-2023, with enforcement shared between local authority Trading Standards teams and Police Scotland.

Firework control zones

- 4.12 The Act allows a local authority to designate a place (or places) within its area as a firework control zone in which it will be an offence for the general public to use certain categories of fireworks, including on private property.
- 4.13 The Scottish Government has committed to co-designing the local authority guidance for this provision with key stakeholders and local communities. Therefore, to allow time for the further legislation and guidance to be developed, it is likely that this provision will commence in mid-2023 at the earliest.

Pyrotechnic articles in public places and at designated venues and events

- 4.14 The Act creates two offences enforced by Police Scotland relating to the possession of pyrotechnics:
 - 4.14.1 An offence of being in possession of a pyrotechnic article in a public place without reasonable excuse; and
 - 4.14.2 An offence of being in possession of a pyrotechnic article, including all fireworks, at a designated sporting or music venue or event, without reasonable excuse.
- 4.15 The Act extends the power of Police Officers to stop and search a person (including

their vehicle) without warrant, where there are reasonable grounds to suspect that a person is committing an offence under the Act. These provisions will require further legislation before they can commence in full, and it is likely that they will commence in 2023.

Statutory aggravation for offences involving pyrotechnics and emergency workers

- 4.16 The Act makes provision for a statutory sentencing aggravation to apply in cases where fireworks and/or other pyrotechnic articles are used to attack emergency workers. Police Scotland will be responsible for the relevant enforcement of this provision.

Community Improvement Partnership

- 4.17 Since 2018, the Council has led a multi-agency Community Improvement Partnership (CIP) which brings together key stakeholders including Police Scotland, the Scottish Fire and Rescue Service (SFRS), and Council officers to co-ordinate a partnership response in the lead-up to and on Bonfire Night itself, to help keep communities safe from harm. Actions have included educational input in schools on fireworks/bonfire safety, diversionary activities for young people, fireworks test purchasing, clear up operations, and joint hot spot patrols.
- 4.18 A summary of activity of Council officers from Regulatory Services is detailed in Appendix 3.

5. Next Steps

- 5.1 An annual debrief of activity takes place after Bonfire night, with CIP partners agreeing recommendations for future work based on analysis of crimes/incidents reported and other relevant factors. A full report detailing lessons learned, estimated costs, and recommendations agreed by partners will be presented to the Community Safety and Justice Partnership in March 2023. The report will include an action to enhance communications activity relating to the promotion of licensed community-organised events.
- 5.2 The Council will also contribute to the Scottish Government's implementation activity relating to the legislative changes outlined in this report, which includes provisions for restricting permitted days of supply and use of fireworks, and a licensing system for their purchase and use due to be fully implemented in 2023/24.
- 5.3 A further report will be presented to Committee in Autumn 2023 on the implementation of the Act and the implications of this for the Council.

6. Financial impact

- 6.1 Following the establishment of the Fireworks Review Group and publication of its [November 2020 report](#) setting out recommendations for legislative change, the Scottish Government created a short life working group (SLWG) to consider the costs of implementing the proposed provisions. The SLWG membership consisted of stakeholder representation including representatives from other local authorities and the Council. Projected costings are being developed but will depend on the final details of the new statutory requirements and associated guidance once published.

7. Stakeholder/Community Impact

- 7.1 The Scottish Government overview paper (Appendix 1) provides the rationale for each of the provisions introduced by the new legislation, including the intended stakeholder/community impact.

8. Background reading/external references

- 8.1 [City of Edinburgh Council Meeting](#) on 23 November 2017 at which Council Motions in relation to fireworks were raised.
- 8.2 Report to the Culture and Communities Committee, 26 March 2019, [Council response to the Scottish Government Consultation on Fireworks in Scotland](#).
- 8.3 Fireworks Review Group [report to the Scottish Government](#), 3 November 2020
- 8.4 [Fireworks and Pyrotechnic Articles \(Scotland\) Act 2022](#).

9. Appendices

- 9.1 Appendix 1 – Overview of Fireworks and Pyrotechnic Articles (Scotland) Act 2022.
- 9.2 Appendix 2 – Fireworks and Pyrotechnic Articles (Scotland) Act 2022 - Guidance for proxy purchase offence.
- 9.3 Appendix 3 - Trading Standards and Licensing Enforcement activity in advance of 5 November 2022.

Overview of the Fireworks and Pyrotechnic Articles (Scotland) Act 2022

The Fireworks and Pyrotechnic Articles (Scotland) Act 2022 (“the Act”) was passed by the Scottish Parliament on Wednesday 29 June 2022 and became law following Royal Assent on Wednesday 10 August 2022.

The Act contains six key provisions designed to support a cultural shift in how fireworks and other pyrotechnic articles are used in Scotland (further information on categories of fireworks and other pyrotechnic articles is included at the end of this paper). These are:

- Introducing a fireworks licensing system.
- Introducing a proxy purchase and supply offence prohibiting fireworks or other pyrotechnic articles being provided to children.
- Restricting the days when fireworks can be supplied and used.
- Enabling local authorities to designate areas as firework control zones.
- Prohibiting pyrotechnic articles at certain places or events.
- Introducing a statutory aggravation for offences involving pyrotechnic articles and emergency workers.

Fireworks Licensing

The Act makes provision for a firework licensing system to be established. This licensing system will be developed and operated centrally by the Scottish Government.

Once this is in operation, all members of the public will need to apply for and obtain a fireworks licence before they are able to purchase, acquire, possess or use category F2 and F3 fireworks in Scotland. This includes people who are part of a community group or organisation and who are organising a public firework display on behalf of that group or organisation.

There will be a number of mandatory requirements as part of the fireworks licence application process, such as completing a fireworks training course, disclosing any previously revoked or cancelled fireworks licences, and disclosing unspent convictions for relevant offences.

The training course will be a core element of the licensing system, which will need to be successfully completed before a fireworks licence can be granted. This will ensure that those who are able to purchase, possess and use fireworks in Scotland have the required knowledge on how to do so in a safe, appropriate and lawful way.

The aim of the licensing system is to ensure members of the public who use fireworks are aware of how to do so safely, responsibly and lawfully. There are exemptions set out within the Act for certain groups who it is considered already have adequate fireworks knowledge. This includes regulatory authorities, professional firework operators and businesses involved in the supply or trade of fireworks, and their employees.

The Act makes it an offence to purchase, acquire, possess or use an F2 or F3 firework without having a licence. It also makes it an offence to supply an F2 or F3 firework to a person who does not have a licence. Trading Standards will enforce offences in relation to

the commercial supply of fireworks. This includes ensuring retailers are taking the necessary steps to check that an individual has a valid licence, or is exempt, when they supply fireworks. Police Scotland will enforce aspects involving the possession and use of fireworks by the public, including establishing whether those in possession of, or using, fireworks are licensed to do so.

Establishing the fireworks licensing system will require further legislation, for example setting out details of the training course and the amount of the licence fee. Time will therefore be required to consult on and prepare such legislation and for this to be scrutinised by the Scottish Parliament; as well as to commission and develop a suitable IT system.

The very earliest the licensing system will therefore be in place will be late 2023 / early 2024.

Proxy Purchase and Supply Offence

The Act makes it an offence for a person to knowingly buy or attempt to buy, give or otherwise make available, a firework or other pyrotechnic article to a person under the age of 18. This applies to all fireworks and pyrotechnic articles apart from category F1 fireworks and percussion caps for toys that are classified for use by children.

This type of offence is known as proxy purchase or proxy supply, and there are already similar offences in relation to the supply of products such as alcohol and tobacco to children.

There may, however, be legitimate reasons for making pyrotechnic articles, such as safety flares, available to people under the age of 18. There are therefore specific exemptions from the offence in relation to the non-retail supply of appropriate pyrotechnic articles in certain limited circumstances.

The Act makes it clear that a person does not commit an offence if the pyrotechnic article is designed to be used as a visual distress signal, and the person providing the pyrotechnic article intends for the recipient (under the age of 18) to use the pyrotechnic article only for that purpose in appropriate circumstances. For example, if an adult supplies a person under the age of 18 with a safety flare to use if they need to signal for help whilst sailing, the adult does not commit an offence.

It is recognised that some people under the age of 18 may need to use pyrotechnic articles as part of their education, training or employment in supervised settings. Such use of pyrotechnics is subject to safety obligations already placed on education providers and employers, such as health and safety legislation on managing risk in the workplace. Use of pyrotechnics may also be required when a person under the age of 18 is a member of the armed forces, a cadet force, or an organisation involved in activities such as search and rescue. These activities are also exempt from the new offence.

Police Scotland will have enforcement responsibility for the new proxy purchase and supply offence. Trading Standards will continue to have enforcement responsibility for ensuring that retailers of fireworks and pyrotechnic articles operate in line with existing legislation concerning the commercial supply to children under the age of 18. This includes, for example, utilising enforcement tools such as test purchasing to ensure a retailer does not supply fireworks to a child.

Work is underway to commence this offence in early October 2022.

Restricting the Days of Supply and Use

The Act sets out permitted periods when retailers in Scotland are able to supply members of the public with fireworks, as well as periods when people are able to use fireworks. This does not apply to category F1 fireworks. It also does not affect the supply of fireworks to professionals in the fireworks industry, to organisers of public fireworks displays, or to purchasers located outside Scotland.

The Act limits the supply of fireworks to, and use of fireworks by, the general public to specific periods that align with long established traditional or religious events. The permitted days when fireworks can be supplied are:

- 7 April to 14 April (which covers the Sikh festival of Vaisakhi);
- 27 October to 10 November;
- 26 December to 31 December;
- The first day of Chinese New Year and the 3 days immediately preceding it; and
- The first day of Diwali and the 3 days immediately preceding it.

The permitted days when fireworks can be used, as set out in the Bill, are:

- 7 April to 16 April;
- 27 October to 12 November;
- 26 December to 2 January;
- The 3 days immediately preceding the first day of Chinese New Year to the seventh day after the first day of Chinese New Year; and
- The 3 days immediately preceding the first day of Diwali to the seventh day after the first day of Diwali.

The permitted days for use extend slightly beyond when fireworks can be supplied to avoid a situation where people buy fireworks towards the very end of the permitted supply period and then are not able to use them on that day, for example due to bad weather.

The Act allows the Scottish Ministers to introduce a compensation scheme to address the economic impact of restricting the days of supply of fireworks, if required. This would be a targeted scheme and would be limited to only those businesses that are wholly or mainly concerned with the supply, distribution or importation of fireworks in Scotland, where a likely negative impact can be demonstrated. The detail of the scheme will be set out in regulations.

The restricted days of supply and use provisions will not require further substantive legislation or formal guidance before commencement. However, fair and sufficient time will be provided for businesses to adapt their processes and existing stock in line with the changes. Regulations will be required to provide for any compensation that is to be available, as described above. This provision will therefore not commence this year. It is anticipated that these changes will be in place in mid-2023.

Firework Control Zones

The Act provides local authorities with the power to designate a place (or places) within its area as a firework control zone, where it will be an offence for the general public to use (category F2 and F3) fireworks, including on private property.

The Act sets out that local authorities must have regard to any guidance which is published by the Scottish Ministers in relation to firework control zones. It is intended that guidance will be published to provide local authorities with the information and best practice to make informed decisions concerning the designation, amendment, or revocation of firework control zones.

It will still be possible for public firework displays, whether organised by a professional firework operator or by a community group, to take place within a firework control zone (subject to local licensing arrangements). This ensures that well organised public displays can continue in such areas.

The Scottish Government has committed to co-designing the local authority guidance for this provision with key stakeholders such as COSLA and local communities. To allow sufficient time for a meaningful co-design process it is likely that the fireworks control zones provision will commence in mid-2023, although time will then be required for local authorities to ensure appropriate processes are in place and undertake the mandatory 60-day consultation process in advance of any zones being designated.

Pyrotechnic articles in public places and at designated venues and events

The Act creates two offences relating to the possession of pyrotechnics: an offence of being in possession of a pyrotechnic article, excluding F1 fireworks, in a public place, without reasonable excuse; and an offence of being in possession of a pyrotechnic article, including all fireworks, at a designated sporting or music venue or event, without reasonable excuse. The creation of two distinct offences ensures both proportionality in the restrictions applied to different places, and consistency with existing pyrotechnic offences which are to be replaced by those in the Act. A person convicted of either new offence is liable, on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale (or both).

The Act extends the power of police officers to stop and search a person (including their vehicle) without warrant where there are reasonable grounds to suspect a person is committing an offence under the Act. It is anticipated that these powers will support these new offences to be effective in their aim of proactively preventing the misuse of pyrotechnics and fireworks, and thereby providing increased protection to the public

These provisions will require further legislation before they can commence in full and to their full intended effect. It is likely these will commence in 2023.

Statutory Aggravation for Offences involving Pyrotechnics and Emergency Workers

The Act makes provision for a statutory sentencing aggravation to apply in cases where fireworks and/or other pyrotechnic articles are used to attack emergency workers, reflecting the serious nature of offences committed in these particular circumstances.

For all offences committed involving the use of a lit or ignited (or recently lit or ignited) firework or other pyrotechnic article and where the victim or intended victim of the offence is an emergency worker, the courts are required to treat this as an aggravated offence and, amongst other matters, must take the aggravation into account when determining the appropriate sentence.

In addition, it will require courts to record when offences involving the use of fireworks and pyrotechnics against emergency workers have been found to be aggravated. This will help

build data and evidence over time as to the extent of use being made of fireworks and pyrotechnics in offences against those who risk life and limb keeping communities safe.

Work is underway to commence this offence in early October 2022.

Further information on categorisation of fireworks and pyrotechnic articles

Fireworks are categorised as either category F1, F2, F3 or F4 depending on the type and composition of the firework, including the net explosive content (NEC), and the associated hazard and noise levels. While there are some exceptions, broadly speaking categories of firework can be described as:

- F1 fireworks are typically indoor or close proximity fireworks with lower minimum safety distances, for example 1 metre. Examples of common types of F1 products include small sparklers, ice fountains, Christmas crackers and party poppers. These are not covered by the new offence.
- F2 fireworks are outdoor fireworks that have an NEC of up to 600g depending on their type and have a minimum spectator safety distance of 8 metres. Examples of common types F2 products include roman candles (up to 50g), rockets (up to 75g) and batteries (up to 500g) and combinations (up to 600g).
- F3 fireworks are outdoor fireworks that have an NEC up to 3000g. They have a minimum spectator safety distance of 25 metres. Examples of common types of F3 products include larger rockets (up to 200g), mines (up to 200g), batteries (up to 1000g) and combinations (up to 3000g).
- F4 fireworks present a high hazard and are for professional use only and are not available to members of the public.

Pyrotechnic articles, that are not categorised as fireworks, are given a different categorisation. This includes:

- Theatrical Pyrotechnic Articles (T1 and T2), often referred to as stage pyrotechnics proximity effects or special effects. These are items designed for use on stage and in theatres, including use by professionals for television shows, films, sporting events and concerts. Examples might include maroons and stage gerbs (theatrical fountains).
- Other Pyrotechnic Articles (P1 and P2) which are most often designed for outdoor use and can include devices designed for life saving (such as distress flares and distress rockets), and paintball accessories (such as smoke devices).

For further information regarding the Fireworks and Pyrotechnic Articles (Scotland) Act 2022, please contact fireworks@gov.scot.



Fireworks and Pyrotechnic Articles (Scotland) Act 2022: prohibition on providing fireworks and pyrotechnic articles to children

Guidance on the prohibition on the provision of fireworks and pyrotechnic articles to children through the Fireworks and Pyrotechnic Articles (Scotland) Act 2022.

The Fireworks and Pyrotechnic Articles (Scotland) Act 2022 was passed by the Scottish Parliament on 29 June 2022 and received Royal Assent on 10 August 2022.

Section 21 of the Act includes an offence which prohibits the provision of fireworks and other pyrotechnic articles to children.

This makes it illegal for anyone to provide¹ a firework, or other pyrotechnic article, to someone under the age of 18.

The offence came into force on 10 October 2022.

Anyone that commits this offence is liable, on summary conviction, to a fine not exceeding level 5 on the standard scale (which is currently £5,000) or to a term of imprisonment not exceeding 6 months, or both.

This type of offence is known as proxy purchase or proxy supply, and there are already similar offences in relation to providing products such as alcohol and tobacco to children.

Enforcement

Police Scotland have enforcement responsibility for the new proxy purchase and supply offence. Offences in relation to the commercial supply of fireworks and other pyrotechnic articles will continue to be enforced by Trading Standards.

Existing laws: supply of fireworks and pyrotechnic articles to children

The commercial supply of fireworks and other pyrotechnics articles continues to be subject to existing legislation.

It is already illegal for any economic operator, such as a retailer, to supply F2 and F3 fireworks, and P1 and T1 pyrotechnics to anyone under 18 years of age (The Pyrotechnic Articles (Safety) Regulations 2015)

¹ This includes knowingly buying, attempting to buy, giving or – in any way - making available

What type of products are included in the proxy purchase and supply offence?

The proxy purchase and supply offence applies to all fireworks and other pyrotechnic articles other than category F1 fireworks and percussion caps for toy guns (intended for use by children under the age of 14).

Category F1 fireworks are not included as it is not an offence for a person under the age of 18 to possess a category F1 firework.

Percussion caps for toys that are intended for use by children under the age of 14 are also excluded from the definition of “pyrotechnic article” in the Pyrotechnic Articles (Safety) Regulations 2015 (S.I. 2015/1553) (see regulation 3(2)(e)) meaning that such percussion caps may be sold to children directly.

While it is already unlawful for retailers to sell category F4 fireworks, and category P2 and T2 pyrotechnics to the public, these are included in the new offence to make it explicitly clear that these items should not be provided to a child.

Further information on categorisation of fireworks and pyrotechnic articles

Fireworks are categorised as either category F1, F2, F3 or F4 depending on the type and composition of the firework, including the net explosive content (NEC), and the associated hazard and noise levels. While there are some exceptions, broadly speaking categories of firework can be described as:

- F1 fireworks are typically indoor or close proximity fireworks with lower minimum safety distances, for example 1 metre. Examples of common types of F1 products include small sparklers, ice fountains, Christmas crackers and party poppers. These are not covered by the new offence.
- F2 fireworks are outdoor fireworks that have an NEC of up to 600g depending on their type and have a minimum spectator safety distance of 8 metres. Examples of common types F2 products include roman candles (up to 50g), rockets (up to 75g) and batteries (up to 500g) and combinations (up to 600g).
- F3 fireworks are outdoor fireworks that have an NEC up to 3000g. They have a minimum spectator safety distance of 25 metres. Examples of common types of F3 products include larger rockets (up to 200g), mines (up to 200g), batteries (up to 1000g) and combinations (up to 3000g).
- F4 fireworks present a high hazard and are for professional use only and are not available to members of the public.

Pyrotechnic articles, that are not categorised as fireworks, are given a different categorisation. This includes:

- Theatrical Pyrotechnic Articles (T1 and T2), often referred to as stage pyrotechnics proximity effects or special effects. These are items designed for use on stage and in theatres, including use by professionals for television

shows, films, sporting events and concerts. Examples might include maroons and stage gerbs (theatrical fountains).

- Other Pyrotechnic Articles (P1 and P2) which are most often designed for outdoor use and can include devices designed for life saving (such as distress flares and distress rockets), and paintball accessories (such as smoke devices).

Legitimate use of pyrotechnic articles by people under 18 years of age

There may be legitimate reasons for making pyrotechnic articles, such as safety flares, available to people under the age of 18. There are therefore specific exemptions from the offence in relation to the non-retail supply of appropriate pyrotechnic articles in certain limited circumstances.

The Act makes it clear that a person does not commit an offence if the pyrotechnic article is designed to be used as a visual distress signal, and the person providing the pyrotechnic article intends for the recipient (under the age of 18) to use the pyrotechnic article only for that purpose in appropriate circumstances. For example, it is not an offence if a person provides a person under the age of 18 with a safety flare to use if they need to signal for help whilst sailing.

It is recognised that some people under the age of 18 may need to use pyrotechnic articles as part of their education, training or employment in supervised settings. Such use of pyrotechnics is subject to safety obligations already placed on education providers and employers, such as health and safety legislation on managing risk in the workplace. Use of pyrotechnics may also be required when a person under the age of 18 is a member of the armed forces, a cadet force, or an organisation involved in activities such as search and rescue. These activities are also exempt from the new offence.

Sources for further information

- [Fireworks and Pyrotechnic Articles \(Scotland\) Act 2022](#)
- [The Fireworks \(Scotland\) Miscellaneous Amendments Regulations 2021](#)
- [The Fireworks Act 2003](#)
- [The Fireworks \(Scotland\) Regulations 2004](#)
- [Fireworks Regulations 2004](#)
- [Explosives Regulations 2014](#)
- [The Pyrotechnic Articles \(Safety\) Regulations 2015](#)

Contact

For further information contact fireworks@gov.scot

Appendix 3

Trading Standards and Licensing Enforcement activity in advance of 5 November 2022

Action		Notes
Fireworks storage inspections	31 inspections completed (with SFRS and Police Scotland partners where available)	<ul style="list-style-type: none"> Mostly multinational retailers with agreed systems in place to prevent inappropriate sales and ensuring safe storage Some premises had decided to cease supply
Fireworks storage revisits	Five revisits	<ul style="list-style-type: none"> Following a significant theft of fireworks from a retailer, we updated our guidance regarding the storage arrangements on site and carried out a series of revisits to implement the new arrangements Storage guidance is usually agreed nationwide to ensure consistency, and so is being raised with enforcement groups for further consideration
Test purchase attempts	Eight attempts made – no sales made	<ul style="list-style-type: none"> These visits related to the new restrictions referenced at 3.4 of the report, restricting the volume of sales to 5kg and the times of sales to between 7am and 6pm only. Two premises closed thus no test purchase could be attempted.
Test purchase attempts	Seven attempts made – no sales made	<ul style="list-style-type: none"> Age restricted sales Two premises closed thus no test purchase could be attempted.
Screening of Fast Parcel outlets	Ongoing - in conjunction with partners in Border Force	<ul style="list-style-type: none"> Scotland pilot as part of staged implementation of Fireworks (Scotland) Act No significant issues identified
Online screening	Ongoing	<ul style="list-style-type: none"> Scotland-wide
Intelligence led work	Two investigations completed – no enforcement action necessary	<ul style="list-style-type: none"> Visit to domestic premises with Police Scotland after an allegation of illicit/illegal fireworks being sold Visit to premises in the South of the city after an allegation of an unregistered fireworks retailer