

Fireworks and Pyrotechnic Articles (Scotland) Bill

Island Communities Impact Assessment

February 2022



Scottish Government
Riaghaltas na h-Alba
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Island Communities Impact Assessment

Title of policy/ practice/ strategy/ legislation etc.	Fireworks and Pyrotechnic Articles (Scotland) Bill
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Introduction

1. Section 7 of the [Islands \(Scotland\) Act 2018](#) (“the 2018 Act”) sets out a specific duty for relevant public bodies, including the Scottish Ministers, to “have regard to island communities” in carrying out their functions. A related duty under section 8 of the 2018 Act requires relevant authorities to undertake an Island Communities Impact Assessment (ICIA) “in relation to a policy, strategy or service which, in the authority’s opinion, is likely to have an effect on an island community which is **significantly different from its effect on other communities** (including other island communities) in the area in which the authority exercises its functions.”

2. This screening assessment is of the potential impact of the Scottish Government’s proposals in respect of the **Fireworks and Pyrotechnic Articles (Scotland) Bill** on island communities. Island communities are defined in the 2018 Act as:

- Consisting of two or more individuals, all of whom permanently inhabit an island (whether or not the same island), and
- Based on common interest, identity or geography (including in relation to any uninhabited island whose natural environment and terrestrial, marine and associated ecosystems contribute to the natural or cultural heritage or economy of an inhabited island).

Background

3. Following high profile incidents during bonfire night in 2017, and again in 2018, the Scottish Government undertook work to look at the position of fireworks in Scotland. This included: a review of police and fire service activity linked to fireworks and bonfire night by Her Majesty’s Inspectorate of Constabulary in Scotland and Her Majesty’s Fire Service Inspectorate in Scotland; and a programme of public consultation, stakeholder engagement and evidence gathering on the sale and use of fireworks in Scotland to identify what action was required going forward.

4. A [‘consultation on fireworks in Scotland: Your experiences, your ideas, your views’](#) was subsequently launched on Sunday 3 February 2019 for a period of 14 weeks to its close on Monday 13 May 2019 and was designed to start a conversation

with the people of Scotland on how fireworks are sold and used. The consultation was an important step in gathering valuable evidence on a range of opinions and perspectives and covered organised displays, private use by individuals, and inappropriate use of fireworks.

5. Over the consultation period 29 engagement events were held – 24 open public events, and five events for specific population groups including young people. A total of 16,420 responses were received from members of the public and stakeholder organisations. The consultation responses were independently analysed and the [analysis report](#) was published online in October 2019.

6. A representative omnibus survey “Public attitudes towards fireworks in Scotland” was undertaken in May 2019 with a total sample of 1,002 responses. The results of this survey were [published online](#) in October 2019.

7. In October 2019 the Minister for Community Safety published the [Fireworks Action Plan](#) online which sets out how the Scottish Government would address the concerns expressed through the national consultation. The Action Plan supports the Scottish Government National Outcome of *We live in communities that are inclusive, empowered, resilient and safe* and sets out a range of outcomes for fireworks to support this including:

- Organised displays provide the opportunity to bring communities together.
- Fireworks are used safely and handled with care.
- Fireworks do not cause harm, distress or serious injury.

8. The Action Plan sets out activities that have been taken forward immediately, as well as longer term actions that will collectively support a change in how fireworks are used in Scotland. It can be split into two parts: the Firework Review Group; and the non-legislative actions that sit alongside it.

9. The independent Firework Review Group¹ was tasked with considering the options available to tighten legislation on fireworks in Scotland. The Group considered the evidence available and made a series of recommendations to Scottish Ministers in November 2020 (report available [online](#)) and reached a majority consensus that a fundamental shift is required in how fireworks are used and accessed in Scotland through the introduction of a comprehensive set of measures, including:

- The introduction of mandatory conditions before consumers are able to purchase fireworks.
- Restricting the times of day fireworks can be sold.
- Restricting the volume of fireworks that can be purchased.
- Restricting the days and times fireworks can be set off.

¹ Membership included: Police Scotland, Scottish Fire and Rescue Service, Scottish Ambulance Service, Local Authority Licensing, Trading Standards, Scottish Community Safety Network, British Pyrotechnics Association, British Fireworks Association, NHS Greater Glasgow and Clyde / Care of Burns in Scotland, Veterans Scotland and Community Representatives.

- A provision for no fireworks areas to be introduced where it is not permitted for fireworks to be set off, with local communities having a key role in influencing this.
- The introduction of a proxy purchasing offence criminalising the supply of fireworks to people under the age of 18.

10. A number of these recommendations have subsequently been progressed through [The Fireworks \(Scotland\) Miscellaneous Amendments Regulations 2021](#), made by the Scottish Ministers in February 2021. These regulations amended the Fireworks (Scotland) Regulations 2004, and the changes implemented by these regulations include three new measures in relation to the way the general public can use and access fireworks as follows:

- 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);
- Restrict the times of day fireworks can be supplied to the general public to during the daytime hours of 7am and 6pm, alongside existing requirements on retailers around sale and storage licences;
- Limit the quantity of fireworks that can be supplied to the general public to 5kg at any one time.

11. In addition to this, over recent years, the misuse of pyrotechnics², including fireworks, at events in Scotland has become more prevalent. There is evidence of pyrotechnics having been set off in crowded locations with subsequent risk of serious injury or death. This has included incidents at concerts and music festivals, at sporting events, and during public gatherings and protests. In 2018, Police Scotland approached the Scottish Government with significant concerns about the dangers of pyrotechnic misuse and highlighted the work they had been undertaking in relation to it. This included identifying any improvements that might be made around the recording of pyrotechnic incidents, as well as establishing the need for further powers or other legislative change. Police Scotland had identified the need for further work to:

- Establish if legislative change was desirable/possible and how that might best be achieved.
- Implement joint safety messaging by all stakeholders in relation to pyrotechnics.
- Improve recording of incidents involving possession/use of pyrotechnics.

12. Following engagement with Police Scotland, in May 2019 the Scottish Government hosted a series of stakeholder discussions on the misuse of

² While all fireworks are pyrotechnic products, the Bill uses the terms “fireworks” and “pyrotechnics” as distinct categories, in line with existing legislation. The Pyrotechnic Articles (Safety) Regulations 2015 sets out which pyrotechnic articles may be made available on the market in the United Kingdom, and how these must be categorised by manufacturers. Fireworks must be categorised as either F1, F2, F3 or F4 products, and it is intended that any pyrotechnic articles intended for entertainment purposes shall be categorised as a firework, including pyrotechnic articles intended for entertainment and another purpose.

pyrotechnics to further identify actions that could be taken to tackle the issue and to gather more evidence. Discussions involved representatives from Police Scotland, Scottish Police Federation, British Transport Police, Crown Office and Procurator Fiscal Service and the Scottish Government. The final stakeholder discussion concluded that a dedicated stop and search power for pyrotechnics, not limited exclusively to persons entering or attempting to enter qualifying events, was required.

13. The Minister for Community Safety publicly expressed Scottish Government support for joint actions to tackle the risk, welcoming a recent Police Scotland and Scottish Fire and Rescue Service campaign on this issue ('No Place for Pyro') in January 2020 and reiterated that keeping people safe is a priority for the Scottish Government and partner agencies. In September 2020, and in light of stakeholder discussions, the Scottish Government made the decision to consult more widely on the creation of a new offence relating to possession of a pyrotechnic article, and the extension of current police powers to allow a stop and search power for this offence, and this was included alongside the proposed fireworks measures in the 2021 consultation.

Consultation process

14. The Scottish Government undertook an [eight week consultation](#) – 'Use and sale of fireworks in Scotland, and tackling the misuse of pyrotechnics' - from 20 June to 15 August 2021 seeking views on how, and if, the remaining recommendations from the Firework Review Group are implemented. The consultation also sought views on the misuse of pyrotechnic articles, particularly in relation to proposed provisions to be included within the Bill. The principal policy objectives of the proposed Bill are to protect public and community safety and wellbeing by ensuring fireworks and pyrotechnics do not cause harm, distress or serious injury, and the provisions included within the Bill are intended to support a cultural shift in how fireworks and pyrotechnics are used in Scotland. This will be achieved by altering how the general public can access and use fireworks and pyrotechnics, by making provisions for new restrictions to apply to their purchase, acquisition, possession and use, with new criminal offences to apply where these restrictions are not complied with. It is not intended that the measures included within the Bill will apply to professional firework operators, as well as – for a number of the measures - organisers of public firework displays, therefore enabling organised displays to continue to take place.

15. A total of 1,739 responses were received to the consultation and, of these, 64 were submitted by groups or organisations, including key stakeholders. Twelve online workshop events were also held – eight open to anyone who wished to attend and four for specific groups, namely: the community in Pollokshields; specialist firework retailers; sight loss organisations; and Trading Standards. The responses were again independently analysed and the [analysis report](#) was published online in December 2021.

16. The Fireworks and Pyrotechnic Articles (Scotland) Bill has been informed by the consultation responses, and by the wider programme of engagement, consultation and evidence gathering as described in paragraphs 3 to 13 above, and

seeks to alter how the general public can access and use fireworks and pyrotechnics, by making provisions for new restrictions to apply to their purchase, acquisition, possession and use, with new criminal offences to apply where these restrictions are not complied with. The Bill is in 7 parts as follows:

- Part 1: Key concepts, including the meaning of fireworks and pyrotechnic articles and categories.
- Part 2: Fireworks licensing.
- Part 3: Restrictions on supply and use of fireworks and pyrotechnic articles including: prohibition on supply to children; and days of use and supply of fireworks.
- Part 4: Firework control zones.
- Part 5: Pyrotechnic articles at certain venues or events.
- Part 6: Exemptions and enforcement.
- Part 7: General provisions, including interpretation, regulations, ancillary provision, Crown application and commencement.

17. The views and perspectives of island and rural communities have fed into development of the Bill through various routes (outlined below) and the main issues raised have generally been consistent with those raised by non-island communities and stakeholders.

18. Island communities were also represented at the online engagement event with Trading Standards officers during the 2021 consultation, with two Islands Trading Standards officers in attendance. No specific concerns relating to the islands were raised during the discussions and break-out sessions.

2019 consultation on fireworks

19. The 2019 consultation gathered the views and perspectives of island communities in a number of ways including: formal responses from a local authority and community council representing island communities; formal responses from individuals identifying as belonging to island communities³; and two engagement events on an island community.

20. Shetland Islands Council submitted a formal response to the consultation and indicated that they did not support further controls on fireworks. The main reason given was because they feel that the current legislation works well, and concerns that a complete ban on the sale of fireworks to the public would risk driving the sale of fireworks underground and out of the reach of the enforcement authorities.

21. Lerwick Community Council were supportive of further controls, expressing the view that fireworks are too dangerous to be used by the general public. Twelve responses were identified as being received from individuals belonging to island

³ A key word search was carried out on open text responses using the words 'Orkney' 'Shetland' 'Lerwick' and 'Western' which identified 12 individual responses likely to come from island community respondents. It is important to note that this approach will not identify all responses from those living or working in island communities (for example, those who responded only to closed questions, or those who provided responses to open ended questions that did not include such key words) but does provide an summary of some of the responses received from island community respondents.

communities. Of these, most (10) were broadly supportive of more controls and offered examples of firework misuse and examples of the distress suffered by animals from the noise and disturbance, including dogs, horses and sheep. Two individual responses, however, expressed opposition to further controls with the view that existing measures and enforcement were sufficient to address the minority of people who misuse fireworks.

22. Two engagement events were held on Stornoway for members of the public during the consultation process, and the results from these events – alongside the other events that took place – were considered as part of the formal analysis of consultation responses. The views and perspectives raised during these sessions were very similar to those expressed at mainland events although a number of coastal specific issues were raised including: anecdotes of false call outs as an unintended consequence of fireworks being used close to the coast mistaken for flares and attracting the attention of the Coastguard; and examples of well organised community led displays and firework events across the islands.

2019 representative omnibus survey

23. While the [2019 omnibus](#) survey did not report results separately for island communities 9% of the sample profile was from the Highlands and Islands while 15% was from respondents living in rural areas⁴. The results of the survey showed that while a majority from both urban and rural areas would welcome an increase in control over the sale and use of fireworks in Scotland, those living in urban areas were more likely than those living in rural areas to say they would welcome an increase in controls. For example, 74% of those living in urban areas said they would welcome an increase in control over the sale of fireworks compared to 62% of those living in rural areas; while 71% of those living in urban areas were supportive of more control over the use of fireworks compared to 55% for rural areas.

2021 consultation on fireworks and pyrotechnics

24. Two local authorities – the Western Isles and Shetland Council - which include islands communities responded to the 2021 consultation.

25. An officer level response from Comhairle nan Eilean Siar (Western Isles) agreed with the proposed introduction of a firework licensing system and felt that this has the potential to reduce some of the negative impacts associated with fireworks around animal welfare and anti-social behaviour and improve overall safety. The Council also agreed with the introduction of firework control zones and felt these may be a useful tool for dealing with local problem areas. Comhairle nan Eilean Siar indicated that they were unsure of the proposal to restrict the days of sale and use of fireworks, expressing the view that if a fireworks licensing system was effective there would be less need to restrict days of sale and use.

26. Shetland Council indicated in their response that they were ‘unsure’ of the introduction of a licensing system, expressing concern over an increase in black

⁴ Note: A complex weighting matrix was applied to data generated by the survey to ensure that it is accurately representative of the Scottish population in terms of demographics and geographical spread across the Scottish regions, including Highland and Islands.

market fireworks, and the introduction of firework control zones, stating no obvious need in their area and potential practical difficulties in enforcement. The council did not agree with restricted days for sale and use of fireworks, noting this would impact on the use of fireworks for celebratory life events and would affect specialist retailers which would then impact on specialist knowledge and advice; but agreed with the introduction of the proxy purchasing offence.

27. Neither council offered a response to the questions on pyrotechnics. There were no responses from community councils on the islands.

Application of policy to island communities

28. The proposals included within the Bill deliver on a commitment made in the [Programme for Government 2021-2022](#) to change how fireworks are sold and used in Scotland with the aim of protecting public and community safety and wellbeing by ensuring fireworks do not cause harm, distress or injury; and to address the misuse of pyrotechnics.

29. The components of the Bill will introduce a package of new measures which will apply across Scotland to protect communities and individuals from harm, distress or serious injury.

30. While most of the provisions will apply across Scotland, the Bill includes provision for local authorities to consider the introduction of firework control zones in light of the specific circumstances faced locally. This provides flexibility for local authorities to implement firework control zones if it is right for local circumstances and in a way that reflects the unique circumstances which that community faces.

Screening decision

31. The 2021 consultation highlighted differing views among the two councils who responded that represent island communities. This is broadly consistent with the range of views received from mainland local authorities and is reflected in the consultation analysis report. Similarly, where individual responses were able to be determined by respondents from the islands, the views expressed were consistent with other responses and did not highlight any specific island issues. It is therefore considered that the effect the Bill will have is likely to be consistent for island communities and other communities.

32. Although no significant impact on island communities has been identified a full ICIA is presented below.

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33. As outlined above, it is considered that the Bill is likely to have similar impacts on island communities as for other communities across Scotland, although it can be expected that there will be minor differences in some specific areas reflecting the nature of island communities.

Fireworks licensing

34. It is envisaged that the licensing scheme, and the associated training course, will be delivered digitally. Some island communities may experience digital connectivity issues potentially making it more difficult to apply for a licence or to undertake the required training. The online application system will operate at all times throughout the year, thus allowing mitigation against connectivity issues. Regard for any connectivity issues for island communities will be considered as part of the proposed system's design and operation.

Restricted days of use and supply of fireworks

35. Restrictions on the times of day fireworks can be sold and used were introduced in June 2021, and the Bill seeks to extend this further by restricting the days of sale and use. No differences for island communities have been identified in relation to the restrictions on days of sale and use of fireworks. Currently firework retailers are licensed to sell fireworks during traditional periods, with the required storage licence to do so, or in the case of retailers selling fireworks all year round with the required sales licence. The Scottish Government is aware of one retailer in the Shetland Isles who is licensed to sell fireworks all year round and therefore impacted by the restricted days of sale outlined in the Bill. However, these impacts are likely to be similar to the other retailers in Scotland who currently sell fireworks all year round, and the Bill enables the Scottish Ministers to, by regulation, make provision about the payment of compensation to address the economic impact of restricted days of supply, if evidence is demonstrated of this, for those whose trade or business is wholly or mainly concerned with the supply, distribution or importation of fireworks in Scotland.

Prohibition on providing fireworks or pyrotechnic articles to children

36. It is not expected that the introduction of a proxy purchase and supply offence – which is intended to reduce the ability of under 18 year olds to access pyrotechnic articles, including fireworks, by ensuring that adults do not purchase such products on behalf of, or otherwise make these available to, children and young people - will have a different impact of island communities compared to mainland communities. There is an exemption to the proxy supply offence for pyrotechnic articles if they are designed by the manufacturer to be used as a visual distress flare and the person giving the article to the young person intends that the person under the age of 18 will use the pyrotechnic article only in appropriate circumstances, for example, to attract necessary, potentially life-saving, assistance if on a marine vessel or hill walk.

Firework control zones

37. The Bill provides local authorities with the power to designate a place or places within its area as a firework control zone. Before designating, amending or revoking a zone there is to be a mandatory consultation exercise carried out by the local authority. As part of this, the local authority must undertake consultation with people who live or work in the proposed area, other members of the local community who live in or near the proposed area and any other person or bodies the local authority considers relevant before making a designation in respect of that area.

This does not provide for any specific mandatory consultees, nor does it specify a minimum length for the consultation period, as the scope and manner of consultation are to be for the local authority to determine based on the particular circumstances of the area in question and existing practice within the local authority area.

38. The Bill also confers a power for the Scottish Ministers to issue guidance – likely to cover matters such as: the type of alternative strategies that may be applied instead of designating a firework control zone; information about the types of issue which may be suitable to be addressed through firework control zones; and information about the evidence a local authority may consider in deciding to designate such a zone - applying to local authorities in relation to the designation of firework control zones. It is intended that this guidance will support local authorities to deliver a degree of consistency of approach between different areas; while having discretion to apply their own approaches to these designations to reflect local circumstances.

39. As a result, it is intended that each local authority will be able to tailor any firework control zone decisions based on local circumstances and needs and this will be the same for island communities as it is for mainland communities. Where an island community's experience differs this can be accommodated in their planning.

Possession of a pyrotechnic article at certain places or events

40. Misuse of pyrotechnic articles, including fireworks, at certain places or events is an issue that has the potential to affect all local authority areas where sporting and music events occur, and where public gatherings take place for recreational purposes (such as gatherings in park land) or other purposes (such as protest activity). The higher number and more regular frequency of such events in mainland local authority areas, and the associated policing often needed, compared to island communities, means that there may be less impact on the policing operations taking place in island communities. No unique or negative impacts have been identified for island communities.

41. It has been vital to ensure that the Bill does nothing to dissuade or inhibit the legitimate use of pyrotechnic articles for safety purposes. Ensuring that necessary use of pyrotechnic articles in appropriate situations, such as marine flares and visual distress signals, is protected and encouraged when needed, for example for walkers and hill climbers in remote and rural areas, sailors out at sea and those working off shore, is of importance to all communities, but may have increased impact on those rural communities, including island communities, where such activities and rescue responses can be more widespread.

Conclusion

42. The process of developing the Bill involved extensive engagement with individuals and organisations from communities across Scotland, which included seeking the views and perspectives of those who live and work in island communities. The Scottish Government believe that the measures included within the Bill strike an appropriate balance between consistency across Scotland in relation to the aim of protecting public and community safety and wellbeing by

ensuring fireworks do not cause harm, distress or injury; ensuring local circumstances can feed into the implementation of firework control zones; while encouraging community led or professional organised displays across all of Scotland and the islands.

43. We will continue to seek views as the Bill progresses through Parliament.



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The Scottish Government
St Andrew's House
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ISBN: 978-1-80201-998-8 (web only)

Published by The Scottish Government, February 2022

Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA
PPDAS1017438 (02/22)

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