

FIREWORKS AND PYROTECHNIC ARTICLES (SCOTLAND) ACT 2022

EXPLANATORY NOTES

THE ACT

Overview

Part 4: Firework control zones

69. **Part 4** establishes the concept of firework control zones which, if designated by a local authority, are places within the area of the local authority in relation to which the use of fireworks is restricted, including the use of fireworks on private land. Part 4 requires local authorities to take certain steps before designating a place as a firework control zone.

Section 26—Application of Part 4

70. **Section 26** sets out the types of fireworks to which Part 4 applies, by reference to the previously-defined categories in section 2. Subsection (1) is modifiable by regulations made under subsection (2) to take account of, for example, future developments in fireworks technology, standards or specifications. The regulations are subject to the affirmative procedure.

Section 27—Firework control zones

71. **Section 27** enables a local authority to designate a place within its area as a firework control zone (see subsection (1)). 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. If needed, the Scottish Ministers have a power under section 32(1) to make regulations that may be used to limit the size of area that may be designated a firework control zone or impose an overall limit on how much of its area may be so designated. Section 27(1) also permits a local authority to amend a zone, the period of time that a zone has effect or revoke a zone. In each case, the relevant procedure set out in Part 4 needs to be followed.
72. 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 (see subsection (2)). A person who commits an offence is liable (on summary conviction) to a fine not exceeding level 5 on the standard scale (currently £5,000) or to a term of imprisonment not exceeding 6 months, or both (see subsection (4)). If a person used a firework according to the manufacturer's instructions and that firework accidentally entered a firework control zone after being ignited, that person would not commit an offence so long as the firework was not deliberately aimed into the firework control zone and the person was not reckless as to the direction in which the firework was fired.

73. The use of fireworks is not completely banned within a firework control zone. Part 4 only applies to those fireworks specified in section 26(1), namely category F2, F3 and F4 fireworks. The use of category F1 fireworks is permitted within a firework control zone. There are also some exemptions which apply to this section (see section 38 and paragraphs 5, 12, 18 and 22 of schedule 1).
74. While the default position is that a zone operates throughout the period it has effect, it is also possible for a local authority to specify that a firework control zone will only operate on particular days. This enables the local authority to ensure that the zone takes account of local circumstances and only operates when required.

Section 28—Prior consultation on proposals

75. **Section 28** places a duty on local authorities to prepare and publish (as the case may be) 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.
76. 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.

Section 29—Publication of decision on proposal

77. **Section 29** requires 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. The local authority must also explain any changes made from the original proposal and how it had regard to the views expressed during the consultation process under section 28.

Section 30—Publicising firework control zones

78. **Section 30** requires a local authority, as soon as practicable after a document is published under section 29 confirming that a proposal to designate, amend or revoke a firework control zone is proceeding, to take reasonable steps to inform those who were consulted under section 28 of certain information relating to the proposal.

Section 31—Review of operation and effectiveness

79. **Section 31** requires a local authority to carry out reviews of the operation and effectiveness of its firework control zones. It is open to the local authority to carry out reviews of one, some or all of its zones at any given time. This ensures that an authority can determine what is most appropriate for its circumstances while still ensuring that the zones are reviewed to verify that they are still required. An authority may also combine a review of a zone with a proposal to amend or revoke a zone. This may arise where, for example, the authority believes that it is appropriate to extend the period a zone is to have effect but wishes to make sure that it is working effectively before doing so. Combining a proposal to review a zone with a proposal to amend or revoke it allows for views on both proposals as part of the same consultation.
80. Following a review, the local authority must publish a report on its findings and thereafter make such proposals in relation to the zone (or zones) as it considers appropriate (if any).

*These notes relate to the Fireworks and Pyrotechnic Articles (Scotland)
Act 2022 (asp 9) which received Royal Assent on 10 August 2022*

81. Subsection (4) makes it clear that the Scottish Ministers can set a minimum frequency for reviews under this section. The provision should be read in the context of section 29 more generally, and may make different provision for different purposes. For example, different frequencies may apply to zones with certain characteristics (duration, size, location, etc.).

Section 32—Power to make further provision

82. Section 32 gives the Scottish Ministers the regulation-making power to make further provision about firework control zones and the procedure for designating, amending or revoking them. Those regulations are subject to the negative procedure. Subsection (2) is a non-exhaustive list of matters about which the Scottish Ministers may make further provision.

Section 33—Guidance

83. Section 33 requires local authorities to have regard to any guidance issued by the Scottish Ministers for the purposes of Part 4 (see subsection (1)), and requires the Scottish Ministers to publish any such guidance (see subsection (2)).