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Scottish Parliament
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By email: justicecommittee@parliament.scot

22 March 2023

Dear Convener,

Fireworks and Pyrotechnic Articles (Scotland) Act 2022 – Implementation Timetable

Thank you for your letter of 8 March 2023, requesting further information on the Scottish Government's revised implementation timetable for various provisions of the Fireworks and Pyrotechnic Articles (Scotland) Act 2022 ('the Act'), and for the Committee's ongoing, considered engagement with the Act.

I will respond to each of the points that you have raised below.

Offences of proxy purchase and aggravations relating to offences against emergency workers

The Committee asked if data is available yet on the number of offences recorded relating to proxy purchasing or attacks on emergency service workers from when those provisions came into force, and if the Scottish Ministers are aware of prosecution numbers since the provisions came into force.

Following the disorder involving fireworks witnessed on Halloween and over the bonfire night period last year, my officials have regularly liaised with Police Scotland regarding offences and charges. Police Scotland have advised that, at this stage, investigations by Police Scotland and the Crown Office and Procurator Fiscal Service are continuing and that information relating to specific cases is not yet available for the public domain. I would like to reassure you that I consider gathering data in relation to the proxy purchase offence and emergency worker aggravation to be a matter of priority to understand how those have been used, along with other firework related charges, in response to the misuse of fireworks. My officials are continuing to liaise with Police Scotland.

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Implementation of the remaining provisions in the Act

The Committee asked for clarification on the unprecedented financial challenges I referred to in my letter, and the impact that these are having on delivery of the remaining measures within the Act.

Significant inflationary pressures and deterioration of the economy due to external factors, such as the impact of the UK Government's 'mini budget' in the autumn of 2022, compounded by effects of Brexit and rising prices as a result of Russia's invasion of Ukraine, have been key to underpinning the rationale for a revised approach to implementation. These pressures have intensified significantly over the previous few months. The financial landscape has shifted since the original implementation timescales were outlined and the Bill for the Act progressed through Parliament.

The Scottish Ministers have had to take significant and decisive action to protect the delivery of core public services and deal with pressures across the Justice portfolio. In view of the competing financial pressures, it is therefore no longer possible to progress implementation of certain measures at the originally anticipated pace and timescale.

I believe the adapted approach, outlined in my letter of 14 February, strikes the balance by enabling positive and tangible change to be implemented year on year for communities, whilst also ensuring that the necessary resources can be allocated to protect vital public services. We will be monitoring and evaluating the impact of each of the interventions as they are implemented to develop a robust evidence base as to how the different interventions are making a difference, and how they build upon each other to become effective prevention measures.

Financial Memorandum

The Committee asked if the Financial Memorandum, which accompanied the Bill for the Act, underestimated the actual cost of implementing all of the provisions within the Act. I can advise that the estimated costs for implementing provisions have not changed, and remain as detailed in the Financial Memorandum. As outlined above, unprecedented economic turbulence has had a significant impact across Government and resulted in the decision to adapt the implementation timetable to ensure core public services are protected while continuing to deliver change.

Firework Control Zones

The Committee has set out concerns, that were initially raised in the Stage 1 report, about the level of detail for measures that will be set out in regulations. The Act sets out the essential components of Firework Control Zones, including the offences committed within a zone, exemptions to the offences and the requirements of local authorities to develop proposals for zones and consult widely on those. I can advise, as was indicated in my predecessor's letter of 21 September 2022, that the implementation of Firework Control Zones will be supported by the publication of Scottish Government guidance for local authorities on the operational and administrative aspects of Firework Control Zones, rather than by use of regulations to set out these aspects.

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To take forward the development of the guidance, a Firework Control Zones Working Group involving key stakeholders and practitioners from a number of local authorities has been established. The membership of the group reflects the viewpoints of those who will be involved in the practical implementation of Firework Control Zones at a local level. To inform the co-design process being undertaken by the working group, wider stakeholders have also been consulted, including the fireworks industry, and organisations representing the interests of animal welfare, environmental protection, community safety, and equalities. A series of Scottish Government run community workshops is also underway across Scotland to ensure that those who live and work in communities have the opportunity to directly feed into the development of the guidance. As my predecessor outlined in her letter of 21 September 2022, the guidance will be shared with the Committee for information once the co-design process has concluded. The working group is progressing a programme of work to finalise the guidance by early summer 2023. It is intended that the provisions of Part 4 of the Act will be commenced as quickly as possible after the guidance is finalised, allowing local authorities to utilise their new powers in respect of Firework Control Zones.

While the Act does include regulation making powers that could be utilised to set out the operational and administrative detail should that be considered necessary in the future, setting this out in guidance for local authorities, which must under section 33 of the Act have 'have regard to any guidance issued by the Scottish Ministers', is considered the most appropriate approach at this stage. The regulation making powers are subject to the negative procedure, which I consider to be suitable to set out matters of operational and administrative detail and will allow for Committee consideration of any future regulations in relation to Firework Control Zones. This view was reaffirmed throughout the scrutiny of the Bill by the Delegated Powers and Law Reform Committee, who did not recommend changing these procedures.

Firework Licensing System

The Committee raised a number of points in relation to the firework licensing system. Firstly, the Committee asked for clarification on the anticipated implementation timescales for the system. The revised timescale for implementation of the licensing system is that it will be in force mid-2024 calendar year at the earliest. The original timescales set out in Parliament during scrutiny of the Bill for the Act were that the system would be in place at the end of the 2023 calendar year/at the beginning of the 2024 calendar year at the earliest. The ambition continues to be to have the licensing system operational ahead of bonfire night 2024, which would have been the first firework season during which the system would have been operational within the original timescales.

The Committee also asked for the specific reasons for the delay in the rollout of the licensing system. Development of the licensing system is a major IT procurement and project, which has already started in parallel with the implementation of other measures within the Act. As outlined above, the significant inflationary and financial pressures have meant that a phased approach to funding development of the system is the most appropriate approach to allow year on year delivery of the Act to continue.

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In relation to the licence fee, as outlined during the parliamentary process, the licence fee and other operational and administrative details of the licensing system will be set out in regulations. Section 19 of the Act requires that before making any regulations under Part 2 (fireworks licensing), the Scottish Ministers must consult such persons as they consider are likely to be interested in, or affected by, the licensing of fireworks. The regulations setting out the licence fee will therefore be informed by wide consultation with the public and stakeholders. I will share further details on the consultation that will inform licensing regulations with the Committee in due course.

Restrictions to days of supply and days of use

The Committee has asked for confirmation of which financial year the Scottish Ministers now intend on commencing the restrictions to days of supply and days of use of fireworks provisions. Due to the evolving turbulent economic environment, it is not yet possible to confirm in which financial year the restrictions on supply and use of fireworks will commence. However I would like to reassure the Committee that the delivery of full implementation of the Act remains a priority within the Justice portfolio. Scoping and consideration is being given to the revised timescales for delivery of these measures, and my officials and I will continue to engage with the Committee and stakeholders to provide firmer timescales in due course.

The Committee has highlighted concerns that changes to implementation timescales could lead to confusion for members of the public about what provisions are in force and when, particularly groups preparing for religious or cultural events involving fireworks. A programme of communication and public awareness raising will be put in place to ensure that businesses, stakeholders and the public are aware of new measures as they are implemented, and what this means for their interests and responsibilities in terms of how fireworks are supplied and used in Scotland. This will build upon the three long-standing annual fireworks campaigns that the Scottish Government delivers with partners such as the Scottish Fire and Rescue Service, Trading Standards, Crimestoppers, the Scottish Society for the Prevention of Cruelty to Animals, and other stakeholders. Last year the campaigns were updated to incorporate messaging on the proxy purchase offence, and the Scottish Government worked with stakeholders to share messaging on the emergency worker aggravation, to ensure that the public and stakeholders were aware of the new measures.

I hope that the Committee find this information helpful, and are reassured of my commitment to progressing implementation of the Fireworks and Pyrotechnic Articles (Scotland) Act 2022.



ELENA WHITHAM

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