
Report To:	Environment & Regeneration Committee	Date:	27 October 2022
Report By:	Interim Director, Environment & Regeneration	Report No:	ENV038/22/MM
Contact Officer:	Martin McNab	Contact No:	01475 714246
Subject:	The Fireworks and Pyrotechnic Articles (Scotland) Act 2022 – Delegation of Powers to Officers		

1.0 PURPOSE AND SUMMARY

- 1.1 For Decision For Information/Noting
- 1.2 Under the Council's Scheme of Delegation (Officers) the Interim Director Environment & Regeneration is authorised to carry out the Council's powers, duties and obligations, in respect of certain specified statutory provisions.
- 1.3 The Fireworks and Pyrotechnic Articles (Scotland) Act 2022 received Royal Assent on 10 August 2022. This Act, amongst other provisions, enables the enforcement of certain parts of the Act, notably section 5 concerning the supply of fireworks and section 22 regarding the restriction on days of supply, by officers of a local weights and measures authority, i.e. Trading Standards. Although regulations will be required to commence these sections it is prudent to add the Act to the list of legislation in the Council's Scheme of Delegation (Officers) in preparation for this. Pending Inverclyde Council considering a suitable amendment to the Scheme of Delegation (Officers) authority is sought for officers to carry out the Council's powers, rights and duties under the Act.

2.0 RECOMMENDATIONS

- 2.1 It is recommended that the Committee delegates authority for a period of up to 6 months to the Interim Service Director Environment & Regeneration to carry out the Council's powers, rights and duties under the Fireworks and Pyrotechnic Articles (Scotland) Act 2022 and any regulations made thereunder in line with existing delegated powers for similar legislation.
- 2.2 It is recommended that the Committee notes that the Head of Legal & Democratic Services will seek the approval of Inverclyde Council to make suitable changes to the Scheme of Delegation (Officers), to deal with this delegation on a permanent basis, at which point the above-mentioned delegation will cease.

Stuart Jamieson
Interim Director, Environment & Regeneration

3.0 BACKGROUND AND CONTEXT

3.1 The Fireworks and Pyrotechnic Articles (Scotland) Act 2022 received Royal Assent on 10 August 2022. The Act contains provisions, amongst others, to:

- Control the use of fireworks by means of a licensing requirement to purchase, acquire, possess or use a firework.
- Restrict the supply and use of fireworks and pyrotechnic articles.
- Allow local authorities to designate firework control zones.
- Prohibit pyrotechnic articles in public places.

The majority of the provisions within the Act will require further regulations to bring them into effect.

3.2 The Act designates officers of a local weights and measures authority as having powers to enforce aspects of the act, principally around the sale and supply of fireworks. Officers of the Council will also acquire investigatory powers for the purpose of ascertaining whether an offence under section 5 (supply of fireworks to unlicensed persons) or section 22 (restriction on days of supply of fireworks) have been or is being committed. Other powers, including powers to stop and search, are granted to police constables. Delegation of powers to the Interim Director Environment & Regeneration will ensure officers are appropriately authorised as and when the relevant provisions of the Act come into force.

3.3 Members will likely be interested in the potential for local authorities to designate firework control zones in future. Under the new legislation local authorities may designate a place within its area as a firework control zone. Prior to designating a place as a firework control zone a local authority must prepare and publish its proposal in relation to the designation of the zone and carry out a consultation which includes, but is not restricted to, members of the local community and interested bodies/persons. This provision could potentially be useful in addressing unauthorised bonfires, although enforcement would be dependent on Police Scotland having the resources to do so. It is anticipated that the Scottish Ministers will at some time in the future publish guidance for local authorities regarding these provisions. It is proposed that a report will be submitted to the appropriate committee/Council on the potential use of the Council's powers to designate firework control zones at that time.

4.0 PROPOSALS

4.1 It is proposed that Committee approves the delegation of authority for a period of up to 6 months to the Interim Director Environment & Regeneration to carry out the Council's powers, rights and duties under the Fireworks and Pyrotechnic Articles (Scotland) Act 2022 and regulations made thereunder in line with existing delegated powers for similar legislation. It is also noted that the Head of Legal & Democratic Services will seek the approval of Inverclyde Council to make suitable changes to the Scheme of Delegation (Officers), to deal with this delegation on a permanent basis.

5.0 IMPLICATIONS

5.1 The table below shows whether risks and implications apply if the recommendation(s) is(are) agreed:

SUBJECT	YES	NO	N/A
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Financial		X	
Legal/Risk	X		
Human Resources		X	
Strategic (LOIP/Corporate Plan)			X
Equalities & Fairer Scotland Duty			X
Children & Young People's Rights & Wellbeing			X
Environmental & Sustainability			X
Data Protection			X

5.2 Finance

There are no financial implications from this report.

One off Costs

Cost Centre	Budget Heading	Budget Years	Proposed Spend this Report	Virement From	Other Comments
N/A					

Annually Recurring Costs/ (Savings)

Cost Centre	Budget Heading	With Effect from	Annual Net Impact	Virement From (if Applicable)	Other Comments
N/A					

5.3 Legal/Risk

The proposals in this report will ensure the Council is able to exercise its powers, rights and duties under the Act.

5.4 Human Resources

None.

5.5 Strategic

None.

6.0 CONSULTATION

6.1 The Head of Legal and Democratic Services has been consulted on this report.

7.0 BACKGROUND PAPERS

7.1 None.