

PE1687/A

Scottish Government submission of 7 June 2018

I refer to the Public Petitions Committee correspondence of 11 May 2018 which invites the Scottish Government to provide its views on petition PE01687: Calling on the Scottish Parliament to urge the Scottish Government to review existing regulations governing fireworks displays in Scotland, particularly in terms of private fireworks displays in rural locations, in order to protect animals from fear and distress and prevent subsequent injury.

Current regulation

As the Committee has noted the Scottish Government has responsibility for legislation on the use of fireworks while the UK Government at Westminster has responsibility for the sale and possession of fireworks.

Scottish Ministers recognise concerns about the antisocial use of fireworks, including the effect on animals. A comprehensive package of measures has been introduced under the Fireworks Act 2003. These include the Fireworks (Scotland) Regulations 2004 which restrict when fireworks can be set off: it is illegal to let off fireworks between 11.00 pm and 7.00 am except on the four nights of the year when fireworks are used in traditional or cultural events. On 5 November the use of fireworks must stop at midnight, while on Hogmanay, Chinese New Year and Diwali the deadline is 1.00 am. Local authorities are able to grant dispensations for special events such as local festivals or celebrations. Furthermore, it is for each local authority to decide if it wishes to license public firework displays under its Public Entertainment Licensing regime within the Civic Government (Scotland) Act 1982.

In addition, it is an offence under section 80 of the Explosives Act 1875 to let off fireworks in a public place. Enforcement is the responsibility of the police.

Animal welfare

Animal welfare legislation places much of the responsibility for the welfare of the animal on its keeper. While recognising the concerns over the use of fireworks, those actions are not directed at domestic or farm animals. The onus on protecting the welfare of animals therefore falls to the keepers of livestock, although an added difficulty is that fireworks and their noise may travel for some distance and animals may have individual reactions to noise.

The Animal Health and Welfare (Scotland) Act 2006 created a number of offences in relation to the welfare of animals. These offences cover a range of animal welfare issues, some of which carry a maximum penalty of up to 12 months in jail and/or a fine not exceeding £20,000. These maximum penalties can be applied to the offence of causing "unnecessary suffering" to an animal. This offence may be by any person by either an act or a reasonable assumption of the consequences of an act, or by a person responsible for the animal by an act or omission. However, potential harm to animals from the use of fireworks appears an unintended consequence and identification of the person operating a firework may prove difficult.

Activity Progressed by the Scottish Government

Following high profile incidents targeting emergency service workers during bonfire night last year, at the meeting of the Scottish Parliament on 9 November 2017 the First Minister committed to review whether further action was needed around misuse or antisocial behaviour related to fireworks (<http://www.parliament.scot/parliamentarybusiness/report.aspx?r=11179&i=101903>).

Since this the Scottish Government has engaged with Her Majesty's Inspectorate of Constabulary Scotland (HMICS) and Her Majesty's Fire Service Inspectorate (HMFSI) who have undertaken a review of police and fire service activity linked to fireworks and Bonfire night.

Whilst this work did not focus on the specific issues raised by the petitioner in relation to private fireworks displays in rural locations, in order to protect animals, it provides a helpful consideration of the management of fireworks in Scotland from the perspective of our Police and Fire services. Key conclusions that are identified in the report that are directly relevant to the petition include:

- Police Scotland and Scottish Fire and Rescue Service (SFRS) are both involved in robust and well rehearsed preparation and planning processes for Bonfire night and the days surrounding.
- Whilst both services hold a preference for communities to attend organised events and enjoy fireworks displays that are controlled by professionals, they hold concern that any tightening of legislation regard the purchase of fireworks may lead to increased unauthorised sourcing.

A copy of the report can be made available to the Committee if they would welcome.

Police Scotland and the Scottish Fire and Rescue Service remain active in promoting community messages around fireworks safety. The Scottish Government will work with these bodies, and other organisations such as animal charities, to support and expand these messages over the year ahead. Key actions will be to raise public awareness to public fireworks events underway in the local area as an alternative to holding their own private displays; and further coordinated and targeted campaigns in Autumn 2018, relating to firework and bonfire safety, including the safety of animals.

The Scottish Government is continuing to gather evidence relating to fireworks activity and will carefully consider what actions should be taken in the light of the information obtained.