

THE FIREWORKS (SCOTLAND) REGULATIONS 2004

DISPENSATION FROM CURFEW

NOTES FOR GUIDANCE

The following notes are a brief outline of the requirements under the above Regulations. They should be treated as **guidelines only and not an authoritative statement of law**. They do not purport to be more than a guide to the main provisions of the Regulations in order that would be applicants for dispensation may consider if they need to apply or that would be applicants for dispensation may consider if they need to apply. They also highlight some of the practical and technical requirements that the Council may have regarding the detail of any application. Applicants are recommended to study the relevant provisions of the Regulations and obtain further advice from their solicitor.

1 PROHIBITION ON THE USE OF CERTAIN FIREWORKS AT NIGHT

A curfew on the night time use of fireworks has been introduced by the Fireworks (Scotland) Regulations 2004 whereby no person can use fireworks between 2300 hours and 0700 hours the following day unless:-

- (a) A dispensation has been granted by the Council; or
- (b) Their use is by an employee of the Council putting on a firework display by the Council or at a national public celebration or a national commemorative event; or
- (c) Their use is between:-
 - (i) 2300 hours on the first day of the Chinese New Year and 0100 hours the following day;
 - (ii) 2300 hours and 2400 hours on 5 November;
 - (iii) 2300 hours on the day of Diwali and 0100 hours the following day;
 - (iv) 2300 hours on 31 December and 0100 hours the following day.

2 DISPENSATION

The only person who can apply for a dispensation is Any person who is employed by, or in business as, a professional organiser or operator of fireworks displays;

and then only for the purpose of putting on a fireworks display for their employer or in the course of their business or at a national public celebration or a national commemorative event.

(The Crown is not bound by the Regulations)

3 CONSIDERATIONS FOR GRANTING A DISPENSATION

The Council may not grant a dispensation unless it is satisfied that there is no risk that the use of fireworks will have the following consequences or that such risk is the minimum that is compatible with fireworks being used:-

- (i) That use of the fireworks will result in the death of persons or injury, alarm, distress or anxiety to persons;
- (ii) That use of the fireworks will result in the death of animals or injury or distress to animals; or

(iii) Of the destruction of, or damage to, property.

It will be for the Council to decide if the use of fireworks in accordance with the dispensation will have these consequences. However, the Council will take into account that the curfew created by the Fireworks (Scotland) Regulations 2004 is a reflection that the use of fireworks between 2300 hours and 0700 hours the following day is regarded by the public as unacceptable except in special circumstances.

4 APPLICATION

Application forms are available from Council Offices by emailing licensing@highland.gov.uk

In order to apply for a dispensation, the completed application form must be returned along with the following:-

- Proof of public liability insurance of at least £5m.
- A site or location plan showing the proposed location of the event. The plan should be to a scale of 1:500 or to such other scale acceptable to the Council.
- The details of the fireworks required must include the Category of Fireworks, by reference to the relevant British or European Standard; the UN Number; and the total Net Explosive Content of all fireworks intended to be used at the display. This information may be provided by the applicant on a separate sheet.

The application will be referred to the Police, Scottish Fire and Rescue Service, Planning, Building Standards, Roads and Environmental Health Services for comment.

Applications should be lodged with the Council not later than **SIX WEEKS** prior to the proposed fireworks display.

There is no fee for an application for dispensation.

5 ADVERTISEMENT OF DISPENSATION

If a dispensation is granted then the applicant **must** publish a notice in a newspaper or newspapers circulating in the area of the Council in which the proposed event is taking place of the proposed use of the fireworks in accordance with the dispensation no later than **seven days** prior to the commencement of the event.

6 INFORMING THE POLICE

If the Council grants a dispensation it will inform the Chief Constable at the same time as it informs the applicant. The information given to the Chief Constable shall be the same as provided in the application form.

7 HEARINGS

Occasionally, and always if there is an objection to the granting of a dispensation, a hearing of the Highland Licensing Committee of the Council will be held to decide whether or not to grant the dispensation. If the application is to be deferred to a hearing, you will be invited to attend and notified in writing of the date, time and venue.