

SCSN Response



SCOTTISH GOVERNMENT – USE & SALE OF FIREWORKS CONSULTATION

<https://consult.gov.scot/justice/use-and-sale-of-fireworks-in-scotland/>

OVERVIEW

In 2019, the Scottish Government conducted a public consultation on the use of fireworks. Ash Denham MSP, Minister for Community Safety then appointed an independent review group of expert stakeholders, to consider and report options for legislative change, and recommend adjustments to reduce the harm fireworks can cause in Scotland. The report was submitted in November 2020 and thereafter, some regulations were laid – to enable change – at the Scottish Parliament in February 2021. This then facilitated a number of changes which have already taken effect, as at 30 June 2021. Namely;

- **Times of day fireworks used by the general public** between 1800 - 2300, with the exception of 5 November (when they can be used from 1800 - 0000), New Year's Eve, the night of Chinese New Year, and the night of Diwali (when they can be used from 1800 - 0100).
- **Amending times fireworks can be supplied to the general public** to during daytime hours 0700 - 1800, alongside existing requirements on retailers, regarding sale and storage licences.
- **Limiting the quantity of fireworks that can be supplied to the general public** to 5kg.

The Scottish Government now seek the views of people and organisations who have an interest and involvement in the sale and use of fireworks. The consultation runs 20 June – 15 August 2021 and is open to all. The Scottish Government asks those undertaking to consider changes to:

- 1) [MANDATORY CONDITIONS AT POINT OF SALE](#)
- 2) [RESTRICTING THE DAYS FIREWORKS CAN BE SET OFF](#)
- 3) [NO-FIREWORKS AREAS](#)
- 4) [PROXY PURCHASING OFFENCES](#)
- 5) [TACKLING MISUSE OF PYROTECHNIC DEVICES](#)

REPLY

SCSN has met with a number of its membership, to share experiences and compare perspectives, to help SCSN give an informed, constructive response for the Scottish Government:

- 1) **MANDATORY CONDITIONS AT POINT OF SALE**

Question 1 a). Do you agree that a fireworks licensing system should be introduced in Scotland?

- Yes

Question 1. b). Please explain your answer

- SCSN agree that a licensing system could help reduce illegitimate, irresponsible purchasing of fireworks, and improve general awareness of the risks – through completion of mandatory online course – to the public. However, there are several issues that should be considered before implementing:
 - ANTI-SOCIAL BEHAVIOUR
The proposed changes seem like a response – in large part – to ASB. A more effective response might be to address the root causes of ASB; focus on education, prevention and culture change, instead of tightening regulation, restrictions and punishment.
 - EXISTING RESTRICTIONS
New restrictions - which came into force, 30 June 2021 - specify limits to the quantities of fireworks that can be sold, the times of sale, and times of use. Therefore, we suggest these measures are given adequate time to bed-in and take effect. This might help government, local authorities and industry measure the impact and inform which – if any – of the additional proposed restrictions are needed.
 - OVERREACH
Citizens may perceive this type of regulation as overreach by central government. Therefore, we suggest the evidence in support of licensing is published and unambiguous, to help demonstrate the need, and win the approval of the public and the industry, vital for uptake and success.
 - PARTICIPATION
Obtaining license should take effort but not become such an obstacle that it deters people from purchasing fireworks legitimately. The online course should highlight the dangers and risks, but be straightforward and simple to complete.
 - UNDERSTANDING
Some local authorities report few or no issues with fireworks. A national, one-size-fits-all approach could be viewed as unnecessary in parts of the country that don't relate to fireworks as a problem. Therefore, clear public messaging, to explain new national measures - and engage communities - will help build broad understanding and acceptance.

Question 2 a). Do you agree that any licensing system should cover the possession and use of fireworks, in addition to their purchase?

- Yes

Question 2 b). Please explain your answer

- If a licensing system is introduced – and if it is to be effective - it must include proof [of license] throughout the lifetime of a firework's journey; from manufacture, point of sale, travel and use. If there are perceived

loopholes or workarounds, the system will lose integrity and public confidence. However, this added burden will present challenges to enforcement capacity, and how to readily identify valid documentation from fraudulent.

Question 3 a). Do you agree that a fee to obtain a fireworks licence in Scotland should be introduced?

- Yes

Question 3 b). Please explain your answer

- A fee could be introduced to help fund the infrastructure and maintenance of a licensing system, and support the resources needed for effective enforcement. However, the cost should not be so restrictive that it discriminates against low income households, or deter citizens from legitimate purchasing (and into the black market).

Question 4 a). Do you have any views on how much the licence fee should be?

- Unsure

Question 4 b). Please tell us your views on how much the licence fee should be

- A sample of the population could be surveyed to help point to an appropriate sum. This might also help legitimise and explain the cost of the fee.

Question 5 a). Do you agree that successful completion of an online safety course to obtain a fireworks licence in Scotland should be introduced?

- Yes

Question 5 b). Please explain your answer

- Licensing is an opportunity to engage with the public and alert citizens to the dangers of fireworks and explosives. A safety course could further improve understanding of the risks and positively influence behaviours, concerning sale and use of fireworks.

Question 6 a). Who do you think would be best placed to run and administer the proposed licensing system?

- Option One: Scottish Government
- Option Two: National public service organisation or partnership organisation
- Option Three: Local authorities
- Other

Question 6 b). Please explain your answer

- SCSN believes that, for a national system of licensing to be consistent - across local authorities, cities and towns – it should be managed centrally, to ensure smooth universal application, sound big data management, and offer a single source for troubleshooting, assistance and updates.

Question 7. Please tell us if you have any other comments on the introduction of a licensing system and the proposed process for how the licensing system would be implemented and managed.

- N/A

2) **RESTRICT THE DAYS FIREWORKS CAN BE SOLD AND SET OFF**

Question 8 a). Do you agree with the proposed restrictions on the days fireworks can be **used** by the general public?

- Yes

Question 8 b). Please explain your answer.

- Yes however, SCSN has identified two important issues which may need addressed before these restrictions on use can be realised:
 - DATE DISCRIMINATION
The exceptions stated, for Chinese New Year and Diwali, appear narrow and specific, and don't take account of Scotland's numerous other religions and beliefs. This may appear unfair, and prejudicial or preferential to many. Clearer reasoning is needed here.
 - ENFORCEMENT
Limiting the days fireworks can be used, to a small window of dates each calendar year will present opportunity and challenge. Namely, Police Scotland will be able to plan deployments, ahead of time to help enforce these restrictions. However, competing, large scale events – such as COP26 – will stretch and perhaps undermine policing plans. Therefore, perhaps the Scottish Government might consider increased, dedicated and ring-fenced police deployments to communities, to ensure support to enforce is always available.

Question 9 a). Do you agree with the proposed restrictions on the days fireworks can be **sold** to the general public?

- Yes

Question 9 b). Please explain your answer.

- However, SCSN has identified two primary issues which may need addressed before these restrictions on sales can be realised:
 - ONLINE SALES
Restricting the sale times of fireworks in shops, across the counter is familiar. But applying the same restrictions online - with deliveries often coming from international operators (e.g. in England) - could be problematic and difficult to police.
 - STOCKPILING
Some citizens may feel the need to purchase fireworks and store at home, because of the new limits of sale and use. This unintended consequence could lead to significant risks of fire and explosions.

3) **NO-FIREWORK AREAS**

Question 10 a). Do you agree with the introduction of no-firework areas?

- Unsure

Question 10 b). Please explain your answer.

- There are several issues of concern:
 - ENFORCEMENT
There are a number of problems SCSN foresee, such as differentiating between public and private spaces; tracing and evidencing the origins of fireworks; clear delineation of no-firework zones; and given sound and light travel far and wide – to be effective – areas in cities would need to be vast and therefore, unmanageable. Existing restrictions make it illegal to set off fireworks in public spaces without permission, or within 50m of public highways which – as is accepted – is already unenforceable.
 - MOVEMENT
Creating no-firework zones may just encourage users to go elsewhere and merely move the problem from one area of the community to another.

Question 11 a). Do you agree that consideration, introduction and management of no-firework areas should be led by local authorities?

- Yes

Question 11 b). Please explain your answer.

- If no-firework areas are pushed forwards, SCSN believes they should be led locally by and for each community.

Question 12. Please tell us if you have any comments in relation to how communities can be actively involved in considering the feasibility and introduction of no firework areas, and the decision to introduce these.

- SCSN strongly believe communities must be involved in this process, beginning to end. Plans that are collaborative, consultative and rely on the perspectives of the communities and individuals - most affected by the harmful use of fireworks - is far more likely to be effective. This could be achieved by the development of local community groups, linked to Community Safety Partnerships (CSPs) or through existing arrangements, such as community councils and/or neighbourhood watch groups.

Question 13. Please tell us if you have any comments on the proposed process for how no-firework areas would be implemented, managed and reviewed.

- N/A

Question 14. Please tell us if you have any comments in relation to the enforcement of no-firework areas.

- SCSN believe the introduction of no-firework areas could be impracticable and difficult to enforce.

Question 15. Please tell us if there are any other issues you think need to be considered in relation to no-fireworks areas.

- N/A

4) **PROXY PURCHASING OFFENCE**

Question 16 a). Do you agree with the introduction of a 'proxy purchasing' offence in relation to fireworks to criminalise the supply of fireworks to young people under the age of 18?

- Yes

Question 16 b). Please explain your answer.

- SCSN agree there is a need to create an offence for proxy purchasing. However, there will be challenges to enforcing these restrictions:
 - The same offence exists for alcohol purchasing but the problem persists.
 - The black market undermines efforts to control sales and purchases so a concerted effort to reduce illegal trading should be prioritised.
 - Consideration should be given to raising the minimum age for purchasing to 21 or 25 years of age, which could further reduce proxy purchasing offences.

Question 17. Please tell us if you have any other comments on section one of the consultation that have not been covered by the other questions.

- N/A

5) TACKLING THE MISUSE OF PYROTECHNIC DEVICES

Question 20 a). Do you have concerns about pyrotechnic devices being misused?

- Yes

Question 20 b). Please explain your answer.

- There are numerous examples of pyrotechnics being misused at football matches, protests, marches and other, similar large gathering. These tend to take place in Scotland's biggest cities, primarily in the Central Belt. The flames and fumes generated from these devices can cause serious harm and injury, not only to the user but to the public nearby.

Question 21 a). Do you agree with the introduction of a new offence for being in possession of a pyrotechnic in a public place without reasonable excuse or lawful authority?

- Yes

Question 21 b). Please explain your answer.

- The offence is clear and unambiguous, and offers the police new powers, to help deter and prevent misuse, injury and public distress.

Question 22 a). Do you agree that police stop and search powers should be extended to allow the police to stop and search where there is reasonable suspicion that an individual is in possession of a pyrotechnic device in a public place without a reasonable excuse?

- Yes

Question 22 b). Please explain your answer.

- The powers are specific and targeted, and limited to reasonable suspicion. However, supervising [police] officers should ensure these new stop and search powers are used in focussed, deliberate and relevant situations, to ensure credibility, public trust and support.

Question 22 c). Please tell us what you consider would be a reasonable excuse for possessing pyrotechnics in a public place?

- Travelling to or from a place of work that requires use / delivery of pyrotechnics, such as sporting events (international competitions), emergency distress flares (coastguard), entertainment festivals (stage production) etc. And an organised, prearranged display by professionals in a public space should be considered reasonable.

Question 23 a). Do you think that police stop and search powers should be wide enough to the extent that it would allow the police to stop and search a vehicle, for example a car, bus, van or tram, where there is reasonable suspicion that there are pyrotechnic devices contained without a reasonable excuse?

- Yes

Question 23 b). Please explain your answer.

- A majority of flares and smoke bombs are transported to football stadia by fans from afar, travelling by car and coach. Therefore, equipping the police with the powers to stop and search vehicles will assist deterrence, prevention and detection.

Question 24. The Scottish Government recognises that legislation on its own may not end the misuse of pyrotechnic devices. Please tell us if there are other actions you think that the Scottish Government could take to address this issue.

- SCSN offer a number of suggestions:
 - Concerted effort to educate children and young people – particularly young boys and men – in schools, further education, at youth clubs and in apprenticeships, about the dangers of pyrotechnics.
 - Greater accountability by football clubs and event organisers for the misuse of pyrotechnics; encourage fans and participants to self-police, change the culture and create a stigma around misuse; incentivise organisers of marches, protests and matches to pro-actively organise learning inputs, around the dangers and penalties of misuse.
 - Consider a pyrotechnic amnesty / reward for surrender.
 - Increased public messaging and broader national awareness.

Question 25. Please tell us if you have any other comments in relation to pyrotechnics that are not covered by the other questions in this section of the consultation.

- N/A

Question 26 a) Do you have any comments about, or evidence relevant to the draft Business And Regulatory Impact Assessment in relation to pyrotechnics?

- N/A

Question 26 b). Please explain your answer.

- N/A

Question 27 a). Do you have any comments about, or evidence relevant to the draft Equality Impact Assessment in relation to pyrotechnics?

- N/A

Question 27 b). Please explain your answer.

- N/A