

# **A consultation on**

**1. the introduction of new legislation on the sale and use of fireworks in Scotland, and**

**2. tackling the misuse of pyrotechnics**

## Ministerial Foreword

Following the overwhelming results of the [public consultation](#) on fireworks that took place in 2019, I have taken forward a number of actions to promote the safe and responsible use of fireworks in our communities.



It was clear from the level of response to the consultation that fireworks are an important issue to the people of Scotland and that there is a strong appetite for change. It also highlighted that fireworks, particularly at organised events, can benefit communities when they are used responsibly at the right time and in the right place.

To help the Scottish Government consider options for legislative and regulatory change, I appointed an independent Review Group of expert stakeholders.

I asked the Review Group to build on what we had learned so far, consider options for legislative change and provide recommendations on tightening legislation to reduce the harm fireworks can cause.

The Group concluded that a fundamental shift is needed in how fireworks are accessed and used and made a number of recommendations for how this can be taken forward. I was pleased to welcome the [report](#) from the Group in November last year, in a [statement to Parliament](#) where I outlined my intention to explore how the measures they recommended could be implemented in practice.

As a number of the Group's recommendations required legislation in order to be brought forward into practice, I laid regulations in the Scottish Parliament in February this year. These regulations will restrict: the times of day fireworks can be supplied to the general public; the volume fireworks that can be supplied to the general public; and the times fireworks can be set off by the general public.

I am delighted to report that as a result of these regulations, we will now see a shift in how fireworks are bought and used in our community in time for this year's fireworks period.

The remaining Review Group recommendations, including the introduction of mandatory conditions at point of sale and no firework zones, require primary legislation to be taken forward. I remain determined to do everything possible to further the safe and considerate use of fireworks in communities around Scotland. I am therefore looking for the views of people and organisations who have an interest and involvement in the sale and use of fireworks.

I am also seeking views on how we might reduce the misuse of pyrotechnic devices such as hand held flares and smoke devices which are not being used for their intended purposes.

Professionally operated pyrotechnic displays which observe safety regulations can provide a spectacle for people attending events, such as music concerts and theatre shows, by contributing to the atmosphere and enhancing the experience of a live performance. They also have other legitimate uses, such as marine distress flares which are a vital piece of safety equipment for those involved in sailing.

Unfortunately some people disregard the inherent dangers of pyrotechnic devices and use them in thoughtless and irresponsible ways. As a result, setting off pyrotechnic devices can become one of the most serious and dangerous threats that people attending concerts, sporting events and street celebrations can encounter. All pyrotechnic devices are dangerous when let off in crowded, confined or public places with no thought for others. They can also have a negative impact on people who may be worried about attending certain venues or leaving their houses when certain events are taking place.

We have seen the impact that the misuse of pyrotechnics has had around the world with people being maimed for life and even leading to fatalities. I am committed to making our communities safer and to taking strong action now to avoid serious injuries and possible fatalities in Scotland as a result of misused pyrotechnics.

That is why I am consulting on new provisions on whether it should be an offence to carry a pyrotechnic device in a public place without reasonable excuse, and whether police powers should be extended to allow a stop and search provision for anyone reasonably suspected of committing the offence. I would encourage you to respond to all the questions posed in the consultation because your views and opinions will inform how and whether this offence together with the police stop and search power should be introduced in Scotland.

I very much welcome your views, thoughts and ideas on both of these issues and encourage you to get involved in these conversations.

**Ash Denham**  
Minister for Community Safety

## Glossary

**Adult fireworks** are Category F2, F3 and F4 fireworks and do not include Category F1 fireworks like party poppers.

**Consumer fireworks** are fireworks that can be sold to the general public in Scotland. This includes category F1 fireworks (available to those over 16 years) and category F2 and F3 fireworks (available to those over 18 years).

**Category F1 fireworks<sup>1</sup>** are fireworks which present a very low hazard and negligible noise level and which are intended for use in confined areas, including fireworks which are intended for use inside domestic buildings.

**Category F2 fireworks** are fireworks which present a low hazard and low noise level and which are intended for outdoor use in confined areas.

**Category F3 fireworks** are fireworks which present a medium hazard, which are intended for outdoor use in large open areas and whose noise level is not harmful to human health.

**Category F4 fireworks** are fireworks which present a high hazard, which are intended for use only by persons with specialist knowledge and whose noise level is not harmful to human health.

**Category P1 other pyrotechnic articles<sup>2</sup>** are pyrotechnic articles, other than fireworks and theatrical pyrotechnic articles, which present a low hazard.

**Category P2 other pyrotechnic articles** are pyrotechnic articles, other than fireworks and theatrical pyrotechnic articles, which are intended for handling or use only by persons with specialist knowledge.

**Category T1 theatrical pyrotechnic articles<sup>3</sup>** are theatrical pyrotechnic articles which present a low hazard.

**Category T2 theatrical pyrotechnic articles** are theatrical pyrotechnic articles which are intended for use only by persons with specialist knowledge.

**Community Group** - a person who is the organiser of a public fireworks display (or who is assisting such an organiser), and who uses the firework in question for the purposes of putting on a public fireworks display on behalf of a charitable, religious, youth, recreational, community, political or similar organisation.

**Firework operator** - a person who is employed by, or in business as, a professional organiser or operator of firework displays, and who uses the firework in question for the purposes of putting on a firework display for their

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<sup>1</sup> As outlined in The Pyrotechnic Articles (Safety) Regulations 2015

<sup>2</sup> As defined in The Pyrotechnic Articles (Safety) Regulations 2015

<sup>3</sup> As defined in The Pyrotechnic Articles (Safety) Regulations 2015

employer or in the course of their business or at a public celebration or a commemorative event.

**Legislation** - the laws which set out what people can and cannot do with fireworks.

**Other pyrotechnic articles** will have P1 or P2 marked on them.

**Pyrotechnic device** - any article which contains explosive substances or an explosive mixture of substances designed to produce heat, light, sound, gas or smoke or a combination of such effects through self-sustained exothermic chemical reactions.

**Supply of fireworks** - (a) selling them, (b) exchanging them for any consideration other than money, and (c) giving them as a prize or otherwise making a gift of them; but not including supplying them otherwise than in the course of a business (Section 1(3) of the Fireworks Act 2003). Supply also includes the physical transfer of fireworks to customers.

**Theatrical pyrotechnic articles** - will have T1 or T2 marked on them.

# Introduction

## What this consultation is about

This consultation consists of two sections. The first considers changes to how fireworks can be sold and used in Scotland; while the second section considers the use of pyrotechnic devices.

More specifically, Section 1 seeks views on four changes to how fireworks can be sold and used in Scotland to ensure fireworks are used safely, handled with care and do not cause harm, distress or injury; while Section 2 considers the use of pyrotechnic devices and specifically whether it should be an offence to carry a pyrotechnic device in a public place without reasonable excuse or lawful authority, and whether police powers should be extended to allow a stop and search provision for anyone reasonably suspected of committing the offence.

## Why are we consulting

**Section 1:** In the [response to the Fireworks Review Group Final report](#), the Minister for Community Safety announced her intention to implement the Fireworks Review Group recommendations as a matter of urgency, subject to the 2021 Scottish Parliament elections, in order to ensure further positive change is in place for communities going forward.

The Scottish Government is therefore seeking views on the introduction of four specific requirements in law in relation to the sale and use of fireworks in Scotland as set out by the recommendations of the Fireworks Review Group.

We are keen to get practical feedback on the introduction of legislation from those who use and enjoy fireworks as well as those affected by fireworks including vulnerable groups, pet and animal owners, and from local authorities, enforcement agencies, the fireworks industry, retailers and other organisations that have a role or interest in fireworks.

**Section 2:** The Scottish Government is also seeking views on what action could be taken to reduce the misuse of pyrotechnic devices. In particular we are seeking views on a new offence in relation to carrying a pyrotechnic device in a public place without reasonable excuse or lawful authority, and for police powers to be extended to allow a stop and search provision for anyone reasonably suspected of committing the offence. We are also keen to get views on whether this proposed new power of search should enable the police to stop and search a vehicle.

## How to get involved

Respondents are able to answer either the first or second sections, or to answer both sections.

This consultation was launched on 20 June 2021 and will run until 15 August 2021. You can submit a response at any time before the closing date. To give us your views, please click here <https://consult.gov.scot/>. There are no restrictions on who can respond to the consultation.

Give us your views ([Begin Consultation](#))

## Section One: Fireworks

The Scottish Government is committed to ensuring fireworks are used safely, handled with care and do not cause harm, distress or injury. As part of this, the Scottish Government is consulting on introducing a Bill to change how fireworks are sold and used in Scotland with the aim of protecting public and community safety and wellbeing.

The term **fireworks** is used throughout this document to refer to **F2 and F3 fireworks** (see Glossary).

The Scottish Government is seeking views on the introduction of four changes to how fireworks can be sold and used in Scotland:

- **Requiring the general public and community groups to meet a number of mandatory conditions before they are able to purchase fireworks.**
- **Restricting the days fireworks can be set off by the general public and restricting the days fireworks can be sold to the general public.**
- **Introducing no-fireworks areas where it is not possible for the general public to set fireworks off.**
- **Introduction of a proxy purchasing offence to criminalise the supply of fireworks to people under the age of 18.**

Between February and May 2019, [‘A consultation on fireworks in Scotland: Your experiences, your ideas, your views’](#) started a conversation with the people of Scotland on how fireworks are sold and used. This was an important step in gathering valuable evidence on a range of opinions and perspectives and covered organised displays, private use by individuals, and the inappropriate use of fireworks. Over the consultation period 29 engagement events were held – 24 open public events, and five events for specific population groups including young people. A total of 16,420 responses were received from members of the public and stakeholder organisations, demonstrating the high level of interest in this issue across the country. An [online opinion poll](#) was carried out to complement the consultation and provide findings that are representative of people across Scotland.

In October 2019, the Minister for Community Safety published the [‘Fireworks Action Plan: Promoting the safe and appropriate use of fireworks in Scotland’](#) which set out how the Scottish Government would address the concerns expressed through the national consultation and continue to promote the safe and appropriate use of fireworks. The Action Plan set out activities that were taken forward immediately, as well as longer term actions that will collectively



support a change in how fireworks are used in Scotland. The Action Plan can be split into two parts: 1. the [Fireworks Review Group](#); and 2. the non-legislative actions that sit alongside it. This consultation is about the first part, the actions that arise from the Fireworks Review Group.

The independent Fireworks Review Group, appointed by the Minister for Community Safety and chaired by Alasdair Hay CBE QFSM was asked to consider the legislative and regulatory options for change that emerged from the 2019 consultation and provide clear recommendations on what change is required going forward. The Group started its work in November 2019 and reported in November 2020. The Group reached a majority consensus that a fundamental shift is required in how fireworks are accessed and used by the general public in Scotland through the introduction of a comprehensive set of measures, including:

- The introduction of mandatory conditions before consumers are able to purchase fireworks.
- Restricting the times of day fireworks can be sold and the volume of fireworks that can be purchased.
- Restricting the days and times fireworks can be set off.
- A provision for no-fireworks areas / zones to be introduced where it is not permitted for fireworks to be set off, with local communities having a key role in influencing this.
- The introduction of a proxy purchasing offence criminalising the supply of fireworks to people under the age of 18.

The report from the Group is [available online](#).

Some of the recommendations from the Group have been taken forward in secondary legislation. In February 2021, the Minister for Community Safety laid the [Fireworks \(Scotland\) Miscellaneous Amendments Regulations 2021](#) which amends the Fireworks (Scotland) Regulations 2004. The changes implemented by these regulations, which come into force on 30 June 2021, include:

- Amending the times of day fireworks can be used by the general public to between 6pm and 11pm, with the exception of 5 November (when they can be used from 6pm until midnight), New Year's Eve, the night of Chinese New Year and the night of Diwali (when they can be used from 6pm until 1am).
- Amending the times of day fireworks can be supplied to the general public to during the daytime hours of 7am and 6pm, alongside existing requirements on retailers around sale and storage licences.

- Limiting the quantity of fireworks that can be supplied to the general public to 5kg.

The Technical Annex ([Annex A](#)) provides further details on these changes.

The purpose of Section 1 of this consultation is to seek views on the introduction of the four remaining recommendations from the Firework Review Group that require primary legislation:

- **Requiring the general public and community groups to meet a number of mandatory conditions before they are able to purchase fireworks.**
- **Restricting the days fireworks can be set off by the general public. In addition to the Firework Review Group's recommendations, we are also consulting on proposals to restrict the days fireworks can be sold to the general public in Scotland by retailers.**
- **Introducing no-fireworks areas where it is not permitted for the general public to set fireworks off.**
- **Introduction of a proxy purchasing offence to criminalise the supply of fireworks to people under the age of 18.**

### **Banning the Sale of Fireworks**

We recognise both the 2019 [public consultation](#), and the [representative opinion poll](#) carried out in 2019, demonstrate strong support for a change in how fireworks are sold. There was support for a complete ban on the supply and sale of fireworks, particularly among individuals who chose to respond to the consultation. It is our view that implementing a ban on fireworks is reserved to the UK Government. Furthermore, the Fireworks Review Group recommended that a complete ban on the sale of consumer fireworks is not introduced at this time given the risk of unintended consequences, and this is therefore not included within the consultation.

## Part One: Mandatory conditions at point of sale

1. The Fireworks Review Group recommended that mandatory conditions are introduced before consumers are able to purchase fireworks, and recognised that this has the potential to have a positive impact on promoting and encouraging the safe and appropriate use of fireworks in Scotland. In making this recommendation, the Review Group sought to ensure that the purchase of fireworks is a well thought out and planned transaction.
2. The Review Group suggested that this should include the successful completion of an online safety course and the payment of a fee before the general public can buy fireworks.
3. **The Scottish Government proposes to introduce legislation to enable this recommendation to be implemented through the introduction of a licensing system on the sale of fireworks.** It is estimated that there are around 250,000 sales of consumer fireworks in Scotland each year<sup>4</sup>, and we agree with the recommendation of the Review Group that the introduction of mandatory conditions before consumers are able to purchase fireworks can play an important role in promoting safety, by ensuring consumers are aware of and understand relevant safety requirements and measures. These conditions could also be extended to cover responsible use and possession similar to the approach taken in Northern Ireland (see Case Study below).

### Case Study: Northern Ireland

An [international case study report](#), published alongside the report from the Fireworks Review Group, highlighted experiences in Northern Ireland where a firework licensing system was introduced in 2002. The Department for Justice for Northern Ireland issues a licence to members of the public to buy, possess and use fireworks. It is an offence to do so without a valid licence.

The firework licence fee is set on an increasing scale depending on the number of attendees at a display: less than 100 attendees, £30 fee, more than 100 but less than 1,000 attendees, £80 fee and more than 1,000 attendees, £160 fee. It must be stated when applying for a licence when the fireworks will be used.

Data shows that there has been a decline in the number of people injured by fireworks following the introduction of a licensing system in Northern Ireland. The number of anti-social behaviour incidents with an accompanying fireworks code has remained consistent in recent years, with no upward or downward trend.

4. In Scotland, we propose that a fireworks licensing system is introduced and could operate as follows:

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<sup>4</sup> The British Fireworks Association estimate that approximately 258,824 consumer firework sales take place in Scotland every year

- The purpose of the licensing system is to licence individuals to purchase fireworks in order to ensure their safe and appropriate use. All adults aged 18 and over would be required to apply for a licence before they can purchase fireworks. This includes members of community organisations and groups organising a public display. It was considered whether community groups should be exempt from the licensing system. However, given the purpose is to promote safety and appropriate use, it is proposed that at least one individual within such groups will require a licence. It is proposed, however, that professional firework operators are exempt from the licensing system given existing training and safety requirements that are already in place.
- The licence is not transferrable to another person and must be used by the licensee as agreed as part of the application process.
- The licence permits the licence holder to purchase fireworks from retailers in line with the law on fireworks.
- Consideration is also being given to whether a licence should be required for the possession and use of fireworks.
- Licence applicants would be required to complete an online safety training course and pay a fee to obtain a licence. It is suggested that the online safety course links with the Fireworks Code and messaging from emergency services such as the Scottish Fire and Rescue Service (SFRS), improving applicants' understanding of the essential safety elements to consider and follow when using fireworks. The safety course is intended to play an important role in engaging and educating those who intend to use fireworks on how to use them in both a safe and considerate manner rather than place a barrier on the ability to legitimately purchase fireworks. It is proposed that there would be an option to repeat the safety course if initially unsuccessful.
- A standard, flat licence fee would be introduced to cover the costs of setting up, running and ongoing improvements to the system; and we welcome views on what level this fee could be fairly and proportionately set at. We are also mindful that sufficient local licensing processes, such as Public Entertainment Licences, already apply to public firework displays and therefore do not propose that a scaled fee structure is introduced based on the number of people who will be attending or watching any firework display.
- It is not proposed that there will be grounds for individuals to object to licences being granted. However, it is proposed that licence applicants would be required to disclose convictions that are unspent<sup>5</sup> for

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<sup>5</sup> Under the Rehabilitation of Offenders Act 1974, there are protections for people with convictions not to have to disclose them once they have become 'spent'. A conviction becomes spent after expiry of a certain period following conviction depending on the sentence received e.g. a conviction which results in a fine becomes spent after 12 months.

fireworks related offences, and that these are considered on a case by case basis and may lead to a licence being refused. It is proposed that if a licence holder is convicted of a fireworks related offence while their licence is valid, their licence could be revoked.

- A licence would be valid for 12 months upon date of issue following completion of the online safety course and payment of a fee. Consideration was given to whether the licence should only be valid for one purchase. However, we are mindful of the need for any system to be proportionate, and concerns raised by the fireworks industry around introducing unreasonable barriers to the legitimate purchase of fireworks and driving the public towards illegal supply. It is therefore suggested that the licence holder would be able to purchase - and potentially possess and use - fireworks over the 12 month licence period, subject to general restrictions on the dates and times that fireworks can be supplied to the general public and the limit of 5kg of fireworks in any one transaction.
- Following successful completion of the online safety course and payment of the required fee, proof of a licence would be sent to the licence holder. It is proposed this would be done through an email or QR code, with the option to download a printable version. This would be required, alongside valid photographic ID, to be presented to a retailer in order to purchase fireworks.

5. There are a number of options under consideration in terms of how the system could be run and administered, with an emphasis on the system being proportionate and effective for those using it. Options being considered include:

- Option 1 – A national licensing system that is administered and run centrally by the Scottish Government. This option could involve applicants logging onto a Scottish Government hosted website, successfully completing an online firework safety test and paying a fee. A completion certificate would then be issued to use as proof to retailers of a licence to purchase fireworks. The Scottish Government would be responsible for the day to day running and maintenance of the licensing system, dealing with enquiries that people may have regarding the system and obtaining a licence.
- Option 2 – A national licensing system that is administered by another public service organisation or partnership organisation. As part of this option, applicants would still be required to log onto a central website and successfully complete an online firework safety test and pay a fee, with a completion certificate issued electronically to use as proof to retailers of a licence to purchase fireworks. The organisation would be responsible for the day to day running and maintenance of the licensing system, dealing with enquiries that people may have regarding the system and obtaining a licence.

- Option 3 – A system where the licensing process is administered by individual local authorities. This option could involve a similar central website where the online firework safety test is accessed, with all other aspects of the licensing system managed and administered by the local authority. This option would be accompanied by guidance from Scottish Government to local authorities on how a licence should be issued and steps to take in this process.

6. We propose that retailers selling fireworks to members of the public without a licence would be committing an offence. The Fireworks Act 2003 (section 11) sets out that any person who contravenes a prohibition imposed by fireworks regulations is guilty of an offence punishable on summary conviction, by a fine not exceeding level five on the standard scale (up to £5000) or up to six months imprisonment. It is proposed that similar penalties would apply to any new offence of selling fireworks to a member of the public without a license. If the licensing system also covers responsible use and possession of fireworks, it is proposed that a similar provision and punishment would apply to members of the general public possessing or setting off fireworks without a licence. Consideration is being given as to who will have enforcement responsibility for ensuring compliance with the requirements of the licensing system.

## Consultation Questions

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

- Yes
- No
- Unsure.

**Question 1. b).** Please explain your answer

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

- Yes
- No
- Unsure.

**Question 2 b).** Please explain your answer.

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

- Yes
- No
- Unsure.

**Question 3 b).** Please explain your answer.

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

- Yes
- No
- Unsure.

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

**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
- No
- Unsure.

**Question 5 b).** Please explain your answer.

**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.

**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.



## Part Two: Restrict the days fireworks can be sold and set off

7. The Fireworks Review Group recommended **that restrictions are introduced on the days and time when fireworks can be set off by the general public**. The Review Group suggested that amending the days fireworks can be used has the potential to ease the burden on our emergency services and reduce the noise and disturbance that fireworks can cause. It would also allow those responsible for animals to have advanced notice of when to expect fireworks to be used and therefore enable them to put safeguarding measures in place. Following this recommendation regulations have been made by the Scottish Ministers to restrict the times of day fireworks can be used by the general public to between 6 pm and 11 pm, with the exception of 5 November (when they can be used from 6 pm until midnight), New Year's Eve, the night of Chinese New Year and the night of Diwali (when they can be used from 6 pm until 1 am). These regulations come into force on 30 June 2021.

8. There are currently no restrictions on the days fireworks can be used, and this section outlines proposals for implementing this recommendation. The Review Group recommended that these restrictions focus on the private use of consumer fireworks by the general public and include reducing the days fireworks can be used to a smaller window, potentially to coincide with traditional selling periods. It is proposed that these restrictions do not extend to community groups at publicly organised events or to professional fireworks operators.

9. Current legislation requires retailers selling fireworks in Scotland to have a storage licence to sell fireworks during traditional firework periods, or an all-year sales licence for those retailers wishing to sell outside of these periods. Further details can be found in the Technical Annex ([Annex A](#)). Traditional selling periods are:

- 15 October to 10 November;
- 26 December to 31 December;
- The 1<sup>st</sup> day of the Chinese New Year and the three days immediately preceding it; and
- The day of Diwali and the three days immediately preceding it.

10. The Scottish Government proposes to restrict the days fireworks can be **used** by the general public to the following dates:

- 29 October to 12 November;
- 26 December to 31 December;
- The 1<sup>st</sup> day of Chinese New Year and the week immediately following it; and
- The 1<sup>st</sup> day of Diwali and the week immediately following.

11. We also propose to introduce restrictions to limit the days fireworks can be **sold** to the general public in Scotland to coincide with the proposed changes to when they can be **used**. This goes further than the Firework Review Group recommendation which focusses on restricting the days they can be used. However, it is proposed that having fireworks available to purchase for long periods when they are not able to be used could lead to confusion for both retailers and consumers, and issues around stockpiling. It is proposed that this is implemented by **amending the dates fireworks can be sold to the general public to:**

- 27 October to 10 November
- 26 December to 31 December
- The 1st day of the Chinese New Year and the three days immediately preceding it
- The day of Diwali and the three days immediately preceding it.

12. It is proposed this would involve shortening the period temporary storage licences can be granted to retailers to these dates; and restricting retailers with an all-year round sales licence selling fireworks to the general public in Scotland to these dates.

13. These proposed restrictions would not prevent retailers with an all year round sales licence from continuing to sell fireworks remotely to consumers from other countries (such as England and Wales) or to events' organisers in Scotland throughout the year, including community groups; with the restrictions only applying to the sale of fireworks to the general public in Scotland. It is also proposed that these restrictions apply equally to retailers based in and outside of Scotland if any part of the supply – including the physical transfer of fireworks to consumers - takes place in Scotland.

14. Trading Standards are responsible for enforcing the law on the supply of fireworks. This covers all forms of supply, including remotely, such as online. Police Scotland are responsible for enforcing the law on the use of fireworks in Scotland. We intend, therefore, that Police Scotland would be responsible for enforcing the use of fireworks within the proposed dates, and Trading Standards responsible for enforcing the supply of fireworks within the proposed dates.

15. The Fireworks Act 2003 (section 11) sets out that any person who contravenes a prohibition imposed by fireworks regulations is guilty of an offence punishable on summary conviction, by a fine not exceeding level five on the standard scale (up to £5000) or up to six months imprisonment. It is proposed that a similar provision and punishment would apply to the new prohibitions against members of the general public setting off fireworks outwith the permitted dates and retailers selling fireworks outwith the permitted supply periods.

## Consultation Questions

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

- Yes
- No
- Unsure.

**Question 8 b).** Please explain your answer.

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

- Yes
- No
- Unsure.

**Question 9 b).** Please explain your answer.

## Part Three: No-Firework Areas

16. The Fireworks Review Group recommended that a provision should be made for no-fireworks areas to be introduced where it is not permitted for fireworks to be set off by the general public, with local communities having a key role in influencing this. The Review Group recognised this as offering the potential for targeted localised approaches based on the specific circumstances within different areas and communities.

17. The Review Group suggested that further consideration is given to how this will work in practice but indicated that: local authorities should be provided with the power to introduce community level no-firework areas; the introduction of any no-firework areas should be informed by a local community consultation process; and there should be clear systems in place for communities to have a say in where these no-firework areas should be.

18. We recognise that for some communities fireworks are associated with celebration and important events that can bring friends, families and communities together. However, through the 2019 public consultation, we also heard distressing accounts from some communities of the impact fireworks can have, particularly in relation to anti-social behaviour and the misuse of fireworks; as well as calls for fireworks not to be used within set distances of specific locations such as animal shelters, livestock or hospitals to protect those who may be adversely impacted by the noise and disturbance of fireworks.

19. **The Scottish Government proposes to introduce legislation to enable this recommendation to be implemented in practice.** It will be important to ensure that this system is proportionate and fit for purpose, and forms part of the range of preventative and diversionary strategies that local partners currently utilise in planning and preparing for the safe and considerate use of fireworks within our communities. We therefore propose:

- To give local authorities the power to introduce localities within their local authority area where it is not permitted for the general public to set off fireworks. It is proposed that these restrictions do not extend to community groups at publicly organised events or to professional fireworks operators.
- The process for considering and authorising no-firework areas would be led by local authorities, in partnership with local communities and relevant public sector authorities including Police Scotland, Scottish Fire and Rescue Service. The process should include consideration of alternative strategies and proportionality.
- The decision to introduce a no-firework area should be clearly linked to evidence of the impact that the private use of fireworks is having within the area, informed by rigorous evidence to ensure no-firework areas are appropriate, proportionate and planned in response to persistent problems.

- Consideration will need to be given to the criteria local authorities will need to assess in determining the size and location of any potential no firework areas, including for example, the noise and debris from fireworks.
- Communities would have the opportunity to be actively involved in considering the feasibility and introduction of no-firework areas, and the decision to introduce no-firework areas should be undertaken in close consultation with communities.
- The local authority would be responsible for ensuring that sufficient processes are in place to notify those who might be affected by no-firework areas. This could include publishing a notice within a local newspaper and displaying a notice in conspicuous places within the relevant area, as well as on relevant websites/social media.
- Local authorities would determine the length of time a no-firework area is in place, in line with local evidence and consultation; but this must be reviewed on an annual basis.
- The impact and effectiveness of no-firework areas would be monitored by the local authority.

20. Police Scotland is currently responsible for enforcing the use of fireworks within permitted times and places. Offences are punishable by a fine not exceeding level 5 on the standard scale (up to £5,000) or up to 6 months imprisonment, or both (as set out in section 11 of the Fireworks Act 2003). We propose that enforcement of any implemented firework-free areas would continue to sit with Police Scotland in line with existing penalties for non-compliance.

## Consultation Questions

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

- Yes
- No
- Unsure.

**Question 10 b).** Please explain your answer.

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

- Yes
- No
- Unsure.

**Question 11 b).** Please explain your answer.

**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.

**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.

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

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

## Part Four: Proxy Purchasing Offence

21. The Fireworks Review Group recommended **that a proxy purchasing offence is introduced criminalising the supply of fireworks to people under the age of 18.**

22. The misuse of fireworks and the effect this has on individuals and communities came across strongly in the 2019 consultation. The impact that the misuse of fireworks can have on people and communities emerged from written consultation responses and events held across Scotland, including consultation events in Glasgow and Edinburgh which demonstrated strongly the significant impact this has had. Respondents described large scale incidents within residential areas often including attacks on emergency service workers, involving people misusing fireworks, and described being too scared to leave their homes due to the perceived fear of harm. Anecdotal evidence suggested that young people were given fireworks to deliberately misuse.

23. The Review Group noted that a recurring theme in their discussions was the misuse of fireworks and impact this can have on individuals and communities, and there was general consensus that there would be value in making the existing legislation clearer on adults **giving or supplying** fireworks to those under the age of 18. The key objective of the proposed change is the protection of children from harm.

24. **The Scottish Government proposes to introduce legislation to create the following offences in Scotland:**

- To buy or attempt to buy fireworks for an individual under 18;
- To give or otherwise make available fireworks to an individual under 18; and
- To knowingly deliver fireworks to an individual under 18 regardless if an adult made or purchased the order (with the aim of reducing online sales of fireworks to individuals under 18).

### Enforcement and Offences

25. Consideration is being given as to who will have enforcement responsibility for the proposed offences, in relation to the investigation of breaches of the law.

Currently similar offences occur for the sale and supply of alcohol and of tobacco products (or other nicotine vapour products) to individuals under 18:

- Section 104A and 104B of the Licensing (Scotland) Act 2005 makes it an offence to buy or attempt to buy alcohol on behalf of a child or young person, or to give (or otherwise make available) alcohol to a child or young person. A person guilty of these offences is liable on summary conviction to a fine, not exceeding level 5 on the standard scale (up to £5,000), imprisonment for a term not exceeding 3 months, or both. This legislation also makes it an offence for any responsible person to deliver (or allow to be delivered) alcohol to someone under 18. The offence covers, for example, circumstances where a child takes delivery of a consignment of alcohol ordered by an adult online or on the telephone and neither the exemption or defence to the charge applies.
- Similarly, sections 6 and 6A of Tobacco and Primary Medical Services (Scotland) Act 2010 makes it an offence to buy or attempt to buy tobacco products, cigarette papers or nicotine vapour products on behalf of a person under 18. A person guilty of these offences is liable on summary conviction to a fine not exceeding level 5 on the standard scale (up to £5000).

26. We propose to use a model similar to the proxy purchasing offence for tobacco or alcohol (see Box above) to create an offence of **buying or attempting to buy, or otherwise make available** fireworks to a person under 18. If found guilty a person would be liable on summary conviction to a fine not exceeding level five on the standard scale (up to £5000), imprisonment for a term not exceeding three months, or both.

### Consultation Question

**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
- No
- Unsure.

**Question 16 b).** Please explain your answer.

**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.



## Part 5: Impact Assessments

27. In accordance with usual practice, the Scottish Government has prepared a number of impact assessments in relation to the development of policy in this area. A draft Business and Regulatory Impact Assessment (BRIA) is attached at [Annex B](#) and a draft Equality Impact Assessment (EQIA) is attached at [Annex C](#).

**Question 18 a)** Do you have any comments about, or evidence relevant to the draft Business And Regulatory Impact Assessment in relation to the sale and use of fireworks?

- Yes
- No
- Unsure.

**Question 18 b)** Please explain your answer.

**Question 19 a).** Do you have any comments about, or evidence relevant to the draft Equality Impact Assessment in relation to the sale and use of fireworks?

- Yes
- No
- Unsure.

**Question 19 b)** Please explain your answer.

## Section Two: Pyrotechnics

### Tackling misuse of pyrotechnic devices

#### Introduction

28. This section of the consultation paper considers the use of pyrotechnic devices and specifically whether it should be an offence to carry a pyrotechnic device in a public place without reasonable excuse or lawful authority, and whether police powers should be extended to allow a stop and search provision for anyone reasonably suspected of committing the offence.

#### What is a pyrotechnic?

29. A pyrotechnic is a device which contains explosive substances or an explosive mixture of substances designed to produce heat, light, sound, gas or smoke or a combination of such effects through self-sustained exothermic chemical reactions. There are a wide range of differing pyrotechnics available, for example theatrical, hand held flares, distress flares and smoke devices. These devices come in a variety of coloured effects and are used for various reasons, the main use being for spectacle, theatrical special effects or distress signal purposes.

30. While pyrotechnics have legitimate uses, such as marine distress flares or theatrical special effects, they can also be used for dangerous, harmful and potentially criminal purposes. Pyrotechnics produce light, smoke and/or sound and can burn at temperatures of up to 2,500 degrees Celsius. All pyrotechnical articles are explosives.

31. We would propose to develop a definition of a “pyrotechnic article” which would be used for the purposes of a new offence and a stop and search power. We currently expect this will be similar to that in Regulation 3 of [The Pyrotechnic Articles \(Safety\) Regulations 2015](#) excluding fireworks. The main difference between fireworks and pyrotechnics is that pyrotechnics can be used in much closer proximity to the public due to the more controllable nature of the product.

32. The proposed offence of being in possession of a pyrotechnic in a public place without reasonable excuse or lawful authority does not extend to fireworks. The Fireworks Act 2003 enables the police to stop and search if they have reasonable grounds of suspecting a person is in possession of fireworks in contravention of a prohibition imposed by fireworks regulations. Therefore, we do not propose to extend the related pyrotechnics stop and search powers to include fireworks. Further information can be found in the Technical Annex ([Annex A](#)).

33. If pyrotechnics are not used with caution they can cause serious health problems such as burns to people who come into contact with them (regardless of whether they have set the device off themselves or have come

into contact with it through, for example, someone throwing it at them), or hearing injuries, breathing difficulties or choking, particularly among people with health conditions such as asthma.

34. Prior to the introduction of Covid restrictions, reports of the misuse of pyrotechnics (flares and smoke bombs) at events in Scotland and in the community had become more widespread and there is evidence of them having been set off at large gatherings such as concerts, music festivals, football matches and in street celebrations.

35. Misuse of these devices poses a potential safety issue for anyone who may come into contact with them including for example stewards, marshals and police who may need to intervene when pyrotechnics are being set off. There have been incidents where individuals, including children, have been injured by someone else activating a pyrotechnic or have in fact injured themselves whilst activating a pyrotechnic.

36. There have also been incidences of flares being thrown on to sport pitches, stages or towards individuals. For example a woman was scarred for life after she was severely burned by flares thrown at a [Liam Gallagher concert](#) in November 2019. Other countries have reported fatalities, including two children age 13 (Spain) and 14 (Brazil) who were killed by flares which had been thrown. This demonstrates how dangerous and volatile pyrotechnics can be when misused and when safety measures are not adhered to.

37. Concerns have therefore been raised about the perceived misuse of these devices at gatherings and the potential safety risks to members of the public, stewards and police officers who are located nearby when flares are let off.

### Illegal Use of Pyrotechnics

38. In May 2019, the Scottish Government started discussions with stakeholders to identify possible actions that could be taken to tackle the issue of increased illegal pyrotechnic use and gather evidence to determine where there are gaps in the current legislation. These discussions, which were hosted by the Scottish Government, included representatives from Police Scotland, Scottish Police Federation, British Transport Police, Crown Office Procurator Fiscal Service and Scottish Government. It was established that the following legislation would apply to pyrotechnics:

- **Carrying dangerous instruments or offensive weapons.** The Criminal Justice and Public Order Act 1994 provides stop and search powers where police reasonably believe that people are carrying dangerous instruments or offensive weapons in any locality without good reason, and a sufficiently senior officer has authorised the use of such powers. Pyrotechnics are not deemed as “dangerous instruments” in terms of the legislation. The 1994 Act defines a dangerous instrument as a sharply pointed instrument or one with a

blade. Pyrotechnic devices may be offensive weapons if that is the use which the person carrying them intends to make of them. Anything found that was reasonably suspected to be used as an offensive weapon would be seized and appropriate charges libelled.

Pyrotechnics would however only be covered by this legislation if the police had reasonable grounds for suspecting that the pyrotechnic was being carried in the locality with the intention to cause injury to others, which may be hard to establish.

- **Carrying of offensive weapons** Section 47 of the Criminal Law (Consolidation) (Scotland) Act 1995 makes it an offence for a person to have any offensive weapon with him/her in a public place without lawful authority or reasonable excuse. Section 48 contains a stop and search power in relation to this offence. Similar to the power described above the section 47 offence will only apply where there was an intention to use the pyrotechnic as a weapon to injure others.
- **Possession of a pyrotechnic article at sporting events.** This is an offence under the Criminal Law (Consolidation) (Scotland) Act 1995 section 20. The 1995 Act provides the power for the police to search a person they have reasonable grounds to suspect is committing or has committed this offence. Therefore the current legislative provisions in relation to searches of persons who are *entering or attempting to enter* designated sporting events provide suitable powers.

39. The term 'stop and search' refers to the process by which the police stop and search without warrant a person who has not been arrested. Under section 65 of the Criminal Justice (Scotland) Act 2016 and the [Code of Practice on the use of Stop and Search](#) all such searches in Scotland must be carried out under statute. An officer cannot search a person who is not in police custody without either a specific statutory power or the express authority of a warrant, even with their consent.

40. The final stakeholder discussion concluded that a dedicated stop and search power for pyrotechnics, not limited exclusively to persons *entering or attempting to enter* designated sporting events, is required. This would allow the police to stop and search for the possession of pyrotechnic articles in public places and to intercept pyrotechnic devices before the person carrying them is shown to be at least attempting to gain access to a venue. Stop and search powers are generally based on reasonable suspicion of committing an offence, and it is suggested that the power here might be linked to a new offence of having a pyrotechnic article in a public place without reasonable excuse and/or lawful authority.

41. Through this consultation we aim to understand how the use of pyrotechnics is viewed by the public and whether the misuse of pyrotechnic devices requires to be backed with sufficient police powers which could only be provided through new primary legislation.

## Consultation Questions

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

- Yes
- No
- Unsure.

**Question 20 b).** Please explain your answer.

**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
- No
- Unsure.

**Question 21 b).** Please explain your answer.

**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
- No
- Unsure.

**Question 22 b).** Please explain your answer.

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

**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
- No
- Unsure.

**Question 23 b).** Please explain your answer.

**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.

**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.

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

- Yes
- No
- Unsure.

**Question 26 b).** Please explain your answer.

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

- Yes
- No
- Unsure.

**Question 27 b).** Please explain your answer.

## Responding to this Consultation

We are inviting responses to this consultation by Sunday 15th August.

Please respond to this consultation using the Scottish Government's consultation hub, Citizen Space (<http://consult.gov.scot>). Access and respond to this consultation online at <https://consult.gov.scot/justice/use-and-sale-of-fireworks-in-scotland>. You can save and return to your responses while the consultation is still open. Please ensure that consultation responses are submitted before the closing date of Sunday 15th August.

If you are unable to respond using our consultation hub, please complete the Respondent Information Form to:

Building Safer Communities Team  
Scottish Government  
1 West  
St Andrew's House  
Edinburgh, EH1 3DG

### Handling your response

If you respond using the consultation hub, you will be directed to the About You page before submitting your response. Please indicate how you wish your response to be handled and, in particular, whether you are content for your response to be published. If you ask for your response not to be published, we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

If you are unable to respond via Citizen Space, please complete and return the Respondent Information Form included in this document.

To find out how we handle your personal data, please see our privacy policy: <https://beta.gov.scot/privacy/>

### Next Steps in the Process

Where respondents have given permission for their response to be made public, and after we have checked that they contain no potentially defamatory material, responses will be made available to the public at <http://consult.gov.scot>. If you use the consultation hub to respond, and provide a valid email address you will receive a copy of your response via email.

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us. Responses will be published where we have been given permission to do so. An analysis report will also be made available.

## Comments and Complaints

If you have any comments about how this consultation exercise has been conducted, please send them to the contact address above or at: fireworks@gov.scot.

## Scottish Government Consultation Process

Consultation is an essential part of the policymaking process. It gives us the opportunity to consider your opinion and expertise on a proposed area of work.

You can find all our consultations online: <http://consult.gov.scot>. Each consultation details the issues under consideration, as well as a way for you to give us your views, either online, by email or by post.

Responses will be analysed and used as part of the decision making process, along with a range of other available information and evidence. We will publish a report of this analysis for every consultation. Depending on the nature of the consultation exercise the responses received may:

- indicate the need for policy development or review
- inform the development of a particular policy
- help decisions to be made between alternative policy proposals
- be used to finalise legislation before it is implemented.

While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.



## RESPONDENT INFORMATION FORM

**Please Note** this form **must** be completed and returned with your response. To find out how we handle your personal data, please see our privacy policy: <https://beta.gov.scot/privacy/>

Are you responding as an individual or an organisation?

- Individual  
 Organisation

Full name or organisation's name

Phone number

Address

Postcode

Email

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

- Publish response with name  
 Publish response only (without name)  
 Do not publish response

### Information for organisations:

The option 'Publish response only (without name)' is available for individual respondents only. If this option is selected, the organisation name will still be published.

If you choose the option 'Do not publish response', your organisation name may still be listed as having responded to the consultation in, for example, the analysis report.

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

- Yes  
 No

## ANNEX A

### Technical Annex

This technical annex provides more detail about the current legislation and regulations on the sale, supply and use of fireworks in Scotland. It should be read in conjunction with the main consultation document.

#### SUPPLY OF FIREWORKS

##### Legislative Context

The sale and supply of fireworks is regulated by the [Fireworks Regulations 2004](#) the [Fireworks \(Scotland\) Regulations 2004](#), and the [Pyrotechnic Articles \(Safety\) Regulations 2015](#).

In addition, [Regulation 9 of the Explosives Regulations 2014](#) prohibits the supply or acquisition of more than 50kg of fireworks at a time, except to individuals licensed by the Local Authority. However, the Fireworks (Scotland) Regulations 2004 will be amended by the [Fireworks \(Scotland\) Miscellaneous Amendments Regulations 2021](#), on 30 June 2021, and will place further restrictions on the 'general public' by prohibiting the supply or acquisition of more than 5kg of fireworks at a time, except to individuals licensed by the Local Authority; professional firework operators/organisers; firework businesses and community groups. Table 1 gives a more detailed outline of current regulations of the supply of fireworks.

Furthermore, the Fireworks (Scotland) 2004 Regulations will also be amended to restrict the times of day fireworks can be supplied to the general public to during the daytime hours of 7am and 6pm, with exemptions for professional firework operators/organisers, firework businesses and community groups.

Pyrotechnic Articles (Safety) Regulations 2015 make it an offence for F2 and F3 fireworks to be made available on the market to anyone under 18 years.

Under Regulation 9 of the Fireworks Regulations 2004 suppliers of fireworks must hold a licence, except at certain times of a year. Licences are granted by the appropriate local authority, which must refuse a licence unless the applicant complies with relevant statutory requirements concerning the keeping of fireworks and may refuse a licence, or revoke a licence previously granted, if the applicant has committed any of the fireworks related offences listed in paragraph 5 of regulation 9, such as making underage sales, or failing to store fireworks securely.

## Enforcement

Trading Standards can carry out test purchasing for underage sales in line with identified concerns where there is sufficient intelligence relating to specific premises. In doing so they must consider and, if appropriate, abide by the statutory framework set out in the Regulation of Investigatory Powers (Scotland) Act 2000 and its associated Codes of Practice.

## Categorisation and Control of Firework Supply

The online sales of fireworks are regulated by Trading Standards in the same way as conventional sales. All supplies of fireworks, irrespective of the medium of the supply, are governed by the relevant legislation. However the nature of online sales can make enforcement challenging.

Fireworks are categorised as defined by the Pyrotechnic Articles (Safety) Regulations 2015. Table 2 gives an outline of firework categories.

**Table 1: Regulation of the Sale and Supply of Fireworks**

**Regulation 9** of the Fireworks Regulations 2004 (as amended), which came into force on 1 January 2005, limits the sale and supply of fireworks to seasonal periods unless a retailer is licensed. A licence costs up to £500 and is issued by a local authority, subject to strict criteria.

Periods where selling without a licence is permitted are:

- November 5 (from 15th October to 10 November)
- New Year (from December 26th to 31st)
- Chinese New Year (on the first day of the Chinese New Year and the 3 days immediately preceding it)
- Diwali (on the day of Diwali and the 3 days immediately preceding it)

Under regulation 31 of the Pyrotechnic Articles (Safety) Regulations 2015, a retailer must **not** sell:

- a Christmas cracker to anyone under the age of 12 years
- F1 category fireworks to anyone under the age of 16
- F2 and F3 category fireworks to anyone under the age of 18
- F4 category fireworks to members of the public.

It is not a legal requirement to have a licence or training to buy “consumer fireworks” (category F1, F2 and F3 fireworks). There is no such thing as a licence or training for members of the public to buy category 4 (professional display) fireworks. These are only available to bonafide professional fireworks companies with all year insurance and licenced storage.

Regulation 10 of the 2004 Regulations requires retailers to display a notice at point of sale, of A3 size, with text a minimum of 16mm high.

Certain items are banned in the UK, including: bangers, air bombs and jumping jacks, regardless of whether these are CE marked and approved for sale in other EU countries.

**Source:** House of Commons briefing paper ‘Regulation of Fireworks’ published November 2018

**Table 2: Categories of Firework**

**Category F1:** fireworks which present a very low hazard and negligible noise level and which are intended for use in confined areas, including fireworks which are intended for use inside domestic buildings.

**Category F2:** fireworks which present a low hazard and low noise level and which are intended for outdoor use in confined areas.

**Category F3:** fireworks which present a medium hazard, which are intended for outdoor use in large open areas and whose noise level is not harmful to human health.

**Category F4:** fireworks which present a high hazard, which are intended for use only by persons with specialist knowledge and whose noise level is not harmful to human health.

**Category T1:** theatrical pyrotechnic articles which present a low hazard.

**Category T2:** theatrical pyrotechnic articles which are intended for use only by persons with specialist knowledge.

**Category P1:** pyrotechnic articles, other than fireworks and theatrical pyrotechnic articles, which present a low hazard.

**Category P2:** pyrotechnic articles, other than fireworks and theatrical pyrotechnic articles, which are intended for handling or use only by persons with specialist knowledge.

**Source:** Schedule 1 to The Pyrotechnic Articles (Safety) Regulations 2015

## USE OF FIREWORKS

### Restrictions on Use

[Regulation 7 of the Fireworks Regulations 2004](#) concerns the prohibition of use of certain fireworks at night in England and Wales. This regulation does not apply to Scotland but the restrictions are recreated by [The Fireworks \(Scotland\) Regulations 2004](#) which sets out a curfew on fireworks use from 11pm and 7am with the exception of 5 November fireworks can be used until midnight, and on the nights of Chinese New Year, Diwali and New Year's Eve fireworks can be used until 1am. However, the [Fireworks \(Scotland\) Miscellaneous Amendments Regulations 2021](#) will place greater restrictions on the use of fireworks by the 'general public' to 11pm and 6pm in order to minimise the risk that fireworks will be used with harmful consequences for people, animals or property without limiting public fireworks displays held by professional firework operators/organisers; firework businesses or community groups.

In addition, local authorities are able to grant dispensations to businesses, not including community groups, for displays for special events such as local festivals or celebrations. Local authorities are also exempted for the purpose of local authority fireworks displays, national public celebrations or national commemorative events.

Enforcement of any contravention of the rules restricting use of fireworks is a matter for the Police and offences are punishable by a fine or up to six months imprisonment.

### Noise and Misuse

Excessive and persistent noise from fireworks could potentially constitute a "statutory nuisance" under the [Environmental Protection Act 1990](#). Local Authorities are responsible for addressing such nuisances by issuing an abatement notice. Noise may also be addressed as a common law nuisance. However, most private fireworks displays will be too short-lived to fall into these categories.

It is an offence under [section 80 of the Explosives Act 1875](#) to let off fireworks in a public place. The offence is punishable by a fine. Offenders could also be charged with breach of peace.

The common law offence of Culpable and Reckless Conduct is relevant where a person has set off a pyrotechnic in circumstances where risk is involved. No expert evidence is required in this instance. In all crimes involving reckless conduct, the degree of recklessness required to constitute the crime is an 'utter disregard of what the consequences of the act in question may be so far as the public are concerned'.

## Public Firework Displays

It is for each local authority to decide if it wishes to licence public firework displays under its Public Entertainment Licensing regime. The coverage of the regime is set out in [section 41 of the Civic Government \(Scotland\) Act 1982](#), and relies on the use of premises as a “place of public entertainment” for the requirement of a Public Entertainment Licence. This means any place where “members of the public are admitted or may use any facilities for the purposes of entertainment or recreation”.

As a discretionary regime the local authority can limit the scope by resolution, so they can decide whether or not to licence certain public events. Private displays do not fall within the remit of the provision in the 1982 Act regarding fireworks displays.

## Stop and Search Powers for Fireworks

The Fireworks Act 2003 enables the police to search if they have reasonable grounds of suspecting a person in possession of fireworks in contravention of a prohibition imposed by firework regulations. The current prohibitions imposed by fireworks regulations are:

- It is unlawful for someone under the age of 18 to possess an F2 or F3 firework (Regulation 4 of the Fireworks Regulations 2004)
- It is unlawful to possess a category F4 firework (Regulation 5 of the Fireworks Regulations 2004)
- It is unlawful to use F2 or F3 fireworks at night (23.00 – 07.00) (Regulation 3 of the Fireworks (Scotland) Regulations 2004).

From 30 June 2021 the Fireworks (Scotland) Regulations 2004 will be amended by the Fireworks (Scotland) Miscellaneous Amendments Regulations 2021. Therefore, the regulations will be amended to include that:

- It will be unlawful to supply F2 and F3 fireworks outside permitted hours (7am – 6pm).
- It will be unlawful to supply more than the permitted quantity of 5kg of fireworks at any one time.
- It will be unlawful to use adult fireworks outside permitted hours of 6pm – 11pm (with the exception of 5 November when they can be used from 6pm until midnight; New Year’s Eve, the night of Chinese New Year and the night of Diwali when they can be used from 6pm until 1am).

Breaching any of the above regulations is an offence under section 11 of the Fireworks Act 2003. If the police have reasonable grounds to suspect that a person possesses a firework in contravention of any of the above prohibitions they may search that person.

# ANNEX B Draft Business and Regulatory Impact Assessment

## BUSINESS AND REGULATORY IMPACT ASSESSMENT

### Title of Proposal

Promoting the Safe and Considerate Use of Fireworks in Scotland and Tackling the Misuse of Pyrotechnics

### Purpose and Intended Effect

#### **1. Background**

##### Fireworks

1.1 Following high profile incidents during bonfire night in 2017, and again in 2018, the Scottish Government undertook work to look at the position of fireworks in Scotland. This included: a review of police and fire service activity linked to fireworks and bonfire night by Her Majesty's Inspectorate of Constabulary in Scotland and Her Majesty's Fire Service Inspectorate for Scotland; and a programme of public consultation, stakeholder engagement and evidence gathering on the sale and use of fireworks in Scotland to identify what action was required going forward.

1.2 A 'consultation on fireworks in Scotland: Your experiences, your ideas, your views' launched on Sunday 3 February 2019 for a period of 14 weeks to its close on Monday 13 May 2019 was designed to start a conversation with the people of Scotland on how fireworks are sold and used. The consultation was an important step in gathering valuable evidence on a range of opinions and perspectives and covered organised displays, private use by individuals, and inappropriate use.

1.3 Over the consultation period 29 engagement events were held – 24 open public events, and five events for specific population groups including young people. A total of 16,420 responses were received from members of the public and stakeholder organisations.

1.4 In October 2019 the Minister for Community Safety published the [Fireworks Action Plan](#) which set out how the Scottish Government would address the concerns expressed through the national consultation. The Action Plan sets out activities that have been taken forward immediately, as well as longer term actions that will collectively support a change in how fireworks are used in Scotland. The Action Plan can be split into two parts: the Fireworks Review Group; and the non-legislative actions that sit alongside it.

1.5 The independent Fireworks Review Group was tasked with considering the options available to tighten legislation on fireworks in Scotland. The Group considered the evidence available and made a series

of recommendations to Scottish Ministers in November 2020 (report available [online](#)) and reached a majority consensus that a fundamental shift is required in how fireworks are used and accessed in Scotland through the introduction of a comprehensive set of measures.

### Pyrotechnics

1.6 Prior to the introduction of Covid restrictions, reports of the misuse of pyrotechnics (flares and smoke bombs) at events across Scotland and in communities had become widespread and there is evidence of them having been set off at large gatherings such as concerts, music festivals, sporting events and at on-street celebrations.

1.7 In May 2019, the Scottish Government began discussions with stakeholders to identify possible actions that could be taken to tackle increased illegal pyrotechnic use and gather evidence to determine where there are gaps in the current legislation.

1.8 The conclusion from these stakeholder discussions was that a new offence is required in relation to carrying a pyrotechnic device in a public place without reasonable excuse or lawful authority, and for police powers to be extended to allow a stop and search provision for anyone reasonably suspected of committing the offence. This would require primary legislation in order to be implemented.

## **2. Objectives**

### Fireworks

2.1 The Fireworks Review Group provided its recommendations to Scottish Ministers in November 2020 and reached a majority consensus that a fundamental shift is required in how fireworks are used and accessed in Scotland through the introduction of a comprehensive set of measures, including:

- The introduction of mandatory conditions before consumers are able to purchase fireworks.
- Restricting the times of day fireworks can be sold.
- Restricting the volume of fireworks that can be purchased.
- Restricting the days and times fireworks can be set off.
- A provision for no-fireworks areas to be introduced where it is not possible for fireworks to be set off, with local communities having a key role in influencing this.
- The introduction of a proxy purchasing offence to reduce the risk of fireworks being misused by children and young people under the age of 18.

2.2 A number of these recommendations have been progressed through [The Fireworks \(Scotland\) Miscellaneous Amendments Regulations 2021](#), which amends the Firework (Scotland) Regulations 2004. The changes



implemented by these regulations come into effect on 30 June 2021. Primary legislation is now being considered to progress the remaining recommendations from the Group including: the introduction of mandatory conditions at the point of the sale for fireworks<sup>6</sup>, restricting the days that fireworks can be set off by the general public, introducing no-firework areas where the general public cannot set off fireworks and introducing a proxy purchasing offence to criminalise the supply of fireworks to people under the age of 18.

2.3 The Scottish Government also proposes to restrict the days that fireworks can be sold to the general public to coincide with the proposed changes to when fireworks can be used.

2.4 The policy objectives underpinning the Fireworks Action Plan have been developed using a behaviour change framework (ISM) to ensure substantive and long lasting change in relation to how fireworks are used in Scotland. Relevant data and evidence from a variety of sources, including from the emergency services, as well as specific analytical work and international case studies have also informed the policy objectives.

#### Pyrotechnics

2.5 The gathering of details on pyrotechnic incidents at different types of events, both within Scotland and out with Scotland, allowed us to identify the main locations and types of events where pyrotechnics are misused. This also supported the view that the frequency of pyrotechnic misuse is rising and tackling this needs to be backed with sufficient police powers which could only be provided through new primary legislation.

### **3. Rationale for Government Intervention**

#### Fireworks

3.1 People should be, and feel, safe in their communities. This ambition is embedded through our [National Performance Framework](#), and our [Justice Vision for Scotland](#). The Action Plan supports the Scottish Government National Outcome of *We live in communities that are inclusive, empowered, resilient and safe* and sets out a range of outcomes for fireworks to support this including:

- Organised displays provide the opportunity to bring communities together.
- Fireworks are used safely and handled with care.
- Fireworks do not cause harm, distress or serious injury.

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<sup>6</sup> When references are made to fireworks this relates to category F2 and F3 fireworks. Category F2 fireworks are fireworks which present a very low hazard and low noise level and which are intended for outdoor use in confined areas. Category F3 fireworks are fireworks which present a medium hazard, which are intended for outdoor use in large open areas and whose noise level is not harmful to human health.

3.2 Responses to the 2019 public consultation indicated that the use, and often dangerous misuse, of fireworks in communities can make people feel unsafe.

3.3 Achieving a cultural shift in the relationship Scotland has with fireworks will take time and will require a concentrated package of action by various partners. This includes progressing legislation to implement changes, as well as actions such as partnership working within communities to improve awareness and understanding on the appropriate use of fireworks, to positively influence responsible behaviour, and to support communities to have greater control in how fireworks are used in their local area.

#### Pyrotechnics

3.4 The misuse of Pyrotechnics can have a range of impacts on communities and in the wrong hands can be damaging and dangerous. We believe that a new offence to allow the police to stop and search a person they have reasonable grounds to suspect is committing an offence by being in possession of a pyrotechnic in a public place without reasonable excuse or lawful authority would reduce the number of incidents we are experiencing.

### **4. Existing Fireworks and Pyrotechnics Legislation**

4.1 The sale, possession and use of fireworks is regulated by the Fireworks Act 2003, the Fireworks Regulations 2004, the Fireworks (Scotland) Regulations 2004 and the Pyrotechnic Articles (Safety) Regulations 2015.

4.2 During the consultation period, new regulations will come into effect which change how fireworks can be supplied and used in Scotland through [The Fireworks \(Scotland\) Miscellaneous Amendments Regulations 2021](#), which amends the Fireworks (Scotland) Regulations 2004.

4.3 For most of the year, fireworks can currently only be sold by licenced fireworks traders. Licencing the sale of fireworks is done by local authorities, and traders have to meet set criteria to receive a licence.

4.4 In the run up to New Year, Chinese New Year and Diwali, and the three weeks before Bonfire Night, traders registered with their local authority to store fireworks do not require a specific sales licence. Instead they are required to register with the relevant local authority. Local authorities have no powers to refuse registration at these times.

4.5 It is illegal for anyone under 18 to possess an adult firework<sup>7</sup> and it is illegal to sell adult fireworks to anyone who is less than 18 years old. It is illegal to sell indoor fireworks (such as sparklers) to anyone who is less than 16 years old. From 30 June 2021, it will also be illegal to supply adult fireworks to the general public out with the permitted hours of 7am to 6pm and the permitted quantity of fireworks that can be supplied to the general public will be restricted to 5kg at a time. This does not apply to individuals licensed by the Local Authority; professional firework operators/organisers; firework businesses and community groups. Fireworks which make a noise of over 120 decibels when they are set off, or fireworks that require specialist knowledge to use safely, cannot be sold to the general public at any time. Fireworks associated with antisocial behaviour such as bangers, air bombs and jumping jacks are also banned.

4.6 From 30 June 2021, the use of fireworks by the general public will be prohibited to between 6pm and 11pm, with exceptions for cultural celebrations such as Bonfire Night and Chinese New Year. Existing regulations prohibit the use of fireworks during night hours between 11pm and 7am unless it is a permitted fireworks night. On 5 November, fireworks can be used until midnight, and on the nights of Chinese New Year, Diwali and New Year's Eve, fireworks can be used until 1am. Exemptions are made for public fireworks displays held by professional firework operators/organisers; fireworks businesses or community groups. Local authorities are also able to grant dispensations to businesses, not including community groups, for displays for special events such as local festivals or celebrations. Local authorities are also exempted for the purpose of local authority fireworks displays, national public celebrations or national commemorative events.

4.7 It is a criminal offence for anyone to throw, cast or fire any fireworks in or into any road or public place and this is enforced by Police Scotland.

4.8 The Minister for Community Safety has kept the UK Minister for Small Business, Consumers and Corporate Responsibility updated as fireworks policy and practice has developed in Scotland. The UK Government has confirmed it has no plans to make changes to the UK legislation at present and in a formal response, published in March 2020 to the House of Commons Petitions Committee report on fireworks, and it did not set out any plans to introduce new firework legislation. The Minister for Community Safety has also engaged with the Minister for Environment, Energy and Rural Affairs in the Welsh Government throughout this work.

4.9 Section 60 of the Criminal Justice and Public Order Act 1994 provides stop and search powers where police reasonably believe that people are carrying offensive weapons in any locality without good reason, and a sufficiently senior officer has authorised the use of such powers. Pyrotechnics would only be covered by this legislation if the police had

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<sup>7</sup> Adult fireworks are Category F2, F3 and F4 fireworks and do not include Category F1 fireworks like party poppers. Category F4 fireworks are only available to fireworks professionals.

reasonable grounds for suspecting that the pyrotechnic was being carried in the locality with the intention to cause injury to others.

4.10 Section 47 of the Criminal Law (Consolidation) (Scotland) Act 1995 makes it an offence for a person to have any offensive weapon with him/her in a public place without lawful authority or reasonable excuse. Section 48 contains a stop and search power in relation to this offence. The section 47 offence will only apply where there was an intention to use the pyrotechnic as a weapon to injure others.

4.11 It is an offence under section 20 of Criminal Law (Consolidation) (Scotland) Act 1995 to be in possession of a pyrotechnic article at sporting events. The 1995 Act provides the power for the police to search a person they have reasonable grounds to suspect is committing or has committed this offence.

## 5. Consultation

### 2019 Fireworks Consultation

5.1 This policy has been developed following a significant programme of consultation and engagement with key stakeholders. This includes the 2019 public consultation which was an important step in gathering evidence on the range of opinions and perspectives in relation to fireworks and sought views on: the sale of fireworks to the general public; how people use and enjoy fireworks; the impact of fireworks on people, communities and animals; and ideas on what action could be taken to ensure fireworks continue to be enjoyed safely and responsibly. An independent [analysis of the consultation responses](#) was carried out to identify the main issues and themes raised by participants across all ways of taking part in the consultation, and this was published in October 2019.

5.2 The consultation and engagement was supported by a programme of analytical work to ensure the outcomes of the consultation were considered alongside other forms of evidence. This included a [nationally representative opinion poll](#) (with a sample of 1,002 responses) to ensure findings were available that represented the views of the wider public. The report from this was published alongside the consultation analysis in October 2019.

5.3 The consultation identified a broad sense that fireworks can be good for people and communities when they are used at the right time, right place and used responsibly. There was little appetite to ban properly organised public displays and recognition that they can bring communities together and have positive community benefits. The consultation and representative opinion poll, however, highlighted strong public desire for tighter controls to be introduced on the sale and use of fireworks in Scotland; and a similar theme emerged from the Firework Review Group whose recommendations centre on the sale and use of fireworks by the general public, as opposed to organised firework displays.

5.4 Both the consultation and omnibus survey demonstrated a strong desire for greater control on the sale and use of fireworks in Scotland:

- Almost all of those who responded to the consultation (94%) said they would welcome increased controls on the sale of fireworks; while majority of adults in Scotland (71%) felt there should be more controls over the sale of fireworks.
- A strong majority of those who responded to the consultation (92%) felt there should be more control on how they can be used; while a majority of adults in Scotland (68%) felt there should be more control on how fireworks can be used.
- Over three-quarters of those who responded to the consultation (87%) said they would welcome a ban on the sale of fireworks; while over half of adults in Scotland (58%) supported a ban.

5.5 Additional evidence was considered through: an [evidence review on the impact of fireworks](#) in the context of international legislation and regulations which included a summary of current fireworks legislation and regulations internationally, and a review of the available evidence on the impact of fireworks relating to social and environmental factors; and [case studies of the evidence internationally](#) and to draw evidence on the effectiveness – or otherwise – of similar measures in place.

5.6 Throughout this period, the Scottish Government has continued to engage with a range of stakeholders including emergency services, enforcement agencies, local authorities, animal welfare organisations, community safety representatives, the National Health Service, the fireworks industry, the Department for Business, Energy and Industrial Strategy (UK Government), the Health and Safety Executive and the Welsh Government.

5.7 A full list of those who responded to the 2019 consultation and who agreed to the release of this information is attached to the consultation report published on the Scottish Government website and includes Police Scotland, the Convention of Scottish Local Authorities (COSLA), the Scottish Community Safety Network, the Scottish SPCA, the British Veterinary Association, the Scottish Burned Children Club, the British Fireworks Association and a number of local authorities and community councils.

### **2021 Consultation**

5.8 In preparing this consultation, the Scottish Government has taken on board responses received to the 2019 consultation, the ongoing engagement with stakeholders outlined above, the deliberations and recommendations from the independent Fireworks Review Group and the evidence gathered as part of this process. In addition, in preparing the consultation the Scottish Government has also liaised with:

Within Scottish Government:

- Justice Analytical Services
- Police Division
- Public Service Reform and Community Planning
- Community Empowerment
- Criminal Law, Practice and Licensing
- Local Government Policy
- Animal Welfare
- Environmental Quality
- Fire and Rescue Unit
- Consumer Legislation
- Veterans and Armed Forces Unit
- Community Safety Unit
- Urgent Care Policy
- Active Scotland

Enforcement Agencies:

- Police Scotland
- The Society of Chief Officers for Trading Standards in Scotland (SCOTSS)
- Scottish Fire and Rescue Service

Local Authorities and Representative Bodies:

- COSLA
- Scottish Community Safety Network
- Society of Local Authority Lawyers and Administrators in Scotland

**Engagement on pyrotechnics**

5.9 Engagement in relation to pyrotechnic devices has been outlined in paragraphs 1.7 and 1.8 and included representatives from:

- Police Scotland
- Scottish Police Federation
- British Transport Police
- Crown Office and Procurator Fiscal Service

Within Scottish Government

- Community Safety Unit
- Police Division
- Active Scotland Division.

**6. Options**

**Fireworks**

6.1 This section focuses on the key options that are considered in the consultation. These options have been developed taking into consideration a range of evidence including responses to the 2019 public consultation and the recommendations from the Fireworks Review Group. The 2021 consultation document lists all the options under consideration and that views are being sought on.

6.2 Mandatory Conditions at Point of Sale - The Fireworks Review Group recognised that mandatory conditions at the point of sale have the potential to have a positive impact on promoting and encouraging the safe and appropriate use of fireworks in Scotland. It is proposed that a licensing system is introduced on the sale of fireworks. These conditions could also be extended to cover responsible use and possession. Applying for a licence could include the completion of an online safety course and payment of a fee, with the licence being valid for 12 months. There are a number of options being considered and views are being sought through the consultation on how the licence system is best developed and delivered,

including administration by the Scottish Government, another public service, partner organisation or local authorities.

6.3 Restricting the days fireworks can be set off by the general public - The Fireworks Review Group suggested that restricting the days fireworks can be used by the general public has the potential to ease the burden on our emergency services and reduce the noise and disturbance that fireworks can cause. It is proposed that the days consumer fireworks can be used by the general public is restricted to the week immediately preceding and week immediately following existing traditional firework celebrations, to cover:

- 29 October to 12 November;
- 28 December to 4 January;
- The 1st day of Chinese New Year and the week immediately following it; and
- The 1st day of Diwali and the week immediately following.

6.4 Restricting the days fireworks can be sold to the general public - It is proposed that restrictions are introduced to limit the days fireworks can be sold to the general public in Scotland to coincide with the proposed changes to when they can be used. This goes further than the Fireworks Review Group recommendation, which focusses on days fireworks can be used, and it is suggested that having fireworks available to purchase for long periods when they are not able to be used could lead to confusion for both retailers and consumers, and issues around stockpiling.

6.5 Introducing no-fireworks areas - The Fireworks Review Group recommended that a provision should be made for no-fireworks areas to be introduced where it is not permitted for fireworks to be set off by the general public, with local communities having a key role in influencing this. It is proposed that legislation is progressed to put this into practice, ensuring any system put in place is proportionate and fit for purpose to work alongside a range of local preventative and diversionary activity.

6.6 Introducing a proxy purchasing offence - The Fireworks Review Group noted that a recurring theme in their discussions was the misuse of fireworks and impact this can have on individuals and communities, and there was general consensus that there would be value in making the existing legislation clearer on adults giving or supplying fireworks to those under the age of 18. The consultation is seeking views on the introduction of a proxy purchasing offence to criminalise the supply of fireworks to people under the age of 18. The offences proposed to be created are:

- To buy or attempt to buy fireworks for an individual under 18;
- To give or otherwise make available fireworks to an individual under 18; and
- To knowingly deliver fireworks to an individual under 18 regardless if an adult made or purchased the order (with the aim of reducing online sales of fireworks to individuals under 18).



## **Pyrotechnics**

6.7 Section Two of the 2021 consultation document is seeking views on the use of pyrotechnic devices in particular:

- Whether it should be an offence to carry a pyrotechnic device in a public place without reasonable excuse or lawful authority, and whether police powers should be extended to allow a stop and search provision for anyone reasonably suspected of committing the offence: and
- To get views on whether this proposed new offence should be wide enough to allow the police to stop and search a vehicle for example a car, bus, tram or van.

### **Sectors and Groups Affected**

#### **7. People and Communities**

7.1 Actions that will support the safe and considerate use of fireworks and appropriate use of pyrotechnics in Scotland will aim to protect people from harm, fear and distress. This includes addressing issues that were raised in the 2019 public consultation such as reducing the noise and disturbance of fireworks, including on those with noise sensitivity; preventing anti-social behaviour and the misuse of fireworks and the impact this has on individuals and communities; environmental impacts of fireworks use from discarded material to air pollution; and animal welfare concerns for pets, wildlife and livestock.

7.2 The proposed policy will also affect the ability of community groups to put on local displays, as under the proposals in the 2021 consultation they will need to consider the measures being introduced through primary legislation as they organise public firework displays. Data from the Society of Local Authority Lawyers and Administrators (SOLAR) Licensing Group<sup>8</sup> in February 2020 highlighted that around 150 organised displays take place over the Bonfire period across the 17 local authorities who responded. The majority of these have less than 500 attendees and are organised by a community group or organisation.

#### **8. Retailers**

8.1 Retailers licensed to sell fireworks, either on an all year round basis or during traditional firework selling periods, will be impacted by the proposed changes. The proposed licencing system for consumers to purchase fireworks and restrictions on the days that fireworks can be purchased will have a direct impact on retailers and will require existing processes and practices to be adapted in line with the new measures.

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<sup>8</sup> The survey sought to better understand how many firework displays take place in different local authority areas, what processes are in place locally around organising public fireworks displays, to gain an insight into what kind of guidance local authorities feel would helpful. 22 local authorities responded.

8.2 Data provided by Trading Standards covering the bonfire period 2019 indicated that there were 650 licensed retailers selling fireworks across Scotland. A more detailed survey was carried out in 2020 with all local authority Trading Standards to explore the number and type of storage licences as well as site visits and enforcement activity that took place over the 2019 period. Eighteen<sup>9</sup> local authority areas responded to the survey. Survey responses indicated that, across the 18 local authorities, the majority of retailers are licensed to store fireworks on a multi-year basis<sup>10</sup>, and there were 255 retailers who held a multi-year storage licence in 2019. Local authorities were also asked the types of retailers that applied for a temporary storage licence in their area in 2019. The majority of applications (70%) were for large supermarkets and superstores (190), followed by 18% for smaller independent stores (48), 9% for 'pop up' shops (23) and 3% for firework specific stores (8).

8.2 In October 2018 Sainsbury's announced that it would no longer be selling fireworks to the public, but did not explain its reasons for doing so. However, in the media the move was widely received as a socially responsible effort by the supermarket.

8.3 In relation to pyrotechnics there should be little impact on retailers who should only be selling these devices to people for legitimate uses. There are therefore no grounds for complaint – it is not tenable to argue that you have lost sales because customers have been prevented from using the item illegally.

## **9. Fireworks Industry**

9.1 The fireworks industry are a group that will be affected by the proposed changes. Data from the British Fireworks Association (BFA) in relation to the retail sales of fireworks suggests that the equivalent of 334 people are employed in the retail of consumer fireworks in Scotland. This comprises: 25 people being directly employed in wholesale of fireworks; 40 seasonal employees in wholesale; 19 seasonal employees in delivery of fireworks; and 251 seasonal employees within the retail of fireworks. These figures have been estimated by the BFA through a series of calculations such as using the percentage of the overall UK employment and the percentage of product which goes into the UK to calculate how many people are directly employed in wholesale. Whilst this can provide an estimate it does not give a full, comprehensive picture of the number of people employed in retail fireworks in Scotland.

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<sup>9</sup> Aberdeen Council; Argyll & Bute Council; City of Edinburgh; Clackmannanshire Council; Dumfries & Galloway Council; East Ayrshire Council; East Dunbartonshire Council; Falkirk Council; Glasgow City Council; Midlothian Council; North Ayrshire Council; North Lanarkshire Council; Orkney Island Council; Scottish Borders Council; South Ayrshire Council; Stirling Council; West Dunbartonshire Council; and West Lothian Council.

<sup>10</sup> Retailers looking to sell fireworks over specified dates must apply to the relevant local authority for a temporary storage licence to do so. A separate licence is required for retailers that sell fireworks throughout the year. The temporary storage licence can be applied for and granted on a multi-year basis, which means the application and licensed granted covers the retailer for a number of years (up to 5 years)

9.2. In addition, the BFA estimate that employment in retail fireworks accounts for almost £1.9 million per year and that government revenue from retail fireworks in Scotland equals almost £2.7 million<sup>11</sup>.

9.3 Whilst the BFA were represented on the Firework Review Group, they did not agree with or endorse the Group's recommendations, and raised a number of concerns around the potential unintended consequences of the proposed measures including:

- Introduction of mandatory conditions at the point of sale: The BFA felt that the introduction of such measures could drive consumers to illegitimately purchase fireworks through illegal channels, bypassing safety messaging and potentially purchasing prohibited firework products. Concerns were also raised that these measures will not tackle the root cause of anti-social behaviour involving fireworks or fireworks misuse, as responsible consumers that would comply with the conditions would not purchase fireworks to use them in an irresponsible manner.
- Restricting the days that fireworks can sold be to the general public and restricting the days fireworks can be set off by the general public: The BFA highlighted concerns around restrictions on the days that fireworks can be used could encourage a 'use it or lose it' approach where consumers use fireworks in an unsafe way in order to meet restrictions around days. It was highlighted that this could also lead to stockpiling of fireworks at home if consumers cannot use all of their fireworks on permitted days.
- Introducing no-firework areas where it is not possible for the general public to set off fireworks: The BFA felt that this could lead to displacement of firework issues by moving the problem and fireworks use to another area, and potentially encourage use of fireworks in a public place in that area. The BFA felt that creating widespread firework free areas would not tackle the issue of fireworks misuse and anti-social behaviour.
- Introduction of a proxy purchasing offence to criminalise the supply of fireworks to people under the age of 18: The BFA agreed that some form of legislation to cover proxy transactions by an individual to another would clarify the situation, with the term 'supply' providing a catch all, where someone aged 18 or over gave fireworks to someone aged under 18.

9.4. The proposed changes may also impact on the professional firework display sector, however this is anticipated to be to a lesser extent than firework retailers. The increased measures on the general public purchasing and using fireworks may even see an increase in public organised displays and use of professional companies to organise these. A short questionnaire was circulated to the Society of Local Authority Lawyers

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<sup>11</sup> Including VAT on retail sales, import duty, licensing revenue, national insurance contributions.

and Administrators (SOLAR) Licensing Group<sup>12</sup> in February 2020: it highlighted 152 organised displays took place across Scotland over the Bonfire period with the majority (72) having 0-500 attendees. These took place across 17 local authorities. There were 48 displays with 501-2000 attendees in 15 local authorities. Only 19 displays highlighted as having 2001-5000 attendees and 13 displays with 5001 or more. Most local authorities indicated that they have between 1-5 large and small scale displays in their area, with much fewer having between 6-10 and only one indicating they have over 10 (small scale). The majority of those displays (113) were organised by a community group or organisation, with only 11 local authority organised displays happening across 7 local authorities.

## **10. Consumers**

10.1 It is recognised that the proposed changes will impact on consumers and their ability to purchase and use fireworks. The BFA estimate that approximately 258,000 consumer firework sales take place in Scotland each year. Introducing mandatory conditions at the point of sale can play an important role in promoting the safe and considerate use of fireworks, ensuring consumers are aware of and understand relevant safety requirements and measures. These conditions could include requirements such as the successful completion of a safety test, will also ensure that consumers have an understanding of basic safety principles when purchasing firework products. Proposed measures, such as no-firework areas and restrictions around the days the fireworks can be used, will impact how consumers can legally use fireworks and will need to be taken into consideration prior to fireworks being set off.

10.2 Those buying pyrotechnics for legitimate uses will continue to be able to do so. The proposed changes relating to pyrotechnics will therefore have no impact on this group.

## **11. Local Authorities**

11.1 The proposed measures to introduce no-firework areas is most likely to impact on local authorities. Depending on responses to the consultation in relation to the administration of the mandatory conditions at the point of sale this may also impact on local authorities. These proposals may therefore include an additional resource burden on local authorities. Local authorities were represented on the Fireworks Review Group through COSLA and the SOLAR (Scottish Local Authority Lawyers & Administrators) and formed part of the collective agreement on the need for fundamental change that the Fireworks Review Group recommended.

11.2 Police Scotland will be responsible for enforcing the proposed offence and carrying out the related stop and search power for pyrotechnics and therefore the proposed change will not impact on local authorities.

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<sup>12</sup> The survey sought to better understand how many firework displays take place in different local authority areas, what processes are in place locally around organising public fireworks displays, to gain an insight into what kind of guidance local authorities feel would be helpful. 22 local authorities responded.

## **12. Emergency Services**

12.1 In recent years, there has been a number of attacks on emergency services. Between 2013-14 and 2019-20, there has been a 12% increase in the number of assaults on police officers during the firework period. Additional resourcing of emergency services, local authorities and the NHS in preparing for and responding to the bonfire season is also required, as well as the Ambulance Service and NHS dealing with firework injuries to the public. Introducing these changes may lead to varying impacts on the emergency services in the short term. For example, restricting the days that fireworks can be used may lead to increased reports of use outwith permitted days, however the introduction of a no-firework area in a community that previously saw high instances of fireworks misuse and incidents requiring emergency service response is likely to have a positive effect. There will be a balance until the long term outcomes for the changes are achieved as they are embedded in practice and public behaviour develops to comply with the changes.

12.2 Police Scotland has been a key driver in requesting the proposed offence and related stop and search power for pyrotechnics and will be responsible for implementing it. However, this will simply extend existing powers and we believe there will be no additional resource required. However, the change could benefit them in other ways such as preventing crime and injury through the misuse of pyrotechnics and therefore not needing to respond to such incidents. This will also be true for ambulance and fire services.

## **13. Benefits and Costs**

### **13.1 Benefits**

- A significant package of legislative change is required to bring about a cultural shift in the relationship Scotland has with fireworks, supported by preventative activity such as education and awareness raising, improved outcomes for people in relation to noise and disturbance, anti-social behaviour, community safety and wellbeing and reducing firework related injuries.
- Positive action has been taken to address issues raised through the public consultation and opinion poll from 2019, working towards the cultural shift in the relationship that Scotland has with fireworks as recommended by the Fireworks Review Group.
- Improved community safety and wellbeing, particularly in areas that have experienced ongoing issues due to fireworks misuse and anti-social behaviour during traditional consumer firework selling periods, with the option to implement a no-firework area in places where there is significant disruption. These issues came out strongly in the public consultation
- Individuals and communities will be able to better plan and prepare for fireworks being used. This will particularly benefit those with noise sensitivity, such as people with autism or PTSD, as well as pets and livestock that are distressed by the noise created by fireworks.

- Improved outcomes for people living in areas of increased deprivation. Data on firework injuries in Scotland<sup>13</sup> makes a clear link between living in the lowest SIMD decile and being more likely to sustain an injury due to fireworks, with eight times as many patients attending hospital emergency departments from these areas than those living in the least deprived communities.
- There is an overall spike in patients requiring hospital treatment due to a firework injury over firework periods. Restricting the days and times that fireworks can be purchased will reduce the period where fireworks are used by the public.
- The throwing, casting or firing of fireworks in a public place has been the most common firework anti-social behaviour related charge in Scotland since 2002/03. The introduction of these measures will ensure that fireworks are purchased by responsible consumers in a pre-planned and well thought out manner, with an understanding of the safe and considerate use of fireworks.
- Possession of a firework by a person under the age of 18 years of age is one of the most common firework related charges in Scotland, however the actual number of people charged is relatively low. A proxy purchase offence will deter supply of fireworks to people aged under 18 and ensure clear legislation is in place to charge and prosecute on occasions where this occurs.
- Reduction in the number of firework related incidents and attacks on emergency service workers, with the proposed measures ensuring the safe and considerate use of fireworks through responsible and well-thought out purchasing of fireworks. This will impact positively on the costs associated with planning for and preparing for firework related incidents. In 2019 Police Scotland estimated costs covering 4 and 5 November of approximately £98,000. This benefit may be realised over a longer time period as consumer behaviour develops and the changes bed in.
- The international experience of countries that have introduced these measures, including a licensing system and reduced selling/use period of fireworks, has been positive and seen a reduction in injuries.
- Improved safety for individuals will be a key factor in relation to the proposed changes for pyrotechnics. This will extend to all of the places where pyrotechnics are currently set off illegally such as concert venues and sports grounds.

### 13.2 **Costs**

- Mandatory conditions at the point of sale: There will be financial and resource costs associated with developing, operating and managing the system. A cost analysis will be undertaken on the options included within the consultation in order to fully understand the costs associated with each option. However, it is anticipated that the fee charged to obtain a licence will make the ongoing system cost neutral.

<sup>13</sup> Evaluation of Firework Related Harm, 2020 . Report by Eleanor Robertson (NHS Scotland) on behalf of the Firework Review Group.

- Areas where it is not possible for the general public to set off fireworks: As part of the proposals set out in the consultation document, there will be an administration cost to local authorities. To appreciate the impact of this proposed measure, as part of the consultation process the Scottish Government will seek views and work with COSLA and local authorities to identify the financial and resource impact of this proposed measure.
- Restricting the days that fireworks can be sold to the general public and restricting the days fireworks can be set off by the general public: This measure could impact on retailers selling fireworks, particularly specialist firework retailers with a licence to sell fireworks to the general public throughout the year. This proposed measure applies only to the supply of fireworks to the general public in Scotland. Therefore retailers can continue to sell fireworks to professional display companies and firework operators in Scotland, as well as consumers outwith Scotland throughout the year. Views are being sought through the consultation on how this could impact businesses in Scotland.
- Introduction of proxy purchasing offence: There could be an additional financial and resource burden within the justice system associated with processing cases where people are charged with the proposed offences, including by police and the courts in Scotland. Whilst anecdotal evidence suggests that supply of fireworks to young people is an issue in certain areas, there is no evidence to suggest that this is a widespread problem and that creation of the offences will lead to a high influx of cases. The intention of this measure is to act as a deterrent to supply fireworks to people under the age of 18 whilst having an appropriate offence in place where this is still found to have happened. To understand the impact of this measure in practice and the number of convictions resulting from the offence, the Scottish Government will work with Police Scotland and the Crown Office Procurator Fiscal Service.
- There are no costs associated with the proposed changes in relation to pyrotechnics. To understand the impact of this measure in practice and the number of convictions resulting from the offence, the Scottish Government will work with Police Scotland and the Crown Office Procurator Fiscal Service.

#### **14. Scottish Firms Impact Test**

14.1 The two main groups who will be impacted by the proposed regulations are specialist retailers that have a license to sell fireworks all year round, and retailers that sell fireworks temporarily at certain times of the year. Professional firework/pyrotechnic display companies may be affected, but to a lesser extent where their core business is not the sale of category F2 and F3 fireworks. There are, however, some professional display companies that also sell fireworks as part of their business and would therefore likely be affected by any changes. However, it is anticipated that these changes may lead to an increase in organised displays which could impact these businesses positively.

14.2 The two main representative bodies for the firework industry in the UK, the British Fireworks Association and the British Pyrotechnists Association, have been engaged throughout this work with their views and concerns considered as the proposals have been developed.

14.3 It is estimated that there are under 10 firework specific retailers who are licensed all year round to sell fireworks in Scotland, with only one Scottish company involved in the importation of fireworks. The majority of retailers that sell fireworks at specific times of the year are licensed on a temporary basis by the relevant local authority. Trading Standards data indicated that, in 2019, 650 retailers were licensed to sell fireworks and the majority of these retailers were supermarkets or superstores (see section 11.1 for more detail on this data). However, the proposed regulations do not prohibit firework sales entirely and only narrow the window in which they can be sold to the general public. The local licensing processes in place across Scotland, administered by local authorities, which grant retailers permission to temporarily sell fireworks at certain times of the year will not be substantively altered or impacted by the proposed legislation.

14.4 Eight businesses responded to the 2019 public consultation. This included firework retailers, wider retailers and professional display companies, with most requesting that their name is not published with the response. The majority of businesses that responded to the consultation were not supportive of further controls being introduced on the sale or use of fireworks. The most common reasons for this were that existing legislation should be enforced and that increased controls would negatively impact safe and responsible firework users, rather than the minority who seek to cause harm or disruption. One business was supportive of increased controls however, and suggested measures such as conditions at the point of sale as a possible option for change.

14.5 To appreciate the impact that the proposed legislation may have on businesses operating in Scotland, as part of the consultation process the Scottish Government is seeking views from bodies representing firework retailers and importers.

14.6 The proposed offence of being in possession of a pyrotechnic in a public place without a reasonable excuse or lawful authority and the extension of police stop and search powers will have no impact on consumers seeking to buy pyrotechnics for legitimate uses.

## **15. Competition Assessment**

15.1 It is not considered that the proposed legislative changes will impact on competition in the fireworks market in Scotland. The proposed legislation will not make it more difficult for a new retailer to enter the firework sales market.

15.2 The temporary storage licenses required for non-specialist retailers to sell fireworks are administered and granted at a local level. As it is proposed that further restrictions are introduced on the days that fireworks



can be sold to the general public, this will change the days that temporary storage licences can be granted to retailers to sell fireworks on permitted days of the year. Licences for specialist fireworks retailers are also administered and granted locally. These businesses will be required to comply with restrictions and permitted days when fireworks can be sold to the general public. They will, however, continue to be able to sell fireworks throughout the year to professional display companies and firework operators, as well as community groups and organisations organising a public firework display.

15.3 It is considered that the proposed regulations will not impact on the competitiveness of Scottish based firms. The proposed regulations restricting the days fireworks can be sold will apply equally to retailers based in and outside of Scotland if any part of the supply – including the physical transfer of fireworks to consumers - takes place in Scotland. The proposed legislation will not limit the ability of retailers in Scotland to supply customers outside Scotland.

15.4 The proposed legislative changes in relation to pyrotechnic devices will not have an impact on competition in this market. The proposed legislation will not make it more difficult for a new retailer to enter the pyrotechnic sales market.

## **16. Consumer Assessment**

16.1 The impact the proposed regulations will have on consumers has been considered. The days that the general public can purchase and use consumer fireworks will be narrowed to specific periods of cultural significance, such as Bonfire Night and Diwali. This will encourage consumers to plan when they will be purchasing and using fireworks.

16.2 Introducing mandatory conditions at the point of sale will mean that consumers are required to successfully meet specific criteria in order to purchase fireworks. It is proposed that these focus on safety and encourage the considerate use of fireworks.

16.3 The introduction of no-firework area will impact consumers, as on some occasions, this will determine whether they can use fireworks in the location that they intended to. However, it is proposed that the process of implementing a no-firework area will be done at a local level and involved individuals and communities in that area. Therefore consumers will be aware of any restrictions around using fireworks in a particular area and the reasons for that, allowing them to adapt their plans accordingly.

16.4 The proposed introduction of an offence of being in possession of a pyrotechnic in a public place without a reasonable excuse or lawful authority and the extension of police stop and search powers for pyrotechnic devices will not have any impact on those seeking to purchase them for legitimate uses.

## **17. Test Run of Business Forms**

17.1 There are no new business forms proposed at this stage for either fireworks or pyrotechnics. This will continue to be considered as the measures being progressed are developed, particularly around the introduction of mandatory conditions at the point of sale for fireworks and development of the proposed licensing system.

## **18. Digital Impact Test**

18.1 It is not considered that these changes will have an impact on advances in technology. Fireworks can however be purchased online, which is a complicated landscape. There is a clear distinction between legitimate online sales, where the product meets UK product safety standards and the carrier carries out required age checks upon delivery, and unregulated online sales. Unregulated online sales includes imports from other countries where that product meets local safety standards but not those in the UK, as well as illegal fireworks which are completely unregulated. Some consumers may not be aware that they are purchasing products that do not meet required safety standards in the UK, whereas others may actively seek products (such as bangers) which are illegal in the UK.

18.2 The proposed stop and search power for pyrotechnic devices will not have an impact on advances in technology.

## **19. Legal Aid Impact Test**

19.1 At this stage, it is not anticipated that the proposed legislation will give rise to legal challenge, increased use of legal processes or impact the legal aid fund.

## **20. Enforcement, Sanctions and Monitoring**

20.1 There are existing and long established enforcement and monitoring processes in place, with appropriate sanctions issued where non-compliance is identified, due to existing firework legislation in Scotland.

20.2 COSLA, local authority licensing officials and Police Scotland have been engaged and represented on the Fireworks Review Group and fed into recommending the proposed changes. Engagement will continue and if the proposals become legislation, existing processes where appropriate will be adapted accordingly.

20.3 The potential introduction of a proxy purchasing offence criminalising the supply of fireworks to people under the age of 18 creates a new offence that will require to be enforced by Police Scotland. Similar offences already exist for the supply of alcohol or tobacco products to individuals under 18, and it is anticipated that this offence will be enforced and sanctioned in a similar way.

20.4 Other offences which will be created through the proposals include:

- An offence for a retailer to sell fireworks to a member of the public without a licence.

- An offence for a retailer to sell fireworks outwith the permitted dates.  
An offence for a member of the public to use fireworks outwith the permitted dates.
- An offence to set a firework off in a firework free area.

20.5 It is anticipated that these will be enforced and sanctioned in a similar way to current contraventions of firework prohibitions.

20.6 Police Scotland will be responsible for the enforcement of the proposed offence and carrying out the related stop and search power for pyrotechnics. They will also be responsible for recording data relating to the use of the provisions. A similar offence already exists for a person to have an offensive weapon with them in a public place without reasonable excuse or lawful authority, and it is anticipated that the proposed offence will be enforced and sanctioned in a similar manner.

## **21. Implementation and Delivery Plan**

21.1 Developing the proposed primary legislation has been informed by the recommendations of the Fireworks Review Group. The Fireworks Review Group came to the conclusion that a fundamental shift is required in how fireworks are used and accessed in Scotland.

21.2 It is proposed that implementation of changes introduced by the Bill are staggered over 2022 and 2023. This is to allow measures to be fully developed and considered prior to implementation and enforcement, which will involve Trading Standards officers, Police Scotland, local authorities and COSLA, as a representative body for local authorities. Existing processes will require to be adapted to take into account the changes the proposed legislation will bring, as well as consideration of new systems or processes that will be required to be developed to administer proposed measures within the Bill. The Scottish Government will continue to engage with stakeholder organisations and enforcement agencies as any changes introduced through the Bill are developed and implemented.

21.3 Police Scotland will implement the new offence for being in possession of a pyrotechnic in a public place without reasonable excuse or lawful authority and the stop and search power for pyrotechnics as soon as possible after the powers come into force.

## **22. Post-Implementation Review**

22.1 The Scottish Government will undertake a review of any proposed measures introduced through the Bill within 3-5 years of implementation to check that requirements are being met and that the legislation is working effectively.

22.2 Continued engagement with Police Scotland and other key stakeholders will allow us to monitor the impact of the new pyrotechnic powers and review these a year after implementation.

**23. Summary and Recommendation**

23.1 The Scottish Government are seeking views on the measures outlined in the 2021 consultation. This section will be completed in the final BRIA when we have considered the responses from this consultation.

**Declaration and Publication**

I have read the Business and Regulatory Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs I am satisfied that business impact has been assessed with the support of businesses in Scotland.

**Minister for Community Safety**

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**Date**

## ANNEX C Draft Equality Impact Assessment Record

<b>Title of policy/ practice/ strategy/ legislation etc.</b>	<b>Promoting the Safe and Considerate Use of Fireworks in Scotland – Primary Legislation</b>	
	<b>Tackling the Misuse of Pyrotechnics – Primary Legislation</b>	
<b>Minister</b>	<b>Minister for Community Safety</b>	
<b>Lead official</b>	<b>Eilidh Smith</b>	
<b>Officials involved in the EQIA</b>	<b>Name</b>	<b>Team</b>
	<b>Eilidh Smith Lorraine Gormley Elinor Findlay Nova Brown Dave Bell Natalie Stewart</b>	<b>Building Safer Communities  Community Safety Unit  SGLD</b>
<b>Directorate: Division: Team</b>	<b>Directorate for Safer Communities / Safer Communities Division / Building Safer Communities team</b>	
<b>Is this new policy or revision to an existing policy?</b>	<b>New Policy</b>	

### Screening

#### **Policy Aims**

#### Fireworks

Following high profile incidents during bonfire night in 2017, and again in 2018, the Scottish Government undertook work to look at the position of fireworks in Scotland. This included: a review of police and fire service activity linked to fireworks and bonfire night by Her Majesty's Inspectorate of Constabulary in Scotland and Her Majesty's Fire Service Inspectorate for Scotland; and a programme of public consultation, stakeholder engagement and evidence gathering on the sale and use of fireworks in Scotland to identify what action was required going forward.

A [‘consultation on fireworks in Scotland: Your experiences, your ideas, your views’](#) launched on Sunday 3 February 2019 for a period of 14 weeks to its close on Monday 13 May 2019 was designed to start a conversation with the people of Scotland on how fireworks are sold and used. The consultation was an important step in gathering valuable evidence on a range of opinions and perspectives and covered organised displays, private use by individuals, and inappropriate use.

Over the consultation period 29 engagement events were held – 24 open public events, and five events for specific population groups including young people. A total of 16,420 responses were received from members of the public and stakeholder organisations.

In October 2019 the Minister for Community Safety published the [Fireworks Action Plan](#) which sets out how the Scottish Government would address the concerns expressed through the national consultation. The Action Plan supports the Scottish Government National Outcome of *We live in communities that are inclusive, empowered, resilient and safe* and sets out a range of outcomes for fireworks to support this including:

- Organised displays provide the opportunity to bring communities together.
- Fireworks are used safely and handled with care.
- Fireworks do not cause harm, distress or serious injury.

The Action Plan sets out activities that have been taken forward immediately, as well as longer term actions that will collectively support a change in how fireworks are used in Scotland; and can be split into two parts: the Fireworks Review Group; and the non-legislative actions that sit alongside it.

The independent Fireworks Review Group was tasked with considering the options available to tighten legislation on fireworks in Scotland. The Group considered the evidence available and made a series of recommendations to Scottish Ministers in November 2020 (report available [online](#)) and reached a majority consensus that a fundamental shift is required in how fireworks are used and accessed in Scotland through the introduction of a comprehensive set of measures, including:

- The introduction of mandatory conditions before consumers are able to purchase fireworks.
- Restricting the times of day fireworks can be sold.
- Restricting the volume of fireworks that can be purchased.
- Restricting the days and times fireworks can be set off.
- A provision for no fireworks areas to be introduced where it is not possible for fireworks to be set off, with local communities having a key role in influencing this.
- The introduction of a proxy purchasing offence criminalising the supply of fireworks to people under the age of 18.

The recommendations require both secondary and primary legislation in order to be implemented. A number of these recommendations have been progressed through [The Fireworks \(Scotland\) Miscellaneous Amendments Regulations 2021](#), made by the Scottish Ministers in February 2021 and due to come into effect on 30 June 2021. These regulations amend the Fireworks (Scotland) Regulations 2004.

A Bill is now being considered to progress the remaining recommendations from the Group; and the proposed introduction of four measures which are the focus of this EQIA:

- 1. Requiring the general public and community groups to meet a number of mandatory conditions before they are able to purchase fireworks.**
- 2. Restricting the days fireworks can be set off by the general public and, in addition to the Firework Review Group's recommendations, we are also proposing to restrict the days fireworks can be sold to the general public in Scotland by retailers.**

**3. Introducing no fireworks areas where it is not possible for the general public to set fireworks off.**

**4. Introduction of a proxy purchasing offence to criminalise the supply of fireworks to people under the age of 18.**

Any references to fireworks in this EQIA are in relation to category F2 and F3 fireworks<sup>14</sup>. The Scottish Government is consulting on these proposed changes and the consultation responses will help to inform each measure. The purpose of the proposed measures is to change how fireworks are sold and used in Scotland with the aim of protecting public and community safety and wellbeing by ensuring fireworks do not cause harm, distress or injury. In particular, to:

- Reduce the volume of fireworks being set off, and their associated noise and disturbance.
- Reduce the volume of fireworks being set off outwith organised firework displays to reduce the burden on emergency services and firework related injury.
- Enable those negatively affected by fireworks to be aware of when fireworks will be set off and take preventative measures.

#### Tackling misuse of pyrotechnic devices

A new offence in relation to carrying a pyrotechnic device in a public place without reasonable excuse or lawful authority, and for police powers to be extended to allow a stop and search provision for anyone reasonably suspected of committing the offence is being proposed.

Reports of the misuse of pyrotechnics (flares and smoke bombs) at events in Scotland and in the community had become more widespread and there is evidence of them having been set off at large gatherings such as concerts, music festivals, football matches and in street celebrations. These devices pose a safety issue for the individuals setting them off as well as anyone who may come into contact with them including for example stewards, marshals, venue staff, spectators or audience members, passers-by and police who may need to intervene when pyrotechnics are being set off or while they are omitting dense smoke. There have been incidents where individuals, including children, have been injured by someone else activating a pyrotechnic, and individuals injuring themselves whilst activating a pyrotechnic.

The introduction of the proposed new offence and extension of the stop and search police powers will help to tackle the rising misuse of pyrotechnics and protect both individuals and communities from serious harm. The Scottish Government is therefore keen to obtain views through a public consultation on this issue.

This is a draft EQIA and will be updated taking into account comments received during the consultation exercise.

#### ***Who will it affect?***

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<sup>14</sup> Category F2 fireworks are fireworks which present a low hazard and low noise level and which are intended for outdoor use in confined areas. Category 3 fireworks are fireworks which present a medium hazard, which are intended for outdoor use in large open areas and whose noise level is not harmful to human health.

The Policy will affect:

**General Public:** this policy aims to reduce the negative impact that fireworks and pyrotechnics can have and promote their appropriate use; and has the potential to affect how the general public use and experience fireworks and pyrotechnics. It proposes to change the way the general public use and buy fireworks by amending when they can be supplied, the need to comply with mandatory conditions before purchase, and their use by restricting the days the general public can set them off and locations they can be used. In relation to pyrotechnics it proposes to create a new offence for a person to carry a pyrotechnic device in a public place without reasonable excuse or lawful authority, and for police powers to be extended to allow a stop and search provision for anyone reasonably suspected of committing the offence.

**Communities:** for some communities fireworks are associated with celebration and important events that can bring friends, families and communities together. However, through the 2019 public consultation<sup>15</sup>, we also heard distressing accounts from some communities of the impact fireworks can have. This policy aims to contribute towards reducing the negative impact fireworks can have on communities by reducing the volume of ad hoc private displays. In addition, fireworks misuse is more prominent in deprived communities and urban areas and this policy will help reduce the opportunity for fireworks to be purchased when firework related incidents are at their highest. The introduction of no-fireworks areas where it is not possible for fireworks to be set off by the general public will ensure local communities have a key role in influencing the private use of fireworks in their area, offering the potential for targeted localised approaches based on the specific circumstances within different areas. This includes in response to anti-social behaviour and the misuse of fireworks; as well as the use of fireworks within set distances of specific locations such as animal shelters, livestock or hospitals to protect those who may be adversely impacted by the noise and disturbance of fireworks.

The proposed policy will affect the ability of community groups to put on local displays where professional firework organisers or operators are not involved in the organisation and running of the display as they will now have to comply with mandatory conditions before purchasing fireworks, along with the general public. This is to ensure that the safe and appropriate use of fireworks is carefully considered when holding a fireworks display without the presence of a professional. The policy will not affect the purchasing of pyrotechnic devices which are used by professionals at operated pyrotechnic displays which observe safety regulations such as music concerts and theatre shows.

**Fireworks Retailers:** the proposed policy will directly affect fireworks retailers who will need to implement the new measures relating to the days fireworks can be sold to the general public in Scotland along with ensuring the general public and community groups adhere to mandatory conditions before purchasing fireworks.

**Local Authorities:** the proposed policy will affect Local Authority Trading Standards who have responsibility for ensuring retailers adhere to legislation on storage and sale of fireworks and will therefore need to update and amend existing processes. Local Authorities may also

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<sup>15</sup> [A consultation on fireworks in Scotland: Your experiences, your ideas, your views - Scottish Government - Citizen Space](#)



be required to operate a firework licensing system that is being considered as part of the consultation, which would require the general public to obtain a fireworks license to purchase and use fireworks at permitted times of the year. The proposed policy will also give Local Authorities the power to introduce localities within their local authority area where it is not possible for the general public to set off fireworks, which will require a clear and robust process for implementation.

**Police Scotland:** The proposed policy will affect Police Scotland who have responsibility for enforcement where an offence may have been committed, including when fireworks are used out with permitted dates. Police Scotland will have responsibility to enforce the days fireworks can be set off and where they are set off along with the new proxy purchasing offence which will criminalise the supply of fireworks to people under the age of 18. Additionally, the stop and search power for pyrotechnics is specifically to empower police to be able to intervene when someone is carrying such a device without a legitimate reason.

### ***What might prevent the desired outcomes being achieved?***

- Introducing a robust licencing system would require financial and resource costs associated with developing, operating, managing and maintaining the system. Consideration is being given to how the proposed system could be run and administered and a cost analysis will be undertaken on the options included within the consultation. However, it is anticipated that the fee charged to obtain a licence will make the ongoing system cost neutral.
- Non-compliance or lack of understanding of new legislation by retailers will be addressed by enforcing bodies for the legislation, including Local Authority Trading Standards and Police Scotland. The Scottish Government would communicate any changes through engagement with stakeholders, including retailers and relevant Scottish Government Policy contacts. This could also be addressed through a communications campaign with retailers building on awareness raising campaigns from previous years.
- Non-compliance or lack of understanding of new legislation by the public could be addressed by enforcing bodies for the legislation, including Local Authority Trading Standards and Police Scotland. The Scottish Government could utilise existing annual fireworks awareness raising and communication campaigns that take place ahead of Bonfire night to communicate any changes, as well as engaging with partners and communities that use fireworks to celebrate other dates and events of cultural significance, such as New Year, Chinese New Year and Diwali.
- Despite the high level of danger involved in using a pyrotechnic device, there are still people who believe that setting off such devices at music and sporting events is acceptable. Non-compliance would be persons carrying a pyrotechnic device in a public place without reasonable excuse or lawful authority or by individuals refusing to submit to a stop and search by a police officer when the police have reasonable suspicion that an offence is being committed.
- Non-compliance or lack of understanding of the new offence could be addressed by the Scottish Government working with Police Scotland and other stakeholders, possibly through media messaging. Refusal to be searched would be dealt with in the same way as any other refusal to comply with such a request from the police.

## Stage 1: Framing

### *Results of framing exercise*

The proposed measures included in the 2021 consultation have been informed by a programme of consultation and engagement which has included:

- An Internal Reference Group on fireworks with key Scottish Government policy areas including Consumer Protection, Animal Welfare, Antisocial Behaviour, Environmental Quality, Police Communications, Fire Unit, Emergency Workers, Public Events Licencing, Veterans, Older People and Autism, to coincide with the 2019 national 'consultation on fireworks in Scotland: Your experiences, your ideas, your views' which met five times throughout 2019.
- An External Review Group on fireworks with key stakeholders including Police Scotland, Scottish Fire and Rescue Service, Scottish Ambulance Service, Edinburgh City Council, Scottish Community Safety Network, CoSLA, Trading Standards, and the Scottish SPCA, to coincide with the 2019 consultation which met five times throughout 2019.
- A range of meetings with policy leads including on Veterans, Autism and Older People to discuss the 2019 consultation and specific groups likely to be impacted.
- A Ministerial Roundtable on 7 November 2019 with stakeholders including Local Authorities, Police Scotland, Scottish SPCA, Fireworks industry, NHS and SFRS to discuss the results of the 2019 consultation and next steps.
- Two focus groups with young people to hear their views in March 2019.
- Regular meetings with Justice Analytical Services to discuss the impact of fireworks, including collecting relevant data throughout the 2019 consultation, implementing the Action Plan and providing evidence to the Fireworks Review Group.
- Regular meetings with Justice Analytical Services to discuss implementing and monitoring the effectiveness of the Fireworks Action Plan, and to understand and track the impact of the amendments to the Fireworks (Scotland) Regulations 2004 through the Fireworks (Scotland) Miscellaneous Amendments Regulations 2021.
- The Fireworks Review Group - an independent Review Group of key stakeholders<sup>16</sup> - met eight times between November 2019 and October 2020 to consider the legislative and regulatory options for change that emerged from 2019 consultation, scrutinise the evidence available and, alongside their professional judgement and expertise, set out clear recommendations on the changes required to current legislation and regulations.
- Stakeholder engagement to inform this consultation, including external stakeholders: Police Scotland; Scottish Community Safety Network; Trading Standards; CoSLA; Society of Local Authority Lawyers and Administrators in Scotland; and the Scottish Fire and Rescue Service. Engagement with internal policy leads also took place including: Veterans; Autism; Consumer Protection; Ambulance/Emergency Services; Animal Welfare; Community Safety; and Community empowerment/Local Government.

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<sup>16</sup> Membership included: Police Scotland, SFRS, Scottish Ambulance Service, Local Authority Licensing, Trading Standards, Scottish Community Safety Network, British Pyrotechnics Association, British Fireworks Association, NHS Greater Glasgow and Clyde / Care of Burns in Scotland, Veterans Scotland and Community Representatives.

In developing the pyrotechnics policy, officials had discussions with stakeholders to identify possible actions that could be taken to tackle the issue of increased pyrotechnic misuse and gather evidence to determine where there are gaps in the current legislation. These discussions, which were hosted by the Scottish Government included representatives from Police Scotland, Scottish Police Federation, British Transport Police, Crown Office Procurator Fiscal Service and Scottish Government.

From these discussions and engagement on fireworks and pyrotechnics, it was concluded that individuals with the following protected characteristics could be affected by the new measures and therefore should be included within the EQIA:

- Disability
- Age
- Pregnancy and maternity
- Sex
- Religion or Belief.

## CONCLUSIONS

Considering the needs of people with protected characteristics, for the fireworks proposals we looked at the evidence gathered from: the framing exercise, analysis of the consultation, public meetings, a nationally representative opinion poll<sup>17</sup> and the review of existing evidence<sup>18</sup>. On the basis of the evidence available that there does not appear to be an impact on protected characteristics including gender reassignment, race, and sexual orientation.

For other protected characteristics, we consider that for:

**Disability:** There are potential benefits for people who have mental health conditions which make them more sensitive to loud noises and sudden flashes. This includes, for example, people on the autistic spectrum or people suffering from post-traumatic stress disorder (PTSD).

**Age:** There are potential benefits for improved fireworks restrictions and safety relevant to young people who are more likely to be harmed and/or cause harm through fireworks misuse. This is specifically prevalent in the introduction of a proxy purchasing offence which will criminalise the supply of fireworks to people under the age of 18. Improved restrictions could also benefit older people, who may be negatively impacted by noise disturbance due to fireworks. However, if the introduction of an online test is included as part of the mandatory conditions before purchase this could negatively impact older people who may not have internet access. However, local libraries offer internet access to all members of the community and like many services that are now digital, support can be provided to facilitate those who cannot access a digital service. Reducing the misuse of pyrotechnics in public spaces will have a particular benefit on older people who may find it difficult to quickly move away from the dangerous fumes caused by these devices.

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<sup>17</sup> A [nationally representative opinion poll](#) of people's views on increasing control over the sale and use of fireworks was carried out in 2019, providing findings that are representative of adults across Scotland

<sup>18</sup> A [rapid review of the existing evidence](#) that considers the impact of fireworks in the context of international legislation and regulations, including evidence relating to injury, pollution, noise and animal welfare was undertaken

Similarly there is potential for greater control over the misuse of pyrotechnics to have a positive impact on both young people, who may be more likely to be harmed when these devices are set off within the audiences at concerts and festivals, and older people, who may be negatively impacted by noise disturbance and smoke emissions from the misuse of pyrotechnics. A stop and search power will assist the police in ensuring that these devices can be taken off anyone who does not have good cause for having such a device on their person.

**Pregnancy and maternity:** There are potential benefits to pregnant women who may be more sensitive to loud bangs during their pregnancy.

**Sex:** There are potential benefits for improved firework restrictions and safety for young men, who are more likely to be harmed and/or to cause harm through firework misuse. Similarly, it is believed that most pyrotechnic misuse is caused by young men who put themselves in danger when using these devices.

**Race and Religion or Belief:** The consultation document highlighted celebrations and festivals which may be associated with firework use, including Diwali and Chinese New Year. Neither the 2019 consultation, omnibus survey or the accompanying evidence review identified any potential impacts with regards to religious belief characteristics. The Scottish Government will engage with communities and organisations that use fireworks to celebrate events of cultural and religious significance to understand the impact new measures have on these events.

### **Extent/Level of EQIA required**

Evidence on the impact of the new measures on the protected characteristics was gathered and considered from: the framing exercise, analysis of the 2019 consultation, public meetings, the nationally representative opinion poll and the review of existing evidence. Consideration was also given to the findings from the [Stop and Search code of practice: twelve month review by independent advisory group](#) which covered concerns about the use of police stop and search with regards to individuals with protected characteristics.

On that basis we do not believe that there is sufficient evidence or requirement for an in depth EQIA as the impact on protected groups will be equal and/or positive.

## **Stage 2: Data and evidence gathering, involvement and consultation**

- The public consultation held in 2019 was a key step in gathering evidence on a range of opinions and perspectives on the use of fireworks and covered organised displays, individual private use and inappropriate use. A [full analysis of responses to the consultation](#) was published in 2019; and the consultation was supported by a programme of analytical work to enable the outcomes of the consultation to be considered alongside other forms of evidence (listed below).
- A summary report of the key messages from the 24 public consultation events held across Scotland in: Aberdeen, Ayr, Dumfries and Galloway, Dundee, Edinburgh, Elgin, Inverness, Glasgow, Paisley, Perth, Stirling and Stornoway; along with an additional five events for specific population groups.

- A [nationally representative opinion poll](#) of people's views on increasing control over the sale and use of fireworks was carried out in 2019, providing findings that are representative of adults across Scotland.
- A [rapid review of the existing evidence](#) that considers the impact of fireworks in the context of international legislation and regulations, including evidence relating to injury, pollution, noise and animal welfare was undertaken.
- An analytical report on [Fireworks Regulations – Impact: Case Studies](#) looking at the evidence available internationally on the effectiveness – or otherwise - of tighter measures in place in other countries.
- The [Fireworks Review Group Final Report](#) setting out recommendations to Scottish Ministers on tightening legislation on fireworks in Scotland.
- An [Evaluation of Firework-related harm in Scotland](#), published in October 2020, which includes an evaluation of data relating to firework injuries in the Greater Glasgow and Clyde (GGC) NHS Health Board area covering 2008-2019.

## **Fireworks Consultation – Engagement with Equality Groups**

The 2019 'consultation on fireworks in Scotland: Your experiences, your ideas, your views' ran for a period of 14 weeks, from 3 February closing on 13 May 2019. Over the consultation period, 29 engagements were held with a total of 258 people attending.

Twenty four of these were open public events and five events for specific population groups, including one for the South Asian community in Pollokshields and four for young people, one each through: Young Scot; SFRS Youth Fireskills Programme; Citadel Youth Centre; and 6UT Youth Centre.

### **RACE AND RELIGION OR BELIEF**

The engagement event with the South Asian community in Pollokshields was attended by 13 women. For a number of women English was not their first language and two of the women who attended provided translation. This discussion led to a request for a copy of the fireworks consultation document in Urdu, which was provided to enable engagement through local Mosques.

Additionally, officials contacted Cemvo Scotland and Bemis to discuss sharing the consultation and events information with their networks. Contacts in Cemvo spoke with officials and detailed that the Sikh community may want to engage with the consultation due to celebratory events involving fireworks. We contacted members of the Glasgow Gurdwara who shared information regarding the consultation and events in Glasgow. Cemvo also circulated information on the consultation through their networks.

### **AGE**

As part of the 2019 consultation process, we focused on youth engagement and engaged with the following stakeholders:

- YoungScot
- Scottish Youth Parliament
- Scottish Children's Parliament
- Education Scotland

- SFRS
- Law Society

YoungScot and MSYP representatives promoted the fireworks consultation on their website and social media platforms.

#### Focus Groups

Two focus groups were held to specifically engage with young people in May 2019. These events provided the opportunity for young people to explore and discuss the use and impact – both positive and negative – of fireworks use in Scotland:

- YoungScot facilitated a focus group with 9 young people aged between 17 and 24 years to discuss the consultation and gain their views on fireworks.
- SFRS Fireskills programmes focus group discussing the Fireworks consultation. The group was made up of 7 young people aged between 14 and 15 years.

Officials engaged with the Careers and Outreach Coordinator at the Law Society of Scotland, as part of their remit to coordinate outreach programmes, who circulated the 2019 consultation nationwide with schools. This also included those attending Street Law Debating and careers events. The consultation details were also sent to contacts at Developing the Young Workforce and also the law student Street Law trainers who attend a number of different universities throughout Scotland.

## Stage 2: Data and evidence gathering, involvement and consultation

Include here the results of your evidence gathering (including framing exercise), including qualitative and quantitative data and the source of that information, whether national statistics, surveys or consultations with relevant equality groups.

Characteristic <sup>19</sup>	Evidence gathered and Strength/quality of evidence	Source	Data gaps identified and action taken
AGE	<ul style="list-style-type: none"> <li>Data relating to firework injuries in the Greater Glasgow and Clyde (GGC) NHS Health Board area covering 2008-2019 shows that young people (aged 0-17 years) were disproportionately affected by injuries, with this age group experiencing 51% of injuries while only accounting for 19% of the population.</li> <li>Studies also find that young people, often defined as those under 18 or aged 5-20 years, sustain most fireworks related injuries.</li> <li>Both bystanders and operators are at risk of injury, with young people and males consistently found to be most at risk.</li> </ul>	<ul style="list-style-type: none"> <li><a href="#">Fireworks legislation and impacts: international evidence review.</a></li> <li><a href="#">Evaluation of Firework-Related Harm in Scotland</a></li> </ul>	<ul style="list-style-type: none"> <li>A gap in key data has been identified regarding accurate NHS data on attendance at A&amp;E and Minor Injury Units in relation to firework related injuries. Work is ongoing with NHS and Public Health Scotland to address this and adequately monitor and track injury levels on a regular basis.</li> </ul>
	<ul style="list-style-type: none"> <li>Exposure to loud, impulsive noise poses a greater risk to human health than exposure to loud, continuous noise. Young people, under 18 years, may be particularly at risk, as the maximum peak sound level limit is set 5 dB lower for this group.</li> </ul>	<ul style="list-style-type: none"> <li><a href="#">Fireworks legislation and impacts: international evidence review.</a></li> </ul>	
	<ul style="list-style-type: none"> <li>A little under half (45%) of young people (18-24 year olds) indicated they are in favour of more controls being introduced in relation to the sale of fireworks.</li> <li>Younger respondents (18-24 year olds) are more likely than all other age groups to say they would not welcome greater controls over the sale of fireworks (40% vs 14-21% for other age groups).</li> <li>Younger respondents are also most likely to say that there shouldn't be greater controls over the use of fireworks: 38% vs. 22%-25% for other age groups.</li> </ul>	<ul style="list-style-type: none"> <li><a href="#">Nationally representative opinion poll</a></li> </ul>	

<sup>19</sup> Refer to Definitions of Protected Characteristics document for information on the characteristics

	<ul style="list-style-type: none"> <li>The nationally representative opinion poll identified that older people are more likely to welcome further restrictions on the use and sale of fireworks in Scotland, compared to younger people.</li> </ul>	<ul style="list-style-type: none"> <li><a href="#">Nationally representative opinion poll</a></li> </ul>	
<b>DISABILITY</b>	<ul style="list-style-type: none"> <li>The consultation highlighted the impact that hearing fireworks, particularly when unexpected, can have on people, particularly more vulnerable members of society, including: people suffering from PTSD, with frequent reference to those who have served in the armed forces; refugees and asylum seekers, and especially those who have lived in war zones; older people; people with dementia; people with mental health problems and suffering from anxiety; people with sensory issues; autistic people especially autistic children.</li> </ul>	<ul style="list-style-type: none"> <li><a href="#">Consultation analysis Report</a></li> <li>A child with autism attended one of the 2019 consultation events to provide their views.</li> </ul>	
	<ul style="list-style-type: none"> <li>The empirical evidence demonstrates that the noise from fireworks causes upset to those with life-long hypersensitivity conditions such as autism, or acquired such as PTSD</li> <li>According to NHS Information Centre (2012), more than 1 in 100,000 people in the UK are Autistic. A common symptom of Autism is extreme noise sensitivity, which can lead children to develop avoidance reactions, such as leaving noisy places to find quieter ones. This may lead them to miss out on social opportunities at festivals that involve loud fireworks. Additionally, the noise from fireworks may induce panic in Autistic children, leading them to leave their home, get lost, or even suffer a serious accident<sup>20</sup>.</li> </ul>	<ul style="list-style-type: none"> <li><a href="#">Evaluation of Firework-Related Harm in Scotland</a></li> <li><a href="#">Fireworks legislation and impacts: international evidence review</a></li> </ul>	
<b>SEX</b>	<ul style="list-style-type: none"> <li>Data relating to firework injuries in the Greater Glasgow and Clyde (GGC) NHS Health Board area covering 2008-2019 shows that males were disproportionately affected by injuries in comparison to females, with 200 of the 251 injuries (80%) being sustained by males.</li> </ul>	<ul style="list-style-type: none"> <li><a href="#">Fireworks legislation and impacts: international evidence review</a></li> </ul>	<ul style="list-style-type: none"> <li>A gap in key data has been identified regarding accurate NHS data on attendance at A&amp;E and Minor Injury Units in relation to firework related injuries, including disaggregation by sex. Work</li> </ul>
	<ul style="list-style-type: none"> <li>Studies from America, Australia and international reviews find that males are most likely to suffer fireworks related</li> </ul>	<ul style="list-style-type: none"> <li><a href="#">Fireworks legislation and impacts:</a></li> </ul>	

<sup>20</sup> Valentinuzzi, M. E. (2018). Fireworks, Autism, and Animals What "fun" noises do to sensitive humans and our beloved pets. IEEE Pulse, 9(5), 37-39. DOI: 10.1109/MPUL.2018.2856961



	<p>injuries with the largest difference between genders amongst young people.</p> <ul style="list-style-type: none"> <li>Some sub-groups in the population are more likely than others to welcome an increase in control over the sale of fireworks. This includes: women compared with men (79% vs. 63%)</li> <li>Women are also more likely than men to say that there should be more control on how fireworks can be used (75% vs. 59%).</li> </ul>	<ul style="list-style-type: none"> <li><a href="#">international evidence review</a></li> <li><a href="#">Nationally representative opinion poll</a></li> </ul>	<p>is ongoing with NHS and Public Health Scotland to address this and adequately monitor and track injury levels on a regular basis.</p>
<b>PREGNANCY AND MATERNITY</b>	<ul style="list-style-type: none"> <li>Exposure to loud, impulsive noise poses a greater risk to human health than exposure to loud, continuous noise. Pregnant women may be particularly at risk, as the maximum peak sound level limit is set 5 dB lower for this groups.</li> </ul>	<ul style="list-style-type: none"> <li><a href="#">Fireworks legislation and impacts: international evidence review</a></li> </ul>	
<b>GENDER REASSIGNMENT</b>	<ul style="list-style-type: none"> <li>No information is available on the gender reassignment status of people likely to be affected by fireworks policy.</li> </ul>		
<b>SEXUAL ORIENTATION</b>	<ul style="list-style-type: none"> <li>No information is available on the sexual orientation status of people likely to be affected by fireworks policy.</li> </ul>		
<b>RACE</b>	<ul style="list-style-type: none"> <li>No information is available on the race of people likely to be affected by fireworks policy</li> </ul>		
<b>RELIGION OR BELIEF</b>	<ul style="list-style-type: none"> <li>The consultation highlighted that, as well as Bonfire Night, fireworks can play an important part of cultural celebrations including Diwali, Chinese New year and Hogmanay.</li> </ul>	<ul style="list-style-type: none"> <li><a href="#">Consultation analysis report</a></li> </ul>	
<b>MARRIAGE AND CIVIL PARTNERSHIP</b> (the Scottish Government does not require assessment against this protected characteristic unless the policy or practice relates to work, for example HR policies and practices - refer to Definitions of Protected Characteristics document for details)	N/A		

**Stage 3: Assessing the impacts and identifying opportunities to promote equality**

**Do you think that the policy impacts on people because of their age?**

<b>Age</b>	<b>Positive</b>	<b>Negative</b>	<b>None</b>	<b>Reasons for your decision</b>
Eliminating unlawful discrimination, harassment and victimisation	X			The introduction of the proposed measures is likely to have a positive impact on young people, particularly young men, who are more likely to be harmed through the inappropriate use of fireworks and pyrotechnics. The introduction of a new offence for being in possession of a pyrotechnic without reasonable excuse or lawful authority and a police stop and search power is likely to have a positive impact on people of any age who are equally as likely to be harmed through the misuse of pyrotechnic devices either by themselves or others.
Advancing equality of opportunity			X	The proposed measures are not expected to impact on this characteristic.
Promoting good relations among and between different age groups			X	The proposed measures are not expected to impact on this characteristic.

**Do you think that the policy impacts disabled people?**

<b>Disability</b>	<b>Positive</b>	<b>Negative</b>	<b>None</b>	<b>Reasons for your decision</b>
Eliminating unlawful discrimination, harassment and victimisation	X			The introduction of the proposed measures is likely to have a positive impact on those whose health and development means that they are more sensitive to loud bangs and flashes. This includes autistic people or people suffering from PTSD as there should be a reduction in the use of fireworks, including the misuse of fireworks and pyrotechnics and therefore a reduction in the noise associated with fireworks and pyrotechnics.
Advancing equality of opportunity			X	The proposed measures are not expected to impact on this characteristic.

Promoting good relations among and between disabled and non-disabled people			X	The proposed measures are not expected to impact on this characteristic.
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**Do you think that the policy impacts on men and women in different ways?**

<b>Sex</b>	<b>Positive</b>	<b>Negative</b>	<b>None</b>	<b>Reasons for your decision</b>
Eliminating unlawful discrimination	X			The introductions of the proposed measures is likely to have a positive impact on men, who are more likely to be harmed through the inappropriate use of fireworks as a result of improved fireworks regulations. The introduction of a new offence for being in possession of a pyrotechnic without reasonable excuse or lawful authority and a police stop and search power is likely to have a positive impact on both men and women who are equally as likely to be harmed through the misuse of pyrotechnics either by themselves or others.
Advancing equality of opportunity			X	The proposed measures are not expected to impact on this characteristic.
Promoting good relations between men and women			X	The proposed measures are not expected to impact on this characteristic.

**Do you think that the policy impacts on women because of pregnancy and maternity?**

<b>Pregnancy and Maternity</b>	<b>Positive</b>	<b>Negative</b>	<b>None</b>	<b>Reasons for your decision</b>
Eliminating unlawful discrimination	X			The introductions of the proposed measures is likely to have a positive impact and benefit to pregnant women as they may be more sensitive to loud bangs, flashes, as there should be a reduction in the use of fireworks, including the misuse of

				fireworks and pyrotechnics and therefore a reduction in the noise associated with fireworks and pyrotechnics.
Advancing equality of opportunity			X	The proposed measures are not expected to impact on this characteristic.
Promoting good relations			X	The proposed measures are not expected to impact on this characteristic.

**Do you think your policy impacts on transsexual people?**

<b>Gender reassignment</b>	<b>Positive</b>	<b>Negative</b>	<b>None</b>	<b>Reasons for your decision</b>
Eliminating unlawful discrimination			X	The proposed measures are not expected to impact on this characteristic.
Advancing equality of opportunity			X	The proposed measures are not expected to impact on this characteristic.
Promoting good relations			X	The proposed measures are not expected to impact on this characteristic..

**Do you think that the policy impacts on people because of their sexual orientation?**

<b>Sexual orientation</b>	<b>Positive</b>	<b>Negative</b>	<b>None</b>	<b>Reasons for your decision</b>
Eliminating unlawful discrimination			X	The proposed measures are not expected to impact on this characteristic.
Advancing equality of opportunity			X	The proposed measures are not expected to impact on this characteristic.
Promoting good relations			X	The proposed measures are not expected to impact on this characteristic.

**Do you think the policy impacts on people on the grounds of their race?**

<b>Race</b>	<b>Positive</b>	<b>Negative</b>	<b>None</b>	<b>Reasons for your decision</b>
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Eliminating unlawful discrimination			X	The proposed measures are not expected to impact on this characteristic.
Advancing equality of opportunity			X	The proposed measures are not expected to impact on this characteristic.
Promoting good race relations			X	The proposed measures are not expected to impact on this characteristic.

**Do you think the policy impacts on people because of their religion or belief?**

<b>Religion or belief</b>	<b>Positive</b>	<b>Negative</b>	<b>None</b>	<b>Reasons for your decision</b>
Eliminating unlawful discrimination			X	The proposed measures are expected to have a neutral impact on this characteristic. It is recognised that fireworks are used in a variety of cultural celebrations, however the proposed measures will not disproportionately impact on the use of fireworks at those celebrations.
Advancing equality of opportunity			X	The proposed measures are not expected to impact on this characteristic.
Promoting good relations			X	The proposed measures are not expected to impact on this characteristic.

**Do you think the policy impacts on people because of their marriage or civil partnership?**

<b>Marriage and Civil Partnership<sup>21</sup></b>	<b>Positive</b>	<b>Negative</b>	<b>None</b>	<b>Reasons for your decision</b>
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<sup>21</sup> In respect of this protected characteristic, a body subject to the Public Sector Equality Duty (which includes Scottish Government) only needs to comply with the first need of the duty (to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010) and only in relation to work. This is because the parts of the Act covering services and public functions, premises, education etc. do not apply to that protected characteristic. Equality impact assessment within the Scottish Government does not require assessment against the protected characteristic of Marriage and Civil Partnership unless the policy or practice relates to work, for example HR policies and practices.

Eliminating unlawful discrimination			X	The proposed measures are not expected to impact on this characteristic.
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## Stage 4: Decision making and monitoring

### ***Identifying and establishing any required mitigating action***

If, following the impact analysis, you think you have identified any unlawful discrimination – direct or indirect - you must consider and set out what action will be undertaken to mitigate the negative impact. You will need to consult your legal team in SGLD at this point if you have not already done so.

Have positive or negative impacts been identified for any of the equality groups?	Yes. Positive impacts have been identified for age, disability, pregnancy and maternity and sex characteristics.
Is the policy directly or indirectly discriminatory under the Equality Act 2010 <sup>22</sup> ?	No
If the policy is indirectly discriminatory, how is it justified under the relevant legislation?	No
If not justified, what mitigating action will be undertaken?	No

### ***Describing how Equality Impact analysis has shaped the policy making process***

The EQIA process has helped to strengthen our commitment to reduce the negative impact of firework use and to ensure that fireworks are used safely and appropriately. We focused on evidence and analysis from the consultation and related analytical work which found that groups most likely to be positively affected from safer use of fireworks include:

- Autistic people and people suffering from PTSD who are more sensitive to loud bangs and flashes
- Pregnant women who are more sensitive to loud bangs during their pregnancy.
- Young people who are more likely to be harmed, or to cause harm by fireworks.
- Men who are more likely to be harmed, or to cause harm by fireworks.

The final EQIA will be published alongside any legislation that is introduced into the Scottish Parliament in relation to the policy proposals described above.

### ***Monitoring and Review***

This is a draft EQIA and will be updated taking into account comments received during the consultation exercise.

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<sup>22</sup> See EQIA – Setting the Scene for further information on the legislation.



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