

BVA Scottish Branch response to the Scottish Parliament Criminal Justice Committee call for evidence on the Fireworks and Pyrotechnic Articles (Scotland) Bill

Introduction

1. BVA is the national representative body for the veterinary profession in the United Kingdom and has over 19,000 members. Our primary aim is to represent, support and champion the interests of the veterinary profession in this country, and we therefore take a keen interest in all issues affecting the profession, including animal health and welfare, public health, regulatory issues and employment matters.
2. BVA's Scottish Branch brings together representatives of the BVA's territorial and specialist divisions, government, academic institutions and research organisations in Scotland. The Branch advises BVA on the consensus view of Scottish members on Scottish and United Kingdom issues.

Overall views

3. We warmly welcome Scottish Government's plans to restrict the sale and use of certain types of fireworks and pyrotechnic articles in Scotland, as set out in the Bill. We consider that current controls on the use, sale and purchase of fireworks, as well as controls to mitigate noise levels, do not go far enough to adequately safeguard the health and welfare of animals in the UK. We are calling for:
 - Tighter restrictions on the private use, sale and purchase of fireworks (including restricting the use and sale of fireworks around agreed traditional dates);
 - Licensing of all public displays and organised events;
 - A reduction in the noise limit of fireworks for public use in order to adequately safeguard animal health and welfare. We would support setting the maximum noise levels of fireworks intended for public use and sale to 97 dBAI at 15 meters, in line with the RSPCA's recommendation¹. Without noise reduction, even with the introduction of other measures such as limiting days and periods of sale, there will likely continue to be a negative impact on animal welfare.
 - Clear labelling of fireworks at point of sale to indicate their noise level to the consumer eg. 'low noise firework' or 'loud firework – risk to animal welfare'; and
 - Opportunities to work collaboratively with the relevant authorities and government departments to raise awareness of the potential negative animal health and welfare impacts of firework displays, both in terms of increasing public and event organiser awareness and helping pet owners and animal keepers prepare their animals to prevent or manage distress during firework displays.

¹ The below extract taken from the RSPCA report *Keep the Noise Down: Loud fireworks frighten animals* (2005) sets out the rationale for reducing the maximum permitted noise of fireworks intended for public sale to the 97-decibel limit:

Most animals, especially pets, are used to and can tolerate common household noises. 97 decibels corresponds to the maximum measured household noise level.

The 97 decibels limit will mean that many existing fireworks, including most candles, rockets and fountains, will still be on sale.

Setting the limit at 97decibels will encourage manufacturers to design and produce quieter fireworks.

It is important to note that the proposed noise limit of 97decibels is not based on research regarding the animals' behaviour to maximum noise levels – the RSPCA will never subject animals to noise level tests.

Types of fireworks covered by licensing system

4. We understand that the Bill proposes to establish a new licensing system for members of the public who wish to buy and use CAT F2 and CAT F3 fireworks in Scotland. This would require members of the public to undertake an online training course and pay between £30 and £50 for a licence, before they could buy or use CAT F2 and CAT F3 fireworks.
5. We strongly support the introduction of a fireworks licensing system for the sale and purchase of fireworks in Scotland. Buyer and end-users should be educated to ensure the safe and appropriate use of fireworks and to mitigate the potential negative impacts of fireworks on animal health and welfare. Licensing should apply to all adults over the age of 18, including members of community organisations and groups organising a public display, and should cover purchase, possession, and use of fireworks.
6. To complement the proposed licensing system the maximum permitted noise levels of fireworks that individuals are able to purchase for private use should be restricted. At present, the 120 decibels noise limit on Category F1, F2, and F3 fireworks set out in legislation is specified to align with the human pain threshold for audible sound. This does not pay sufficient regard for the impact of noise level and frequency of fireworks on animals. In the absence of accurate evidence regarding the specific welfare impact of loud noise levels on animals, we support a reduction in the maximum permitted noise of fireworks intended for public sale to a threshold of 97 decibels with a 15-metre safety distance. Fireworks should also be clearly labelled to indicate their noise level to the consumer eg. 'low noise firework' or 'loud firework – risk to animal welfare'. This would enable consumers to exercise an informed choice as to the types of firework they are buying if they wish to minimise the potential negative noise impact of fireworks on animal health and welfare.
7. All public displays and organised events using fireworks should be required to be licensed by the relevant authority. This should include events run by professional fireworks operators to ensure consistency of standards and oversight by relevant authorities. Introducing a licensing system for public displays and organised events would also enable the Scottish Government to specify specific licensing conditions to safeguard animal health and welfare, which should include:
 - Requiring licence holders to give advance notice of the display to all local residents with the option for local residents to appeal against the display or event.
 - Requiring licence holders pay due regard to how their firework display may impact on companion animals, wildlife, horses and livestock in the local area, as well as how they are going to dispose of debris and remnants of fireworks.
8. We support the principle of a fee to obtain a fireworks licence in Scotland. The amount should be sufficient to cover the costs incurred to set up, run and implement continuous improvements to the licensing system, as well as enforcement. A fee will also ensure that those buying or using fireworks are willing to be recorded and registered which will help to safeguard against impulsive and anti-social use.
9. We also support the proposed requirement to complete an online training course as a licensing condition. The content should highlight the potential negative impact of fireworks on animal health and welfare, as well as the importance of safe disposal of the debris and remnants of fireworks. It is paramount that this course does not become a tick box exercise. The course should be developed with clear learning objectives, as well as the opportunity for licence applicants to reflect on what they have learnt and demonstrate that they have met the stated learning objectives.

Restrictions on supply of fireworks

10. Currently, the public can buy CAT F2 and CAT F3 fireworks all year round in Scotland. We understand that the Bill would mean that CAT F2 and CAT F3 fireworks could only be sold

to members of the public on 37 days a year, on the following specified dates, which are inclusive:

- 7 April to 14 April (an eight-day period)
 - 27 October to 10 November (a 15-day period)
 - 26 December to 31 December (a six-day period)
 - The three days immediately before Chinese New Year and on the day of Chinese New Year (a four-day period)
 - The three days immediately before Diwali and on the day of Diwali (a four-day period).
11. Given the potential negative impact on animal health and welfare and the current ease with which fireworks can be accessed we strongly support restrictions on their supply. Supply should be restricted to traditional dates such as Bonfire Night, New Year, Chinese New Year, and Diwali. Consideration should also be given to how to limit the number of fireworks individuals can purchase, and how to mitigate the potential unintended consequences of members of the public purchasing additional fireworks during these periods and storing them for use outside of the proposed periods.
 12. We note that the proposed window for supply of fireworks around Bonfire Night is much longer than the window given to other traditional dates, which may be to accommodate the level of sales anticipated. However, such a wide window could increase the potential for the excessive purchasing of fireworks and result in negative impacts on the health and welfare of animals and increased public safety risks. There should be alignment between restrictions on supply around Bonfire Night and other traditional dates ie. by restricting sale to 5 November and the three days immediately preceding it.
 13. The online sale of fireworks may be an issue in terms of sale during restricted periods, especially if those sites are based outside of Scotland. We would like to see efforts made to restrict the online sale of fireworks to coincide with the new guidance in the Bill around the days when fireworks can and cannot be sold.

Restrictions on use of fireworks

14. It is currently legal in Scotland for CAT F2, CAT F3 and CAT F4 fireworks to be used 6pm – 11pm on any night of the year, with extensions to later in the night for traditional dates. We understand that the Bill would restrict the use of CAT F2, CAT F3 and CAT F4 fireworks to:
 - 7 April to 16 April (a 10-day period)
 - 27 October to 12 November (a 17-day period)
 - 26 December to 2 January (an eight-day period)
 - The third day immediately before Chinese New Year to the seventh day after the first day of Chinese New Year (an 11-day period)
 - From the third day immediately before Diwali to the seventh day after the first day of Diwali (an 11-day period)
15. Given the potential negative impact on animal health and welfare and the current ease with which fireworks can be accessed we strongly support restrictions on their use. Use should be restricted to traditional dates such as Bonfire Night, New Year, Chinese New Year, and Diwali and the weekend closest to which these dates fall. We know that one of the biggest concerns to pet owners and those who care for animals, or affected people, is the unpredictability of when fireworks will be set off and these measures will allow people to better prepare.
16. We note that the proposed window for use of fireworks around Bonfire Night is much longer than the window given to other traditional dates. There should be alignment between

restrictions on use around Bonfire Night and other traditional dates ie. by restricting use to 5 November and the closest weekend.

Criminal offences

17. We understand that the Bill would make it a criminal offence for someone aged 18 years or over to knowingly supply CAT F2 or CAT F3 fireworks to someone under 18 years. The Bill would also make it a criminal offence for a person, “without reasonable excuse”, to purchase, acquire, possess or use a Cat F2 or CAT F3 firework without having a fireworks licence. It would also be an offence to sell these types of firework to someone over 18 years old who didn’t have a licence.
18. We strongly support the proposed introduction of a proxy purchasing offence to criminalise the supply of fireworks to people under the age of 18, and the proposal to make it an offence to purchase, possess or supply fireworks without an appropriate license – both these measures are in the spirit of introducing further restrictions on the private use and sale of fireworks and proportionate to the severity of the potential harms associated with fireworks. These new criminal offences and penalties will act as a deterrent for anyone considering acting unlawfully using fireworks or pyrotechnic articles. To support this measure, there should also be government-led communications to improve awareness of the potential negative impact of fireworks and the public’s responsibilities under the law.

Firework control zones

19. We understand that the Government proposes to give local councils the power to establish local Firework Control Zones (FCZs) in their areas. The details of how this will work is to be set out by the Scottish Government in a national framework of regulations.
20. We strongly support the introduction of FCZs where members of the public would be prohibited from setting off fireworks. We agree that consideration, introduction, and management of FCZs should be led by local authorities. However, it is paramount that local authorities have sufficient resource and guidance from central government to manage the process and ensure that FCZs are effectively utilised and enforced.
21. Local communities should be actively involved in considering the feasibility and introduction of FCZs. As part of the local community consultation process, it is crucial that the impact of fireworks on animal health and welfare in the local area is evaluated and given due consideration. Involving those with local knowledge can prove advantageous. However, to ensure consistency in decision-making regarding these areas across Scotland we would suggest that clear guidance or criteria are provided to local authorities and that depending on the operating model adopted, a central body has oversight of the decision-making process. This approach should maximise sharing of knowledge and experience and minimise any potential inconsistencies across different local areas.
22. To inform these considerations, evidence and data on animal health and welfare impacts should be gathered from local veterinary practices, as well as animal owners/keepers, and businesses and charities where animals are usually kept on-site eg. farms, rehoming centres, zoos, kennels, catteries, riding stables. All relevant staff should be provided with adequate training in aspects of animal health and welfare.
23. Firework control zones will be beneficial in proximity to hospitals, care homes, animal shelters, zoos, animal collections, housed livestock, grazing animals or anywhere animals and people may suffer stress or injury due to the negative effects of fireworks. Sites of special scientific interest or endangered species habitat should also be considered as firework control zones.
24. The Scottish SPCA would be keen to recommend areas which should be firework control zones, especially in the vicinity of animal rescue and rehoming centres and the National Wildlife Rescue Centre so that the animals in care experience minimised stress that can be caused by the sight and sound of fireworks. Firework control zones should include year round restrictions with no exemptions for professional organisers.

Restrictions at certain designated places or events and the use of pyrotechnic devices

25. We understand that the Bill will give the Scottish Government new powers to make regulations to control the possession or use of any fireworks or distress and signal flares at certain locations (such as sports grounds) or at certain events (such as public music festivals, or public marches/processions).
26. The misuse of pyrotechnic devices has the potential to harm animal health and welfare, as well as public health and safety. For example, at large public or sporting events misuse of these devices can cause injury and distress to working police horses and dogs, assistance animals, and competing animals such as racehorses and greyhounds. Similarly, if used in a public space, these devices may cause injury and/or distress to animals in the near vicinity eg. dogs being walked by the public. Therefore, we support the introduction of additional measures to tackle the misuse of pyrotechnic devices.

Additional comments

27. When considering the use of fireworks and pyrotechnic devices, it is also important to highlight that the use of sky lanterns can negatively impact animal health and welfare, particularly livestock and wildlife, in several ways. We would therefore support a ban on their use and sale. Negative health and welfare impacts of sky lanterns include:
 - Causing damage to the environment in which animals live through wildfires
 - Causing burns through direct contact with lanterns and wildfires
 - Causing injury through ingestion or entanglement with debris
 - Causing fear and distress if animals become frightened of lanterns when they are airborne.
28. We agree with number 52 in the Policy memorandum around enforcement of online commercial supply. The restrictions on the sale of fireworks are a positive step. The online sale of fireworks may be difficult to enforce, especially if those sites are based outside of Scotland. We would like to see the online sale of fireworks as well regulated as in-store retail with licence details being required to complete a sale.