

A consultation on fireworks in Scotland: Your experiences, your ideas, your views

February 2019



Scottish Government
Riaghaltas na h-Alba
gov.scot

Ministerial Foreword

Many people in Scotland enjoy attending firework displays in a safe and responsible manner. Many of us will have attended and enjoyed fireworks at celebratory events – from locally organised displays in and around bonfire night through to the annual displays at the Edinburgh Festival and Tattoo.



However, ensuring fireworks are used safely and handled with care is essential to ensure they do not cause harm, distress, or serious injury. Every year, the hard work of our emergency services to tackle dangerous and anti-social behaviour associated with fireworks helps to reduce the number of incidents, particularly around bonfire night. However, every year there are still a number of concerning reports.

I would like to hear your views on how you use and enjoy fireworks, and the impact fireworks have on you and your community. I would like to hear your views and ideas on what action we can take to ensure fireworks continue to be enjoyed safely and responsibly.

Communities that are enabled to work together, alongside local partners, to identify issues and contribute to solutions are more likely to identify effective and sustainable ways forward that work for their local area. I would like to hear your thoughts and ideas about how we can make the most of the knowledge and experiences within our communities to support the safe and responsible use of fireworks.

While the sale of fireworks is an issue only the UK Government at Westminster can change, I will use the outcomes of this consultation to inform ongoing discussions about what changes are needed.

I very much welcome your views, thoughts and ideas and encourage you to get involved in this conversation.

A handwritten signature in black ink, appearing to read 'Ash Denham', written in a cursive style.

Ash Denham
Minister for Community Safety

Introduction

What this consultation is about

The Scottish Government is gathering information and views on the use and regulation of fireworks in Scotland. We want to hear your experiences and what you think about the way fireworks are currently used.

Fireworks are traditionally associated with festivities which celebrate events that are important to different communities across Scotland. These can include cultural events such as celebrating the new year; religious events such as the Hindu community celebrating Diwali; or family events such as celebrating a wedding or birthday. These events will often bring communities together and can be important in helping us to maintain our ties and friendships with people from our own community and those outside our community. Fireworks can bring colour and excitement to the special occasions that are important to us.

However, fireworks are potentially dangerous and need to be used safely and handled with care to avoid serious injury. For some, the noise made by setting off fireworks can be a nuisance, and the disturbance can cause distress to both people and animals.

While much of the current legislation on fireworks is reserved to Westminster the consultation will help to identify gaps, issues or unintended consequences with the current regulatory framework. We would like to hear any views you have on whether the regulations on the use of fireworks needs to be improved. (The term “regulations” means the laws which set out what people can and cannot do with fireworks.)

How do I get involved?

This consultation was launched on Sunday 3 February and will run until Monday 13 May 2019. You can submit a response at any time before the closing date. To give us your views, please click here <https://consult.gov.scot/safer-communities/fireworks>.

There are no restrictions on who can respond to the consultation. We would like to hear all experiences and views, both positive and negative, so that we can better understand both the importance and the impact of fireworks to different communities.

During the consultation we are running a series of public events across Scotland to allow anyone with an interest to come along and share views. You can find a list of events and details of how to book on our website (<https://consult.gov.scot/safer-communities/fireworks>). Both the written responses to the consultation and the views expressed at the consultation events will be used to inform any future actions.

Am I restricted to answering the questions in the consultation?

No, there are free text boxes in the consultation document which allow you to tell us anything that you believe is important. You do not need to answer all the questions - you can choose to only answer those questions you feel are relevant to you.

Part One: How are fireworks used in Scotland?

Fireworks are often associated with celebration and events that bring communities, friends and families together. These events can be formally organised by the local authority, a local community council or organised community group, but can also be set off in private spaces such as people's back gardens. Some of these celebrations are outlined here:

Diwali – celebrated in Autumn, it is one of the most significant festivals in the Indian culture and is celebrated by multiple religions including Hindus, Sikhs and Jains. Large, public firework displays are held which celebrate one of the Diwali legends, Rama and his wife Sita.

New Year – many countries around the world mark the beginning of a New Year on January 1st with fireworks displays widely at both large organised events and smaller home gatherings.

Bonfire night – or “Guy Fawkes night” marks the anniversary of the thwarting of the gunpowder plot on 5th November 1605. Fireworks have traditionally been used to celebrate this event for many years in the UK, both at large, organised public events and smaller home gatherings.

Festival fireworks – in the last 50 years, large, organised displays, often accompanied by music, have become popular to mark the start or finish of large public events, including the Edinburgh Festival and Tattoo.

Weddings – in recent years firework displays have become increasingly popular to mark the end of wedding celebrations, with some venues now offering a display as part of a package deal.

When fireworks are not used safely or with respect to the wider community they can cause a nuisance, distress and injury. There have been incidents of fireworks being used dangerously or causing harm, including isolated incidents of disorder and attacks on emergency service workers linked to fireworks; and a small number of incidents where members of the public have been injured by fireworks.

We would like to hear from you about how you currently use and enjoy fireworks.

In this document the word “use” means that you are actively involved in buying and setting off fireworks, and the word “enjoy” means that you watch fireworks as a spectator but do not buy or set off fireworks yourself.

Question 1. What is the main way you typically enjoy and experience fireworks?

- Attend a small private event with friends/family that is hosted by you or someone else
- Attend a locally organised event such as an event run by your community council or local organisations with less than 500 people attending
- Attend large public organised events with more than 500 people attending
- Do not attend firework events
- Other (please provide details).

Question 2. Would you say that fireworks form an important part of celebration events for you?

- Yes
- No.

Question 3. Have you been affected by fireworks being used in an irresponsible or unsafe way?

- Yes (please provide details)
- No.

Part Two: Legislation and Regulation

Legislation regulates the sale and use of fireworks. There are controls on who can sell fireworks, which types are available to the public, who can buy and possess fireworks, how they must be stored, and where and when fireworks may be used.

Fireworks in Scotland are controlled by legislation covering areas such as consumer protection and explosives; environmental law; and animal welfare law.

Further detail on the controls and legislation surrounding fireworks sale and use is provided in the accompanying technical annex, which can be accessed at <https://consult.gov.scot/safer-communities/fireworks>.

Sale of Fireworks

Legislation on the sale and storage of fireworks is reserved to the UK Government. This means that the UK Government at Westminster is the only body that can change or pass laws on those issues. For most of the year fireworks can only be sold by licenced traders. Licencing the sale of fireworks is done by local authorities, and traders have to meet very strict criteria to receive a licence.

In the run up to New Year, Chinese New Year and Diwali, and for 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.

It is illegal to sell outdoor 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.

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 at all times.

Legislation governing the sale of fireworks is reserved to the UK government, but we would like to hear your views on what you would like to see in Scotland:

Question 4. Do you think there should be more controls over the sale of fireworks?

- Yes (please tell us what controls you would like to see in place)
- No (please tell us why you do not feel more controls are needed).

Question 5: What are your views on banning the sale of fireworks to the public in Scotland?

- Yes, I would welcome a ban on the sale of fireworks (please tell us why you would welcome a ban)
- No, I would not welcome a ban on the sale of fireworks (please tell us why you would not welcome a ban)
- Unsure.

Use of Fireworks

Legislation covering the use of fireworks in Scotland is devolved to the Scottish Parliament. This means that the Scottish Parliament can change or pass laws in relation to those issues as they apply to Scotland.

Restrictions are placed on when fireworks can be used. During most of the year fireworks can only be used between 7am and 11pm. On the 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.

It is for each local authority to decide if it wishes to licence public firework displays under its Public Entertainment Licencing regime.

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.

Legislation governing the use of fireworks is the responsibility of the Scottish Government. We would like to hear your views on the current regulations around the use of fireworks:

Question 6. Do you think there should be more controls on how fireworks can be used in Scotland?

- Yes (please tell us what controls you would like to see in place)
- No (please tell us why not).

Part Three: Prevention and Community Involvement

Partnership Working and Prevention

Across Scotland, local partnerships which often include the local authority, Police Scotland, Scottish Fire and Rescue Service, Trading Standards and other community safety partners work together to ensure people and communities can enjoy fireworks safely. This happens particularly for large organised events and in preparation for bonfire night when fireworks are most likely to be used in our communities.

Depending on local circumstances, a range of approaches are often in place to prevent fireworks being misused and to target those who might be likely to misuse fireworks in and around bonfire night. This includes:

- Sharing intelligence among local partners about areas of high risk to prevent anti-social behaviour and increase public safety.
- Prevention and education activities to promote fire safety to the general public and school pupils; information packs to local groups planning to hold firework displays; inspections of premises who store and sell fireworks; and removing material that could be used for bonfires.

Question 7. What do you think could be done by national and local partners to further prevent the misuse of fireworks?

Community Involvement

Enabling people to be involved in influencing decisions that affect their local community is important, and this equally applies to the issue of fireworks. Communities that are enabled to work together effectively, and in partnership with local partners, have the potential to identify more effective and sustainable solutions.

We are interested in your views about what more could be done to enable and encourage communities to be more involved in preventing fireworks being used inappropriately and to ensure they are enjoyed safely.

Question 8. What ways do you think communities could be involved in supporting the safe use of fireworks?

Local Examples of Practice. We would like to hear any examples of how your community is involved in organising or promoting the safe and responsible use of fireworks.

Communication and Awareness Raising

National safety campaigns are run every year to encourage the safe use of fireworks.

The Scottish Fire and Rescue Service (SFRS), for example, run an annual campaign which aims to reduce rubbish and refuse fires, fires in derelict buildings, and fires set off deliberately because of anti-social behaviour. This is often supported by local partnerships who arrange amnesty days to collect bulk items that could be used for bonfires.

In 2018, SFRS developed and hosted a dedicated national webpage listing organised fireworks events across the country which were open to the public so that they could attend these and enjoy a firework display in safety - <https://www.firescotland.gov.uk/your-safety/fireworks-safety.aspx>

Question 9. What do you think could be done to raise awareness of the risks of fireworks misuse among the public?

Part Four: Animal Welfare

Legislation governing animal welfare is devolved to the Scottish Parliament. The Animal Health and Welfare (Scotland) Act 2006 protects and promotes the welfare of animals, and created a number of criminal offences to help protect animals from mistreatment. These offences cover a range of animal welfare issues, some of which carry a maximum penalty of up to 12 months imprisonment and/or a fine of up to £20,000.

These penalties can be applied to the offence of causing “unnecessary suffering” to an animal. This offence may be committed by anyone who knowingly causes unnecessary suffering to an animal, by either doing or not doing something, whether they are the keeper/owner of the animal or not.

Question 10. Do you think that there should be more controls to make sure animals are not caused unnecessary suffering because of the use of fireworks?

- Yes (please tell us what controls you would like to see in place)
- No (please tell us why you do not feel more controls are needed).

Local Examples of Practice. We would like to hear any examples of how you or your community acts to reduce the impact of fireworks on animals.

Responding to this Consultation

We are inviting responses to this consultation by Monday 13 May 2019.

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/safer-communities/fireworks>. 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 Monday 13 May 2019.

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, 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 FireworksConsultation@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



Scottish Government
Riaghaltas na h-Alba
gov.scot

© Crown copyright 2019

OGL

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit nationalarchives.gov.uk/doc/open-government-licence/version/3 or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: psi@nationalarchives.gsi.gov.uk.

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

This publication is available at www.gov.scot

Any enquiries regarding this publication should be sent to us at
The Scottish Government
St Andrew's House
Edinburgh
EH1 3DG

ISBN: 978-1-78781-548-3 (web only)

Published by The Scottish Government, February 2019

Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA
PPDAS520946 (02/19)

W W W . G O V . S C O T

A consultation on fireworks in Scotland: Your experiences, your ideas, your views

Technical Annex

February 2019



Scottish Government
Riaghaltas na h-Alba
gov.scot

This technical annex provides more detail about the current legislation and regulations on the sale and use of fireworks in Scotland. It should be read in conjunction with the main consultation document which can be found at <https://consult.gov.scot/safer-communities/fireworks>.

SALE OF FIREWORKS

Legislative Context

Under the Scotland Act 1998, the regulation of the sale and supply of goods and services to consumers, and product safety and liability is reserved to the UK Government. Within this, the sale and supply of fireworks is regulated through UK legislation by the [Fireworks Regulations 2004](#) and the [Pyrotechnic Articles \(Safety\) Regulations 2015](#).

In addition, [Article 9 of the Explosives Regulations 2014](#) prohibits the sale or acquisition of more than 50kg of fireworks at a time, except to individuals licensed by the Local Authority. Table 1 gives a more detailed outline of current regulations of the sale of fireworks.

The legislation regarding the sale of fireworks is reserved to UK Government. However, a licence to sell fireworks outside seasonal periods in Scotland is administered at Local Authority level. The process for applying for a licence varies across local authority areas in line with local structures. However, the criteria for granting a licence is generally the same. It typically covers checks on the premises, types fireworks to be sold, and details of the operator including any previous convictions.

The key variance in restriction of sale is a lack of power for Local Authorities to refuse registration of fireworks sellers in the 3 weeks before bonfire night. However, Local Authorities do have powers to take action against retailers making underage sales, or failing to store fireworks securely.

Enforcement

Trading Standards have the power to carry out test purchasing for underage sales in line with identified concerns. In doing so they must consider and abide by the Office of the Surveillance Commissioner's 'Procedures and Guidance oversight arrangements for covert surveillance and property interference conducted by public authorities and to the activities of relevant sources'.

Categorisation and Control of Firework Sales

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 makes 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 of Fireworks

Regulation 9 of the Fireworks Regulations 2004 (as amended), which came into force on 7 August 2004, limits the sale 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. The penalty for operating without a licence is an unlimited fine and/or up to six months in prison.

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 section 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.

The Pyrotechnic Articles Safety Regulations 2010, and subsequently 15, prohibit the sale of excessively loud 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 the use of certain fireworks at night in England and Wales. This regulation does not apply to Scotland because the subject is devolved, but the restrictions are recreated by [The Fireworks \(Scotland\) Regulations 2004](#) which set out a curfew on fireworks use between 11.00 pm and 7.00 am with the exception of Bonfire Night, New Year, Diwali and Chinese New Year, in order to minimise the risk that fireworks will be used with harmful consequences for people, animals or property.

In addition, local authorities are able to grant dispensations for special events such as local festivals or celebrations. Local authority employees 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 Chief Constable and offences are punishable by a fine or up to six months imprisonment.

Noise & 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 license 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 legislation.



Scottish Government
Riaghaltas na h-Alba
gov.scot

© Crown copyright 2019

OGL

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit nationalarchives.gov.uk/doc/open-government-licence/version/3 or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: psi@nationalarchives.gsi.gov.uk.

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

This publication is available at www.gov.scot

Any enquiries regarding this publication should be sent to us at
The Scottish Government
St Andrew's House
Edinburgh
EH1 3DG

ISBN: 978-1-78781-549-0 (web only)

Published by The Scottish Government, February 2019

Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA
PPDAS522426 (02/19)

W W W . G O V . S C O T