

Adam Tomkins MSP  
Convener, Justice Committee  
Scottish Parliament  
Edinburgh  
EH99 1SP

15th February 2021

Our ref: 150221FS11048

Dear Convener,

**Re: FORMAL OBJECTION:**

**SSI 2021 No. 14 - The Fireworks (Scotland) Amendment Regulations 2021**

On the 11th February 2011, the Minister wrote to the Justice Committee to make them aware of the unintended consequences of the previously proposed legislation.

On behalf of the British Fireworks Association (BFA), we are also writing to the Justice Committee to make them aware of the unintended consequences of the legislation as a whole, consequences that a painstaking Public Inquiry by the Petitions Committee in Westminster highlighted in 2019.

The Westminster inquiry received and published, written and oral evidence representing a range of stakeholders, including from members of the public, representative bodies, organisations and charities, all with varying views on fireworks. **The inquiry concluded that greater restrictions on the sale and use of fireworks would not be appropriate** because of the unintended consequences, which would lead to the creation of a substantial black market. There is nothing to prove, or even suggest, that fireworks and their sale in Scotland would be immune to the same unintended consequences.

Concerns not only echoed by the industry but also the **National Police Chiefs Council**, who stated: -

***“If a black market became available, it would be even more difficult to police than the situation we currently have, which would be a really unhelpful unintended consequence.”***

Also, when asked about greater restrictions leading to a black market, the **National Fire Chiefs Council** stated that: -

***“I am sure that there would be unintended consequences.”***

The industry firmly believes that the proposed legislation will encourage law abiding Scots to look elsewhere for fireworks. To look away from legitimate supply channels of safe, tested and approved fireworks but **instead towards the illegal black market.** A market where products are not subjected to the rigorous safety checks we have in the UK, a market where illegal storage is commonplace and a market where illegal transport puts the safety of the general public at risk.

This view is not fiction, it is fact. At New Year, Germany introduced temporary restrictions on the sale of fireworks. The black market in illegal fireworks this created has been attributed to at least two deaths in Germany, something the UK has not suffered from for well over 20 years. However the UK's low injury rates are no accident, they are a direct result of Industry and Government working together, and this cooperation is set to continue with Westminster (BEIS & OPSS) and the BFA working together on several initiatives. Unfortunately, the Scottish Government have chosen a different path, despite the numerous warnings.

The BFA would therefore make representation (in the strongest possible terms) to the Justice Committee that the proposed legislation will not only place unfair trading restrictions upon Scottish businesses (to the benefit of those in the rest of the UK) but it will also present an increased risk to the wider public, not only in Scotland but also the rest of the UK.

The restrictions on Scottish Businesses relate to: -

1. The Firework Act 2003 defines supply as: -

**“(3)References in this Act to supplying fireworks include—**

**(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 do not include supplying them otherwise than in the course of a business.”**

Therefore, based on this definition, a retailer based outside Scotland will NOT have to abide by amendments 3A (periods of supply) and 3B (quantity of supply) when supplying product to a consumer in Scotland, as the sale will have occurred outwith Scotland. This puts a Scottish based retailer at a commercial disadvantage when supplying to consumers within Scotland.

2. The Firework Act 2003 defines supply as: -

**“(3)References in this Act to supplying fireworks include—**

**(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 do not include supplying them otherwise than in the course of a business.”**

Therefore, a retailer based in Scotland WILL have to abide by amendments 3A (periods of supply) and 3B (quantity of supply) when supplying product to consumers both inside AND outside Scotland,

as the sale will have occurred inside Scotland. This is an unfair restriction Scottish based retailers selling to consumers outside of Scotland.

We believe that these points (along with our previous comments in our letter dated 5th February 2021) have not been considered as part of the published **Business and Regulatory Impact Assessment**.

Therefore, in conclusion, the BFA states that SSI 2021 No. 14 - The Fireworks (Scotland) Amendment Regulations 2021 places unfair restrictions on Scottish businesses and will present a greater risk to public safety.

We look forward to your comments and ask that you share this letter with the Justice Committee Members ahead of the meeting scheduled for the 16th February 2021.

Yours sincerely



Lawrence Black  
Secretary BFA



Steve Raper  
Chairman BFA



Fraser Stevenson  
Vice Chairman BFA