

Briefing for the Public Petitions Committee

Petition Number: [PE01780](#)

Main Petitioner: Stewart Forrest on behalf of USDAW

Subject: Consultation on the closure of large shops on New Year's Day

Calls on the Parliament to urge the Scottish Government to launch a consultation on implementing legislation already in place to ban large shops from opening on New Year's Day.

Background

The [Christmas Day and New Year's Day \(Trading\) \(Scotland\) Bill](#) was introduced by Karen Whitefield MSP on 20 March 2006. The Justice 2 Committee and the wider Parliament supported the general principles of the Bill.

However, in the [Stage 3 debate on 7 March 2007](#) the Parliament accepted a group of Labour/Liberal Democrat Executive amendments concerning the application of the bill to New Year's Day. The Bill still aimed to ban Christmas Day trading, but conferred an order-making power on Scottish Ministers to ban New Year's Day trading at a later date. Such an order could only follow a consultation, plus a report on the economic impact and impact on family life and a statement of the Executive's reasons for introducing the order.

Responding on behalf of the SNP (in opposition at the time), Stewart Maxwell MSP stated:

"Given the differences of opinion that exist regarding new year's day, the only sensible option is for us to pause to gather evidence before legislating. To go ahead without evidence and to legislate in a vacuum would be a mistake that we could regret in the future, and it would take primary legislation to rectify that mistake. Amendment 2 will allow us to do the research, to be sure that we agree that the provisions relating to new year's day should be enacted and to have Parliament decide whether it wants to do that, based on both the principle and the evidence."

The Parliament, including the SNP, Scottish Labour and the Liberal Democrats, agreed that the Bill be passed - 100 MSPs voted for, 17 against and two abstained.

The Act

The [Christmas Day and New Year's Day Trading \(Scotland\) Act](#) received Royal Assent on 13 April 2007. With the exception of a number of exempted categories – restaurants, certain pharmacies, shops in railway and bus stations, petrol stations, etc. - the Act prohibits large shops (those with 280 square metres or more of relevant floorspace) from opening on Christmas Day for the purpose of making retail sales.

In line with the Stage 3 amendments, [Section 2 of the Act](#) contains provisions allowing the Parliament to prohibit New Year's Day trading, but only after:

- a consultation is held.
- a report on the economic impact, and the impact on family life, of large shops opening on New Year's Day is laid before Parliament.
- a statement is made to Parliament setting out the views of Scottish ministers.

In addition, Section 2 of the Act specifies who should be consulted:

- every local authority
- representatives of the retailers.
- representative of those who work in large shops (e.g. the unions)
- and “such other persons as the Scottish Ministers think fit”.

There was no time limit on these provisions, meaning the Executive and subsequent Scottish Government can choose to delay indefinitely.

Scottish Government Action

Since the Bill was passed there has been no government consultation or economic impact assessment conducted. Soon after taking office in 2007, the SNP administration [responded to a number of PQs](#) confirming that it had no plans to assess the impact of large shops opening/closing on New Year's Day.

Scottish Parliament Action

Jackie Baillie MSP [lodged a parliamentary motion in August](#) this year criticising the Scottish Government for not consulting on the issue of New Year trading:

“That the Parliament notes with disappointment reports that the Scottish Government has yet to consult on whether to limit New Year’s Day trading in large stores; considers that evidence from USDAW trade union shows the effects that working long shifts in large stores on New Year’s Day had on staff’s mental and physical health; believes that the Scottish Government should have regard to both the evidence presented to it and the wellbeing of workers; considers that retail staff deserve a well-earned rest on New Year’s Day after what is always an incredibly busy period for the industry; supports the continued calls from USDAW trade union to close large stores on New Year’s Day, and calls on the Scottish Government to initiate a consultation with retail staff, their employers and the trade unions on New Year’s Day closing.”

The motion was supported by 8 Labour members and one Green.

Ms Baillie’s motion was [criticised by the Scottish Retail Consortium \(SRC\)](#), who believe that the motion “singles-out” shops whilst other employers would continue to operate on New Year’s Day:

“It is also unclear why shops have been singled out and not businesses in sectors such as hospitality, tourism and leisure”.

The SRC argues that consumers can shop online whenever they choose, so banning trading on the high street and retail parks would be “out-dated and ill-thought-out”.

First Ministers Questions – 9th January 2020

On the 9th January 2020, Jackie Baillie asked the first Minister the following:

“The First Minister might be aware that the Union of Shop, Distributive and Allied Workers—the retail workers union—was campaigning outside Parliament today to end new year’s day trading for large stores. Many retail workers in Scotland had to work on 1 January instead of spending time with their families. Parliament has already put in place legislation covering Christmas and new year’s day trading that would stop large stores from opening, but the new year’s day provisions have not been implemented. Will the First Minister commit to backing USDAW’s calls, to consulting on new year’s day trading and to giving shop workers the festive break that they deserve?”

The First Minister responded:

“Shop workers deserve a festive break such as the rest of us get the benefit of. I commit to looking very carefully at the USDAW campaign. I absolutely understand the motivations that are driving the campaign, and I will consider what further steps the Government can take to address those concerns. When I have had the opportunity to do that, I

will be happy to ask the relevant minister to reply in detail to Jackie Baillie.”

Greig Liddell
Senior Researcher
07/01/2020

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