

NEW YEAR'S DAY TRADING FOR LARGE RETAILERS: CONSULTATION

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NEW YEAR'S DAY TRADING FOR LARGE RETAILERS: CONSULTATION

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Consultation Document Part 1

Purpose of the consultation

Since 2007, large shops have by law not been able to open on Christmas Day to make retail sales under the Christmas and New Year's Day (Trading) (Scotland) Act 2007. Whilst the law did not apply to shops that opened on New Year's Day, it did give Scottish Ministers the ability to make an Order that would do that at a future date.

This consultation is being held to seek the views of shop workers, retail businesses and others on whether the current law should change so that large retail businesses must close on New Year's Day, as they currently do on Christmas Day.

Why we are consulting

In January 2020, a petition was put before the Scottish Parliament by the trade union Usdaw. The petition asked the Scottish Parliament to urge the Scottish Government to launch a consultation on implementing legislation to ban large shops from opening on New Year's Day.

Shortly after the petition was lodged, the retail sector was facing significant challenges due to the COVID-19 pandemic. With retailers working on maintaining the supply of food and other essential items and no clear end to the pandemic in sight, the Scottish Government wrote to the Parliament's Public Petitions Committee in April 2020 to confirm its view that it was not the right time to hold a consultation.

However, with the country moving towards recovery, the easing of restrictions and the progress being made through the vaccination programme, the Minister for Business, Fair Work and Skills again wrote to the Public Petitions Committee on 24 March 2021 and set out his intention to take forward a consultation on New Year's Day Trading this year.

Part 2

Background to the Consultation

The Christmas and New Year's Day Trading (Scotland) Act 2007 (the Act) stops large retail stores from opening on Christmas Day. When the Scottish Parliament was considering the Act, it was agreed that the law to close large shops would only apply on Christmas Day. The Act became law on 13 April 2007.

However, the Act contained a Section that made it possible for Scottish Government Ministers to make an Order that large shops should also close on New Year's Day, without the need for introducing new primary legislation.

Section 2 of the Act sets out the steps - referred to in the Act as pre-conditions – that must first be taken before making an Order under this part of the law. These pre-conditions are:

- To hold a consultation on whether large shops should close on New Year's Day.
- To prepare reports on the economic impact and the impact on family life, of large shops opening on New Year's Day.
- To prepare a Parliamentary statement of the reasons for changing the law so that large shops should close on New Year's Day.

The responses in the consultation will help decide whether to propose a change to the existing law or not.

Who the Act currently applies to

- All retail businesses that have 280 m² or more of floor space for customers including that used for display purposes. (By way of comparison, the area of a standard tennis court is 260 m².)

In addition to those shops that do not have a floor space of 280 m² or more, other businesses are exempt from this law and include:

- Businesses that wholly or mainly sell meals, refreshments or alcohol for consuming on the premises, such as pubs, restaurants, cafes.
- Businesses that sell meals or refreshments to order for consuming off the premises such as takeaways.
- Registered pharmacies that are open only to dispense prescription drugs, medicines or appliances.
- Businesses sited within a port, railway station or commercial airport.
- Businesses in a motorway service area.
- Business wholly or mainly selling fuel for motor vehicles (petrol stations).

Who we are consulting

Section 2(4) of the Act sets out those who must be consulted on this matter. They are:

- a) Every local authority (council) in Scotland
- b) Retail businesses and those organisations that represent businesses
- c) Retail workers who work in large shops and their representatives; and

d) Any other people or organisations that the Minister thinks appropriate.

The Consultation on Citizens Space has been designed so that it is open to everyone to participate, but some questions have been designed so that we can gather the views of shop workers and retail businesses that are likely to be most affected by any change in the law.

Part 3

Published Information

The Scottish Parliament's Public Petitions Committee published evidence as part of its consideration of the Petition PE01780: [Consultation on the closure of large shops on New Year's Day](#), which was lodged on 23 January 2020. The Petition attracted 2040 signatures. It was closed on 10 February 2021.

Links to various submissions are replicated below:

- [Petition as lodged by Usdaw](#)
- [Minister for Business, Fair Work and Skills submission of 31 March 2020](#)
- [Udaw submission of 15 May 2020 \(126KB pdf\)](#)
- [Scottish Retail Consortium submission of 5 November 2020 \(84KB pdf\)](#)
- [Minister for Business, Fair Work and Skills submission of 6 November 2020 \(61KB pdf\)](#)
- [Scottish Trades Union Congress submission of 27 November 2020 \(85 KB pdf\)](#)
- [Petitioner submission of 3 December 2020 \(37KB pdf\)](#)
- [Minister for Business, Fair Work and Skills submission of 17 December 2020 \(65KB pdf\)](#)
- [Minister for Business, Fair Work and Skills submission of 23 December 2020 \(59KB pdf\)](#)
- [Udaw submission of 29 January 2021 \(140KB pdf\)](#)

Responding to this Consultation

We are inviting responses to this consultation by 24 August 2021.

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/economic-development/new-year-s-day-trading-for-large-retailers>]. 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 24 August 2021.

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

Retail Policy Team
Scottish Government
5 Atlantic Quay
150 Broomielaw
Glasgow, G2 8LU

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://www.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 retailsupport@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; and
- 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.

QUESTIONS FOR DIGITAL CONSULTATION

1. Are you currently:
 - An employee working in a large retail store in Scotland – (if yes, please go to Employee Questions)
 - A manager/business owner of a large retail store in Scotland (if yes, please go to Employer Questions)
 - A family member of someone who works in a large retail store in Scotland (if yes, please go to Closing Questions)
 - Other (Please specify) (if yes, please go to Closing Questions)

Employee Questions:

1. What type of large store do you work in?
 - Food Retail (e.g. Supermarkets and mixed retail which offers food as a primary purchase)
 - Non-food Retail
2. Do you work:
 - Full time
 - Contracted part time
 - Zero Hours Contract
 - Seasonal/Fixed term contract
3. Does the store you work in usually open on New Year's Day?
 - Yes
 - No
4. Have you worked on New Year's Day?
 - This year
 - Last year
 - In previous years
 - No
5. How does your workplace determine who works on New Year's Day?
 - Asking for volunteers
 - Contractual arrangements
 - Rota
 - Other (Please specify)

6. Do you receive a premium for working on New Year's Day?
 - Yes
 - No
 - If yes, do you receive:

- Time and a quarter
- Time and a half
- Double time
- Shift allowance
- Time of in Lieu (TOIL)
- Other (Please specify)

7. Are you happy to work on New Year's Day

- Yes
- No

8. Does working on New Year's Day have an impact on you or your personal/family life? Please tick all the issues that apply using the following scale:

1. Has a significant negative impact
2. Some negative impact
3. No impact
4. Some positive impact
5. Has a significant positive impact

1 2 3 4 5

- Transport to/from work
- Caring for children
- Caring for family members
- Your ability to spend time with family
- Financial impact
- Work satisfaction
- Other – please state

9. Do you have any premium costs as a result of working on New Year's Day?

- Transport costs
- Childcare costs
- Caring costs
- Other (Please specify)

Employer Questions:

1. What type of large store do you operate?
 - Food Retail (e.g. Supermarkets and mixed retail which offers food as a primary purchase)
 - Non-food Retail

2. Is your store usually open on New Year's Day?
 - Yes
 - No

3. How does your workplace determine who works on New Year's Day?
 - Asking for volunteers
 - Contractual arrangements
 - Rota
 - Other (Please specify)

4. Do employees in your organisation receive any of the following enhancements for working on New Year's Day?
 - Time and a quarter
 - Time and a half
 - Double time
 - Shift allowance
 - Time of in Lieu (TOIL)
 - No enhancements beyond normal payments.
 - Other (Please specify)

5. If your store is closed to customers on New Year's Day, are employees needed to attend work for other activities, such as receiving deliveries, replenishing shelves, fulfilling online orders?
 - Yes
 - No

6. Would closing large retail stores on New Year's Day have an impact on any of the following:

- Your customer's ability to access essential goods not available locally
- Your suppliers
- Other businesses co-located in or adjacent to your store
- Residents in your local community
- If you answered yes to any of these questions, please provide more information here

7. Do you think closing large stores on New Year's Day would have an impact on your overall profitability?

- Yes
- No
- If yes please say why

Closing Questions:

1. It is currently the law that large stores close on Christmas Day. Do you think the law should change so that they close on New Year's Day too?

- Yes
- No
- Not sure

2. Is there anything else you would wish to comment about this consultation?



Title

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://www.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

Title: New Year's Day Trading for Large Retailers: Consultation

Purpose and intended effect:

The Scottish Government has agreed to hold a consultation on New Year's Day trading for large retail businesses. The consultation will seek the views of retail organisations, trade unions, retailers and employees to ensure their opinions on this issue are captured.

This BRIA is focused on the economic impact of closing large stores, or making no change to current arrangements, on the retail sector.

Legislative Background:

The Christmas Day and New Year's Day Trading (Scotland) Act 2007¹ prohibits large shops from opening for the purpose of retail trading on Christmas day and confers power on Scottish Ministers to prohibit such shops opening on New Year's day.

The Act does this by:

- Making it a criminal offence for a large shop to open for the purpose of making retail sales on Christmas day.
- Conferring power on the Scottish Ministers to make it a criminal offence, by order to be approved by the Parliament, for a large shop to open for the purpose of making retail sales on New Year's day, following a consultation, the making of a report on the economic impact and impact on family life on large stores opening on New Year's Day, and the submission of a statement of reasons to the Parliament
- Defining a large shop as one with a trading floor area exceeding 280 square metres.
- Exempting specified trades or businesses and shops at specified places
- Defining who commits the offence and providing a due diligence defence.²

The Retail Sector:

The retail sector is a very important part of Scotland's economy and society. The retail sector (SIC Division 47) in Scotland directly employs 233,000 people (*source: Business Register Employment Survey 2019*). The retail sector has some particular features summarised below³:

- Employment was 242,480 in 2020 – 12.4% of all employment by registered private sector businesses in Scotland. (Source: [Business in Scotland 2020](#))
- Median weekly pay – excluding overtime – for full-time employee jobs in Scotland was £392.9 in April 2020. This is significantly lower than the equivalent median value across all industries and services in Scotland of £575.7.
- In March 2020, 13,790 registered enterprises⁴ operated in the Scottish retail sector.

¹ [Christmas Day and New Year's Day Trading \(Scotland\) Act 2007 \(legislation.gov.uk\)](#)

² [Section 2 of the Christmas Day and New Year's Day Trading \(Scotland\) Act 2007](#)

³ The preferred source for estimates of employee jobs by industry is the Business Register Employment Survey (2019), however demographic breakdowns are not available from BRES and are instead sourced from the Annual Population Survey (APS).

⁴ Excludes central and local government.

- Small enterprises (0-49 employees) accounted for 95.9% of businesses, but only 25.1% of employment and 18.1% of turnover. Large enterprises (250+ employees), comprised around 2.2% of enterprises, accounted for 69.6% of employment and 76.8% turnover.
- **Women** are more likely than men to work in the retail sector, making up 60.5% of the workforce in 2019. (Source: Annual Population Survey Jan-Dec 2019)
- A comparatively high proportion of the workforce are **young people**: 26.0% of the workforce is aged 16-24 compared to 12.3% of the workforce as a whole. (Source: Annual Population Survey Jan-Dec 2019)
- 6.4% of the retail workforce in Scotland were **minority ethnic**. (Source: Annual Population Survey Jan-Dec 2019)
- 63.1% of employees within retail work **part time** compared to 34.0% of the total employee population. (Source: Business Register Employment Survey 2019)
- In addition to the direct jobs in retail, the sector also supports 22,000 jobs across its diverse **supply chains**.

(Source: OCEA)

Impact of Covid-19 on the sector:

The Scottish Government's analysis of the Office for National Statistics Business impact of Coronavirus Survey (BICS) statistics for Scotland includes information on the impact of COVID-19 on the Wholesale, Retail & Repair of Vehicles sector. Key points include:

- The overall share of businesses 'currently trading' in the Wholesale, Retail & Repair of Vehicles sector was estimated as 98.5% in the period 3 to 16 May 2021, compared with 93.8% for the economy overall.
- In the period 19 April to 16 May 2021, 34.5% of businesses in the Wholesale, Retail & Repair of Vehicles sector reported experiencing a decrease in turnover compared with what is normally expected for this time of year. The comparable proportions for the economy overall is 35.5%.
- The share of the workforce on furlough leave in the Wholesale, Retail & Repair of Vehicles sector was estimated as 4.6% in the period 19 April to 6 May 2021, compared with 11.3% for the economy overall.

Source: [BICS weighted Scotland estimates: data to wave 30](#)

Comparisons with other nations:

Scotland - Large shops with a floor area greater than 280 square metres must close on Christmas Day. There is no limitation on trading hours on Sundays.

- **Northern Ireland** – Large shops with a floor area greater than 280 square metres must close on Easter Sunday and on Christmas Day. They are also limited as to the hours that they can trade on a Sunday when they can only open between 1pm and 6pm.⁵
- **England & Wales** – Large shops with a floor area greater than 280 square metres must close on Easter Sunday⁶ and on Christmas Day⁷. Large shops can open on Sundays but only for 6 consecutive hours between 10am and 6pm.⁸

Conclusion – will be completed on conclusion of policy considerations

⁵ nibusinessinfo.co.uk

⁶ Schedule 1 to the [Sunday \(Trading\) Act 1994](#)

⁷ [The Christmas Day \(Trading\) Act 2004](#)

⁸ [Sunday Trading Act 1994 \(legislation.gov.uk\)](http://legislation.gov.uk)

Consultation:

Public Consultation: Will be hosted on the Citizen Space website⁹ over a ten-week period from weeks commencing 14 June to 16 August. This should provide a body of evidence from which to determine the economic impact of making an Order under the legislation. No decision has been made at this time and options will be considered further once the results of the consultation are known.

Business: Through both the open (Citizens Space) consultation and direct engagement. Some prior engagement on the proposal has taken place between Scottish Ministers and Trades Unions Usdaw and GMB; the Scottish Retail Consortium (SRC) and directly with a small number of retail businesses.

The questions for the consultation were informed by input from the Trade Unions and the Scottish Retail Consortium.

Options:

Options that may be considered are:

- Not to make an Order Section 2 of the Christmas and New Year's Day (Trading) Act 2007, enabling large shops to remain open on New Year's Day;
- To make an Order under Section 2 of the Act that will close large stores on New Year's Day;
- To consider whether alternative legislation may be appropriate.

Scottish Firms Impact Test:

There has been engagement with Scottish retail sector in developing the consultation questions.

The majority of retail businesses operating in Scotland are micro and small businesses. It is estimated, based on the Inter-Departmental Business Register 2020 and 2019 Business Register and Employment Survey that there are 13,790 business units in the retail sector in Scotland, employing directly 233,000 people. Table 2 below shows a Scotland-level disaggregation of characteristics of areas of the retail sector that may be affected by the measures discussed in this BRIA including estimates of employment, number of businesses and business sites and number of premises.

Table 2: Breakdown of the Scottish retail sector

Sector	Employment (2019)	Number of Registered Businesses (2020)	Number of Registered Business Sites (2019)
SIC 47 Retail Trade, except of motor vehicles and motorcycles	233,000	13,790	22,340

Source: Business Register and Employment Survey; Businesses in Scotland, NDR roll.

⁹ Scottish Government - Citizen Space (consult.gov.scot)

Sector	Number of Registered Businesses	Small Registered Businesses (<49 employees)	Medium-Sized Registered Businesses (50-<249 employees)	Large Registered Businesses (250+ employees)
SIC 47 Retail Trade, except of motor vehicles and motorcycles	13,790	13,230	245	310

Source: *Businesses in Scotland 2020*.

In addition to the direct jobs in retail, the sector also supports 22,000 jobs across its diverse supply chains.

Retail businesses with a rateable value above £51,000 tends to be concentrated in cities.

Business Units

	% Rateable Value above £51000	% Rateable Value equal of below £51000
Aberdeen City	15%	85%
Aberdeenshire	5%	95%
Angus	3%	97%
Argyll and Bute	3%	97%
Clackmannanshire	5%	95%
Dumfries and Galloway	5%	95%
Dundee City	11%	89%
East Ayrshire	4%	96%
East Dunbartonshire	7%	93%
East Lothian	5%	95%
East Renfrewshire	4%	96%
City of Edinburgh	13%	87%
Na h-Eileanan Siar	1%	99%
Falkirk	6%	94%
Fife	6%	94%
Glasgow City	10%	90%
Highland	8%	92%
Inverclyde	5%	95%
Midlothian	10%	90%
Moray	6%	94%
North Ayrshire	5%	95%
North Lanarkshire	6%	94%
Orkney Islands	3%	97%
Perth and Kinross	6%	94%
Renfrewshire	11%	89%
Scottish Borders	4%	96%
Shetland Islands	2%	98%
South Ayrshire	6%	94%

South Lanarkshire	8%	92%
Stirling	10%	90%
West Dunbartonshire	9%	91%
West Lothian	13%	87%

Source: OCEA

What is the likely cost or benefit to business?

To be determined in the economic analysis that will follow the consultation

Competition Assessment:

Closure of large retailers may lead to short and long-term impacts on competitiveness outlined below.

Will it have an impact on the competitiveness of Scottish companies within the UK, or elsewhere in Europe or the rest of the world?

Retail businesses that are closed in Scotland on New Year's Day and not in the rest of UK could lose market share and competitiveness.

Will the measure directly or indirectly limit the number or range of suppliers?

Directly. Also, potentially indirectly if supermarket concessions/smaller shopping centre units close along with larger retailers.

Will the measure limit the ability of suppliers to compete?

If an Order is made under the legislation, it will impact fairly across all large retailers. Small retailers will still be able to trade. Retailers may be able to offset some reduction in footfall through increased online sales.

Will the measure limit suppliers' incentives to compete vigorously?

n/a

Will the measure limit the choices and information available to consumers?

Whilst there is a likelihood that any closure of large retailers may limit the choices available to consumers through limited availability on New Year's Day only, it may be possible for consumer to source alternative goods in small retail stores that would not be required to close.

Consumer Assessment:

The following sets out the Scottish Government's initial view on the impact of an Order under the Act:

Does the policy affect the quality, availability or price of any goods or services in a market?

There is a likelihood that the closure of stores will limit the choices available to consumers through limited availability and lack of locally available alternatives where retailers are required to close.

Consumers will be able to purchase from online retailers, Choice will be limited for consumers without access to small shops or online shopping services, in particular, those on island communities where there may be limited alternatives to the principle retailer.

Does the policy affect the essential services market, such as energy or water?

No

Does the policy involve storage or increased use of consumer data?

No

Does the policy increase opportunities for unscrupulous suppliers to target consumers?

TBC

Test run of business forms: N/A

Digital Impact Test: N/A

Legal Aid Impact Test: N/A

Enforcement, sanctions and monitoring: TBC

Implementation and delivery plan and post-implementation review: TBC

Conclusion:

This BRIA will set out the relative costs and benefits of options with the intended effect of closing large retailers on New Year's Day on conclusion of the consultation.

Declaration and publication:

Sign-off for BRIA:

I have read the Business and Regulatory Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable interim view of the likely costs, benefits and impact of the measures set out in the regulations and guidance. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

Signed:

Date:

Minister's name: Tom Arthur, MSP

Minister's title: Minister for Public Finance, Planning and Community Wealth

Annex B – Equalities Impact Assessment

<u>Title of Proposal</u>	<u>New Year’s Day Trading for Large Retailers: Consultation</u>
<p>Introduction:</p> <p>The Scottish Government has agreed to hold a consultation on New Year’s Day trading. The consultation will seek the views of retail organisations, trade unions, retailers and employees to ensure their opinions on this issue are captured.</p> <p>Policy Objectives:</p> <p>The purpose of this consultation is to understand the general appetite amongst businesses, employers and customers for legislating to close large retail stores on New Year’s Day.</p> <p>Key data:</p> <p>The retail sector has some particular features summarised below:</p> <ul style="list-style-type: none">○ Women are more likely than men to work in the retail sector in Scotland. Women made up 60.5% of the workforce in 2019. (Source: Annual Population Survey 2019)○ A comparatively high proportion of the retail workforce in Scotland are young people: 26.0% of the retail sector workforce is aged 16-24 compared to 12.3% of the workforce as a whole. (Source: Annual Population Survey 2019)<ul style="list-style-type: none">○ 6.4% of the retail workforce in Scotland are minority ethnic. (Source: Annual Population Survey 2019)○ 63.1% of employees within retail work part time in Scotland compared to 34.0% of the total employee population. (Source: Business Register Employment Survey 2019) <p>The following figures are for the broader SIC Section G - Wholesale, Retail, Repair of Vehicles Sector</p> <ul style="list-style-type: none">○ 7.6% of the wholesale, retail, repair of vehicles sector workforce were self-employed compared to with 12.4% for Scotland as a whole in 2019. (Source: Annual Population Survey Jan-Dec 2019)○ 27.6% in the Wholesale, retail, repair of vehicle industry were over 50 years old compared with 33.0% for Scotland as a whole. (Source: Annual Population Survey Jan-Dec 2019)○ 27.9% in the Wholesale, retail, repair of vehicle industry were parents of children aged 16 or younger, compared with 30.6% for Scotland as a whole (Source: Annual Population Survey Household dataset, Jan-Dec 2018, ONS).	

- 14.3% in employment in the Wholesale, retail, repair of vehicle industry were **women with dependent children** (aged 0-16), compared with 15.4% for Scotland as a whole in 2018.
(Source: Annual Population Survey Household dataset, Jan-Dec 2018, ONS).
- 2.2% in the Wholesale, retail, repair of vehicle industry **worked at home** or in the same grounds as their home (for at least one day per week), compared with 4.8% for Scotland as a whole.
(Source: Annual Population Survey Jan-Dec 2019)
- 27.8% of the Wholesale, retail, repair of vehicle workforce had a **condition/illness lasting 12 months or more**, compared with 27.5% of workers in Scotland overall in 2019.
(Source: Annual Population Survey Jan-Dec 2019)
- 11.6% of Wholesale, retail, repair of vehicle workers had a **condition/illness lasting 12 months or more which was a respiratory, cardiovascular, progressive long term illness or diabetes related illness**, this compares with 12.2% of workers in Scotland overall.
(Source: Annual Population Survey Jan-Dec 2019)
- 12.1% of employment in the Wholesale, retail, repair of vehicle industry was **classed as low skilled**, compared with 10.8% of employment in Scotland overall. 12.5% were considered **highly skilled**, compared with 27.6% for Scotland as a whole.
(Source: Annual Population Survey Jan-Dec 2019)
- In 2019, 42.5% of employees aged 18+ in the Wholesale, retail, repair of vehicle industry earned less than the **real living wage (£9.00)**, compared with 16.9% of all employees in Scotland.
(Source: Annual Survey of Hours and Earnings, April 2019, ONS)

Impact:

The Scottish Government is mindful of the requirement to have due regard to the three needs of the Public Sector Equality Duty (PSED) - eliminate unlawful discrimination, harassment and victimisation, advance equality of opportunity between people who share a protected characteristic and those who do not, and foster good relations between people who share a protected characteristic and those who do not.

It recognises while new policy measures may positively impact on one or more of the protected characteristics, the introduction of such measures may also have a disproportionate negative impact on one or more of the protected characteristics. The consultation will seek to understand any negative impacts that may be identified, and consider what measures may be taken to mitigate/eliminate these. We are also mindful that the equality duty is not just about negating or mitigating negative impacts, as we also have a positive duty to promote equality, which we will consider further on conclusion of the consultation.

Do you think that any policy change will impact on people because of their age?

Do you think that the policy impacts disabled people?

Age	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation	X	X		Given the large percentage of young people who work in retail any change to the current policy may have an impact on them.
Advancing equality of opportunity	X	X		Evidence shows that a large number of retail employees are young people. (26%)
Promoting good relations among and between different age groups			X	No evidence yet to determine whether young people would prefer to work on New Year's Day or not.

Disability	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation			X	No evidence of a differential impact identified at this time.
Advancing equality of opportunity			X	No evidence of a differential impact identified at this time.
Promoting good relations among and between disabled and non-disabled people			X	No evidence of a differential impact identified at this time.

Do you think that the policy impacts on men and women in different ways?

Sex	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation	X	X		Given the large percentage of women who work in retail, any change to the current policy is likely to have an impact on them.
Advancing equality of opportunity	X	X		Changes to working on New Year's Day may have a bigger negative impact on women as a large percentage in employment in the Wholesale, retail, repair of vehicle industry are women (60.5%).

Promoting good relations between men and women		X		There may be a differential impact if legislation prohibits some customer facing activities but other work activities continue in areas that are more male-dominated, for example in loading/unloading and distribution
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Do you think that the policy impacts on women because of pregnancy and maternity?

Pregnancy and Maternity	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation			X	No evidence of a differential impact identified at this time.
Advancing equality of opportunity			X	No evidence of a differential impact identified at this time.
Promoting good relations			X	No evidence of a differential impact identified at this time.

Do you think your policy impacts on people proposing to undergo, undergoing, or who have undergone a process for the purpose of reassigning their sex? (NB: the Equality Act 2010 uses the term ‘transsexual people’ but ‘trans people’ is more commonly used, although it may include a wide range of people not covered by the Act).

Gender reassignment	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation			X	No evidence of a differential impact identified at this time.
Advancing equality of opportunity			X	No evidence of a differential impact identified at this time.
Promoting good relations			X	No evidence of a differential impact identified at this time.

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

Sexual orientation	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation			X	No evidence of a differential impact identified at this time.

Advancing equality of opportunity			X	No evidence of a differential impact identified at this time.
Promoting good relations			X	No evidence of a differential impact identified at this time.

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

Race	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation			X	No evidence of a differential impact identified at this time.
Advancing equality of opportunity			X	No evidence of a differential impact identified at this time.
Promoting good race relations			X	No evidence of a differential impact identified at this time.

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

Religion or belief	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation			X	No evidence of a differential impact identified at this time.
Advancing equality of opportunity			X	No evidence of a differential impact identified at this time.
Promoting good relations			X	No evidence of a differential impact identified at this time.

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

Marriage and Civil Partnership	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation			X	No evidence of a differential impact identified at this time.

Annex C – Islands Community Impact Assessment

New Year's Day Trading Consultation - Island Communities Impact Assessment – Initial scoping Template

Title of Policy, Strategy or service	Consultation on New Year's Day Trading for large retailers
Policy - New or revision	New
Directorate: Division: Team:	Economic Development Directorate Retail Division Retail Policy Team
Lead Official	Paula Cassells
Minister	Minister for Public Finance, Planning and Community Wealth

Islands (Scotland) Act 2018: -

An ICIA must be prepared in relation to a policy, strategy, or service, which, is likely to have an effect on an island community which is significantly different from its effect on other communities (including other island communities).

1 Define the Policy

Purpose and intended effect:

The Scottish Government has agreed to hold a consultation on New Year's Day trading for large retail businesses. The consultation will include seeking the views of retail organisations, trade unions, retailers and employees on whether large stores should be closed by law from trading on New Year's Day, as they currently are on Christmas Day.

Legislative Background:

The Christmas Day and New Year's Day Trading (Scotland) Act 2007¹⁰ prohibits large shops from opening for the purpose of retail trading on Christmas day and confers power on Scottish Ministers to prohibit such shops opening on New Year's day.

The Act does this by:

- Making it a criminal offence for a large shop to open for the purpose of making retail sales on Christmas day.
- Conferring power on the Scottish Ministers to make it a criminal offence, by order to be approved by the Parliament, for a large shop to open for the purpose of making retail sales on New Year's day, following a consultation, the making of a report on the economic impact and impact on family life on large stores opening on New Year's Day, and the submission of a statement of reasons to the Parliament

¹⁰ [Christmas Day and New Year's Day Trading \(Scotland\) Act 2007 \(legislation.gov.uk\)](http://legislation.gov.uk)

- Defining a large shop as one with a trading floor area exceeding 280 square metres.
- Exempting specified trades or businesses and shops at specified places
- Defining who commits the offence and providing a due diligence defence.¹¹

2 Understand the Situation

1. Is there potentially an effect on an island Community, Demographics, Economic, Social?

There may be an impact on island communities if an Order was made under the Act. Depending on the location, the closing of large stores on New Year's Day where there is no alternative small store nearby could result in restrictions in accessing essential goods on that day.

2. If Yes, would can be done to mitigate for this?

Mitigations could be in ensuring the intended closure is widely promoted amongst island communities so that consumers are able to plan ahead, as they do for Christmas Day.

3. Data and Identify Stakeholders

1. What data is available about the current situation in the islands?

The numbers of shops that are greater than 280 square metres and therefore affected by any change in legislation is not known. However there is some data on the numbers of wholesale retail businesses in rural areas.

The majority of retail businesses operating in Scotland are micro and small businesses. It is estimated, based on the Inter-Departmental Business Register 2020 and 2019 Business Register and Employment Survey that there are 13,790 business units in the retail sector in Scotland, employing directly 233,000 people. Table 1 below shows a Scotland-level disaggregation of characteristics of areas of the retail sector that may be affected by the measures discussed including estimates of employment, number of businesses and business sites and number of premises.

Table 1: Breakdown of the Scottish retail sector

Sector	Employment (2019)	Number of Registered Businesses (2020)	Number of Registered Business Sites (2019)
SIC 47 Retail Trade, except of motor vehicles and motorcycles	233,000	13,790	22,340

¹¹ [Section 2 of the Christmas Day and New Year's Day Trading \(Scotland\) Act 2007](#)

Source: Business Register and Employment Survey; Businesses in Scotland, NDR roll.

Sector	Number of Registered Businesses	Small Registered Businesses (<49 employees)	Medium-Sized Registered Businesses (50-<249 employees)	Large Registered Businesses (250+ employees)
SIC 47 Retail Trade, except of motor vehicles and motorcycles	13,790	13,230	245	310

Source: Businesses in Scotland 2020.

The number of registered wholesale, retail and repair businesses in Scotland, their total Scottish employment and turnover by urban/rural classification

	Number of businesses	Total Scottish employment	Total Scottish turnover (£m)
Large Urban Areas	8,945	141,060	28,738
Other Urban Areas	8,265	146,130	28,625
Accessible Small Towns	1,990	19,620	3,344
Remote Small Towns	1,335	15,440	2,544
Accessible Rural	2,965	26,230	5,340
Remote Rural	1,940	12,340	1,881

Source: Business in Scotland 2020

Retail businesses with a rateable value above £51,000 tends to be concentrated in cities. Those local authorities that have island communities within their boundaries are highlighted in bold in the table below.

Business Units

	% Rateable Value above £51000	% Rateable Value equal of below £51000
Aberdeen City	15%	85%
Aberdeenshire	5%	95%
Angus	3%	97%
Argyll and Bute	3%	97%
Clackmannanshire	5%	95%
Dumfries and Galloway	5%	95%
Dundee City	11%	89%
East Ayrshire	4%	96%

East Dunbartonshire	7%	93%
East Lothian	5%	95%
East Renfrewshire	4%	96%
City of Edinburgh	13%	87%
Na h-Eileanan Siar	1%	99%
Falkirk	6%	94%
Fife	6%	94%
Glasgow City	10%	90%
Highland	8%	92%
Inverclyde	5%	95%
Midlothian	10%	90%
Moray	6%	94%
North Ayrshire	5%	95%
North Lanarkshire	6%	94%
Orkney Islands	3%	97%
Perth and Kinross	6%	94%
Renfrewshire	11%	89%
Scottish Borders	4%	96%
Shetland Islands	2%	98%
South Ayrshire	6%	94%
South Lanarkshire	8%	92%
Stirling	10%	90%
West Dunbartonshire	9%	91%
West Lothian	13%	87%

Source: OCEA

2. Are there any data gaps, how will these gaps be filled?

The exact numbers of retailers and employers that may be affected is not known, but each of the local authorities highlighted will be directly consulted.

3. Appropriate Stakeholders and Island communities to consult with

The consultation is open to all retailers and shop workers and will be promoted widely including by asking national business organisations to promote through their internal channels.



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