

FOOTBALL FANS, SMOKE BOMBS AND FLARES

What fans need to know.....

FSA FACT SHEET

This is written by Alison Gurden, a barrister who has often represented fans in court and issued by the fans' organisation the FSA. This is not the club saying this – an expert in the legal profession and it comes from an organisation representing the interests of fans in the game.

<https://thefsa.org.uk/news/flare-play-pyro-and-the-law/>

“Over the past decade we’ve spoken to lots of fans who’ve been prosecuted, and even jailed, for letting off flares or smoke bombs in stadiums.” – Amanda Jacks (FSA)



What is the law governing smoke bombs and flares at football matches?

The Sporting Events (Control of Alcohol etc.) Act 1985.

It is an offence for a person to enter or attempt to enter a football ground while in possession of a flare, smoke bomb or firework. The sentence for these offences can be as much as three months in prison, and in many cases, fans who have no previous convictions are being given prison sentences for attempting to enter a football ground with a smoke bomb in their pocket as the courts take these offences very seriously.

There are two different offences

- (1) possession in the football ground; and
- (2) possession while attempting to enter.

Although logically, attempting to enter a football ground seems to be less culpable than a fan who has managed to get the smoke bomb, flare or firework into the football ground, in real terms the courts do not consider one offence to be more serious than the other.

Fans searched prior to entering the football ground and found to be in possession of a firework, flare or smoke bomb, have still been given custodial sentences.

What does 'attempting to enter' a football ground mean?

The courts have decided that 'attempting to enter' means much more than a person who is searched at the turnstiles.

Fans have been given a prison sentence for carrying a smoke bomb in their pocket when exiting the train station closest to the football ground, or when walking through the car park on the way to the football ground.

A court is likely to decide that a fan who is in possession of a ticket and is close to the ground is 'attempting to enter'.

Is it more serious to carry a flare or a firework instead of a smoke bomb?

Although a firework or flare may be seen as more dangerous than a smoke bomb to most people, the courts do not seem to distinguish between them.

Fans have been sentenced to three months in prison for carrying a smoke bomb, without having actually let it off.

What is a firework?

Even a sparkler falls within the definition of firework, as do bangers and anything else that has a Firework Standard logo on it.

What is a smoke bomb?

Anything which emits smoke or visible gas, even something which is home made.

Will a conviction for possession of a firework, flare or smoke bomb result in a football banning order?

It is highly likely that the court will impose a football banning order on a fan who is convicted of possession of a firework, flare or smoke bomb at a football match.

The very nature of the offence means that the prosecution are likely to be able to persuade the court that the offence is football related, and that it is necessary to impose the order to prevent the offence happening again.

How long will the Football Banning Order last?

Most football banning orders imposed by a court after a conviction for a football related offence are for 3 years. This does not only prevent the fan from attending football matches for the next 3 years, but can prevent them from entering the town of their football team on match days, and require them to hand their passport to the Police when the England or Wales national team are playing overseas (as appropriate). A football banning order will show up on a Criminal Records Bureau checks and may prevent a fan from obtaining a visa to travel to countries such as the USA, or working in certain professions, such as working with children.

In addition, football clubs have issued life bans to fans who have been convicted of possession of a firework, flare or smoke bomb, meaning that even once the football banning order has expired, you may still be banned by your club.

What is the law on the carrying of flares, smoke bombs and fireworks for people aged under 18?

The Fireworks Regulations Act 2004

In addition to the above law, it is also an offence for a person under the age of 18 to be found carrying a firework in a public place. Smoke bombs have the Firework Standard label on them and will be classed as a firework. This doesn't just apply to people under 18 going to football matches but applies to all under 18 year olds when they are out in public places such as the park or town centre. The police can issue an £80 fixed penalty notice to anyone under the age of 18 found in possession of a firework in a public place.

Is it an offence for an adult to have a firework in their possession if they are not going to a match?

No, it is not illegal for a person over 18 years to possess a firework, flare or smoke bomb, but it is illegal for a person over 18 years to let off the firework, flare or smoke bomb in a public place. A person over the age of 18 cannot legally be arrested for being in possession of a firework, flare or smoke bomb, other than when entering or attempting to enter a football match. For instance, the arrest of a football fan at a service station for possession of a smoke bomb in their car is an unlawful arrest unless the fan admits to the police officer that they intended to take the firework, flare or smoke bomb into the football ground later that day.

Be warned that even though fans may not think that having a smoke bomb or flare in their pocket is a serious offence, the police and football club take it very seriously and even a fan with no previous convictions faces a real risk of going to prison.

Spread the word to your friends and fellow fans...

Our thanks to Alison Gurden, Barrister, for providing the information above.

<https://thefsa.org.uk/>

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