

EAST AYRSHIRE COUNCIL

COMMUNITY SERVICES COMMITTEE – 7TH FEBRUARY 2001

STORAGE AND SALE OF FIREWORKS

Report by Director of Community Services

1. PURPOSE OF REPORT

- 1.1 To advise the Committee of the legal background and issues relating to the storage and sale of fireworks.

2. BACKGROUND

- 2.1 East Ayrshire Council have delegated to the Chief Constable, under the Scheme of Delegated Functions, the statutory responsibility for the administration of the Explosives Act 1875 and 1923 (as amended).
- 2.2 With regard to explosives, delegation takes the form of authorising the Chief Constable to discharge the Council's functions with respect to licensing, registration and regulation of stores or registered premises. Such authorisation is by virtue of Section 19 of the Health and Safety at Work, etc Act 1974.
- 2.3 The situation previous to 1st April 1996 was that Strathclyde Regional Council delegated this power to Strathclyde Police, however the registering of premises is now carried out by the Community Services Department.
- 2.4 The Explosives Act 1875 and 1923 (as amended) also control and regulate the storage and sale of fireworks, under the terms of a registration requirement for gunpowder and mixed explosives.
- 2.5 Although the Police presently enforce the provisions of the Explosives Acts 1875 and 1923 (as amended) in relation to explosive stores they do not as a matter of practice concern themselves with the storage or sale of fireworks at retail or wholesale premises. The Association of Chief Police Officers and the Home Office have expressed concern over the resource capability of the police to enforce any controls against under age sales of fireworks (source – LACOTS Circular CO-13-95-6 Firework Safety – Fireworks Enforcement Against Sales to Young Persons). Strathclyde Police recognise that this enforcement responsibility should more appropriately rest with the Trading Standards Service.

3. OFFENCES ARISING FROM THE SALE OR STORAGE OF FIREWORKS

- 3.1 Offences concerning fireworks can be summarised as:
- 3.1.1 Sales from premises not registered with the local authority;
- 3.1.2 Improper storage;
- 3.1.3 Sales to children apparently under the age of 18;
- 3.1.4 The supply of fireworks which do not conform to BS7114;

3.1.5 The improper supply of Category 4 fireworks.

3.2 The first three areas are dealt with by the Explosives Act 1875 and 1923 (as amended) and orders in Council made thereunder and fall within the remit of the Police. The other three areas fall within the remit of Trading Standards Officers who are responsible for the enforcement of the Fireworks (Safety) Regulations 1997.

3.3 The question of the misuse of fireworks, eg, throwing fireworks in the street or through letterboxes, are issues which fall within the remit of the Police.

4. ENFORCEMENT OF THE LICENSING AND REGISTRATION SYSTEM

4.1 Although a number of premises within East Ayrshire, such as quarry and mining operations, are licensed to store mixed explosives, no premises within East Ayrshire store a sufficient quantity of fireworks to require a licence under the Explosives Acts. The only requirement for any premises currently storing and selling fireworks within the area is that they register with East Ayrshire Council through the Community Services Department Licensing and Community Safety Service. Upon receipt of a duly completed application form and payment of the appropriate fee the applicant is entitled to be registered and there are no grounds for refusal or withdrawal of registration at present. The Explosives Act 1875 and 1923 (as amended) and orders in Council made thereunder, have been under review for some considerable period and the Health and Safety Commission are due to issue a consultative document in March 2001 which may contain proposals to permit refusal of registration to unsuitable applicants.

5. VOLUNTARY CODE OF PRACTICE

5.1 Under a Voluntary Code Of Practice, the fireworks industry has agreed that fireworks should only be on general sale to public for the three weeks leading up to the 5th November and a few days thereafter. In addition, the Code permits fireworks to be displayed for sale between December 9th and 1st January.

5.2 It should be noted that this is a national voluntary code and it is not unlawful to store and sell fireworks from registered premises at any time throughout the year.

6. OTHER ISSUES

6.1 Improper storage and sale of fireworks within East Ayrshire is not recognised as a problematic issue. Trading Standards Officers and Police routinely visit all registered premises in October to advise traders of their responsibilities in respect of storage and sale of fireworks, although the Police have recently reported one retailer to the Procurator Fiscal in respect of the sale of fireworks to an underage person. The outcome of this report will be known in due course.

6.2 The attention of the Police was drawn to this matter as a result of a complaint relating to children throwing fireworks in the street in the Shortlees area.

6.3 Category 4 (professional fireworks) are permitted only to be sold to competent persons such as organisers or operators of fireworks displays including persons purchasing on behalf of the local authority for use by that authority at a national public celebration or a national commemorative event.

6.4 Opinions differ as to whether the sale and use of fireworks should be further restricted or totally banned, on the grounds of public safety. Any further constraints on the storage and sale of fireworks would require legislation.

7. FINANCIAL IMPLICATIONS – Nil

8. LEGAL IMPLICATIONS

8.1 East Ayrshire Council has delegated its responsibility for the enforcement of the Fireworks (Safety) Regulations 1997 to the Community Services Department, enforcement of which is carried out by the Trading Standards Service working in partnership with Strathclyde Police.

9. POLICY IMPLICATIONS – Nil

10. CONCLUSIONS

10.1 The Community Services Department through its Licensing and Community Safety Service conduct the registration of premises in respect of the storage and sale of fireworks and through its Trading Standards Service enforce the requirements of the Fireworks (Safety) Regulations 1997.

10.2 Opinions differ as to whether further constraints, including a complete ban, on the storage and sale of fireworks to the general public should be put in place. Any such development would require legislation.

11. RECOMMENDATIONS

11.1 It is recommended that the Committee:

- (i) take cognisance of the efforts expended by Community Services staff to implement the statutory and voluntary controls on the storage and sale of fireworks; and
- (ii) otherwise note this report.

W Stafford
Director of Community Services

WS/JD/DW

12th January 2001

LIST OF BACKGROUND PAPERS

Nil

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AGENDA