

EAST AYRSHIRE COUNCIL

KILMARNOCK NORTH LOCAL COMMITTEE – 4 FEBRUARY 2004

FIREWORKS ACT 2003

Report by Director of Community Services

1. PURPOSE OF REPORT

- 1.1 To advise the Kilmarnock North Local Committee of the implementation of the Fireworks Act 2003, the scope of the current emergency regulations and the likely scope of proposed regulations.

2. BACKGROUND

- 2.1 Although improper storage or the sale of fireworks to underage persons are not particularly problematic issues within East Ayrshire, the misuse of fireworks by children and adults alike and the noise nuisance created by certain types of fireworks has long been recognised as a serious issue.
- 2.2 In practice, children who are found in possession of fireworks have been supplied with the products by elder friends or relatives who have been entitled to purchase them, in accordance with the law.
- 2.3 Air bombs have become a particular nuisance in recent years. Air bombs are in effect very loud bangers. Although the sale of bangers is proscribed, air bombs are classified under BS7114 as roman candles and can be sold.
- 2.4 Elected Members and Council Officials have received numerous complaints about the misuse of fireworks including the nuisance caused by very loud fireworks being set off at all hours e.g. 2.00 am and over an extended period far in excess of those limits agreed under a fireworks industry voluntary code of practice.
- 2.5 Mr Bill Tynan, the MP for Hamilton South, who was drawn third in the 2002 ballot for Private Members Bills agreed, in response to a call from COSLA, to promote a Bill introducing further provisions for the control of fireworks.

3. DISCUSSION

- 3.1 The first reading of Mr Tynan's Fireworks Bill was held on 10 December 2002 and it finally received the Royal Assent in September 2003, too late to have any new regulations in place in time for the November 2003 fireworks season.
- 3.2 The Act is an enabling Act which permits the Secretary of State to introduce regulations to:-
- a) minimise the risk of death, injury, alarm, distress etc to persons or animals and/or the destruction of or damage to property;
 - b) apply further age restrictions on the supply of fireworks;
 - c) prohibit the purchase, possession or use of fireworks in certain circumstances;
 - d) prohibit the supply of certain types of fireworks or the purchase or possession by persons of a specified description;
 - e) regulate public fireworks displays;
 - f) introduce a licensing system (possibly two tier) for fireworks suppliers; and
 - g) introduce mandatory training for persons running fireworks displays.
- 3.3 The Fireworks Act 2003 contains no provision to restrict the sale of fireworks to any particular period of the year. Parliament appears to have decided to rely on the industry's voluntary code of practice in that respect. How effective this voluntary code of practice will be remains to be seen.
- 3.4 Consequential upon an autumn meeting between COSLA representatives and officials from the Department of Trade and Industry and the British Fireworks Association, the industry agreed to:
- voluntarily withdraw air bombs from the market and this, allied to a number of commercial measures, should remove 13 million firework explosions per annum from the environment
 - adopt guidance of fireworks noise level which will effectively reduce noise levels emanating from fireworks to a proposed European Standard
 - redraft the voluntary code for fireworks
 - the adoption of statutory controls in the form of a licensing regime regulating the supply of fireworks, including restrictions introducing time periods when fireworks are available for sale
 - the introduction of training for display fireworks operators; and
 - support the introduction of audit controls for imported fireworks from point of entry to the UK to point of sale.

4. EMERGENCY REGULATIONS

- 4.1 Although the Department of Trade and Industry are still at the consultation stage with respect to regulations implementing the main provisions of the Fireworks Act 2003, temporary emergency regulations were introduced on 22 December which make it an offence for any person under the age of 18 to be in possession of fireworks, (except category 1 e.g. sparklers, party poppers etc). The regulations also prohibit the possession of category 4 fireworks (professional fireworks), by persons other than those in a recognised professional capacity including, for example, any person employed by a local authority to put on a fireworks display.
- 4.2 These emergency regulations will be repealed in due course and incorporated into a broad package of fireworks regulations sometime during 2004. This package of regulations will depend on how the Secretary of State decides to exercise his powers in respect of those potential restrictions outlined in paragraph 3.2 above.

5. FINANCIAL IMPLICATIONS

- 5.1 Nil.

6. LEGAL IMPLICATIONS

- 6.1 Although it would normally fall to East Ayrshire Council's Trading Standards Service to enforce fireworks regulations, this responsibility in respect of the emergency regulations has been specifically placed on the Police.

7. POLICY IMPLICATIONS

- 7.1 Nil.

8. CONCLUSIONS

- 8.1 The Fireworks Act 2003 which enables the Secretary of State to make further regulations concerning safety and nuisance issues caused by the use or misuse of fireworks partially came into force on 28 November 2003. On 22 December 2003 emergency regulations came into force generally prohibiting the possession of fireworks by persons under 18 and also prohibiting the possession of the most dangerous (category 4) fireworks by persons other than professionals.
- 8.2 These emergency regulations will be repealed and incorporated into a broad package of fireworks regulations sometime in 2004.

9. RECOMMENDATIONS

9.1 It is recommended that the Committee:-

- (i) express appreciation for Bill Tynan's Fireworks Act; and
- (ii) otherwise note this report.

William Stafford
Director of Community Services

WS/JD/SD

23 December 2003

LIST OF BACKGROUND PAPERS

1. The Fireworks Regulations 2003

Any person wishing to inspect the background papers above should telephone 01563 576111 and ask to speak to John Crawford, Head of Protective Services.

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