

REVIEW



Lanterns and helium balloons grounded – A step forward for Manx environmental law



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As of 20 July 2021, the releasing of sky lanterns and helium balloons into the atmosphere has become prohibited by the Sky Lanterns and Balloons (Prohibition) Act 2021 of Tynwald. Touted as a major step forward for the protection of wildlife in the Isle of Man, a person found guilty of committing an offence under this Act could face a fine of up to £500. The Act explicitly prevents the selling and releasing of sky lanterns, small contraptions made often of paper and wood that are then lit and released to float skywards. Although undoubtedly a sight against a dark sky, the potential damage caused by these lanterns can have serious effects on the environment once they return to Earth. If still alight upon touching down, the Manx National Farmers' Union believe such an action akin to allowing "a naked flame" to be released into nature, irrespective of the obvious consequences that can ensue. Even if the heat source powering the lantern's flight has extinguished before the lantern lands, or it finds water, the construction material that makes up the lantern's structure becomes litter, which is potentially hazardous to wildlife. This danger became a reality when, in 2014, a cow died from swallowing a wire after coming across a fallen lantern. Whilst the selling of helium balloons is not prohibited by the Act, they also cannot be released into the atmosphere for similar reasons. "Atmosphere" is not defined by the Act, but it would appear that keeping balloons inside, or firmly attached to the ground, is permissible. It remains to be seen how lenient the authorities will be towards "accidental" releases. A helium-filled carousel horse balloon disappearing over

Slieau Whallian is an all too familiar sight at the annual Tynwald Day fair. Will this result in any number of potential fixed penalty notices? The wording of the Act states that a person will be guilty of an offence under this legislation who "causes it (the release of a helium balloon/lantern) to occur or is responsible for it continuing." In some cases, this will be obvious. Indeed, it is somewhat difficult to construct and light a sky lantern accidentally. However, in cases where a slip or trip has resulted in a helium balloon's release, would the simple fact that the balloon has been freed outside result in a fine? Certain criminal offences do not require those convicted to have expressly intended to commit the offence, known as strict liability offences. The authorities' attitude towards unintentional releases remains to be tested. Ultimately, the Act represents a progression towards a more eco-centric Island, and possibly signals Tynwald's intentions to further commit to fighting climate change, with the Manx government having recently launched a consultation concerning the banning of single-use plastics from being sold in the Isle of Man.

M&P Legal has an environmental law unit; please contact us for further information.

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