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# SKY LANTERNS AND BALLOONS (PROHIBITION) BILL 2020

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## Explanatory Memorandum

1. This Bill is promoted by Mr M Perkins (MHK).
2. In the opinion of the member moving the Bill its provisions are compatible with the Convention rights within the meaning of the Human Rights Act 2001.
3. *Clause 1* provides for the title of the resulting Act.
4. *Clause 2* provides for the commencement of the resulting Act.
5. *Clause 3* sets out the purposes of the Bill in general terms (“prohibited activities”).
6. *Clause 4* sets out the purposes of the Bill in more detail.
  - 6.1 Sub-clause (1) prohibits any person from selling or supplying a sky lantern.
  - 6.2 Sub-clause (2) prohibits any person from releasing a sky lantern or a helium balloon into the atmosphere.
7. *Clause 5* provides exemptions to clause 4.
  - 7.1 Sub-clause (1) provides that the prohibitions in clause 4 do not apply to the sale or supply of a scientific balloon.
  - 7.2 Sub-clause (2) provides that nothing in clause 4 prohibits the release of a scientific balloon into the atmosphere by specified bodies for scientific or research purposes.
8. *Clause 6* deals with offences.
  - 8.1 Sub-clause (1) provides that an offence consists of causing or continuing a prohibited activity.
  - 8.2 Sub-clause (2) provides for a “reasonable excuse” defence.
  - 8.3 Sub-clause (3) provides that on summary conviction the penalty for an offence is a fine not exceeding level 2 on the standard scale for each separate infraction of a prohibition.
9. *Clause 7* provides for a fixed penalty notice regime.
  - 9.1 Sub-clause (1) enables a constable to issue a fixed penalty notice but does not impose a duty to do so.
  - 9.2 Sub-clause (2) provides that, for the purposes of a fixed penalty notice, more than one prohibited activity carried out on a single occasion in respect of a sky lantern or helium balloon shall be treated as a single prohibited activity (and hence a single offence).

- 9.3 Sub-clause (3) specifies how a fixed penalty notice impacts on potential proceedings for an offence under clause 6.
- 9.4 Sub-clause (4) sets out what a fixed penalty notice must contain - including the amount payable and the payee.
- 9.5 Sub-clause (5) provides that amount of penalty cannot exceed £500.
- 9.6 Sub-clause (6) provides that the penalty may be a lower amount if paid within a specified period.
- 9.7 Sub-clause (7) provides that a fixed penalty shall be paid into the General Revenue.
- 9.8 Sub-clause (8) provides that any certificate provided by the payee is evidence of its contents in any proceedings.
- 10 *Clause 8* deals with regulations which may be made by the Council of Ministers for the purposes of the Bill.
- 11 *Clause 9* defines terms used in the Bill, including definitions of “sky lantern” “sell”, “supply” and “release”.
- 12 *Clause 10* revokes the Sky Lanterns (Safety) Regulations 2015 (SD 2015/0307).



*Ellan Vannin*

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*Ellan Vannin*

## SKY LANTERNS AND BALLOONS (PROHIBITION) BILL 2020

1 A **BILL** to prohibit the sale, supply and release into the atmosphere of sky  
2 lanterns, to prohibit the release into the atmosphere of helium balloons, to  
3 provide for exemptions from such prohibitions; and for connected purposes.

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**BE IT ENACTED** by the Queen’s Most Excellent Majesty, by and with the advice and consent of the Council and Keys in Tynwald assembled, and by the authority of the same, as follows:—

4 **1 Short title**

5 The short title of this Act is the Sky Lanterns and Balloons (Prohibition) Act  
6 2020.

7 **2 Commencement**

8 (1) This Act, apart from section 1 and this section, comes into operation on  
9 such day or days as the Council of Ministers may by order appoint.

10 Tynwald procedure – laying only.

11 (2) An order under subsection (1) may include such supplemental,  
12 incidental, consequential and transitional provisions as appear to the  
13 Council of Ministers to be necessary or expedient.

14 **3 Introduction**

15 This Act has effect for the purpose of prohibiting the sale and supply of sky  
16 lanterns and release of sky lanterns and helium balloons into the atmosphere  
17 (“prohibited activities”).

18 **4 Prohibition on sale, supply and release**

19 (1) No person shall sell or supply a sky lantern.

20 (2) No person shall release into the atmosphere a sky lantern or helium  
21 balloon.

**1 5 Exemptions**

- 2 (1) Section 4 does not apply to the sale or supply of a scientific balloon.
- 3 (2) Nothing in section 4 prohibits the release of a scientific balloon into the  
4 atmosphere for scientific or research purposes by a recognised  
5 educational institution, government organisation, aeronautical body,  
6 bona fide scientific organisation or bona fide research body.

**7 6 Offences**

- 8 (1) A person carries out a prohibited activity if the person causes it to occur  
9 or is responsible for it continuing.
- 10 (2) A person who carries out a prohibited activity without reasonable  
11 excuse commits an offence.
- 12 (3) On summary conviction, a person is liable to a fine not exceeding level 2  
13 on the standard scale in respect of each prohibited activity carried out in  
14 respect a sky lantern or a helium balloon.

**15 7 Fixed penalty notices**

- 16 (1) If a constable has reason to believe that a person has carried out a  
17 prohibited activity and accordingly committed an offence under this Act,  
18 the constable may offer that person the opportunity of discharging any  
19 liability to conviction for that offence by payment of a fixed penalty  
20 notice.
- 21 (2) Where, on a single occasion a person carries out more than one  
22 prohibited activity in relation to a sky lantern or helium balloon, those  
23 activities shall be treated as a single prohibited activity (and hence a  
24 single offence) for the purposes of this section.
- 25 (3) Where a constable issues a person with a fixed penalty notice under this  
26 section in respect of an offence—
- 27 (a) no proceedings may be taken for the offence before the end of the  
28 period of 14 days following the date of the notice;
- 29 (b) the person may not be convicted of the offence if the person pays  
30 the fixed penalty before the end of that period.
- 31 (4) A fixed penalty notice must—
- 32 (a) give reasonably detailed particulars of the circumstances alleged  
33 to constitute the offence;
- 34 (b) state the date on which it is issued;
- 35 (c) state the period during which (because of subsection (3)(a))  
36 proceedings will not be taken for the offence;
- 37 (d) specify the amount of the fixed penalty;

- 1 (e) state the name and address of the person to whom the fixed  
2 penalty may be paid;
- 3 (f) specify permissible methods of payment;
- 4 (g) provide details of any procedure for challenging or appealing the  
5 notice;
- 6 (h) include the constable's name and the name of the police station to  
7 which the constable is attached.
- 8 (5) An amount specified under subsection (4)(d) must not be more than  
9 £500.
- 10 (6) A fixed penalty notice may specify two amounts under subsection (4)(d)  
11 and specify that, if the lower of those amounts is paid within a specified  
12 period of less than 14 days, that is the amount of the fixed penalty.
- 13 (7) A fixed penalty shall be paid into the General Revenue.
- 14 (8) In any proceedings, a certificate that—
- 15 (a) purports to be signed by or on behalf of the payee of a fixed  
16 penalty, and
- 17 (b) states that payment of a fixed penalty was, or was not, received by  
18 the date specified in the certificate,
- 19 is evidence of the facts stated.

## 20 8 Regulations

- 21 The Council of Ministers may, by regulations —
- 22 (a) amend sections 4, 5 and 7 of this Act, and
- 23 (b) make incidental, consequential, supplemental, transitional,  
24 transitory provision or any other provision which the Council of  
25 Ministers considers necessary or expedient for the purposes of  
26 giving full effect to any provision of this Act.
- 27 Tynwald procedure – approval required.

## 28 9 Interpretation

- 29 In this Act —
- 30 “**heat source**” means an open or enclosed flame (whether fully or partially)  
31 caused by burning liquid propane or some other flammable liquid or  
32 material;
- 33 “**helium balloon**” means an envelope or similar contraption made from  
34 materials such as rubber, latex, polychloroprene or metalised plastic of  
35 nylon fabric filled with helium (or another inert gas which is lighter than  
36 air) with the intention of it rising into the atmosphere;
- 37 “**release**” includes —

- 1 (a) accidental or inadvertent release into the atmosphere;
- 2 (b) an attempt to release into the atmosphere that is wholly or
- 3 partially successful;

4 “**research purposes**” include atmospheric research, astronomy and military

5 research;

6 “**scientific balloon**” –

7 (a) means a structure which is typically made of thin polyethylene

8 film assembled from gores and which are usually unmanned,

9 filled with inert gases that are lighter than air and fly at high

10 altitudes;

11 (b) includes a weather balloon, a meteorological balloon and a high

12 altitude balloon;

13 “**sell**” includes expose for sale, hire, barter, exchange and any other transaction

14 by which a sky lantern is transferred from the ownership, control or

15 possession of one person to another;

16 “**sky lantern**” includes any device taking the form of a miniature unmanned

17 balloon, envelope or similar contraption that relies on a heat source to

18 heat the air inside the balloon, envelope or contraption with the intention

19 of it rising into the atmosphere;

20 “**supply**” includes distributing.

## 21 **10 Revocation**

22 The Sky Lanterns (Safety) Regulations 2015 (SD 2015/0307) are revoked.



IN THE KEYS

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**SKY LANTERNS AND BALLOONS (PROHIBITION)  
BILL 2020**

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A **BILL** to prohibit the sale, supply and release into the atmosphere of sky lanterns, to prohibit the release into the atmosphere of helium balloons, to provide for exemptions from such prohibitions; and for connected purposes.

Approved for introduction in the Keys by resolution of the House under Standing Order 4.2.1(c) on 10 November 2020.

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MR M PERKINS

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DECEMBER 2020