

KENT COUNTY COUNCIL - 26 APRIL 2001

KENT COUNTY COUNCIL ACT 2001

Report by County Regulatory Services Officer

1. The Kent County Council Bill received Royal Assent on Tuesday 10 April 2001, from which point the full title became the Kent County Council Act 2001.
2. The Act was conceived in June 1998 as a joint venture between the County Council, Medway Council and Kent Police Authority. The principle behind the proposed legislation was to disrupt the market in stolen goods by requiring dealers in second hand goods to be registered with the County Council and to maintain records of their transactions. All the research indicated that these requirements, particularly when coupled with the intelligence led approach pioneered by Kent Police, would enable Police and Trading Standards to target effectively those who handled stolen goods. Removing or severely disrupting the business of those who deal in stolen goods would, in turn, both reduce acquisitive crime and enable better tracing of stolen goods.
3. A draft Bill was deposited with Parliament in November 1998. Its process through both Houses took two and a half years and involved some unusual aspects of Parliamentary procedure, including a record 12 days of evidence before a Select Committee.
4. The end result is an Act which has changed considerably from the original draft Bill. These changes reflect legitimate concerns from sections of the second hand trade that will be affected by the legislation. The County Council, as the promoter of this Bill, consulted widely, listened and, wherever possible, agreed amendments that will lessen any burden on traders. The final legislation still incorporates the core requirements of registration and record keeping, which are essential if the law is to be effective.

Bringing the Act into force

5. The majority of the Act comes into force on an appointed day which has to be fixed by resolution of the Council. The Act also requires the Council to publish, in at least two newspapers circulating in the County and one national art and antique trade periodical, a notice:-
 - about the passing of the resolution
 - declaring the date on which the legislation will come into force
 - stating what general effect the Act will have

The Act cannot come into force earlier than 6 months from the publication of the above Notice. Bearing in mind publication deadlines and the need to synchronise with Medway Council, who are going through a similar process, it is proposed that the Act comes into force on 1 December 2001.

6. There are several sections within the Act which permit the County Council, by resolution, to define certain matters which then have the force of law. The purpose of defining by resolution is to allow the County Council to amend limited parts of the legislation which might otherwise, over time, become unworkable, for example as a result of changes in trade practices.

7. In total there are three resolutions for the County Council. The first defines the day on which the Act will generally come into operation. The others deal with alternatives to the recording of full names and addresses. The latter resolutions must also be approved by the Secretary of State. Approval will be obtained by writing to the Secretary of State who, subject to a test of reasonableness, will approve the resolution in writing.

Resolutions to be passed by the County Council

8. The three resolutions are as follows:

(a) The Council resolves that the appointed day for Part 2, Part 3 and Part 4 of the Kent County Council Act 2001 to come into force shall be 1 December 2001.

(b) The Council resolves that where a dealer is registered under section 5 of the Kent County Council Act 2001 and attends a fair or event, and it is a requirement of the fair or event organiser that all sellers are to provide their names and addresses and to wear or display some form of unique identification issued by the organiser by which each seller can be identified, it shall be sufficient for the purposes of sections 6(1)(c) for the registered dealer to record details of the unique identification together with the location of the event and the name of the organiser.

At the beginning of many antique fairs there is a period, before the public are admitted, when dealers trade among themselves. It was suggested that Kent dealers, who had to obtain the names and addresses of sellers, would be disadvantaged because those sellers would prefer to sell to dealers from elsewhere who were not required to record these details. This amendment will go some way towards addressing this concern.

(c) The Council resolves that where a dealer registered under section 5 of the Kent County Council Act 2001 sells an item for more than the relevant amount (which is specified in section 6(6) and receives payment by credit card, debit card, or cheque, it shall be sufficient for the purposes of section 6(5) for the registered dealer to record the number and type of the debit card or credit card, or in the case of a cheque, the account number, bank and sort code, instead of the name and address of the person to whom the article (or set) was sold.

It was suggested by the trade that many customers might not wish to give an unknown dealer their private address. For example, collectors of valuable antiques could feel that it was placing their property at risk by providing an address to an unknown dealer, who would then know the location of their collection. This exemption would protect the customer's identity and yet still enable the police to trace the property if it was subsequently suspected of being stolen.

Delegations

9. The current delegations to the County Regulatory Services Officer, as approved by Regulatory Services Board on 16 March 2000, will need to be amended to add the Kent County Council Act 2001 to the Schedule of legislation enforced by the Trading Standards Service on behalf of the County Council.

The next steps

10. Applications for registration can be made to either Kent or Medway Councils and a registration with one council will automatically count as registration with

the other. Detailed guidance notes on the Act and its requirements, plus a copy of the application form, will be made available on the Council's website and it is hoped that many traders will apply for registration electronically. Other applications are likely to be handled initially by KCC's Public Contact Centre. The software to support the registration process is currently being developed. Registrations are not being taken immediately, but will be accepted on a date which will be publicised, well before the date of coming into operation of the Act.

11. Operational co-ordination between the two Councils and the Police is being discussed and a range of policies on enforcement issues is being developed.

Recommendations

- (1) The County Council adopts the three resolutions at paragraph 8 above
- (2) The Kent County Council Act 2001 is added to the schedule of legislation referred to at paragraph 9 above.