

CIVIC LICENSING COMMITTEE – 16 AUGUST 2012

LICENSING OF CAR BOOT SALES

REPORT BY THE DIRECTOR OF CORPORATE SERVICES

ABSTRACT

The purpose of this report is to invite the Committee to determine whether a Market Operator's Licence shall be required for the carrying on of a car boot sale.

1. RECOMMENDATIONS

It is recommended that the Committee agrees that:-

- (i) a Market Operators' Licence be required for the carrying on of a car boot sale; and
- (ii) draft Standard Conditions to be applied to the grant of a Market Operators' Licence in respect of car boot sales be submitted to the next meeting of the Committee for approval

2. BACKGROUND

2.1 Section 40 of the Civic Government (Scotland) Act 1982 provides that a licence, to be known as a "market operator's licence", shall be required for carrying on a private market. A "private market" is defined as a market, whether covered or not, carried on by any person other than a local or public authority at which goods are offered by more than one seller for sale by retail to the public.

2.2 A market operator's licence is not required for carrying on either of the following—

- (a) functions held by charitable, religious, youth, recreational, community, political or similar organisations;
- (b) markets held only for the sale of livestock, fodder or grain.

2.3 Car boot sales, unless exempted by the above provisions, fall within the definition of a private market. Angus Council has not previously required qualifying car boot sales to obtain a market operator's licence.

2.4.1 Discussions have taken place between the Council's Law and Administration and Consumer Protection Services. There has been a significant increase in the prevalence of car boot sales and the Consumer Protection Service has highlighted issues in relation to car boot sales. These include:-

- (i) the sale of defective products,
- (ii) the sale of stolen goods,
- (iii) the sale of counterfeit goods; and
- (iv) the sale of goods in respect of which no excise duty has been paid.

2.4.2 In addition to the above, there are issues in relation to:-

- (a) litter,
- (b) noise,
- (c) food safety,
- (d) parking,
- (e) fire safety; and
- (f) public liability insurance.

2.4.3 For these issues, it is submitted that the Committee should agree that the carrying on of a qualifying car boot sale should require a market operator's licence. It is submitted that the definition of a car boot sale should include not only sales from a car boot but also table top sales and both indoors and outdoors.

2.5 If the Committee agrees that the carrying on of a car boot sale does require a market operator's licence, the draft conditions to be attached to such licence will be submitted to the next meeting of the committee for approval. At that meeting, the Committee will also be invited to specify a date when the requirement to obtain a market operator's licence shall commence.

3. FINANCIAL IMPLICATIONS

There are no significant financial implications arising from this report.

4. HUMAN RIGHTS IMPLICATIONS

There are no human rights implications arising from this report

5. EQUALITIES IMPLICATIONS

The issues dealt with in this report have been the subject of consideration from an equalities perspective (as required by legislation). An equalities impact assessment is not required.

6. CONSULTATION

The Chief Executive, Head of Law and Administration, Head of Finance, Chief Constable and the Director of Infrastructure Services have been consulted in the preparation of this report.

**COLIN McMAHON
DIRECTOR OF CORPORATE SERVICES**

NOTE: No background papers as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) were relied on to any material extent in preparing this Report.