

## CIVIC LICENSING COMMITTEE – 16 AUGUST 2012

## LICENSING OF PUBLIC ENTERTAINMENTS

## REPORT BY THE DIRECTOR OF CORPORATE SERVICES

**ABSTRACT**

The purpose of this report is to advise Committee of amendments to the Civic Government (Scotland) Act 1982 and to invite Committee to determine to carry out a review and consultation exercise on (i) whether the use of premises as a place of public entertainment when there is no payment of money or money's worth for admission requires a public entertainment licence; and (ii) the activities which should be required to obtain a public entertainment licence.

**1. RECOMMENDATIONS**

It is recommended that the Committee:-

- (i) note that Section 176(2)(a) of the Criminal Justice and Licensing (Scotland) Act 2010 amended Section 41 of the Local Government (Scotland) Act 1982 to the extent that the Council can now require that a public entertainment licence shall be required in respect of the use of premises as a place of public entertainment when there is no payment of money or money's worth for admission; and
- (ii) agree that a review and consultation exercise should be carried out in respect of (i) whether the use of premises as a place of public entertainment when there is no payment of money or money's worth for admission requires a public entertainment licence; and (ii) the activities which should be required to obtain a public entertainment licence.

**2. BACKGROUND**

- 2.1 Section 41 of the Civic Government (Scotland) Act 1982 ("the 1982 Act") provides that a licence, to be known as a "public entertainment licence" shall be required for the use of premises as a place of public entertainment. Prior to the implementation of Section 176(2)(a) of the Criminal Justice and Licensing (Scotland) Act 2010 ("the 2010 Act"), a "place of public entertainment" was defined as "any place where, on payment of money or money's worth, members of the public are admitted or may use any facilities for the purposes of entertainment or recreation". The effect of the implementation of the 2010 Act was to remove the words on "payment of money or money's worth". This means that it is open for the Committee to determine that a public entertainment licence shall be required in respect of the use of premises as a place of public entertainment when there is no payment of money or money's worth for admission.
- 2.2 For completeness, and regardless of the amendment to Section 41 of the 1982 Act brought about by Section 176(2)(a) of the 2010 Act, there is no requirement to obtain a public entertainment licence in respect of the following:-
  - (a) an athletic or sports ground while being used as such;
  - (b) premises in respect of which an indoor sports entertainment licence is required by virtue of Section 41A of the 1982 Act while such premises are being used for the purposes mentioned in that section;
  - (c) an educational establishment while being used as such;
  - (d) premises belonging to or occupied by any religious body while being used wholly or mainly for purposes connected with that body;
  - (e) premises licensed under the Theatres Act 1968 , or section 1 of the Cinemas Act 1985;

- (f) premises in respect of which there is a club gaming permit (within the meaning of section 271 of the Gambling Act 2005) or a prize gaming permit (within the meaning of section 289 of that Act of 2005);
- (g) licensed premises within the meaning of the Licensing (Scotland) Act 2005 in which public entertainment is being provided during licensed hours within the meaning of that Act;
- (h) premises in which machines for entertainment or amusement are being provided incidentally to the main purpose or use of the premises where that main purpose or use is not as a place of public entertainment; or
- (i) such other premises as the Scottish Ministers may by order made by statutory instrument specify.

2.3 Members are specifically asked to note that it is a matter for the Committee to determine whether or not a public entertainment licence shall be required in respect of the use of premises as a place of public entertainment when there is no payment of money or money's worth for admission. As matters presently stand, the Council has only resolved to require a public entertainment licence in respect of the use of premises as a place of public entertainment when there is payment of money or money's worth for admission. Until such time as the Committee resolves otherwise, the status quo shall subsist.

2.4 There has been a significant amount of public interest in this issue and concerns have been expressed to the Council that the licensing of public entertainments when there is no payment of money or money's worth could have a significant effect on small venues and community events which currently do not require to be licensed (such as small temporary arts and music venues).

2.5 In addition, it should be noted that whilst this Council has resolved to licence all of the activities which fall within the definition of "public entertainment", many other local authorities have actually specified what types of activities it requires to be licensed (such as circuses, concert halls, video machine arcades; and go-karting). Given the legislative changes referred to above, it is submitted that this would be an opportune time to review the types of activities which the Council currently requires to have a public entertainment licence, and consult on the issue of whether activities in respect of which there is no payment of money or money's worth for admission should be required to have a public entertainment licence (and, if so, which types of activities). **A list of current and potential types of activities will be circulated at the meeting.**

### **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.