

**CIVIC GOVERNMENT (SCOTLAND) ACT 1982
AMENDMENTS TO THE ACT IN TERMS OF CRIMINAL JUSTICE
AND LICENSING (SCOTLAND) ACT 2010**

1. SUMMARY

- 1.1 The Criminal Justice & Licensing (Scotland) Act 2010 amends several of the provisions of the Civic Government (Scotland) Act 1982 in relation to licences. This report details the changes and the potential impact of the changes.

2. RECOMMENDATION

- 2.1 Members are asked to note the changes and approve the recommendations in relation to market operators and public entertainment licences.

3. BACKGROUND

3.1 Changes to the legislation

3.2 Section 172: Conditions to which licences under 1982 Act are to be subject

This section provides for mandatory and standard conditions to be attached to licences issued under the Act. Mandatory conditions may be prescribed by the Scottish Ministers.

Standard conditions are determined by the licensing authority. These must be published. The Council already has standard conditions and these will be published on the Council's website to comply with this provision.

These standard conditions can be applied to deemed grants or renewals (ie grant or renewal of licences where the authority has failed to reach a decision on an application within the statutory period allowed). The licensing authority is also able to impose further conditions as well as omit or vary any of the standard conditions.

It is anticipated this section will come into force early in 2011.

3.3 Section 173: Licensing: Powers of Entry and Inspection by Council Employees

This section extends the powers of authorised officers who are employed to enter and inspect premises to ensure compliance with licence conditions to civilian staff employed by the police.

This section will come into force on 13 December 2010.

3.4 Section 175: Licensing of Street Trading: Food Hygiene Certificate

This section amends the requirements of the certificate which must accompany applications for street traders licences which consist of or include food business within the meaning of Section 1(3) of the Food Safety Act 1990 so that the certificate must state the vehicle, kiosk or moveable stall complies with any requirements set out in or order made by the Scottish Ministers and is being discussed with the Council's environmental health service.

This section will come into force early in 2011.

3.5 Section 176 Licensing of Public Entertainment

Currently the definition of a "place of public entertainment" means any place where on payment of money or money's worth members of the public are admitted or may use any facilities for the purpose of entertainment and recreation subject to certain exceptions.

Subsection (2) repeals the words "on payment of money or money's worth from the definition of public entertainment.

This allows licensing authorities to control large scale public entertainments which are free to enter but authorities have discretion whether to licence events such as gala days or school fetes. In terms of this section, the Council previously only resolved to licence the following classes of public entertainment namely concerts, theatrical performances, fairgrounds, circuses, leisure centres with audience accommodation, dancing, discotheques or roller discos, ice rinks with audience accommodation, boxing, wrestling, judo or similar presentations, snooker or billiard halls, amusement arcades or video shows, so there is no requirement for gala days or school fetes to obtain a public entertainment licence.

This section will come into force early in 2011.

3.6 Section 177 Licensing of late night catering

Section 42 of the 1982 Act requires premises providing meals and refreshments between 11pm and 5am to be licensed. This section replaces “meals and refreshments” with “food” thus bringing late night grocers and 24 hour stores within the scope of the provision.

The Scottish Government have stated that it will continue to be for licensing authorities to determine which classes of premises actually require to be licensed. In terms of the resolution passed by the Council all relevant premises require to be licensed.

This section will come into force early in 2011.

3.7 Section 178 Applications for licences

This section requires all applicants to provide details of their place and date of birth on application forms. This is already requested in the Council’s application forms. This information is not to be included in notices for display and publications.

There are also amendments to the time limits of the application process, to make representations, provide reasons for decisions, give notice of hearings and for licensing authorities to consider licence renewal applications received after the expiry date as renewals rather than new applications. The licensing authority’s procedures will be amended to reflect these changes which come into force on 28 February 2011.

3.8 Section 174 Licensing of taxis and private hire cars

Section 174 (probable commencement date of March 2011) amends section 13(3) of the Act to provide that an applicant for a taxi or private hire car drivers licence must have held throughout the period of 12 months immediately prior to the date of the application a licence authorising them to drive a motor car. Further amendments have been made regarding the fixing of taxi scales and consultation on the review process and imposing a duty to give notice to the effect of the scale fares and notify all operators of taxis and the persons and organisations consulted within 7 days of the decision.

4. 4.1 Market Operators Licences

As detailed in paragraph 3.5, gala days and school fetes do not require a public entertainment licence in terms of the resolution made by the Council.

Section 40 of the Act which deals with market operators licences states that “a market operators licence shall not be required for carrying on the following:

(a) functions held by charitable, religious, youth, recreational, community, political or similar organisations”.

Organisations further may, however, require to obtain a market operators licence if there are trade stalls and certain types of commercial stalls unless each of these stalls hold a street traders licence covering the location where the market is being held.

Organisations may, if not holding a market or gala day, need a street traders licence if selling items or carrying out a service to any person in a public place.

5. GENERAL

5.1 The Council has introduced a new computer system for Civic Government licensing which will assist in the processing of applications.

Consideration is being given to the systems available to improve the renewal process for 2012. Consideration has been given to staggering the renewal process It should be noted, however, that the survey carried out in 2007, which found that those responding to the survey were content (or expressed no preference) with the fixed three yearly renewal process. A further report will be given to members once a full assessment of the options has been carried out.

6. CONCLUSION

6.1 The Committee are asked to note the terms of this report.

7. IMPLICATIONS

7.1 Policy – Nil

Financial – Nil

Personnel – Changes to existing systems and procedures will place extra demands which will have to be absorbed within existing constraints.

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