

CIVIC GOVERNMENT (SCOTLAND ACT) 1982

PUBLIC ENTERTAINMENT LICENCES –

STANDARD CONDITIONS

FEEES FOR CHARITABLE ORGANISATIONS

1. SUMMARY

- 1.1 In terms of Paragraph 5 of Schedule 1 of the Civic Government (Scotland) Act 1982, a licence granted in terms of the Act may be granted subject to conditions.

In terms of Section 3 (3B) of the Act, a licensing authority may determine conditions to which licences granted by them are to be subject. Currently there are no standard conditions applied to public entertainment licences.

A licensing authority must publicise, in such a manner as they think appropriate, any standard conditions determined by them and such conditions have no effect unless they are published.

- 1.2 The fees approved for charities and voluntary based organisations for public entertainment licences are at the same level as for commercial organisations. The fees for market operator's licences and street traders licences are set at one third of the normal fee rate for such organisations.
- 1.3 Concerns have been expressed and representations received in relation to the impact of the amendment to the Civic Government (Scotland) Act 1982 by the Criminal Justice and Licensing (Scotland) Act 2010 in relation to public entertainment licensing whereby free to enter public entertainment events require to be licensed with effect from 01 April 2012.

2. RECOMMENDATION

- 2.1 It is recommended that the draft standard conditions attached, as Appendix A to this report, be approved and published on the Council's website.
- 2.2 Members are asked to consider and determine whether the fee for a public entertainment licence for voluntary or charitable based organisations be set at one third of the normal fee rate that may be

approved from time to time by the Council provided the organisation is only having one event per year

- 2.3 Members are asked to consider and determine whether no fee should be charged for a free to enter event if the event is organised by a formally constituted voluntary or charitable organisation on the basis of this exemption from payment of a fee only applying to one event per year and only if the following criteria is met – (i) there is no admission charge or fee; (ii) no charge for use of any of the facilities is made; (iii) no donations.
- 2.4 That there be a monitoring period of a year in relation to any change in the fees agreed in relation to voluntary and charitable based organisations with a further report being placed before members to advise on cost implications in administering and any other issues in May 2013.

3. DETAIL

- 3.1 As part of the renewal process it has been noted that there are no standard conditions applied to public entertainment licences. Conditions are applied individually to each specific licence.

It is recommended that the standard conditions attached, as Appendix A to this report, be approved and applied to all public entertainment licences. Additional conditions can still be applied to individual licences

- 3.2 Consultation has taken place with Environmental Services and Building Control in connection with the proposed standard conditions.
- 3.3 Consultation has also taken place with Strathclyde Police and Strathclyde Fire Brigade. Strathclyde Police have confirmed they consider the draft standard conditions appropriate. Strathclyde Fire Brigade have suggested an additional condition which has been inserted as condition 10.
- 3.4 The level of fees approved for public entertainment licences does not differentiate between commercial and voluntary and charitable based organisations. Both market operator's and street trader's licence application fees are reduced for such organisations. Members are asked to consider whether a similar approach should be taken in relation to public entertainment licence fees with the proviso that this reduction in fee should apply only if holding one event per year.

- 3.5 As from 01 April 2012, the Criminal Justice and Licensing (Scotland) Act 2010 removed the words “on payment of money or money’s worth” from the definition of public entertainment. From that date any activity which falls within a class of public entertainment, which is licensed by this authority, will require a licence even if there is no charge made.
- 3.6 Argyll and Bute Council on 12 August 1996 resolved to licence the activity of public entertainment. This activity had previously been licensed by Argyll and Bute District Council. Public entertainment licences have been required in Argyll and Bute since 1984.

The resolution, in so far as it relates to public entertainment, was made only in relation to the following classes of entertainment:

- a) Concerts
- b) Theatrical performances
- c) Fairgrounds
- d) Circuses
- e) Leisure centres with audience accommodation
- f) Dancing, discotheques or roller disco
- g) Ice rinks with audience accommodation
- h) Boxing, wrestling, judo or similar presentations
- i) Snooker or billiard halls
- j) Amusement arcades
- k) Video shows

Therefore as from 01 August 1997 in respect of Argyll and Bute Council area and previously in respect of Argyll and Bute District area since 1984, any place where on payment of money or money’s worth where members of the public are admitted or may use the facilities for the purposes or any of the classes detailed in (a) – (k) above required a public entertainment licence. This applies irrespective of whether a charity or commercial organisation is holding an event. Members should note that if an activity does not fall within one of the classes of entertainment which the Council resolved to licence, a public entertainment licence is not required. For example gala days, school fetes and art exhibitions do not require a public entertainment licence.

- 3.7 Representations have been received in relation to the amendments to the legislation and the impact this could have on events run by voluntary/charitable based organisations which fall within the class of activities which are licensable in the area of Argyll and Bute. If members are so minded, they could agree to an exemption from the payment of a fee for a free to enter event organised by a voluntary or charitable based organisation on the basis of this applying only to one event per year subject to the following criteria – (1) there is no admission charge or fee; (ii) no charge is made for the use of any of the facilities; (iii) no donations

3.8 Members should be aware that in terms of the Civic government (Scotland) Act 1982, the licensing authority are required to ensure that the total amount of fees it receives is sufficient to meet the expenses incurred in exercising its functions as licensing authority under the Act. Any proposals to reduce fees for voluntary/charitable organisations have to be considered in this context. It is unknown at that this time what the cost implications would be if members agreed to reduce the fees for voluntary or charitable based organisations. If members agree to reduce fees this will require to be assessed over the next financial year and a further report placed before members.

3.9 Commercial events would require to pay the normal fee and would be ineligible for the reduced fee.

4. CONCLUSION

4.1 Having standard conditions would help regulate public entertainment licences and ensure consistency when such licences are being granted.

4.2 Having a reduced fee for public entertainment licences for voluntary or charitable based organisations would be in accordance with fees charged for such organisations for street traders' and market operators' licences.

4.3 In view of concerns expressed, members may wish to consider whether to charge no fee for an event organised by charitable/voluntary community groups which are free to enter subject to the conditions referred to above .

5. IMPLICATIONS

Policy: There would be standard conditions for public entertainment licences. There would be consistency in fees charged for voluntary and charitable based organisations.

Financial: There would be reduced level of income in respect of fees for public entertainment licences.

Personnel: None

Equal Opportunities: None

Legal: There is a power to impose standard conditions in terms of the Act.

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GOVERNANCE AND LAW

SCHEDULE OF CONDITIONS

PUBLIC ENTERTAINMENT LICENCE

1. The licence holder must display the licence prominently in the premises or on the site and shall exhibit on demand to any Trading Standards Officer, any authorised Officer of the Council or any Police Officer or Fire Officer on production by that person of his Badge of office and shall allow such person to note the particulars on such licence.
2. The licence holder shall not lend or allow any other person to use his licence.
3. A licence holder shall not in any way alter, erase or deface his licence and shall, when reasonably required, produce it for examination by the Licensing Authority.
4. The licence holder shall require the consent of the Director of Development and Infrastructure Services to the layout of the site or premises.
5. The licence holder shall require to provide adequate toilet facilities at the site or premises on which the licence relates. The said toilet facilities shall require to be approved by the Director of Development and Infrastructure Services.
6. Notwithstanding the terms and conditions contained in the licence, every person engaged or employed in the operating of the licensing area shall comply with any order or instruction given by any Police Officer in uniform for the prevention of obstruction or annoyance to the public or to the occupiers of any premises or in connection with any emergency or disturbance or on any occasion when such Officer in his discretion may consider it necessary in the Public interest to give such order or instruction..
7. The licence holder must ensure that he has planning consent and all other necessary consents for operating as such in the premises specified and must adhere to all relevant legislation.
8. The licence holder who ceases to act as such for the unexpired period of this licence or whose licence has been suspended by the Licensing Authority or has expired shall, within three days thereafter deliver his licence to the Head of Governance and Law, Argyll and Bute Council, Kilmory, Lochgilphead, PA31 8RT.
9. The licence holder shall ensure he has, prior to trading in terms of this licence, arranged and signed an agreement for the collection of commercial waste. He shall either submit a copy of the agreement with the application or do so within 14 days of receipt of a licence. The renewal of a licence application must be accompanied with a copy of the agreement.
10. The licence holder must ensure compliance with the duties placed upon them under Part 3 of the Fire (Scotland) Act 2005 (as amended) insofar as such obligations would apply and in particular to ensure that a fire risk assessment is undertaken in respect of the premises.
11. The licence holder shall maintain in force at all times adequate third party insurance.