

Agenda Item	6
Report No	HLC/051/13

## **The Highland Licensing Committee**

**Meeting – 6 August 2013**

### **Review of Public Entertainment Licence Activities & Additional Licence Condition**

**Report by the Legal Manager**

#### **Summary**

This Report invites the Committee to consider the proposals to review the activities which are currently licensed as public entertainment under Section 41 of the Civic Government (Scotland) Act 1982 and also to consider the introduction of an additional licence condition.

#### **1.0 Background**

- 1.1 The Council has resolved to license a number of activities under Section 41 of the Civic Government (Scotland) Act 1982 which relates to public entertainment.
- 1.2 Prior to April 2012 a public entertainment licence only be applied where the public were charged money or monies worth to take part in or view the entertainment activity. From 1 April 2012 an amendment to the Act meant that Licensing Authorities had the power, if they wished, to require a licence for any activity which they had resolved to license whether the public were charged a fee or not.
- 1.3 It is down to the discretion of each Licensing Authority, through its public entertainment licensing resolution, whether to require a licence for 'free' events.
- 1.4 A list of the current activities licensed by the Council is attached in Appendix 1.
- 1.5 As it has been some time since this list of activities has been revised Officers have undertaken a review of the list and have made some proposals in relation to removing some activities and adding in others.
- 1.6 Details of the suggested amendments are contained in Appendix 2.

#### **2.0 Consultation**

- 2.1 It is suggested that full consultation be undertaken with regard to the suggested change to the list of activities and that as part of this the following organisations/persons be consulted:

- Police
- Fire Service
- Scottish Ambulance Service
- TEC Services
- Community Councils
- Chambers of Commerce
- Federation of Small Businesses
- Ward Business Meetings
- Ward Managers

2.2 The consultation would also be published on the Council's Website and a press release issued to highlight the review.

### 3.0 **Process**

3.1 Where the Council intends to commence licensing a new activity, in terms of the legislation, they must allow a period of 9 months from the date that the resolution is made before the licensing scheme can commence. This is to allow time for anyone who is likely to require to be licensed to make application and for that application to be determined in time for the licensing going live and it is to also allow time for persons to adapt their businesses so as to meet any licensing requirements.

3.2 However prior to making the resolution an advertisement requires to be published stating that the Council intends to make the resolution and inviting representations in writing within 28 days of publication of the advertisement.

### 4.0 **Next Step**

4.1 Once the Committee has agreed the draft revised list of activities this will be put out to consultation and it is suggested that the public and any other interested parties be given a period of six weeks in which to respond with any comments.

4.2 A further Report will then be submitted to the Licensing Committee detailing the responses received and inviting the Committee to agree the final revised list of activities and formally resolve.

### 5.0 **Amendment to Conditions**

5.1 In addition to the above the Committee is also asked to consider introducing an additional condition into the standard public entertainment licence conditions.

5.2 Under the Theatres Act 1968 all premises are required to hold a licence under this Act for the performance of a play. This would be required whether or not a public entertainment licence was in place for the premises.

5.3 Given that the checks carried out for both the public entertainment licence and Theatres Act licence are very similar and in order to avoid the need for premises to hold more than one licence it is recommended that the following condition be applied to all new or renewed public entertainment licences.

*`In the event that the premises are used for the performance of a theatrical play within the meaning of the Theatres Act 1968 then during the said performance this condition shall act as a temporary licence granted under the Theatres Act 1968 by the Council in favour of the licence holder and the premises detailed in*

*Condition 2 of this licence. The temporary licence will last for the duration of the theatrical performance and shall be subject to the standard conditions of the public entertainment licence.'*

**5.4** This will therefore avoid the requirement of duplicate licences and fees having to be made/paid by the organisers.

**5.5** If agreed this condition would be applied with immediate effect.

**5.0 Recommendation**

5.1 The Committee are invited to:

- (i) Consider the proposed amendments to the list of public entertainment licensed activities as a basis for consultation.
- (ii) agree the organisations/persons to be consulted.
- (iii) consider the introduction of the condition detailed in paragraph 5.3 of the report.

Designation: Legal Manager

Date: 19<sup>th</sup> July 2013

Author/Reference: Michael Elsey: 12/2/5

Appendix 1 – Current list of PEL activities

Appendix 2 – List of proposed changes to activities

Appendix 3 – Proposed new list of PEL activities

## List of Current Public Entertainment Licence Activities

billiard, snooker and pool halls

premises used for exhibitions

premises used for fireworks displays

premises used for health and fitness activities, including gymnasia and saunas

premises used for laser displays and war games

premises used for agricultural shows

premises used for Highland Games

premises used for Go-Karting

premises used for bungee-jumping and bungee-running

premises used for bouncy castles or similar structures

discos and dances

musical performance

lectures and illustrated talks

Concerts

Circuses

Fairgrounds

travelling shows

travelling funfairs

Sun Tanning Premises

n.b. the definition of premises would include land.

**Current PEL Activities with Amendments**

<p><b>Current Activity</b></p> <p><b>(Suggested additional categories/changes are in bold italics)</b></p>	<p><b>Proposed Action</b></p>	<p><b>Reasons</b></p>
<p>Billiard, snooker and pool halls</p>	<p>Retain this category.</p>	<p>The majority of the premises providing this activity will already be licensed under the Licensing (Scotland) Act 2005 and therefore exempt from public entertainment licensing. However any premises which are not exempt by virtue of holding a liquor licence should require a PEL to help ensure that all the relevant health and safety requirements are complied.</p>
<p>Premises used for exhibitions</p>	<p>Remove this category</p>	<p>The premises to be used for exhibitions are likely to be within fixed premises and will therefore be subject to Fire Service and Building Standards regulations. The nature of the activity is also unlikely to cause any public safety/disorder issues.</p>
<p>Premises used for <b><i>fee paying and non fee paying public</i></b> fireworks and laser displays</p>	<p>Retain these activities and extend the requirement to include non-fee paying events.</p>	<p>By ensuring that all non-fee paying displays/bonfires are brought within the licensing scheme it will ensure that relevant health and safety and fire safety requirements are complied with.</p> <p>The category would apply to any <b>public</b> fireworks or laser displays, this would therefore exempt fireworks at e.g. weddings, birthdays, private parties etc.</p>

<p>Premises used for health and fitness activities, including gymnasia and saunas;</p>	<p>Retain this category.</p>	<p>Licensing these activities will ensure that all relevant health and safety requirements are complied with including appropriate risk assessments.</p> <p>Health &amp; Fitness activities are defined as including:</p> <ul style="list-style-type: none"> <li>• Gyms</li> <li>• Sports Centres</li> <li>• Fitness Classes</li> <li>• Swimming Pools</li> <li>• Leisure Centres</li> </ul> <p>A club would be deemed to be private only where members hold 'continuous annual membership'. Thus a premises which allows guests to be signed in by a club member would require a licence.</p>
<p>Premises used for laser <b>tag</b>, war or <b>paint ball games</b></p>	<p>Retain this activity and add an additional activity of paintballing/tag games.</p>	<p>Licensing these activities will ensure that all relevant health and safety requirements are complied with including appropriate risk assessments. It will also ensure that appropriate public liability insurance is in place for the activity.</p>
<p>Premises used for agricultural shows;</p>	<p>Retain this activity.</p>	<p>Licensing of such events will help ensure that all the relevant health and safety requirements are complied with including appropriate risk assessments. It will also ensure that issues such as traffic management and stewarding are addressed through the licensing process.</p>

Premises used for Highland Games;	Retain this activity	Licensing of such events will help ensure that all the relevant health and safety requirements are complied with including appropriate risk assessments. It will also ensure that issues such as traffic management and stewarding are addressed through the licensing process.
Premises used for <b>off road vehicle driving</b> and go-karting;	It is proposed to retain the activity of go-karting and add off road vehicle driving.	It is suggested that cars, bikes, quad bikes, motocross, motorcycle scrambling should all fall within this category.
Premises used for bungee-jumping and bungee-running; <b>bungee catapulting or similar</b>	It is proposed to retain these activities and add the additional category of bungee catapulting which is becoming more common place than bungee jumping.	Licensing of such activities will help ensure that all the relevant health and safety requirements are complied with including appropriate risk assessments are addressed through the licensing process. It will also ensure that appropriate public liability insurance is in place for the activity.
premises used for bouncy castles or similar structures <b>and trampolines</b> ;	Retain this activity and add trampolines.	<p>Licensing of such activities will help ensure that all the relevant health and safety requirements are complied with including appropriate risk assessments are addressed through the licensing process.</p> <p>It is proposed to exempt persons who hold a street traders licence for the activity of providing mobile bouncy castles/structures at various locations providing that they hold public liability insurance and have provided the relevant certification and risk assessments for the structure(s).</p>
Discos and dances	Retain this activity	Licensing of such events will help ensure that all the relevant health and safety

		requirements are complied with including appropriate risk assessments. It will also ensure that issues such as capacity of premises, stewarding, first aid arrangements, toilet facilities etc. are addressed through the licensing process.
<b>Concerts</b> , Musical performances; <b>and entertainment/variety shows whether by individuals or groups of individuals</b>	Retain activities, combine with existing categories and add category of entertainment/variety show.	<p>Licensing of such events will help ensure that all the relevant health and safety requirements are complied with including appropriate risk assessments. It will also ensure that issues such as capacity of premises, stewarding, first aid arrangements, toilet facilities, noise management etc. are addressed through the licensing process. This category will include the large Festivals/Concerts which take in the Highlands e.g. Rockness, Belladrum and loopallu.</p> <p>It is also suggested that any outdoor concerts/musical performances within this category which are free and will have a capacity of more than 100 would require a public entertainment licence. This would only apply where the music was the principal activity of the event.</p>
Lectures and illustrated talks;	Remove this category	The premises to be used for these activities are likely to be within fixed premises and will therefore be subject to Fire Service and Building Standards regulations. The nature of the activity is also unlikely to cause any public safety/disorder issues.
Concerts	It is proposed to retain this activity but to combine it with Musical Performances.	As above

<b>Premises used for Circuses; amusement parks, fairgrounds, travelling shows, and travelling funfairs.</b>	Retain Activity and add additional category of amusement parks. Combine with fairgrounds, travelling shows and travelling funfairs.	Licensing of such events will help ensure that all the relevant health and safety requirements are complied with including appropriate risk assessments. It will also ensure that issues such as capacity of premises, stewarding, first aid arrangements, toilet facilities, noise management etc. are addressed through the licensing process.
fairgrounds;	Combine with above	As above
travelling shows;	Combine with above	As above
travelling funfairs;	Combine with above	As above
Sun Tanning Premises	It is proposed to retain this activity	Licensing of this activity will ensure that the relevant health and safety requirements are complied with including appropriate risk assessments. Additional conditions are applied to UV suntanning premises.
<b>Premises used for outdoor Sports</b>	It is proposed to add this as an additional category. The definition of Outdoor sports would be:  Any activity where physical skill is the predominant factor but excludes athletic or sports grounds whilst being used as such which would include bowling greens, golf courses, cricket pitches etc.	Licensing of such events will help ensure that all the relevant health and safety requirements are complied with including appropriate risk assessments.
<b>Raves</b>	It is proposed to add this as an additional category. The definition of a 'rave' being an event	Whilst the numbers of these are very few should this type of activity be occur the

	<p>which features electronic music.</p> <p>It is also proposed that the definition be extended to non fee paying events to ensure that any free events are operated in accordance with the relevant health, safety and fire requirements.</p>	<p>licensing of these will ensure that the relevant health and safety requirements are complied with including appropriate risk assessments, noise management, first aid provision etc. are addressed through the licensing process.</p>
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## **List of Proposed new List of Public Entertainment Licence Categories**

- Billiard, snooker and pool halls
- Premises used for fee paying and non fee paying public fireworks and laser displays
- Premises used for health and fitness activities, including gymnasia and saunas;
- Premises used for laser tag, war or paint ball games
- Premises used for agricultural shows
- Premises used for Highland Games
- Premises used for off road vehicle driving and go-karting
- Premises used for bungee-jumping and bungee-running; bungee catapulting or similar
- Premises used for bouncy castles or similar structures and trampolines
- Premises used for Discos and dances
- Premises used for Concerts, Musical performances; and entertainment/variety shows whether by individuals or groups of individuals. Any free outdoor concert/musical performance with a capacity of more than 100 persons where the music is the principal activity of the event.
- Premises used for Circuses; amusement parks, fairgrounds, travelling shows, and travelling funfairs
- Sun Tanning Premises
- Premises used for outdoor Sports
- Premises used for Raves

n.b. Premises, as detailed above, also refers to land.