
NORTH AYRSHIRE COUNCIL

8th May 2024

Licensing Committee

Title:	Public Entertainment Resolution under the Civic Government (Scotland) Act 1982
Purpose:	To advise the Committee on the procedure for the review of its Public Entertainment Licence and to determine the terms of its Resolution on such for public consultation.
Recommendation:	<p>That the Committee agree to consider and determine the terms of its Public Entertainment Licence Resolution, and thereafter, consult on such in terms of the required Statutory process under the Civic Government (Scotland) Act 1982.</p> <p>It is not recommended that car cruise events are licensed under the Public Entertainment Licence procedure, and that they are more suitably covered by existing Police powers, Road Traffic Legislation, and other similar Legislative powers.</p>

1. Executive Summary

- 1.1 The Licensing Committee exercise the functions of the Council as "Licensing Authority" under many statutes, including the Civic Government (Scotland) Act 1982 (as amended by the Criminal Justice and Licensing (Scotland) Act 2010).
- 1.2 The Civic Government (Scotland) Act 1982 provides powers to local authorities to licence a wide range of different activities. Some activities are required to be licensed under the said Act, and are mandatory, and others the Council has a discretion as to what to licence. However, to exercise the discretionary powers under the 1982 Act, the Act states that those powers "shall have effect in the area of a licensing authority, only if, and insofar as the authority have so resolved" in accordance with the Act. The wording of the Council's current public entertainment resolution is somewhat dated, and this report recommends various changes to be considered by the Committee. Accordingly, this report sets out the steps required to review the Council's current public entertainment licence and create the appropriate resolution under the said '1982 Act to revise and update the licensable public entertainment activity types appropriately in a modern context.

2. Background

- 2.1 A public entertainment licence is required for the use of premises as a place where members of the public are admitted or may use any facilities for the purposes of entertainment or recreation. The Council's current public entertainment resolution is contained at Appendix 1. This contains several specified activities which requires to be updated.
- 2.2 There have been meetings of the Member/Officer working group to consider the terms of the Council's current resolution, and the Clerk to the committee has further met recently with protective services colleagues to discuss the terms, scope and practical workability and monitoring of the terms of any updated resolution. It is now appropriate given the need to update the resolution to bring forward draft proposals for the Committee to consider, and for the Clerk to the committee to outline the relevant process and timescales. It is anticipated that during the consultation process, as outlined below, that internal council services will have a further opportunity to respond to the terms of any proposed draft and to allow for the required public consultation. In addition, guidance notes will be worked on with protective service colleagues as to guidance issued to applicants as to their relevant responsibilities and what is expected of them and the role of the local authority too in regulating such and any required risk-based inspection process thereon. There are likely to be an increase in resource considerations for any approved public entertainment licence resolution that is approved by the Committee. This would be in terms of increased resourcing allocated to the regulation and enforcement of such activities as required.
- 2.3 As outlined, in Appendix 2, the current proposed draft seeks to outline the activities that will require to be licensed in terms of the updated resolution. The Act requires that, if a Council resolves to licence public entertainment, it shall specify the places, or classes, of those activities which shall fall to be licensed and regulated.
- 2.4 When specifying places or classes, it is best to avoid descriptions of activities that are so specific that the list doesn't keep pace with changes in public entertainment and to avoid generic descriptions that can regulate some activities that are lower risk. Factors to consider in terms of whether to resolve to licence an activity under a public entertainment licence resolution are whether the risk of the activity is significantly affected by whether the person is a "fit and proper" person, whether the premises is suitable for the activity in question and the need for the Council to be consulted when an event is being planned. It is proposed also that there the public entertainment licence provisions should not apply for spectator-based entertainment where the number is less than 200 persons, the event has been risk assessed and it is certified by the organiser that no aspect of the event presents a high risk to the safety of the spectators. The organiser will require to take full cognisance of the HSG195-The Health and Safety Executive Event Safety Guide known as the "Purple Book" and any ancillary guidance that the local authority may provide from time to time too on such events.

Accordingly, at Appendix 2, the activities that are proposed to be in the scope of the revised resolution which will be outlined by the Clerk to the Committee more fully at the meeting of the Licensing Committee. The Committee may wish to determine as to whether to seek to licence car cruise events and consider the effectiveness of the any proposed licensing of such events under a public entertainment resolution. It is the recommendation of officers that there is limited effectiveness of seeking to resolve to

licence car cruise events under the public entertainment process as there are existing Police powers where there are any criminal acts, breaches of Road Traffic regulations or anti-social behaviour identified by parties attending and assembling for such purposes. The Committee should also take cognisance of the rights of public assembly in relation to which the Council's licensing powers are limited.

- 2.5 As outlined in Part B of the draft resolution there are proposed exemptions to the requirements where it is already covered by the Licensing (Scotland) Act 2005 requirements and in terms of the "Exemptions" as outlined below:

" Community and School Fundraising Exemption:

- (a) *the place is operated by a charitable, religious, youth, educational, recreational, community, political or similar organisation; and*
- (b) *charges or donations are wholly for the benefit of the operating organisation, or another organisation which is within (a);*

it does not need a PEL."

Section 41 (2) of the Civic Government (Scotland) Act 1982 further specifies when a public entertainment licence will not be required including usage by schools, charitable organisations and athletic or sports grounds etc. used for those purposes.

- 2.6 A licensing authority shall not make a resolution unless they have published in a newspaper or newspapers circulating in their area the terms of the proposed resolution together with a notice stating that they intend to make the resolution; and that representations about the resolution may be made in writing to the authority within 28 days of the first publication of the notice.
- 2.7 The licensing authority shall, as soon as they have made a resolution, publish in a newspaper or newspapers circulating in their area the terms of the resolution so made, together with a notice stating the effect of the resolution.
- 2.8 Any resolution cannot come into effect until at least nine months after the date that the resolution is made.

3. Proposals

- 3.1 It is recommended that the terms of the proposed resolution contained in Appendix 2, subject to any amendments by the Committee, be published in the relevant local newspapers and on the Council's website, and that a further report be provided to the Committee detailing any representations made in response and asking the Committee to thereafter after consideration of such make a resolution.

4. Implications/Socio-economic Duty

Financial

- 4.1 The legislation requires the Council to charge fees for licences that cover the costs of administering the licensing regime, therefore changes to the types of activity licensed by the Council are cost neutral. However, there will be an increase in officer time and enforcement/regulation of such activities.

Human Resources

- 4.2 There will be additional resource requirements where the Committee resolves to add additional licensing types in its revised resolution. These will require additional visits by protective services in terms of the public awareness of new licensing requirements and from enforcement officers from legal services where there are reports of unlicensed activities.

Legal

- 4.3 A modern Public Entertainment Licence Resolution is required to take account the change and nature of activities that should be licensed. This requires to be in terms of the Civic Government (Scotland) Act 1982.

Equality/Socio-economic

- 4.4 An "Equality Impact Assessment" screening has been carried out, and there are no equalities impacts associated with using these discretionary powers. There are no socio-economic implications of the proposals.

Climate Change and Carbon

- 4.5 None

Key Priorities

- 4.6 North Ayrshire Council has priorities for "Communities and Local Democracy" and "Wellbeing" in the Council Plan 2023-2028. An effective licensing system and updated public entertainment resolution, helps achieve the Strategic Aim-Wellbeing.

Community Wealth Building

- 4.7 There are no Community Wealth Building Issues.

5. Consultation

- 5.1 Consultation is required in terms of the statutory process, as outlined above, in terms of the Civic Government (Scotland) Act 1982.

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For further information please contact **Raymond Lynch, Senior Manager, Legal Services**, on licensing@north-ayrshire.gov.uk.

Background Papers

Appendix 1-Current Public Entertainment Resolution

Appendix 2-Proposed draft Public Entertainment Resolution.

Appendix 1- Current Public Entertainment Resolution

A Public Entertainment Licence is required for the following activities or premises:

- boxing, wrestling or another spectacle
- motorcycle scrambling
- dancing, a discotheque or amplified sound
- an open air concert
- an exhibition
- a large fete with one or more public marquees
- a fireworks display
- an ice rink
- a musical, dramatic or other stage or floor or radio or television performance or activity
- a circus
- a fairground (includes a ride of whatever size, speed or cost)
- a swimming pool
- a billiards, snooker and/or pool hall
- an amusement arcade other than one licensed under the Gambling Act 2005

APPENDIX 2 - DRAFT PUBLIC ENTERTAINMENT RESOLUTION

DRAFT

North Ayrshire Council, being the Licensing Authority under the Civic Government (Scotland) Act 1982, resolves that from [**date**] a 'Public Entertainment Licence' under Section 41 of the 1982 Act ('PEL') is required for the places and activities listed at Part (A) below, subject to the exemptions in Part (B) below.

Parts:

- (A) List of places and activities needing a Licence
- (B) Exemptions

A "public entertainment licence" shall be required for the use of premises as a place of public entertainment. This means any place where members of the public are admitted or may use any facilities for the purposes of entertainment or recreation of any of the following types:

A Public Entertainment Licence shall not be required for spectator-based entertainment events that satisfy all the following conditions:

The event is provided to an audience of less than **200 persons** at any one time and the organiser of the event takes appropriate steps to monitor and control capacity during the event, is fully risk assessed and certified by the organiser and that the organiser determines that no aspect of the event presents a high risk to the safety of spectators and the event organiser takes cognisance of HSG195 - the Health and Safety Executive Event Safety Guide (also known as the Purple Guide) or any further additional guidance specified, from time to time, by the Licensing Authority;

"Spectator based entertainment" is defined as:

- (1) Performances such as dance, live music events and public performance of any music, dance or plays etc.
- (2) Exhibitions of an object such as a painting, drawing, installation, or historic artifact etc.
- (3) Public shows and events such as festivals, fairs, firework displays, circuses and sporting events etc.

Part (A) - List of places and activities needing a Licence:

- 1. Premises used for public performances of live music, whether indoor or outdoor, including concerts, music festivals and live DJ events playing amplified music (live or recorded);
- 2. A place where there is a public performance of any music, dance or play (speech, singing or acting), and premises used for performances involving hypnotism;

3. Skating rinks (including facilities for indoor roller skating and skateboarding) and ice rinks;
4. Circuses;
5. Fairgrounds;
6. Exhibitions;
7. Snooker, Billiard or Pool Halls;
8. Swimming pools;
9. Fireworks display, except ones covered by dispensation by the Council, authorised by Law or within the curtilage of a dwelling-house by or with the permission of the occupier;
10. Sunbed/tanning facilities;
11. Animal riding where not covered by Riding Establishment Licence provisions;
12. Premises used for bungee jumping, abseiling, zip slides, indoor climbing walls and trampolining;
13. Premises used for paintball games;
14. A large fete with one or more marquees;
15. Any premises indoor or outdoor used for:
 - (i) Motor vehicle stunt shows or motor sports.
 - (ii) Quad bike events.
16. Premises used for any activity involving inflatable structures such as bouncy castles, or one or more mechanical rides;
17. Boxing, wrestling and martial arts events, or contact sports where a public audience may be present on payment of a fee.

Any person wishing to carry on any such activity will require a licence from the Council before doing so, (unless the Council already licenses the activity in which case a licence will continue to be required without any delay in implementation).
 "With effect from X it will be an offence under Section 7(1) of the Act to use a premises for Public Entertainment for the classes mentioned above without a licence.

(B) Community & School Fundraising Exemptions:

All two conditions must apply before this exemption applies.

If

- (a) the place is operated by a charitable, educational, religious, youth, recreational, community, political or similar organisation and
- (b) charges or donations are wholly for the benefit of the operating organisation, or another organisation which is within (a)

it does not need a PEL.

