

Report to Licensing committee
4 June 2015
Report of Head of citywide services
Subject Licensing Act 2003: Deregulation Act 2015 and the
Legislative Reform (Entertainment Licensing) Order 2014.

Item

6

Purpose

To inform members of amendments to the Licensing Act 2003.

Recommendation

That members note the legislative changes.

Corporate and service priorities

The report helps to meet the corporate priority of a safe and clean city and the service plan priority of protecting the interests of the public through the administration of the licensing function.

Financial implications

Deregulation of regulated entertainment under the Licensing Act 2003 may result in a very limited reduction in the number of licensed premises. It is estimated that there would be an annual reduction of approximately fifty Temporary Event Notices authorising regulated entertainment only. This would equate to a reduction in income of £1050

Ward/s: All wards

Cabinet member: Councillor Driver – Neighbourhoods and community safety

Contact officers

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Background documents

Revised guidance issued under section 182 of the Licensing Act 2003

<https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003>

Background

1. Schedule 1 to the Licensing Act 2003 (The Act) sets out what activities are regarded as the provision of regulated entertainment and when they are licensable and those activities which are not and therefore exempt from the regulated entertainment regime.

2. The descriptions of entertainment activities licensable under the 2003 Act are:

- a performance of a play;
- an exhibition of a film;
- an indoor sporting event;
- a boxing or wrestling entertainment;
- a performance of live music;
- any playing of recorded music;
- a performance of dance; and
- entertainment of a similar description to a performance of live music, any playing of recorded music or a performance of dance.

3. To be licensable, one or more of these activities needs to be provided for the purpose (at least partly) of entertaining an audience; has to be held on premises made available for the purpose of enabling that activity; and must also either:

take place in the presence of a public audience, or

where that activity takes place in private, be the subject of a charge made with a view to profit.

Examples of non-licensable entertainment activities

4. There are a number of exemptions that mean that a licence or other authorisation under the 2003 Act is not required. Although it is not possible to give examples of every eventuality or possible entertainment activity that is not licensable, the following activities are examples of entertainment which are not licensable:

- activities which involve participation as acts of worship in a religious context;
- activities in places of public religious worship;
- education – teaching students to perform music or to dance;
- the demonstration of a product – for example, a guitar – in a music shop;
- the rehearsal of a play or performance of music for a private audience where no charge is made with a view to making a profit;
- Morris dancing;

- Incidental music – the performance of live music or the playing of recorded music if it is incidental to some other activity;
- Incidental film – an exhibition of moving pictures if it is incidental to some other activity;
- A spontaneous performance of music, singing or dancing;
- Garden fetes – or similar if not being promoted or held for purposes of private gain;
- Films for advertisement, information, education or in museums or art galleries;
- Television or radio broadcasts – as long as the programme is live and simultaneous;
- Vehicles in motion – at a time when the vehicle is not permanently or temporarily parked;
- Games played in pubs, youth clubs etc. (e.g. pool, darts and table tennis);
- Stand-up comedy; and
- Provision of entertainment facilities (e.g. dance floors).

Deregulation of the Licensing Act 203

5. As a result of deregulatory changes to The Act (including the Deregulation Act 2015 and the Legislative Reform (Entertainment Licensing) Order 2014) , no premises licence is required for the following activities:

- Plays: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500.
- Dance: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500.
- Films: no licence is required for 'not-for-profit' film exhibition held in community premises between 08.00 and 23.00 on any day provided that the audience does not exceed 500 and the organiser (a) gets consent to the screening from a person who is responsible for the premises; and (b) ensures that each such screening abides by age classification ratings.
- Indoor sporting events: no licence is required for an event between 08.00 and 23.00 on any day, provided that those present do not exceed 1000.
- Boxing or wrestling entertainment: no licence is required for a contest, exhibition or display of Greco-Roman wrestling, or freestyle wrestling between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000.
- Live music: no licence permission is required for:
 - a performance of unamplified live music between 08.00 and 23.00 on any day, on any premises.
 - a performance of amplified live music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.

- a performance of amplified live music between 08.00 and 23.00 on any day, in a workplace that is not licensed to sell alcohol on those premises, provided that the audience does not exceed 500.
- a performance of amplified live music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
- a performance of amplified live music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school or (iii) the health care provider for the hospital.
- Recorded Music: no licence permission is required for:
 - any playing of recorded music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
 - any playing of recorded music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
 - any playing of recorded music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school proprietor or (iii) the health care provider for the hospital.
- Cross activity exemptions: no licence is required between 08.00 and 23.00 on any day, with no limit on audience size for:
 - any entertainment taking place on the premises of the local authority where the entertainment is provided by or on behalf of the local authority;
 - any entertainment taking place on the hospital premises of the health care provider where the entertainment is provided by or on behalf of the health care provider;
 - any entertainment taking place on the premises of the school where the entertainment is provided by or on behalf of the school proprietor; and
 - any entertainment (excluding films and a boxing or wrestling entertainment) taking place at a travelling circus, provided that (a) it takes place within a moveable structure that accommodates the audience, and (b) that the travelling circus has not been located on the same site for more than 28 consecutive days.

6. In addition to deregulating regulated entertainment , the Deregulation Act 2015 amends The Act as follows:

- The requirement to renew personal licences has been abolished with effect from 1 April 2015.
- The offence of selling liqueur confectionery to children under 16 will be repealed with effect from 26 May 2015. After that date a person of any age can buy liqueur confectionery in England and Wales.
- The limit on the number of temporary events that can be held at single premises will increase from 12 to 15 per calendar year from 1 January 2016.
- The requirement to report lost or stolen licences to the police before applying for duplicates will be abolished with effect from 26 May 2015.

Summary

7. The circumstances under which premises licences for regulated entertainment under The Act are required have been considerably amended. A number of the deregulatory measures relate to 'community' type premises that will benefit financially from not having to apply for an authorisation.

8. The terminal hour for the exemptions is set at 23:00. In terms of potential noise nuisance measurement, 'night time' (where noise issues are more sensitive) is considered to be between the hours of 23:00 and 07:00. However, premises that, for example, provide amplified live music between 08:00 and 23:00 may still cause noise nuisance issues which could require investigation by the council's environmental protection team.