



PUBLIC ENTERTAINMENT LICENCES GUIDANCE NOTES FOR APPLICANTS

Disclaimer

These notes have been prepared as an outline of the licensing provisions in connection with public entertainment introduced by the Civic Government (Scotland) Act 1982. Whilst every effort has been made to ensure accuracy these notes are for general guidance only and do not constitute legal advice. It is the responsibility of applicants and licence holders to ensure that they comply with the provisions of the Act, any statutory instruments made thereunder, the conditions outlined in the schedule attached to your licence and any policy/ guidance notes issued by the Council.

INTRODUCTION

A licence is required by law for the use of premises as a place of public entertainment where members of the public are admitted, or may use any facilities for the purposes of entertainment or recreation. A licence is required whether or not it is free to enter.

Licensable Categories of Public Entertainment

In Moray the categories of public entertainment requiring a licence are limited to the following:

- video machine parlours/amusement arcades
- billiard, snooker or pool halls
- circuses
- exhibitions of performing animals
- funfairs/fairgrounds
- public firework or bonfire displays
- indoor events involving amplified music to which 100 or more persons are to be admitted
- outdoor events involving amplified music (to which any number of persons are to be admitted)
- commercial events held in marquees
- agricultural shows
- commercial discos
- licensed premises within the meaning of the Licensing (Scotland) Act 2005 in which public entertainment is being provided outwith the licensed hours
- plays or other dramatic performances
- exhibitions, demonstrations or performances of hypnotism

Statutory Exemptions

The following places/ premises do not require a licence:

- an athletic or sports ground while being used as such

- premises which require an Indoor Sports Entertainment Licence in terms of Section 41A of the Civic Government (Scotland) Act 1982 and are being used under that licence
- premises belonging to or occupied by any religious body while being used for purposes concerned with that body
- premises licensed under the Theatres Act 1968 and Section 1 of the Cinemas Act 1985
- premises in respect of which there is a licence or permit under the Gambling Act 2005 while being used in terms of that licence or permit
- liquor licensed premises within the meaning of the Licensing (Scotland) Act 2005 in which public entertainment is being provided during the licensed hours within the meaning of that Act
- premises in which machines for entertainment or amusement are being provided incidentally to the main purpose or use of the premises where that main purpose or use is not as a place of public entertainment.

Local Exemptions

As well as the abovementioned statutory exemptions, a public entertainment licence is not required in the Moray Council area for any local gala day or fete (including any gala day or fete which involves any activity which could be classed in the category “funfairs/fairgrounds” above) unless the event also includes a public firework or bonfire display.

A gala day or fete may be characterised by:

- An outdoor location; and
- Stalls and games; and
- The celebration of a particular local or national event; and
- A particular history to the event which has established its status as a gala day

Highland Games are not considered to be gala days or fetes and as such will be subject to normal public entertainment licensing requirements.

If you believe your event qualifies as a local gala day or fete you should contact the licensing team for advice. We may require detailed information about the activities you intend the event to include.

In addition, the Council has designated the following Council-owned sites used by circuses, funfairs or fairgrounds as not requiring a public entertainment licence:

- Lossie Green, Elgin
- Grant Park, Forres
- Seafield Park, Keith
- Cullen Links
- Linzee Gordon Park, Buckie
- Strathlene, Buckie

THE APPLICATION FORM

The application form is split into 5 sections:-

- A Personal/Business Details
- B Licence Details
- C Entertainment Details
- D Insurance Details
- E Criminal convictions

You must answer all of the questions as fully as you can as failure to do so may result in your application being returned to you. Your application will not be processed until you have provided all of the necessary information.

A & B Business/Personal Details

It is essential that your full business/personal details are supplied on the application form so that necessary Police checks can be undertaken and your application can be processed as quickly as possible.

C Licence Details

You may apply for a licence for a period of one year or for three years. Three years is the maximum period for which a licence can be issued. A three year licence will generally only be granted for permanent structures and premises. Licences for semi-permanent structures/premises will generally be granted for one year only.

You may also apply for a temporary licence. A temporary licence can last up to a maximum of 6 weeks. In all cases, the licensing authority reserves the right to grant licences for a shorter period.

- Grant of a Licence - If you have never held a public entertainment licence before or you do not currently have such a licence you need to apply for the grant of a licence.
- Renewal of a Full Licence - If you currently hold a full public entertainment licence which has not expired but is due to expire then you need to apply for a renewal of the licence.

In the event that your application does not result in the grant or renewal of a licence, you may be entitled to a refund of one-fifth of the fee you paid along with your application.

D Entertainment Details

It is essential that full details are supplied about the premises/or site where the entertainment is to be held in order that its suitability can be assessed.

You are also required to give full details as to the days and hours of operation of the entertainment.

In addition, you are required to stipulate the maximum anticipated number of attendees. Please note that this may affect the fee that is charged for your licence (see section regarding fees below). If granted, your licence will stipulate the maximum number of people entitled to attend and you will be required to ensure that this limit is not exceeded.

The application form also requires you to specify the type of entertainment to be operated at the site/premises.

D Insurance Details

Under this section you are asked to provide details of your public liability insurance policy. You are also asked to produce a certificate or other proof of insurance cover when you lodge the application.

The Moray Council requires applicants for the grant or renewal of public entertainment licences to have in force during the period of their licence a policy of public liability insurance with a reputable insurance company for not less than £2 million in respect of the premises/location to be licensed.

E Criminal Convictions

This section asks whether you have ever been convicted of any crime or offence. Please note that this includes any fixed penalties.

Although you are not required to disclose any convictions which are “spent” in terms of the Rehabilitation of Offenders Act 1974, the Police may still raise an objection on the basis of any spent convictions you may have and the licensing authority may thereafter decide to consider these if they are determined to be relevant to your application.

If you think a conviction is spent you should seek independent legal advice. Failure to disclose convictions is a criminal offence and any applicant failing to disclose a conviction may be reported to the Procurator Fiscal with a view to prosecution.

Once completed, the application should be returned to the licensing department along with the appropriate fee (see section regarding fees below) and a certificate or other proof of Public Liability Insurance cover. You must also submit a plan showing the layout of the premises/location to be licensed and a risk assessment relating to health and safety responsibilities and fire safety. Additional guidance as to how to carry out a fire safety risk assessment is enclosed.

APPLICATION PROCEDURE

You require to **sign** and **date** the declaration at the bottom of the application form. This is a very important part of the form and you should note that it is a criminal offence to make a false declaration for which you can be prosecuted and fined up to £2,500.

Once you have completed the application form please submit it to:

The Head of Legal and Democratic Services
The Moray Council
High Street
Elgin
IV30 1BX

Your application will be copied to Police Scotland, the Scottish Fire and Rescue Service, the Council’s Chief Environmental Health Officer, the Chief Environmental Protection Officer, the Chief Building Control Officer and the Planning Enforcement Officer for their observations. If no objection or adverse observation is made in relation to your application within 28 days, the Council will then proceed to issue your licence as soon as possible.

If an observation or objection is received, however, your application will be referred to the Council’s Licensing Committee where elected Members will consider the matter. You will be given an opportunity to attend this meeting and put your case in support of your application. Please note that the Licensing Committee meets once every two months.

If your application is granted by the Licensing Committee following an objection or adverse representation, your licence will not come into effect until at least 28 days after the meeting. This is because the objector may have the right to appeal against the Committee decision if they are aggrieved by it.

In view of the above, and to minimise the risk of your licence not being granted in time for your planned event or events, you are advised to submit your application for consideration no later than 4 months prior to the start date of your first event.

CERTIFICATE OF DISPLAY

If you are applying for the grant or renewal of a one/ three year licence you should also send the completed Certificate of Display once you have displayed the Notice at the premises or site of the entertainment for 21 days, to the above address. It is very important that the Display procedure is carried out correctly. You should note that failure to carry out the requirements will result in delay in your application if the Display procedures have to be repeated.

- On the day you lodge your application for the licence you must:-
 - (1) complete the form headed "DISPLAY NOTICE"
 - (2) Display it at or near the premises so that it can be conveniently read by the public
- It must remain there for 21 days
- You should check throughout the 21 days that it has not been removed, obscured or defaced. If it has been, you should ensure that it is protected or a replacement is displayed immediately
- At the end of the 21 days you must:-
 - (1) remove the notice
 - (2) complete and return the form headed "CERTIFICATE OF DISPLAY"

CHANGES/VARIATIONS

If granted, your licence will state the premises or site at which you are entitled to hold the specific type of entertainment, the days and time for which the licence is valid and the number of people licensed to attend. If you want to change the venue, date and/or time or number of attendees, you will need the Council's prior permission to do so.

A change of venue will require a new application. However a change of dates/times or the number of attendees can be done by way of a variation of the original application. An application for variation of a licence is made on a separate form and an additional fee is payable. Further, where the application is in relation to an increase in the number of attendees, you will also be required to pay the difference (if any) in the fee if the revised number of attendees would have meant the fee for the application would have been in a higher fee bracket than it was when the application was originally made.

If you wish to operate a different type of entertainment from that specified on your licence you will require to make a new application for a grant of a licence.

PLANNING PERMISSION ETC.

Please note that the site/premises where the entertainment is to be held may require to have planning consent and/or building warrant granted before the entertainment can take place. If you are unsure whether you require permission please contact Development Services, Environmental Services Department, The Moray Council, High Street, Elgin Tel. 543451.

SCHEDULE OF CONDITIONS

If your application is successful, it will be granted subject to certain conditions. These conditions will be contained in a Schedule of Conditions attached to your licence. The licensing authority may add additional conditions to your licence if there is reasonable cause for doing so.

FEES

Please refer to the Moray Council website for the list of current fees.

If you are a not-for-profit organisation such as a charity you will require to provide evidence of your not-for-profit status, such as a charity number.

QUERIES

If you have any queries please e-mail licensing@moray.gov.uk or contact us on 01343 543451.