



**Title of Report: Civic Government (Scotland) Act 1982 : Public Entertainment Licensing – Proposed Consultation**

**Report by: Derek Oliver, Chief Officer, Place**

**Report for Decision**

## **1 Recommendations**

Committee are asked to

- i) approve the draft Public Entertainment Resolution (Appendix C)
- ii) require the Chief Officer, Place to undertake the relevant statutory consultation in accordance with the requirements of the Civic Government (Scotland) Act 1982, and
- iii) thereafter, further report to Committee the outcome of the consultation for determination of the revised Resolution at that stage.

## **2 Purpose of Report/Executive Summary**

To advise Committee of the statutory power to make a Resolution to licence specified Public Entertainment activities and seek approval to undertake consultation as required under the Civic Government (Scotland) Act 1984 on the draft resolution attached to this report at Appendix C.

**Date 18 February 2025**

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### **3 BACKGROUND**

- 3.1 The Civic Government (Scotland) Act 1982, (Section 41) allows that as an 'optional (discretionary) provision' a "public entertainment licence" shall be required for the use of premises as a place of public entertainment only if, and insofar as, the Authority has resolved in accordance with Section 9 of the Act.

A Place of Public Entertainment is defined in **Section 41 of the Act** as meaning any place where members of the public are admitted or may use any facilities for the purposes of entertainment or recreation (with certain specified exemptions as detailed in Appendix D of this report).

Midlothian Council has a Public Entertainment Licensing Resolution which has been in place since 2013 (Appendix F). It is appropriate to review the resolution to update the list of activities subject to licensing requirements.

- 3.2 The Act requires that consultation on the proposed Resolution should take place by publishing the proposed resolution in a newspaper or newspapers circulating in their area allowing 28 days for receipt of submissions. The proposed wording is attached at Appendix C.
- 3.3 The legislation requires Committee to consider any representations received at consultation stage and post the statutory consultation, the Authority may make such modifications to the proposed resolution as they think fit in light of representations made to them, provided such modifications do not extend the scope of the Resolution as published. Further report shall be presented to GP Committee for decision whether to modify, or, adopt in totality, the proposed Resolution.
- 3.4 The programmed timeline and detailed steps to be undertaken regards the making of such a Resolution are listed in Appendix E.
- 3.5 In terms of the legislation, the updated wording will come into force nine months after the decision to adopt the new version, which under the current timetable will be at 31<sup>st</sup> March 2026.

## **4 Report Implications (Resource, Digital and Risk)**

### **4.1 Resource**

The cost of conducting the required consultation, preparing for and processing the subsequent small increase in applications from new premises requiring licensing (should the resolution be adopted) is

anticipated to be manageable within the resources of Protective Services Team.

The potential widening of the activities qualifying as “public entertainment” and requiring licensing may lead to a small potential increase in income.

#### **4.2 Digital**

There are no Digital Services implications identified.

#### **4.3 Risk**

Failure to review the Public Entertainment Licensing Resolution could lead to premises which should be regulated remaining unregulated. Moving to consultation of the Draft resolution in accordance with the requirements of the 1982 Act will inform the review of the current Resolution.

#### **4.4 Ensuring Equalities (if required a separate IIA must be completed)**

There are no equalities issues identified .

#### **4.5 Additional Report Implications (See Appendix A)**

See Appendix A

### **Appendices**

**Appendix A** – Additional Report Implications

**Appendix B** – Background information/Links

**Appendix C** – Draft resolution requiring approval to proceed to (28 day)  
Consultation

**Appendix D** – Definition of a Place of Public Entertainment (Section 41 of the  
1982 Act)

**Appendix E** – Projected Timeline and milestones

**Appendix F** – Midlothian Council Public Entertainment Resolution 2013  
(current)

## **APPENDIX A – Report Implications**

### **A.1 Key Priorities within the Single Midlothian Plan**

Midlothian will be safer.

### **A.2 Key Drivers for Change**

Key drivers addressed in this report:

- Holistic Working
- Hub and Spoke
- Modern
- Sustainable
- Transformational
- Preventative
- Asset-based
- Continuous Improvement
- One size fits one
- None of the above

### **A.3 Key Delivery Streams**

Key delivery streams addressed in this report:

- One Council Working with you, for you
- Preventative and Sustainable
- Efficient and Modern
- Innovative and Ambitious
- None of the above

### **A.4 Delivering Best Value**

There are no identified resource implications.

### **A.5 Involving Communities and Other Stakeholders**

Services within the Local Authority including Legal and Communications have been consulted and this report seeks permission to proceed to statutory (public) consultation to inform the way forward.

### **A.6 Impact on Performance and Outcomes**

Approval to undertake the statutory consultation as outlined in this report will enable the Local Authority to meet Statutory Obligations.

### **A.7 Adopting a Preventative Approach**

Expansion of the Resolution will ensure that relevant Premises which should be brought within the statutory licensing regime are.

### **A.8 Supporting Sustainable Development**

Not applicable

## **APPENDIX B**

**Background Papers/Resource Links** (insert applicable papers/links)

**[Civic Government \(Scotland\) Act 1982](#)**

**[Public Health etc. \(Scotland\) Act 2008](#) ( part 8)**

## APPENDIX C

### MIDLOTHIAN COUNCIL DRAFT RESOLUTION ON PUBLIC ENTERTAINMENT LICENSING NUMBER 01/2025

#### Section 9 Civic Government (Scotland) Act 1982 (as amended ) DRAFT FOR CONSULTATION

Midlothian Council as Licensing Authority for Midlothian District; in terms of Section 9 of the Civic Government (Scotland) Act 1882 (as amended) “the Act” make a resolution in the following terms:-

Midlothian Council intends to resolve that from dd/mm/yyyy [ *at least 9 months from the day on which the resolution was made section 9(2) of the Act*] any activity falling within any of the classes of activity listed below shall require the premises to be licensed in terms of Section 41 (Public Entertainment Licences) of the Civic Government (Scotland) Act 1982 and shall be regulated by the relevant provisions of the said Act.

This resolution is made in relation to the whole of Midlothian District being the whole area of the licensing authority.

Any preceding resolution regards public entertainment licensing in Midlothian, shall from [same date] be replaced.

- 1) Section 41 of the Act relating to Public Entertainment Licences shall continue to have effect throughout the local government area of Midlothian
- 2) Subject to the terms of Section 41 and Schedule 1 of the said Act , a Public Entertainment Licence shall be required for the use of premises as places of public entertainment for the classes of activity, specified in Clause 4 hereof, to which the public are admitted or in which the public may use any facilities, upon payment, for the purposes of entertainment or recreation, but excluding athletic or sports grounds whilst being used as such, premises licensed for alcohol or gaming, places for which S41A of the Act licences are required, cinemas, and certain other categories as from dd/mm/yyyy.
- 3) A Public Entertainment Licence shall not be required for the classes of activity listed in Clause 5
- 4) A Public Entertainment Licence shall be required in respect of any of the following types of activity:
  - Dancing establishments
  - Premises with mechanical rides or simulators intended for entertainment or amusement excluding those rides exclusively

for use by children under the age of 5 whilst supervised by an adult

- Concert Halls
- Indoor or open air festivals or concerts, shows or performances or other events, irrespective of capacity numbers, involving the erection of temporary stages, scenery or other temporary raised structure(s)
- Open air concerts or other events where a capacity of 200 persons or more may be present
- Any activity involving shooting, including but not limited to archery, clay pigeon shooting or paintball
- Indoor or external adventure playground style childrens' play areas including soft play areas
- Health Clubs and/ or gymnasia
- Indoor bowling alleys including ten pin mechanical bowling alleys
- Premises used for laser displays or laser games or war gaming
- Theaters, including any theatrical performance, play, dramatisation, concert, or comedy act
- Any Act or exhibition to which the Hypnotism Act 1952 applies
- Billiards, Snooker or Pool Halls
- Exhibitions of objects such as paintings, sculptures, drawings or historical artefacts
- Exhibition of persons, including but not limited to boxing, wrestling, cage fighting or martial arts
- Saunas, massage parlours, tanning or sunbed salons or nail bars
- Motorcycle or quadbike scrambling
- Circuses, carnivals or funfairs; including merry-go-rounds, roundabouts, swings, switchback railways, skittle alleys, coconut shies, hooplas, mechanical riding, driving or boating apparatus; or anything similar to any of the foregoing
- Track racing or go-carting or off-road driving experiences where the operator provides access to vehicles, including segways, for entertainment purposes
- Airshows, including model airshows or hot air ballooning
- Amusement arcades
- Water sports activities including raft races, wake boarding, water skiing, sail boarding, canoeing and jet skiing activities (where the activity is not defined by a Boat Hire Licence)
- Petting zoo, petting farm, llama walking or similar
- Amusement arcades with automatic or other machines, including but not limited to video gaming machines, intended for entertainment or amusement which are not licensed in terms of the Gambling Act 2005
- Escape rooms (including puzzle and breakout rooms)
- Bouncy castles, any activity involving inflatable structures or similar structures, trampoline venues
- Outdoor adventure or activity parks or anything similar to the foregoing

- Sports or activities involving the transportation or propulsion of persons whether by mechanical or other means including gravity including Bungee jumping or catapulting
- Fireworks or bonfire displays
- Torchlight processions
- Agricultural, equestrian, livestock shows, dog shows or events including showing of animals
- Major sporting events or fanzones associated with such events
- Highland games
- “Boot camp” type organised exercise and fitness activities
- Adult entertainment defined as any form of entertainment which involves a person performing an act or erotic or sexually explicit nature and is provided wholly or partly for the sexual gratification or titillation of the audience

5) The following public events/activities DO NOT require a licence under the said Section 41:

- Small scale exhibitions of art work
- Small scale performance of live music which is incidental to the main purpose of the premises where the performance takes place
- Small scale oral recitals including poetry reading and story telling
- Small scale community non-profit festivals, fetes, treasure hunts, duck derbys, galas, organised exercise and fitness activities

#### Definitions

“non-profit” is understood to mean a non-commercial event held solely for the purpose of raising funds for the organisation holding the function and NOT for the purposes of making a profit or deriving any other form of financial benefit by any person or organisation, and where ALL surplus funds raised by the event are utilised to further the aims and activities of the organisation holding the event

“place of public entertainment” means any place where members of the public are admitted or may use any of the facilities for the purposes of entertainment or recreation (detailed exclusions are listed in Section 41 (2) (a)- (h) of the Act

“small scale” is understood to mean a capacity of less than 200 persons at any one time.

-----**DRAFT RESOLUTION ENDS**-----



## Appendix D

### Definition of “A Place of Public Entertainment”

**Section 41 of the 1982 Act** defines a “place of public entertainment” as meaning any place where members of the public are admitted or may use any facilities for the purposes of entertainment or recreation but does not include—

- an athletic or sports ground while being used as such;
- premises in respect of which a licence is required under section 41A of this Act while such premises are being used for the purposes mentioned in that section;
- a sexual entertainment venue (as defined in section 45A) in relation to which Schedule 2 (as modified for the purposes of section 45B) has effect, while being used as such;
- an educational establishment while being used as such;
- premises belonging to or occupied by any religious body while being used wholly or mainly for purposes connected with that body;
- premises licensed under section 1 of the Cinemas Act 1985;
- premises in respect of which there is a club gaming permit (within the meaning of section 271 of the Gambling Act 2005 or a prize gaming permit (within the meaning of section 289 of that Act of 2005);
- premises in respect of which a premises licence within the meaning of section 17 of the Licensing (Scotland) Act 2005 has effect in which public entertainment is being provided during 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 or such other premises as the Scottish Ministers may by order made by statutory instrument specify.

## Appendix E

### Timeline for the review and introduction of an amended Resolution

Stage		Proposed date
1.	<p>Upon approval to commence Consultation: Publish in a local newspaper circulating in the area (The Advertiser) advising of the review of the Midlothian Council Public Entertainment Licensing Resolution and of the 28 days consultation period in which to make written submission.</p> <p>The consultation publication to state:</p> <p>(a) (i) the Authority intends to make a Public Entertainment Licensing resolution;</p> <p>(a) (ii) that representations about the proposed resolution may be made in writing to the authority within 28 days of the first publication of the notice and by the specified date (dd/mm/yyyy) ; and</p> <p>(b) representations so made, will be considered.</p>	no later than 31 March 2025
2.	<p>Any representations in relation to the proposed new resolution must be made in writing and submitted to the Senior Manager, Protective Services, Place Directorate, Midlothian Council, Fairfield House, 8 Lothian Road DALKEITH EH22 3AA or by email to <a href="mailto:licensing@midlothian.gov.uk">licensing@midlothian.gov.uk</a> within 28 days of the first publication of this notice and will be considered by the Licensing Authority before any resolution is made.</p>	28 day consultation window closing no later than close of business Monday 28 <sup>th</sup> April 2025
3.	<p>Present to GP committee to enable The Licensing Authority may make such modifications to the proposed resolution as they think fit in the light of representations made to them provided such modifications do not extend its scope.</p>	17 June 2025
4.	<p>Publish the finalised Resolution under Section 9(2) as soon as it is made in a newspaper or newspapers circulating in their area—</p> <p>(a) the terms of the resolution so made;</p> <p>together with</p> <p>(b) a notice stating—</p> <p>(i) that with effect from the date specified</p>	By 30 <sup>th</sup> June 2025 at the latest

	<p>as that on which the resolution comes into effect [31 March 2026 ] it will be an offence under section 7(1) of the CG(S)Act 1982 to do without a licence whatever the resolution specifies as being an activity requiring to be licensed; and</p> <p>(ii)that applications for licences in respect of the activity will be considered by the authority after the expiry of one month after the making of the resolution.</p>	
5.	Accept Applications under the revised Resolution	30 <sup>th</sup> July 2025 onwards
6.	Note that In terms of the legislation, the updated wording will come into force nine months after the decision to adopt the new version.	31 <sup>st</sup> March 2026.

**APPENDIX F : Midlothian Council Public Entertainment Resolution  
2013 (Current )**

**Public Entertainment Activities:** Currently these include:-

- Disco dancing establishments
- Premises with mechanical rides or simulators intended for entertainment or amusement
- Concert Halls
- Open air concerts or other events involving the erection of temporary stages
- Open air concerts or other events where in excess of 100 persons are present
- Clay pigeon shooting
- Paintball
- Sports or activities involving the transportation or propulsion of persons whether by mechanical or other means including gravity
- Any exhibition to which the Hypnotism Act 1952 applies
- Any activity involving inflatable structures
- Any activity involving shooting
- Archery
- Indoor play areas for children
- Wrestling
- Cage fighting
- Mechanical bowling alleys
- Premises used for laser displays or laser games

[ ENDS]