

CARLISLE CITY COUNCIL

Report to:- **The Chairman and Members of the Licensing Committee**

Date of Meeting:- 17 October 2012

	Public	Operational	Delegated Yes	
Accompanying Comments and Statements			Required	Included
Cumbria Fire Service			No	No
Cumbria Constabulary			No	No
Environmental Services			No	No
Planning Services			No	No
Title:-	LIVE MUSIC ACT 2012			
Report of:-	DIRECTOR OF GOVERNANCE			
Report reference:-	GD 54/12			

Summary:

The Live Music Act was passed in the House of Commons on 8 March 2012 became law on 1 October 2012. . The Act is designed to reduce restrictions on live music in small venues. Under the Act any venue that qualifies as a 'workplace' for the purpose of health and safety legislation will be free to host live music between 8am and 11pm. For amplified live music there is an audience limit of 200. There is no audience limit for unamplified live music.

Recommendation:-

Members are requested to note the information in this report.

J A Messenger
Licensing Manager
Governance Directorate

Note: in compliance with section 100d of the Local Government (Access to Information) Act 1985 the report has been prepared in part from the following papers:- Live Music Act 2012

To the Chairman and Members of the Licensing Committee on 17 October 2012

1 Background

- 1.1 This Report advises the Committee of changes to the licensing of regulated entertainment as a result of the Live Music Act 2012. The Live Music Act was passed in the House of Commons on 8 March 2012. The Act is designed to reduce restrictions on live music in small venues.
- 1.2 Under the Act any venue that qualifies as a 'workplace' for the purpose of health and safety legislation will be free to host live music between 8am and 11pm. For amplified live music there is an audience limit of 200. There is no audience limit for unamplified live music.
- 1.3 There will be no restriction on the number of musicians allowed to perform. Indeed, most premises licence conditions relating to live music will be suspended if the performance is between 8am and 11pm. However, there will be a few cases where licence conditions will apply, that is if they are imposed following a premises licence review.

2.0 Regulated Entertainment

- 2.1 In 2005 the Licensing Act 2003 introduced a requirement that there must be a premises licence for 'regulated entertainment' which includes the playing of live music in any venue no matter how small. This was subsequently criticized for reducing the number of places where artists could play to small audiences. In addition there were press stories about how the law unreasonably singled out the playing of musical instruments when compared to other forms of entertainment, such as circus performing.
- 2.2 To deal with the concerns raised, the Live Music Forum was set up, chaired by Fergal Sharkey. Its report, issued in July 2007, reported that overall "the Licensing Act has had a neutral effect on the UK's live music scene", but recommended there should be more flexibility of the application of the 2003 Act on smaller premises.
- 2.3 The Live Music Act 2012 responded to the above concerns. This Act started as a Private Members' Bill which was promoted in the House of Commons by the MP Don Foster. For a Private Members' Bill to receive royal assent is a very rare achievement.
- 2.4 The Act means that the majority of venues in England and Wales with a capacity of under 200 people will no longer need local authority permission to hold performances of live amplified music between the hours of 8am-11pm (i.e. such performances will no longer be licensable). It also removes audience limitations for performances of unamplified live music.

3.0 Detail of deregulation

3.1 The new legislation -

- removes the licensing requirement for unamplified live music taking place between 8am and 11pm in all venues, subject to the right of a licensing authority to impose conditions about live music following a review of a premises licence or club premises certificate relating to premises authorised to supply alcohol for consumption on the premises
- removes the licensing requirement for amplified live music taking place between 8am and 11pm before audiences of no more than 200 persons on premises authorised to supply alcohol for consumption on the premises, subject to the right of a licensing authority to impose conditions about live music following a review of a premises licence or club premises certificate
- removes the licensing requirement for amplified live music taking place between 8am and 11pm before audiences of no more than 200 persons in workplaces not otherwise licensed under the 2003 Act (or licensed only for the provision of late night refreshment)
- removes the licensing requirement for the provision of entertainment facilities
- widens the licensing exemption for live music integral to a performance of Morris dancing or dancing of a similar type, so that the exemption applies to live or recorded music instead of unamplified live music.

In the case of premises licensed for the sale of alcohol, the premises must be open for the sale of alcohol during the time that the amplified live music is provided for the exemption/s to take effect.

Any condition attached to the premises licence relating to live music ceases to have effect in respect of the live music unless the Licensing Authority states otherwise on the licence pursuant to a Licensing Sub-Committee Review hearing.

4.0 Licensing Implications

- 4.1 The Licensing Section will need to undertake additional work in order to implement the requirements of the Live Music Act. For example, both our guidance literature for applicants and application forms will need to be updated to reflect the changes. In addition at some point in the future our Licensing Policy will need to be updated.
- 4.2 There are also repercussions that need to be kept in mind in relation to the implementation of the Act. The ability of the Licensing Authority to add conditions to a premises licence to prevent public nuisance arising out of the provision of live music that takes place between 8am and 11pm will be reduced.
- 4.3 The changes will allow an increase in the provision of unregulated live music with the only remedy for residents disturbed by the noise being the Council's

Environmental Health Section or calling for a review of the licence if the premises holds a licence under the Licensing Act 2003. With this in mind the Live Music Act may increase the workload of the Council's Environmental Health section.

- 4.4 Licence holders will possibly ask for guidance as to how a venue will prove audience size, given that the majority of licensed premises in do not have a capacity limit on their premises licence.
- 4.5 The occupancy figures were normally based on the fire certificates issued under the Fire Precautions Act 1971; such certificates used to be issued to large premises, hotels, etc. However, with the introduction of the Regulatory Reform (Fire Safety) Order 2005 all previous fire safety legislation was repealed. Everything is now down to fire risk assessment and self compliance; premises are obliged to carry out a suitable and sufficient fire risk assessment. The assessment must be undertaken by a competent person. This assessment will include working out safe occupancy levels. In some instances proprietors of reasonably small premises may, (after reading the information in the Regulatory Reform (Fire Safety) Order guide on the Government website), feel confident enough to do the fire risk assessment themselves. We will liaise with Cumbria Fire and Rescue Service in this regard.

5 Recommendations

- 5.1 Members are requested to note the information in this report.

Prepared by:

J A Messenger

Licensing Manager