

NOTES FOR GUIDANCE/NOTES RE LEGAL REQUIREMENTS

CINEMA LICENCE

1. Applicants must give notice of intention to make the application to the Licensing Authority, the Scottish Fire and Rescue Service and Police Scotland not less than 28 days before making the application. Please ensure that you have ticked the box on page 1.
2. In terms of Section 1 of the Cinemas Act 1985, a licence is required where premises are to be used for a film exhibition. A film exhibition is defined as "any exhibition of moving pictures which is produced otherwise than by simultaneous reception and exhibition of:-
 - (a) Television Programmes broadcast by the British Broadcasting Corporation or by the Independent Broadcasting Authority, or
 - (b) Programmes included in a Cable Programme service which is, or does not require to be, licensed under Section 4 of the Cable and Broadcasting Act 1984".

It is the duty of a Licensing Authority, in granting a Cinema Licence in respect of premises:-

- (a) To impose conditions or restrictions prohibiting the admission of children to film exhibitions involving the showing of works designated, by the Authority or by such other body as may be specified in the licence, as works unsuitable for children; and
- (b) To consider what (if any) conditions or restrictions would be imposed as to the admission of children to other film exhibitions involving the showing of works designated, by the Authority or by such other body as may be specified in the licence, as works of such other description as may be specified. Unless revoked, a licence shall remain in force for one year or for such shorter periods as the Licensing Authority, on the grant of the licence, may determine.

A cinema licence is not required for any film exhibition which:-

- (a) Is given in a private dwelling-house,
- (b) Is one to which the public are not admitted, and
- (c) Is not promoted for private gain, or the sole or main purpose of the exhibition is to demonstrate any product, to advertise any goods or services or to provide information, education or institution.

Where a licence is already in force in respect of the premises, and they are to be used for a purpose for which it is exempt from the requirement to be licensed, no condition or restriction on or subject to which the licence was granted shall apply to the exhibition.

There are further exemptions from the need to obtain a licence which extend to the exhibitions to which the public are not admitted or are admitted free of charge or which are given by an exempted organisation holding a certificate granted by the Secretary of State. An exempted organisation is a society, institution, committee or other organisation with respect to which there is in force at the time of the exhibition in question a certificate given by the Secretary of State certifying that he is satisfied that the organisation is not conducted or established for profit. These further exemptions do not apply:-

- (1) Where the pictures are produced by means involving risks specified by the Secretary of State, or
- (2) To exhibitions organised solely or mainly for children who are members of a club, society or association, apart from those given in private dwelling house or in connection with an educational or religious institution.

Where it is proposed to give a film exhibition in any building or structure of a movable character, it shall not be necessary to obtain a licence from the local authority in whose area the exhibition is to be given if:-

- (a) The owner of the building or structure has been granted a licence in respect of the building or structure by the local authority in whose area he/she ordinarily resides,
- (b) He/she has given to the local authority, the Scottish Fire & Rescue Service and Police Scotland not less than two days notice in writing of his/her intention to give the exhibition, and
- (c) He/she complies with the appropriate regulations and any conditions imposed by the Licensing Authority and notified it to him/her in writing.

Any person aggrieved:-

- (a) By the refusal or revocation of a licence or
- (b) By the terms, conditions or restrictions on or subject to which a licence is granted, or
- (c) By the refusal of a renewal or transfer of a licence may appeal to the Sheriff.

A licence is deemed to remain in force until any such appeal is determined or has been abandoned.

The following regulations have been amended by Statutory Instrument – Cinematography Acts – The Cinemagraph (Safety) (Amendment) Regulations 2003. These amend the 1955 Regulations to lower the age from 21 to 18 of –

- 1. A licensee or a person nominated by the licensee to be responsible from cinema premises when the public are on the premises (regulation 4 and 38(1));
- 2. A person who is responsible for ensuring the electrical installations and equipment in the projection room are kept in good order (regulation 26); and
- 3. A person in charge of and present in the projection room whenever inflammable film is being projected (regulation 31(7)(a)).

These amended regulations can be viewed at <http://www.opsi.gov.uk/>

- 3.** If the applicant is a business or organisation there requires to be a day to day manager listed on the application form at question 2. If the applicant is an individual it is optional whether a day to day manager is appointed.
- 4.** Any person who in or in connection with the making of this application makes any statement which they know to be false or recklessly makes any statement which is false in a material particular shall be guilty of an offence and liable, on summary conviction to a fine not exceeding £2500. In relation to Part D, if there is doubt as to which offences are spent, applicants should seek legal advice before completing this form. Details of all of your convictions are available on payment of a fee from any police station. In terms of the Theatre Act 1968, for the purposes of this application the person signing the form is responsible for its contents. If the application is signed by an agent full details of that agent must be provided.

5. When making an application for the first time, the form when completed, must be submitted by the day to day manager to East Lothian Council, John Muir House, Haddington, EH41 3HA, along with the required fee and

- the manager's photocard driving licence or
- passport and proof of current home address i.e. recent utility bill

The address given in the application form must match the ID documentation. Licensing Authority staff will copy the evidence of identity and immediately return the documentation. Details of the current licensing fees can be found on the Council's website – www.eastlothian.gov.uk.

6. If the application is for the renewal of an existing licence and is submitted prior to the expiry of the licence then the form can be posted direct to East Lothian Council, John Muir House, Haddington, EH41 3HA along with a cheque/postal order with the required fee and proof of the current home address of the day to day manager given in the application. Alternatively it can be lodged at John Muir House.

7. All applications for temporary licences must be submitted a minimum of 35 days in advance of the event (although it is recommended that applications are made at least 3 months before if the premises are only used occasionally for plays) in order to allow officers sufficient time to carry out all the necessary checks in relation to the application.

8. One copy of a plan of the premises showing the seating capacity, fire escapes, toilets and catering facilities (if any) must be provided with this application along with a copy of the public liability insurance covering the premises.

9. Please ensure that this application is fully completed and that all required documents are lodged along with it. Incomplete applications will be returned for amendment and resubmission.

10. Once your application is complete it will be processed. Most applications are determined within 60 days but applications which require to be referred to the Licensing Sub-Committee for a decision will take longer to be determined. In the event of an application being refused or withdrawn after being processed, no refund of the application fee paid will be made.

11. To contact the Licensing Team please email licensing@eastlothian.gov.uk. Please note that if you are directed to our voicemail, please leave a message with your name and number and we will phone you back. Please note that the team cannot provide advice as to whether a licence is required. Applicants should seek legal advice from a solicitor or advice centre.