

REPORT TO: Licensing Sub-Committee

MEETING DATE: 13 September 2012

BY: Executive Director (Support Services)

SUBJECT: Criminal Justice & Licensing (Scotland) Act 2010-
Changes to Civic Licensing Regime

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1 PURPOSE

- 1.1 To advise the Sub-Committee of changes being introduced to the Civic Government Licensing regime by the Criminal Justice & Licensing (Scotland) Act 2010.

2 RECOMMENDATIONS

- 2.1 That the Sub-Committee consider the terms of the amending legislation relative to Late Hours Catering licences, and approve an amended resolution to reflect the terms thereof, as proposed at paragraph 3.3 hereof
- 2.2 That the Sub-Committee authorise the Corporate Legal Advisor and such officers as she may determine to proceed to advertise the amended resolution referred to at paragraph 2.1 above, as required by section 9 of the 1982 Act.

3 BACKGROUND

- 3.1 Late Hours Catering licences under section 42 of the Civic Government (Scotland) Act 1982 are one of a range of licences which are discretionary in terms of the Act, meaning that the licence will only be required if the Local Authority makes a resolution to that effect. In East Lothian the resolution to grant late hours catering licences was made on 21 November 1991.
- 3.2 Sections 172-178 of the 2010 Act introduce various changes to the provisions of the Civic Government (Scotland) Act 1982 relative to the Licensing system, which changes have been and are being introduced in phases. Some of the changes are relatively minor and of an

administrative nature. Others require consideration and a decision by the Sub-Committee

- 3.3 The more technical changes are listed in Appendix 1 hereto for information purposes only. The main part of this report considers the coming into force of the amendments to the Late Hours Catering licences
- 3.4 Section 177 of the 2010 Act will amend Section 42 by substituting reference to “meals or refreshments” to “food” as defined in the Food Safety Act 1990. This would mean that not just restaurant/chip shop and similar premises are included but also late night grocers, garages, 24 hour supermarkets may require a licence if selling “food”. This applies even if the food is pre-packaged and not a prepared “meal” or cooked product prepared on the premises.
- 3.5 The proposed change will take effect from 1 October 2012. I
- 3.6 In terms of Section 9 of the 1982 Act, a resolution relative to discretionary licences requires to be advertised in the local press for public comment. It is proposed that the amended resolution to be advertised is

“East Lothian Council, as Licensing Authority for East Lothian resolves that with effect from x throughout the whole area of the Licensing Authority the previous resolution made by the Licensing Authority relative to Late Hours catering licences, which resolution came into effect on 18 February 1992, shall be amended in the following terms

The words “meals or refreshment” where they occur in Section 42 of the 1982 Act shall be deleted and the word “food” shall be substituted in place thereof.”

- 3.7 Formal adoption of the amended resolution (subject to any objections and/or representations) would be made following the 28 day consultation period and at the next Sub –committee meeting.

Formal adoption also requires to be advertised. A further report will be submitted to the Sub-committee relative to formally adopting the amended resolution following the public consultation process.

4 POLICY IMPLICATIONS

- 4.1 None- the Council has the statutory power to resolve to require a licence for Late Hours Catering and had made such a resolution. The terms of the resolution simply require to be amended to reflect the changes being introduced to the legislation and to remain consistent therewith.

5 EQUALITIES IMPACT ASSESSMENT

- 5.1 This report is not applicable to the well being of equalities groups and an Equalities Impact Assessment is not required.

6 RESOURCE IMPLICATIONS

- 6.1 Financial – The potential widening of the activities qualifying as “Late Hours Catering” and thus needing to be licensed in terms of the legislation as amended will lead to a potential increase in fee income relative to this type of licence
- 6.2 Personnel - None
- 6.3 Other - None

7 BACKGROUND PAPERS

- 7.1 Civic Government (Scotland) Act 1982
- 7.2 Criminal Justice & Licensing (Scotland) Act 2010, sections 172-178
- 7.3 Resolution of East Lothian District Council 18 February 1992

AUTHOR'S NAME	Morag Ferguson
DESIGNATION	Corporate Legal Advisor
CONTACT INFO	Catherine Molloy, Senior Solicitor, x7389
DATE	

APPENDIX 1

Section 172- in force 28.3.11

Allows Scottish Ministers to prescribe by Statutory Instrument Mandatory Licence Conditions, and Local Authorities to determine Standard Licensing Conditions. Where an application for a licence has not been determined within 6 months, it is automatically deemed to be granted, but such grant is no longer “unconditional”. It will now be subject to the Mandatory conditions, if any, and the Standard Conditions.

Section 173- in force 13.12.10

Empowers the Police to use Civilian staff and gives such staff the same rights of entry and inspection as uniformed officers.

Section 174- in force 1.11.11

Amends taxi licence provisions. Previously an applicant required to have held a valid DVLA licence for “any period of 12 months” prior to date of application. It is now for the 12 months immediately prior to the application. Also amends the administrative procedures to be applied in determining and implementing new taxi fare levels.

Section 175- in force 28.3.11

Makes some technical amendment to the details to be included in Food Safety Certificates for Street Traders.

Section 177- coming into force 1.10.12

Amends Late Hours Catering provisions- the reference to “meals or refreshments” will be replaced by “food” as defined in the Food Safety Act 1990. This would mean that not just restaurant/chip shop type premises, but also late night grocers and 24 hour supermarkets may require a licence if selling “food”, even if it is pre-packaged and not a prepared “meal” or cooked product prepared on the premises.

Section 178- in force in phases

Makes various technical changes as to what information is required to be included in applications for licences.