

## Appendix 3



### **Licensing Policy Statement on the Licensing of Sexual Entertainment Venues ("SEV Policy Statement")**

under the Civic Government (Scotland) Act 1982, Section 45C  
(as modified by Section 76 of the Air Weapons and Licensing  
(Scotland) Act 2015)

**DRAFT**

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## 1. Overview

### Impact of Licensing Sexual Entertainment Venues (SEVS)

- 1.1 Perth and Kinross Council's key aims in licensing are to preserve public safety and the prevention of crime and disorder. The Council consider that it is appropriate that Sexual Entertainment Venues (SEV) should be licensed in order that both performers and customers benefit from a safe, regulated environment. The Council also believes that the licensing of these ventures would limit the risk of criminality, such as prostitution and human trafficking.

The Council were of the view that if a resolution was not made these activities would be unregulated and due to not being controlled could have a detrimental impact on public safety, local businesses and communities, as well as those involved in these types of activities.

## 2. Introduction

- 2.1. This draft policy statement sets out the Council's guidance, application procedure and the terms and conditions relating to the regulation of SEVs.
- 2.2. The legislation defines many terms. In this document, terms which are defined are generally shown in *italics*. Other legislative provisions referred to may be in boxed format. The main definition is "Sexual Entertainment Venue", which the legislation shortens to "SEV".
- 2.3. This document deals with the licensing of SEVs. The legislation is in the Civic Government (Scotland) Act 1982. This is available on the Internet: <http://www.legislation.gov.uk/ukpga/1982/45/contents>
- 2.4 In the Act, the SEV legislation is in:
- Sections 45A to 45F (in the main part of the Act), and
  - Schedule 2 (at the end of the Act). The Schedule is divided into Paragraphs.

For example, the possible grounds for refusal of a Licence are stated in the 1982 Act, Schedule 2, Paragraph 9(5).

- 2.5 When this document refers to:
- "Section" – it means a provision in the main part of the 1982 Act (Sections 45A to 45F).
- "Paragraph" it means part of Schedule 2, at the end of the Act.
- "Part" – means one of the parts of this Policy Statement.
- "Annex" – means part of this Policy Statement at the end of the document giving more details.

- 2.6 The Civic Government (Scotland) Act 1982 (“the 1982 Act”) covers the licensing of many activities, such as the operation and driving of taxis and private hire cars, street trading, public entertainment and window cleaning.
- 2.7 Instead of making Sexual Entertainment automatically illegal throughout Scotland, the Scottish Parliament amended the 1982 Act to allow the decision on whether or not to regulate Sexual Entertainment Venues (SEV) to be taken by each individual local authority in Scotland:
- If a Council chooses not to make a Resolution, Sexual Entertainment will continue to be unregulated;
  - If a Council chooses to make a Resolution, Sexual Entertainment may be permitted, under Licence, and the Council will have to publish a “SEV Policy Statement”.

This means that it is possible for one Council area to have a Licensing scheme, and a Policy which could include limiting Sexual Entertainment Venues (SEV) numbers, but in a neighbouring Council area there may be no scheme and no Policy.

- 2.8 This change to the 1982 Act was made by the Air Weapons and Licensing (Scotland) Act 2015 which came into effect on 26 April 2019.
- 2.9 On 19 November 2020 Perth and Kinross Council’s Licensing Committee made a “SEV Resolution” under Sections 45B(1) and 45B(2) of the duly amended 1982 Act, giving effect to Schedule 2 of that Act in respect of the regulation and licensing of Sexual Entertainment Venues (SEV) in the Council area from 19 November 2021.
- 2.10 As a result of making a SEV Resolution, Perth and Kinross Council must produce and publish a policy statement on the licensing of SEV in their area (the 1982 Act, Section 45C). This document is Perth and Kinross Council’s **“SEV Policy Statement”**.

### **3. Implementation of new law in Perth and Kinross**

- 3.1. In Perth and Kinross, the new system has been implemented as follows:
- 26 April 2019 – the SEV provisions commenced in Scotland.
  - 22 August 2019 - preliminary consideration of this matter at Licensing Committee meeting.
  - 16 January 2020 – 06 April 2020 - Public consultation
  - 19 November 2020 – Perth and Kinross Council’s Licensing Committee considered the new provisions together with the responses from the public consultation and made a Resolution implementing the SEV provisions at the end of a minimum statutory period of 12 months – 19 November 2021.
  - 30 June 2021 – 30 July 2021 - public consultation of SEV Policy.

- \*\*\*\* - Licensing Committee approve SEV Policy Statement.
- \*\*\*\* 2021 - adoption of SEV Policy Statement.
- \*\*\*\* 2021 - public notice of the Resolution and publication of the SEV Policy Statement.
- \*\*\*\* 2021 – Perth and Kinross SEV regulatory and licencing system commences.

3.2. Considerations, and the process which the Council followed in making the Resolution, is described in **Annex B “The SEV Licensing System”**.

#### **4. What needs a Licence?**

4.1. A Licence is needed for a “Sexual Entertainment Venue” unless the rules about “Occasional Use” or “Waivers” apply (see parts 8 and 9 below).

4.2. A “Sexual Entertainment Venue” (SEV) means:

*‘any premises at which sexual entertainment is provided before a live audience for (or with a view to) the financial gain of the organiser’. (Section 45A(2)).*

4.3. *“Premises” includes any building, vehicle, vessel or stall, but not a private dwelling to which the public is not admitted’. (Section 45A(3)(b)).*

4.4. Important definitions in the legislation are explained in **Annex L “Definitions”**:

(a) “Sexual Entertainment”

(b) “Display of Nudity”

(c) “Audience”

(d) “Organiser”

(e) “Financial Gain”

4.5. The following premises are not sexual entertainment venues:

- (a) Sex shops and sex cinemas (which are separately defined in Schedule 2 of the 1982 Act)
- (b) Premises which provide relevant entertainment on an infrequent basis, further explained at **Part 8 – “Occasional Use”**.

## 5. Making an Application for a Licence or Waiver

- 5.1. The Application must be in writing, giving the information and plans described in **Annex E “Required Information”**.
- 5.2. See **Annex D “Application Procedure and List of Application Consultees** for matters which Applicants must complete prior to applying to the Council, and when applying, including notifying those parties on the List of Consultees, and afterwards.
- 5.3. The Council will advertise and consult third parties on the Application. (See **Annex F – “Objections and Representations”**).
- 5.4. Unlike Applications for the grant or renewal of other types of Licence, Applications for the grant or renewal of SEV Licences and for waivers will be referred to the Licensing Committee of Perth and Kinross Council for determination. Delegated Powers will not be used.
- 5.5. The Applicant and any third-party who has stated Objections or Representations will be invited to attend the Committee dealing with the application.
- 5.6. The Licensing Committee will not determine an Application until is satisfied that the Applicant has completed the procedure (for example, providing the Council with a completed Compliance Notice confirming the display of the Site Notice, publication of notice, as appropriate, and notification to consultees). (See **Annex D – “Application Procedure and List of Application Consultees”**).
- 5.7. In deciding whether or not to grant or renew a Licence or Waiver, the Licensing Committee will consider each Application on its own merits and will take into account the following:
  - any Objections or Representations
  - this Licensing Policy Statement
  - The statutory criteria (see **Annex K – “Legal Test”**)
  - Scottish Government Guidance
  - Any other relevant considerations
- 5.8. Applicants should refer, in particular, to **Part 6 – “Policy of Perth and Kinross”** and **Part 10 “Renewal of Licences”**.
- 5.9. Any Licence or Waiver will be subject to Conditions. (see **Annex G – “Standard Licence Conditions”**).

Licences will generally be issued for 1 year but can be for a shorter period if the Council deems this appropriate (Schedule 2, Paragraph 12 of the 1982

- 5.10 Act). The Licence will state the Expiry Date. The duration of a waiver will be considered and determined on an individual basis.

## 6. Policy of Perth and Kinross

- 6.1. The SEV legislation is related to the Scottish Government Policies:

‘Equally Safe: Scotland’s strategy for preventing and eradicating violence against women and girls’

<https://www.gov.scot/publications/equally-safe-scotlands-strategy-prevent-eradicate-violence-against-women-girls/>

‘Human Trafficking and Exploitation Strategy’

<https://www.gov.scot/publications/trafficking-exploitation-strategy/>

The Council endorses the objectives of those Policies.

- 6.2. In preparing this SEV Policy Statement, the Council has fulfilled its duties under Section 45C(3) of the 1982 Act to:

- (a) Consider the impact of the licensing of Sexual Entertainment Venues in their area, having regard, in particular to how it will affect the objectives of –

- i preventing public nuisance, crime and disorder,
- ii securing public safety,
- iii protecting Children and Young People from harm [where “Children” are persons under 16 years’ and “Young People” are ‘persons aged 16 or 17 years’ – Section 45C(8)], and
- iv reducing violence against women,

and

- (b) Consult such persons or bodies as they consider appropriate (**see Annex A – “List of Policy Consultees”**).

The Council has complied with the duty by consulting, taking representations from the consultees and the general public, and by considering how it can exercise its functions so as to advance the above statutory objectives. The primary purpose of this Policy Statement is to ensure that Perth and Kinross Council promotes those objectives in exercising its licensing functions.

This being of primary importance, the Council have set out Standard Conditions required to assist compliance with the licensing objectives. (**See Annex G – “Standard Licensing Conditions”**). The Council have discretion to apply additional conditions to a SEV licence. In doing so, the Council must have regard to how such additional

conditions relate to the mandatory conditions set out in the 1982 Act, Regulations, Orders or other instruments set out in terms of the Act.

The Council will take into consideration all material provided by the applicant as part of the application process and all other relevant factors either because they are relevant specifically to the application or relevant in terms of the legislation.

6.3. Any application for the grant or renewal of a SEV Licence will be considered against the following:

- the statutory criteria (see **Annex K – “Legal Test”**)
- the Licensing Objectives (above)
- the General Presumption (below)
- the Sensitive Premises Presumption (below)
- any Objections or Representations
- any Scottish Government Guidance
- any other relevant considerations

In exercising their functions in relation to the licensing of SEV's, the Council must have regard to this policy statement or revised statement [1982 Act, Section 45C(7)]. The Council will not follow this policy inflexibly but will take into consideration all relevant factors when determining applications. Each Application for a Licence or Waiver will be determined on its own individual merits.

### **The General Presumption**

6.4. The Council must set the number of SEVs permitted in their area and for each relevant locality. Perth and Kinross are the relevant locality. (1982 Act, Section 45B(6)(e)(ii)(a) and Schedule 2, Paragraph 9(5A))

6.5. The basis of this limit is that the Council is entitled to refuse an application for the grant or renewal of a Licence on a number of grounds, including:

*“that the number of SEVs in the local authority’s area or the Relevant Locality at the time the application is made is equal to or exceeds the number which the local authority consider is appropriate for their area or that locality” (1982 Act, Section 45B(6)(e)(i) and Schedule 2; Paragraphs 9(4) and 9(5)(c))*

6.6 The 'Relevant Locality' means: -

- (a) In relation to premises, the locality where they are situated;
- (b) In relation to a vehicle, vessel or stall, any locality where it is desired to use is as a SEV.  
(1982 Act, Schedule 2, Paragraph 9(7))

6.7. Following consultation with interested groups, members of the public, local communities and balancing respective interests, the Council have accordingly determined that the appropriate number of SEVs within the entirety of Perth and Kinross will be **zero**. This is rebuttable presumption. Each application will be determined on its own merits.

### **The Sensitive Premises Presumption**

6.8. The presumption of refusal will be regarded as being enhanced if the proposed SEV is within 500 metres of one or more of the following sensitive premises:

- 1) residential areas
- 2) retail shopping area
- 3) places of worship, celebration or commemoration
- 4) family leisure facilities such as cinemas, theatres, concert halls and swimming pools
- 5) historic buildings or tourist attractions
- 6) schools, play areas, nurseries, parks
- 7) public buildings such as libraries and museums
- 8) premises likely to be frequented by people under 18 or families
- 9) community centres
- 10) premises likely to be frequented by people under 18 or families
- 11) services (including businesses and charities) focussed on supporting women, children and young people, such as women's refuges
- 12) services (including businesses and charities) focussed on supporting homeless people, people with substance abuse issues, mental health issues, or vulnerable people
- 13) roads, footpaths and other access routes to any of the above

- 6.9. In determining whether or not the Sensitive Premises Presumption applies, the Council will also have regard to the following:
- a) Whether any SEVs are already operating, or have operated, in the Relevant Locality (whether under a SEV Licence, an ‘Occasional Exemption’, or with a Waiver).
  - b) Whether there have been reports to the Police or Home Office of incidents within the Relevant Locality (whether or not leading to prosecution or conviction) of human trafficking or exploitation, or breaches of immigration laws by the Applicant or anyone else concerned with the proposed SEV.
  - c) Whether there have been reports to the Police of incidents within x metres of proposed SEV (whether or not leading to prosecution or conviction) of crime (including sexual assaults or minor harassment) or anti-social behaviour.
  - d) The existing character and function of the area in which the SEV is to be located and
  - e) The views of residents and other relevant interested persons as far as is possible.
- 6.10. The Sensitive Premises Presumption is a rebuttable presumption. Each application will be determined on its own merits.

## **7.0 Premises with Other Licences (Alcohol Licences or Public Entertainment)**

- 7.1 If a premises is licensed under the Licensing (Scotland) Act 2005, it is not enough for that premises to state that “Adult Entertainment” is permitted. If such entertainment is being provided, an SEV licence will be required.  
**IMPORTANT TO NOTE:** - It is not enough for the Operating Plan in the Premises Licence to state that “Adult Entertainment” is permitted.

- 7.2. A SEV License is needed if: -

“Sexual Entertainment” is provided if (and only if) it is provided (or allowed to be provided) by or on behalf of the Organiser (Section 45A(5) of the 1982 Act). **See Annex L – definition of ‘Organiser’.**

- 7.3. If “Sexual Entertainment” occurs on Premises without a SEV Licence or a Waiver (for Waivers see **Part 9 below**):

- (a) Both the Premises Manager and the Premises Licence Holder can be prosecuted for not having a SEV Licence;
- (b) The Licensing Board can review the Premises Licence, and revoke or suspend it, on the basis that the Premises Licence Holder is not a fit and proper person having regard to the Licensing Objectives of “preventing crime and disorder” and “protecting and improving public health”; and
- (c) The Licensing Board can review the Premises Manager’s Personal Licence and revoke, suspend or endorse it, on a similar basis.

They can only avoid this possibility of these sanctions if they actively try to stop the Customers or if the “Occasional Use” exemption applies (**see Part 8 below**).

- 7.4. A Public Entertainment Licence for premises used as a place of public entertainment does not cover Sexual Entertainment.

**IMPORTANT TO NOTE:** - It is not enough for an Organiser to hold a Public Entertainment Licence. A SEV Licence is needed if Sexual Entertainment is to be provided or allowed to be provided.

## 8. OCCASIONAL USE (“THE 4-IN-A-YEAR EXEMPTION”)

- 8.1 

Premises can be used for Sexual Entertainment for a proposed event (not exceeding 24 hours) if the Premises have been used for Sexual Entertainment on not more than 3 previous occasions in the past 12 months (Section 45A(9) of the 1982 Act).

- 8.2 

Each occasion can last no more than 24 hours. If your Premises operate as a Sexual Entertainment Venue for more than a 24 hour period, each period of 24 hours (and any part of a period of 24 hours) is to be treated as a separate occasion (Section 45A(10) of the 1982 Act).

- 8.3. The rule applies to a rolling year, not the calendar year running from 1<sup>st</sup> January to 31<sup>st</sup> December. To ascertain whether a particular date can be used, count back 12 months from that date, and ask:

*“Have the Premises been used for “Sexual Entertainment” on three or fewer occasions in this period?”*

If the answer is “no”, the exemption applies and the Premises do not need a Licence. You might send a letter to the Council and the Police (**see Para 9.4 below**).

If the answer is “yes”, the exemption does not apply and the Premises requires a Licence.

- 8.4 You do not have to tell the Council or the Police that you are using the 4-in-a-year exemption, but you can write to the Licensing Department in advance **(see Annex J below – “Occasional Use Exemption Letter”)**.

**NOTE:** It will help to show that you do not need a Licence if you have already sent an Exemption Letter to both the Council’s Licensing Department and the Police.

You can send this letter for one occasion, or more than one occasion. There is no fee for using the Exemption or sending the Exemption Letter.

## **9.0 WAIVERS (1982 ACT, SECTION 45B AND SCHEDULE 2, PARAGRAPH 5)**

A waiver may be applied for. An application has to be made in writing. The Authority may waive the requirement of a licence in any case where they consider that to require a licence would be unreasonable or inappropriate in accordance with Schedule 2 of the 1982 act. The duration of a waiver will be determined on an individual basis.

## **10. RENEWAL OF LICENCES**

- 10.1 If the Licence Holder applies for their renewal before the Licence expires, the Licence stays in effect until a final decision on the Application is taken by the Council (Schedule 2, Paragraph 12(3) of the Civic Government (Scotland) Act 1982).
- 10.2 If the Expiry Date passes and the Licence Holder then applies for a Licence, this will be treated as a new Application (as opposed to an Application for the renewal of an existing Licence).

It can be treated as a ‘renewal’ (so that the Licence stays in effect) if both:

- the Application is made no later than 28 days after the Expiry Date and
- the Council is satisfied that there is good cause (Schedule 2 Paragraph 12(3A) of the Civic Government (Scotland) Act 1982).

The Applicant should state in writing if he/she claims there is a ‘good cause’ and give details.

- 10.3 The procedures for a Renewal Application are the same as those for a grant of a new Licence. The Licence is not guaranteed to be renewed – the Local Authority is not obliged to grant a renewal. The Council will take into account

the operation of the Premises during the period of the Licence, and any allegations of offences and/or breaches of Licence Conditions.

- 10.4. Unlike Applications for the grant or renewal of other types of Licence, applications for the grant or renewal of SEV Licences will all be referred to the Licensing Committee, and Delegated Powers will not be used.

## 11. REVOCATION OF LICENCE

- 11.1. Under Paragraph 13 of Schedule 2 of the Civic Government (Scotland) Act 1982, the Council may at any time revoke a Licence under this Schedule –

- (a) if any of the “Mandatory Grounds of Refusal” (see **Annex H – “Grounds of Refusal”**) apply;
- (b) if, in their opinion, any of the grounds relating to the suitability of the Licence Holder or anyone involved with the Licence apply;
- (c) if a condition of the licence has been contravened.

## 12. POLICY – COMMENT AND REVIEW

- 12.1. Consultation on this document took place between 30 June 2021 and 30 July 2021. This Policy Statement was published on \*\*\*\* 2021. The Policy, including the decision to limit SEVS to zero within Perth and Kinross, will be kept under review and revised, if appropriate, by Supplementary Policy Statements. The Policy will be applied unless or until so revised. It may also be subject to legislative change.

- 12.2. Perth and Kinross adopted the Policy at the meeting of its Licensing Committee on \*\*\*\*\*

- 12.3. How to make comments on this document: -  
Any comments you may wish to make on the Policy can be submitted as follows: -

In writing to Licensing Department  
Perth and Kinross Council  
2 High Street  
Perth  
PH1 5PH

By e-mail to [civiclicensing@pkc.gov.uk](mailto:civiclicensing@pkc.gov.uk)

- 12.4. Copies of this Policy Statement will be available for public inspection, during normal office hours, free of charge at –  
2 High Street, Perth, PH1 5PH

- 12.5. Copies of this Policy Statement will also be available in .pdf format on Perth and Kinross Council’s website.

- 12.6. Any personal information collected will be held in accordance with the requirements of data protection legislation. There is a detailed Privacy Notice which provides further information about how information you provide in response to this consultation will be handled on our website Perth & Kinross Council - Detailed Privacy Notices ([pkc.gov.uk](http://pkc.gov.uk))

## **Annexes**

### **Annex A – List of Policy Consultees**

In addition to a draft of this document being placed on a public website, notice of the consultation leading to the adoption of this SEV Policy Statement was sent to:

All Community Councils within Perth and Kinross  
Perthshire Chamber of Commerce  
Church of Scotland  
Free Church of Scotland  
Catholic Archdiocese of Perth  
Perth Baptist Church  
Perth Mosque  
Perth and Kinross Violence Against Women Partnership  
Perth and Kinross Council - Planning Department  
Perth and Kinross Council - Building Services  
Perth and Kinross Council - Environmental Services  
Perth and Kinross Council - Child Protection Committee  
Perth and Kinross Council - Education Services  
Perth and Kinross Council – Equalities Strategic Forum  
Perth and Kinross Council - Adult Support and Protection Team  
Perth and Kinross Council - Environmental Health Service  
Perth and Kinross Council – Safer Communities  
Perth and Kinross - Health and Social Care Partnership  
Perth and Kinross – Rape and Sexual Abuse Centre  
GMB Union  
Perthshire's Women's Aid  
GMB Sex Workers Union  
Police Scotland Human Trafficking Department  
Police Scotland Tayside Division  
International Committee on the Rights of Sex Workers in Europe (ICRSE)  
Scottish Fire & Rescue Service  
Scottish Trade Union Congress  
Scottish Youth Parliament  
Sex Workers Advocacy  
UNISON  
UNITE  
United Voices of the World

## **Annex B – The SEV Licensing System**

### **1. Introduction**

- 1.1. Provisions of The Air Weapons and Licensing (Scotland) Act 2015 gave Scottish Councils the option of establishing a system to licence Sexual Entertainment Venues (“SEVs”).
- 1.2. These provisions commenced on 26 April 2019 (The Air Weapons and Licensing (Scotland) Act 2015 (Commencement No. 9 and Transitional Provisions) Order 2019 No. 99). In Perth and Kinross Council, the Licensing Committee considered the new legislation on 22 August 2019.
- 1.3. Once a Council has Resolved to Licence SEVs, the Council must publish a Licensing Policy Statement on the Licensing of Sexual Entertainment Venues (“SEV Policy Statement”): 1982 Act, Section 45C.
- 1.4. Premises are classed as an SEV where “Sexual Entertainment” is provided before a live Audience for the direct or indirect financial benefit of the Organiser. Sexual Entertainment is defined by legislation as any live performance or live Display of Nudity provided for the sole or principal purpose of sexual stimulation of members of the Audience.

However, Premises where Sexual Entertainment is provided on no more than 4 occasions in a 12-month period are not to be treated as SEVs (so would not need a licence).

### **3. Legal Background**

- 2.1. Lap-dancing clubs and other SEVs do not require to be licensed anywhere in Scotland, except where:
  - the local Council has made a Resolution, and
  - that Resolution is in force.

There are no known lap-dancing clubs or SEVs in Perth and Kinross. There are clubs elsewhere in Scotland (mostly Aberdeen, Glasgow, Edinburgh and Dundee).

- 2.2. These Clubs will hold a Premises Licence to sell alcohol.

That Licence will have been granted by a Licensing Board under the Licensing (Scotland) Act 2005. As opposed to a licence granted by the Council’s Licensing Committee under the Civic Government (Scotland) Act 1982.

The Court of Session decided in the case of Brightcrew Ltd. V The City of Glasgow Licensing Board, [2011]CSIH 46, 2012 SC 67, 2012 SLT 140 that Licensing Boards are not entitled to place conditions regulating lap-dancing clubs (for example, regulating the working environment in the Premises,

requiring CCTV coverage of staff-only areas, and prohibiting physical contact between workers and Customers). The Court held that the licensing regime in the 2005 Act was limited to the regulation of the sale of alcohol and could not extend to matters not linked to the sale of alcohol.

- 2.3. Accordingly, the Scottish Parliament amended the 1982 Act so as to permit (but not require) Licensing Authorities to Resolve to adopt a new licensing system. This change in the Law was made by the Air Weapons and Licensing (Scotland) Act 2015, which added new provision to the Civic Government (Scotland) Act 1982. The parts affecting SEVs commenced on 26 April 2019, and the Licensing Committee considered this matter at its meeting held on 22 August 2019.
- 2.4. The new licensing system does not apply automatically. Instead of the Scottish Parliament simply prohibiting new lap-dancing clubs altogether, individual Councils throughout Scotland have to decide whether or not to apply the new licensing system in their area, even if there is no likelihood of a lap-dancing club being operated in their area. Before Resolutions were made, SEVs did not need a Licence anywhere in Scotland. SEVs would only need a Licence if and when
  - the local Council so Resolved and
  - that Resolution took effect

The legislation requires an interval of at least 12 months between the making of a Resolution and its Effective Date.

### **3. Procedure**

- 3.1. The process of establishing this type of Licensing is in stages. It involves a meeting of the Licensing Committee:
  - (a) Licensing Committee meeting: consideration of the question of whether, in principle, the operation of a SEV is something that should be licensed by the Council; the Licensing Committee agreed and made a resolution to that effect, requiring SEVs in Perth and Kinross to have a SEV licence; the Licensing Committee stated a date when the new licensing requirement will apply. This must be at least one year after the date the Resolution is made. In Perth and Kinross, it is 19 November 2021;

Stage (a) occurred at the Licensing Committee meeting on 19 November 2020 and after the legislation commenced on 26 April 2019.

If a Council had decided not to make a Resolution, the process would have stopped there. Since Perth and Kinross Council's Licensing Committee did make a Resolution, the process continues with further stages.

- 3.2. The further stages are:
  - (b) over the 11 months following the Resolution being made, the Council must draft a statement on the Council's Policy with respect to the

Licensing of Sexual Entertainment Venues (a “SEV Policy Statement”). To do this, the Council will consult the public and relevant interest groups (including violence against women partnerships).

The Council is entitled to set a limit to the number of SEVs in localities throughout Perth and Kinross. For example, the Council might:

- prohibit SEVs entirely throughout Perth and Kinross, or
- prohibit SEVs within a set distance of schools, residential areas and places of worship.

This would be done by the Policy Statement.

- (c) at least 28 days before the Resolution takes effect, the Council must publish notice (electronically or in a newspaper) of the Resolution, stating the general effect of the legislation (Section 45B(4) and (5));
- (d) at the same time and in the same manner as the Notice of Resolution is published, the SEV Policy Statement (Section 45C(4));
- (e) Unlike Applications for the grant or renewal of other types of Licence, Applications for the grant or renewal of SEV Licences will be referred to the Licensing Committee, and Delegated Powers will not be used.

## Annex C – Council Area

1.1. Perth and Kinross covers 5,286 km<sup>2</sup> (2,041, m<sup>2</sup>). In the southern part of Perth and Kinross agriculture plays an important part of the local economy. This includes the cultivation of fruits, fodder, wheat and seed potatoes. The scenic nature of the northern part of Perth and Kinross makes tourism an important part of the economy.

1.2. In 2011, Perth and Kinross's population numbered 146,652.

1.3. The table below shows the breakdown of the population by age bands and gender:

Age Group	Males	Females	Total
Children (0-15)			25,175
Working age (16-64)			91,914
65+			29,563
Total	71,443	75,209	146,652

Source: Census 2011 (National Records of Scotland)

## **Annex D – Application Procedure and List of Application Consultees**

1. When an Applicant asks the Council for the grant or renewal of a SEV Licence, the Applicants must complete the following: -

### **1.1 Before lodging the Application**

- 1.1.1. The Applicant must ask the Council:
  - (a) to specify a newspaper to be used for publication of an advertisement, or
  - (b) to dispense with the requirement to publish a newspaper advertisement (in which case the Council will publish notice of the Application electronically).
- 1.1.2. If the request is (b), the Applicant should specify why newspaper advertisement is thought not to be appropriate.

### **1.2 When making the Application**

- (a) The Application must be in writing and must contain the information set out in **Annex E (“Required Information”)**; it can be submitted by post to: Licensing Department, Perth and Kinross Council, 2 High Street, Perth, PH1 5PH or by email to [civiclicensing@pkc.gov.uk](mailto:civiclicensing@pkc.gov.uk)
- (b) The Application should be accompanied by the prescribed fee. The Civic Government (Scotland) Act 1982 permits the authority to set a reasonable fee as the authority shall seek to ensure that from time to time the total amount of fees receivable by the authority is sufficient to meet the expenses of the council in exercising their functions under the Act. The fee will be reviewed annually in line with a review of licencing fees and will be incorporated within the list of Civic Licensing Fees. The fee will not be reduced or refunded if the Application is refused or the Licence is granted for less than was requested.
- (c) The Applicant must display a “Notice of Application” (in the form prescribed below) on or near the Premises in a place where the Notice can conveniently be read by the public. This Notice must be displayed for 21 days, beginning with the date of the Application (Schedule 2, Paragraph 7(4) of the Civic Government (Scotland) Act 1982).

### **1.3 After making the Application**

- 1.3.1. The Applicant must:
  - (a) not later than 7 days after the date of the Application:
    - send a copy of the Application to each person or body listed below  
(see 1.5 “List as determined by the Council under Schedule 2, Paragraph 7(C) of the Civic Government (Scotland) Act 1982”);
  - (b) not later than 7 days after the date of the Application:

- give the Council a certificate confirming that this has been done;
- (c) not later than 7 days after the date of the Application:
- Unless the Council has dispensed with newspaper advertisement, publish an advertisement in the newspaper circulating in the Council area previously specified by the Council; the advertisement must be in the prescribed form (see “Notice of Application” below). If the Council has dispensed with newspaper advertisement, the Council will publish such a Notice electronically not later than 7 days after the date of the Application.
- (d) as soon as possible after the expiry of the period of 21 days for display of the Site Notice:
- Give the Council a certificate stating that he/she has complied with the requirements to display the Site Notice, and a copy of the Site Notice.
- (e) if relevant, as soon as possible after newspaper publication
- give the Council one complete copy of the newspaper containing the advertisement of the Application.

1.3.2 List as determined by the Council under Schedule 2, Paragraph 7(3C) of the Civic Government (Scotland) Act 1982:

- **Police Scotland**
- **Scottish Fire & Rescue Service**
- **Perth & Kinross Council** – Adult and Child Protection Services
- **Perth & Kinross Council** – Education Services
- **Perth & Kinross Council** – Environmental Health Service
- **Local Churches/Places of Worship**
- **Community Council** – The Application and all supporting documents should be sent to the Community Council for the area where the Premises are.

## **1.4 Notice of Application**

1.4.1. If displayed at or near the proposed SEV the Notice must be:

- on A4-sized paper (or larger)
- printed legibly or typed in black ink

- in a font size of 16 points or larger
- arranged so as to ensure that it remains legible throughout the public notice period (for example, laminated or attached to the inside of a clear window facing out)

1.4.2. This Notice is prescribed by the Council under Schedule 2, Paragraph 7(7) of the 1982 Act.

Licensing of Sexual Entertainment Venues

Civic Government (Scotland) Act 1982 (as modified by Section 76 of the Air Weapons and Licensing (Scotland) Act 2015)

On [date of lodging] an Application was made to Perth and Kinross Council by [Applicant's Name] for the [delete as appropriate]

1. Grant of a Licence
2. Renewal of a Licence
3. Waiver of the need to have a Licence for a "Sexual Entrainment Venue" at [Address of Premises].

## **1.5 Objections/Representations**

1.5.1. Anyone wishing to state an Objection or Representation about this proposal must do so:

- in signed writing by letter or e-mail;
- specifying the grounds of Objection or Representation;
- specifying the name and address of the person making it;
- stating whether or not the person consents to the name and address being given to the Applicant;

The possible grounds for refusal of a Licence are stated in Schedule 2, Paragraph 9(5) of the Civic Government (Scotland) Act 1982.  
(See **Annexes F and H** below)

The letter must be sent to:  
Perth and Kinross Council  
Licensing Department  
2 High Street  
Perth  
PH1 5PH

E-mail must be sent to:  
civiclicensing@pkc.gov.uk

- 1.5.2 The Council will advise the Applicant of the general terms of any letter received but will not reveal the sender's name or address unless the sender consents. The Council will assume that the sender does not consent unless the sender positively states otherwise. If the sender does not consent, the Council will redact the letter before sending it to the Applicant.

The sender will be invited to the meeting of the Licensing Committee which decides the Application.

An Objection or Representation can only be accepted if it is received by the Council within 28 days of the date of publication (if it has been posted by Registered or Recorded Delivery post to the Council so as to arrive by that date, it will be accepted as being in time even if it arrives later).

The Council is entitled (but not obliged) to accept a late letter if there is a sufficient reason why it was not made in time, so if the person sends a late letter it should explain what the sufficient reason is. There is not guarantee that the Council will accept a late letter. If a letter is sent late then there is the possibility that the Council will already have decided the Licence Application. The Council cannot review decisions on the basis of late letters.

## **1.6 Procedure in the Council**

- 1.6.1. If the Council has dispensed with the requirement on the Applicant to publish a newspaper advertisement, the Council will publish the "Notice of Application" (above) on its website for at least 21 days.

- 1.6.2. The Council will send a copy of the application to: -

- the Chief Constable, and
- the Scottish Fire and Rescue Service or such other appropriate enforcing authority.

## **Annex E – Required Information**

The Civic Government (Scotland) Act 1982 sets out at Paragraph 6 in Schedule 2 the information which is legally required to be included in an application. Anyone applying to the Council for the grant or renewal of a SEV Licence (or a Waiver removing the need to be licensed) should make a written Application to the Council, setting out:

### **1. Particulars of Applicant**

The full name, address, date of birth and place of birth of both:-

- the owner of the Premises
- the Premises Manager

Where the owner is a partnership or company: -

- the full name of the partnership or company
- the address of its registered or principal office
- the full names, private addresses, dates of birth and places of birth of all the people involved in the management or control of the partnership or company
- if the Applicant is a company, copies of the Memorandum and Articles of Association of the company
- if the Applicant is a partnership, a certified copy of the partnership deed
- the full name, private address, and date and place of birth of the Premises Manager

In relation to all of these people (the owner, Premises Manager and other persons) there should be statements:

- (a) of what experience (if any) the person has had in operating SEVs or Premises Licensed for the sale of alcohol anywhere in the United Kingdom.
- (b) Subject to the Rehabilitation of Offenders Act 1974 (as amended by the Management of Offenders (Scotland) Act 2019, of any unspent convictions or alternatives to prosecution relating to that person;
- (c) any administrative penalties under legislation relating to Social Security or Immigration relating to that person;

A copy of any other licences for the Premises, vehicle, vessel or stall (for example, any Premises Licence under the Licensing (Scotland) Act 2005).

### **2. Layout Plan**

The Application should include a Layout Plan at scale 1:100 (or more detailed). This should include a legend explaining the scale used and the symbols used.

The Layout Plan should describe the Premises, including:

- (a) the extent and dimensions of the external and internal walls of the Premises;
- (b) the location and names of any streets surrounding the Premises from which members of the public have access to the Premises;
- (c) the location and width of each point of access to and egress from the Premises;
- (d) the location and width of any escape routes from the Premises;

- (e) the location of any equipment used for the detection or warning of fire or smoke or for fighting fires;
- (f) the location of any steps, stairs, elevators or lifts on the Premises;
- (g) the layout of rooms and features of the Premises (such as stages, bars, cloakrooms, performance areas, and dressing rooms);
- (h) the extent of the public areas outlined in blue;
- (i) the staff-only areas outlined in red;
- (j) the location of any toilets on the Premises (identified as male, female or disabled as appropriate);
- (k) the location and field of view of any CCTV camera;
- (l) drawings showing the front elevation as proposed including any proposed signage, advertising and window display;
- (m) for any stage or raised area, the location and height relative to the floor; and
- (n) the position of any ramps, lifts or other facilities for the benefit of disabled people.

### **3. Location Plan**

The Application should include a Location Plan at scale 1:1,500 (or more detailed). This should include a legend explaining the scale used and the symbols used. The Location Plan should:

- cover an area with a radius of not less than 1,000 metres from the boundary of the Premises, showing the Premises in relation to surrounding streets and buildings;
- identify Sensitive Premises in that area (defined in Part 4).

### **4. Premises etc.**

The Application must state in writing:

- (a) the address of the Premises (or where the application relates to a vehicle, vessel or stall, where it is to be used);
- (b) the date(s) and time(s) that Sexual Entertainment will be provided, on each day of the week;
- (c) the type(s) of Sexual Entertainment proposed;
- (d) the minimum ages of the Performers;
- (e) The numbers of people who will be on the Premises at any one time:
  - i. Customers (this will be the 'Customer capacity' figure stated in the Licence or Waiver);
  - ii. Performers
  - iii. Stewards
  - iv. Other staff

- (f) The arrangements proposed for stewarding; and
- (g) Confirmation that no-one aged under 18 years old will be allowed on the Premises while Sexual Entertainment is being provided.

## **5. Planning Permission**

The Applicant should give the Licensing Department a copy of the Decision Notices or other documentation issued by the Planning Department that the proposal to use the Premises as a SEV is consistent with Planning Permission.

## **6. Permitted Hours**

The Applicant must state what days and times it is proposed that the Premises should be open to the public. The Council may restrict these.

## Annex F – Objections and Representations

- 1.1. It is important that a comment should be specific. It is not enough to say, “I object” or “I complain”, without providing an explanation for that view. Objections must specify the basis of the objections. These are set out in the Civic Government (Scotland) Act 1982 Act, Schedule 2, Paragraphs 8(2), 9(4) and 9(5) (set out below).
- 1.2. A Petition is unlikely to be accepted as a valid Objection or Representation. If 100 people sign a Petition, they are unlikely to all have the same complaints. The Licensing Committee has to determine the weight to be placed on individual comments. In the common example of an objection or complaint based on nuisance or Anti-social behaviour, the Council is likely to be more influenced by comments from immediate neighbours of the Premises than from residents further away. If a person signs a Petition without specifying his/her address, his/her comment is likely to be disregarded.
- 1.3. The Licence Applicant is entitled to fair notice of complaints. If the objection is based on alleged incidents, then for each alleged incident, the objector should answer questions such as:
  - what happened?
  - what was the day, date and time?
  - were the staff of the Premises advised? (if so, who was told and when?)
  - was there any official complaint (e.g. to Police, Council)?
  - if so, what action was taken?
  - if there was no complaint, why not?
- 1.4. It is not possible to raise issues with the Licensing Committee which relate to legislation other than the Civic Government (Scotland) Act 1982. For example, issues regarding parking and Planning Permission are dealt with by the Roads (Scotland) Act 1984 or the Town and Country Planning (Scotland) Act 1997, and the Licensing Committee cannot deal with these. However, the Licensing Committee may accept that the issues raised are also relevant to the statutory Grounds for Refusal (for example, the ground in Paragraph 9(5)(d), where the Grant or Renewal of the Licence is said to be inappropriate, having regard to specified factors).
- 1.5. Paragraph 8(2) of Schedule 2 to the 1982 Act provides:

*8(2) Any objection or representation relating to an application for the grant or renewal of a licence under this Schedule shall, subject to sub-paragraph (3) below, be entertained by the local authority, if, but only if, the objection or representation-*

*(a) is in writing;*

- (b) specifies the grounds of the objection or, as the case may be, the nature of the representation;*
- (c) specifies the name and address of the person making it;*
- (d) is signed by him or on his behalf;*
- (e) was made to them within 28 days of whichever is the later or, as the case may be, latest of the following dates –*
  - (i) the date of submission to them of the application;*
  - (ii) the date when public advertisement was first given under paragraph 7(2) above;*
  - (iii) the date, if any, specified by the local authority under paragraph 7(10) above”.*

1.6. Paragraph 9(4) of Schedule 2 to the 1982 Act is:

*“9(4) But without prejudice to sub-paragraph 9(3) above, the Local Authority shall refuse an Application for the Grant or Renewal of a Licence if, in their opinion, one or more of the grounds specified in sub-paragraph 9(5) below apply.*

Because the legislation says “if, in their opinion”, it is for the Council to decide whether or not the Licence should be granted or renewed.

So, the Council will consider whether or not any of the possible Grounds of Refusal apply. If the Council thinks that any of them apply, the Licence is refused. Otherwise, subject to Paragraph 9(3) and the mandatory grounds to not grant, the Licence is granted. (**See Annex I – “Grounds of Refusal”**).

1.7. Paragraphs 9(5) to 9(6) of Schedule 2 to the 1982 Act are:

*“9(5) The grounds mentioned in sub-paragraph (4) above are –*

- (a) that the Applicant or, where the Applicant is a person other than a natural person, any director of it or any partner in it or any person responsible for its management, is unsuitable to hold the Licence by reason of having been convicted of an offence or for any other reason;*
- (b) that, if the Licence were to be Granted or Renewed, the business to which it relates would be managed by or carried on for the benefit of a person, other than the Applicant, who would be refused the Grant or Renewal of such a Licence if he made the Application himself;*
- (c) that the number of Sexual Entertainment Venues in the Relevant Locality at the time the Application is made is equal to or exceeds the number which the Local Authority considers is appropriate for that Locality;*
- (d) that the Grant or Renewal of the Licence would be inappropriate, having regard -*
  - i to the character of the Relevant Locality; or*
  - ii to the use to which any premises in the vicinity are put; or*
  - iii to the layout, character or condition of the Premises, vehicle, vessel or stall in respect of which the Application is made.*

*9(5A) For the purposes of sub-paragraph (5)(c), a Local Authority must –*

- (a) from time to time determine the appropriate number of Sexual Entertainment Venues for their area and for each relevant Locality, and*

*(b) publicise the determination in such manner as they consider appropriate.*

*9(6) Nil may be an appropriate number for the purposes of sub-paragraph (5)(c) above”.*

- 1.8. Objectors can include individual residents or businesses, residents/'tenants' associations, community associations and trade associations. Members of Parliament, Members of the Scottish Parliament, Councillors, and Community Councils may also raise objections.

## **Annex G – Standard Licence Conditions**

### **Status of Conditions**

Any SEV Licence will have the following Standard Conditions made by the Council under Section 45F of the Civic Government (Scotland) Act 1982.

Any SEV Licence may also be subject to additional conditions as determined by the Council, known as Special Conditions, determined by the Council in relation to a particular SEV licence. In the event of a conflict between the Standard Conditions and any Special Conditions, the Special Conditions shall prevail.

Both the Council's Standard Conditions and any Special Conditions are subject to any Mandatory Conditions prescribed by Scottish Ministers under Section 45E of the 1982 Act.

Where the proposed SEV has a Premises Licence under the Licensing (Scotland) Act 2005, all reasonable care will be taken to ensure that the SEV licence conditions do not contradict the Premises Licence conditions. If an SEV does not also need an alcohol licence, the Council may apply any of the conditions attached to such licences, as appropriate, to that particular SEV licence. For details of those conditions, please see Perth and Kinross Licensing Policy Statement 2018 2023.pdf ([pkc.gov.uk](http://pkc.gov.uk))

In this Policy, the following expressions shall have the following meanings:

- i. These conditions apply to all premises licensed as a “sexual entertainment venue” as defined by the said 1982 Act that is to say terms, conditions and restrictions on or subject to which licences under Schedule 2 of the 1982 Act are in general to be granted, renewed, varied or transferred;
- ii. “Sexual Entertainment Venue” (‘SEV’) means any premises at which relevant entertainment is provided before a live and audience, directly or indirectly for the financial gain of the organiser or the entertainer;
- iii. “Premises” includes any vessel, vehicle or stall but does not include any private dwelling to which the public is not admitted;
- iv. “Relevant Entertainment” means any live performance or any live display of nudity which is of such a nature that, ignoring financial gain, it must reasonable be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means);
- v. The Council may at any time waive, modify or vary these conditions or impose additional special conditions in any particular case;
- vi. If the Licensee wishes any terms of the licence to be varies an application must be made to the Council;
- vii. “Performer” is a person who is engaged to provide “Sexual Entertainment”;
- viii. “Customer” a person who is on the Premises but does not work for the

Organiser;

- ix. "Premises Manager" is a natural person (not a company or partnership) so named on the Licence (or an "Acting Premises Manager" authorised under Condition 11). The Premises Manager is treated as a Joint Holder of the Licence and will be named in the Licence document.
- x. "Standard Conditions" these are conditions made by Perth and Kinross Council in terms of the Civic Government (Scotland) Act 1982 which will apply to all SEV licences unless specified otherwise;
- xi. "Special Conditions" these are additional conditions which Perth and Kinross Council will apply to an individual SEV licence depending on the circumstances of the particular application, over and above the Standard Conditions listed in this document.

## **Standard Conditions**

### **1. Records and copy documents**

- 1.1. Where these Conditions require the keeping of records and copy documents, these must be kept in writing or on computer.
- 1.2. The Licence Holder must ensure that at all times:
  - these things are available for viewing by the Police, the Civic Licensing Standards Officer, and any other authorised Council officer on request;
  - there is a member of staff who is able to access these things, display them (if on a computer or television monitor), and make copies;
- 1.3. Where these Conditions require that records and copy documents should be kept, these things should be kept for 12 months beginning:
  - (a) if relating to a Performer or other member of staff, when that person **stopped** working on the Premises;
  - (b) if relating to a Customer, when that person was admitted to or excluded from the Premises;

or, if less, 12 months after the event recorded.

Those records and copies shall be available to the Police, the Civic Licensing Standards Officer, and any other authorised Council officer on request at all times.

### **2. Notices**

- 2.1. Where these Conditions require the display of a Notice, Licence or other document that thing must be:
  - On A4 sized papers (or larger)

- Printed legibly or typed in black ink
- In font size of 16 points or larger
- Placed in a conspicuous and well-lit place where all Customers, Performers and staff can easily read it.

### **3. Incident Log**

- 3.1. The Licence Holder must keep an incident log of:
- (a) All alleged crimes reported to the venue;
  - (b) All ejections of Customers;
  - (c) Any complaints received from anyone;
  - (d) Any incidents of disorder;
  - (e) Seizures of drugs or offensive weapons;
  - (f) Any faults in the CCTV system or searching or scanning equipment;
  - (g) Any refusal of the sale of alcohol;
  - (h) Any visit by the Council, Police Scotland or any other Statutory Service;
- (i) Any breach of licence conditions reported by a Performer.

### **4. CCTV**

- 4.1. CCTV shall be installed in each room, save for the toilets and staff only areas, within the premises where the public has access including areas outside the Premises near any Customer entrance to the Premises.
- 4.2. The CCTV must make recordings capable of providing pictures of evidential quality in all lighting conditions and must allow for facial recognition.
- 4.3. All cameras shall continuously record whilst the premises are open to the public and recordings shall be retained for a minimum of thirty days and if requested by Police, for such longer period or until such event as they specify.
- 4.4. A member of staff who is fully trained in the use of the CCTV system shall be on duty at all times when the premises are open until the premises are clear of customers.
- 4.5. The premises will provide copies of any recordings upon request by a Police Officer or an authorised officer of the Council within 24 hours of request.

## **5. Staff Records**

5.1. The Licence Holder must, before allowing a Performer to work on the Premises, make a record of the following details of the Performer:

- full name, and any alias or stage name
- address
- telephone number
- date of birth
- place of birth
- nationality

These details must be available on the premises for immediate production if requested by Police or Local Authority Officers.

5.2. If the Performer has a current Passport issued in the United Kingdom, the Licence Holder must, before allowing the Performer to work on the Premises, keep a copy.

5.3. If the Performer does not have a current Passport issued in the United Kingdom, the Licence Holder must, before allowing the Performer to work on the Premises, both;

(a) make a copy of the Performer's any official documents (such as Passport, Visa, EU driving licence, or National Identity Card; and

(b) contact the Home Office and obtain written confirmation that the Performer has a right to work in the United Kingdom.

5.4. In either case the Licence Holder must keep copies of any documents inspected.

5.5. The Licence Holder must be able to demonstrate their recruitment procedures actively identify potential victims of human trafficking. The Association of Licensed Adult Entertainment Venues in Scotland's 'Human Trafficking and Migrant Worker Toolkit – Guide for Employers' is recommended.  
<http://www.alaevs.co.uk/news/2019/human-trafficking-migrant-worker-toolkit-download/>

## **6. Welfare of Performers**

- 6.1. The Premises shall provide private spaces for Performers to use when not working. These spaces must have:
- Lockable doors
  - The provision of hygienic changing and showering facilities
  - A toilet with access to hot water exclusively for the use of Performers
  - A prominent 'Staff Only' sign posting.
- 6.2. No locks or fastenings shall be fitted to any public area of the Premises (other than toilet cubicles).
- 6.3. The Licence Holder must set break times for Performers;
- 6.4. The Licence Holder must arrange for Performers to be escorted by security staff to a nominated taxi or to their car at the end of a shift;
- 6.5. The Licence Holder must allow Performers access to medical checks and sexual health advice on the Premises;
- 6.6. The Licence Holder must keep the Premises clean and tidy;
- 6.7. The Licence Holder must ensure Performers are fully clothed outwith the performance areas in the Premises.

## **7. First Aid**

- 7.1. The Premises must have a First-Aid Kit and this should be readily-accessible to anyone on the Premises, whether Customers, Performers or other staff.
- 7.2. A member of staff (not a Performer) qualified in First Aid, should be on duty in the Premises at all times that they are open to the public.

## **8. Stewards**

- 8.1. The Licence Holder must, before allowing a steward to work on the Premises, make a copy of his/her SIA authorisation and keep it. All stewards must hold current SIA authorisations.

## **9. Customers**

- 9.1. The Licence Holder must display on the exterior of the Premises at each Customer entrance, in a position where they may be easily read by people outside the Premises, Notices stating:

*"This is a Sexual Entertainment Venue. No-one under 18 can enter. The Premises are monitored by CCTV. The Premises are licensed by Perth and Kinross Council".*

- 9.2. The Licence Holder must display within the Premises, at each Customer entrance, Notices stating:

*"Rules for Customers"*

*Any Customer breaking any of these rules will be excluded from the Premises and barred permanently:*

- (a) There must be no physical contact between Customer and Performers;*
- (b) Customers must not enter any 'Staff Only' areas;*
- (c) Customers must remain fully clothed at all times;*
- (d) Customers must not seek sexual favours or offer Performers payment in return for sexual favours;*
- (e) Customers must not offer their contact details to Performers or ask for any form of contact details from Performers;*
- (f) Customers must not engage in any unlawful activity on Premises;*
- (g) Customers must not take any photographs or video recording of the Performers (whether consent is given or not);*

- 9.3. The Licence Holder must eject any Customer who breaks any of these rules and bar him/her from the Premises permanently.

## **10. Age Limit**

- 10.1. No person under the age of 18 years of age (whether a Customer or a Performer) shall be admitted to or be allowed on the Premises.
- 10.2. Before admitting a Customer to the Premises, the Licence Holder must carry out the same age verification processes which are required before alcohol is sold on the Premises Licensed under the Licensing (Scotland) Act 2005.
- 10.3. The Licence Holder must keep a written record of the name, address and date of birth of any person who is refused entry due to being under the age of 18.

## **11. Premises Manager**

- 11.1. The Licence will name a natural person (not a company or partnership) to be "Premises Manager".
- 11.2. The Premises Manager will have day-to-day responsibility for the Premises and for compliance with the Licence Conditions any other legal obligations.

- 11.3. The Premises Manager will have day-to-day responsibility for the Premises at all times that they are open to the public:

**Except that The Premises Manager or the Licence Holder may authorise, in writing, another natural person to be “Acting Premises Manager” for a maximum period of thirty (30) continuous days, provided that the total days authorised do not exceed sixty days per calendar year (1 January to 31 December). That person will have all the responsibilities of the Premises Manager. Both the Licence Holder and the Premises Manager will be responsible for that Acting Premises Manager.**

- 11.4 The Licence Holder will be held responsible for any conduct or omission by the Premises Manager or the “Acting Premises Manager”.

## **12. Management**

- 12.1. At all times that the Premises are open to the public, the Licence (or a copy of it certified by the Council) will be displayed prominently on the Premises.
- 12.2. The Premises must only be used in accordance with the Layout Plan and during the Licensed hours stated in the Licence. The Premises must not exceed the Customer capacity stated in the Licence.
- 12.3. No alterations or additions either internal or external and whether permanent or temporary to the structure, lighting or layout of the Premises shall not be made without the prior written approval of the Council.
- 12.4. The Licence Holder must notify the Council in writing within seven days if the Licence Holder or any person working on the Premises is charged or convicted of any crime or offence, where-ever the incident leading to the prosecution is alleged to have happened.
- 12.5. The Premises shall be screened from outside so that no-one outside can see inside.
- 12.6. The windows, doors, walls and all external parts of the Premises including the roof shall not contain any form of writing, sign or display save for:
- The address of the premises
  - The licenced name of the premises (which shall not be offensive)
  - A notice stating the opening hours of the establishment.
- 12.7. The Licence Holder shall not display outside the Premises, or on any advertising material, photographs or other images which indicate that Sexual Entertainment can be seen on the Premises.

- 12.8. No-one concerned in the conduct or management of the Premises (the Licence Holder, Premises Manager, Performers and other staff) shall seek to obtain custom by means of personal solicitation or touting, nor enter into any agreement with a third party to do so.

## Annex H – Grounds of Refusal

- 1.1. These grounds are detailed in Paragraph 9 of Schedule 2 of the Civic Government (Scotland) Act 1982.
- 1.2. There are two types of Grounds for Refusal:
  - (a) **Discretionary**: Grounds of Refusal: these are possible reasons for the Council to grant or refuse a Licence, so the Council will hold a Hearing attended by the Licence Applicant, the Police, and anyone who has stated objections or representations (such as local residents), and after hearing from everyone, the Licensing Committee will decide whether or not to grant the Licence (see “Discretionary Grounds for Refusal” below);
  - (b) **Mandatory**: Grounds of Refusal: if these exist, the Council automatically refuses the Licence Application – it has no choice (see “Mandatory Grounds of Refusal” below).
- 1.3. The Civic Government (Scotland) Act 1982 sometimes refers to a “Sex Shop” instead of to a “Sexual Entertainment Venue”. The reason for this is that the 1982 Act has always had a system of licensing “Sex Shops”, and when the new provisions about “Sexual Entertainment Venues” were to be introduced, the Scottish Parliament did this by modifying the existing system rather than by creating a separate system. This was done by Section 45B(6)(a) of the 1982 Act, which is:
  - (a) *“references to a Sex Shop are to be read as references to a Sexual Entertainment Venue”.*

### Discretionary Grounds for Refusal:

- 1.4. These are in Paragraphs 9(4) to 9(6). For full details, see **Annex F “Objections and Representations”**.
- 1.5. In summary, the Local Authority can refuse an Application for the Grant or Renewal of a Licence, if in their opinion, one or more of the grounds specified in Paragraph 9(5) apply. These are:
  - (a) that the Applicant or, where the Applicant is a person other than a natural person, any director of it or any partner in it or any person responsible for its management, is unsuitable to hold the Licence by reason of having been convicted of an offence or for any other reason;
  - (b) that, if the Licence were to be Granted or Renewed, the business to which it relates would be managed by or carried on for the benefit of a person, other than the Applicant, who would be refused the Grant or Renewal of such a Licence if they made the Application themselves;
  - (c) that the number of Sexual Entertainment Venues in the Relevant Locality at the time the Application is made is equal to or exceeds the Number which the Local Authority consider is appropriate for that Locality;
  - (d) that the Grant or Renewal of the Licence would be inappropriate, having regard -

- (i) to the character of the Relevant Locality; or
- (ii) to the use to which any premises in the vicinity are put; or
- (iii) to the layout, character or condition of the Premises, vehicle, vessel or stall in respect of which the Application is made.

1.6. Nil may be an appropriate number for the purposes of sub-paragraph 9(5)(c) above (Paragraph 9(6)).

1.7 In determining whether or not the Applicant or anyone associate with the Applicant is a suitable person to hold the Licence, the considerations for the Council will include:

- a) The relevant knowledge and experience possessed by that person;
- b) Any evidence of the operation of any existing or previous licence(s), whether or not relating to SEVs, including any licence held in any part of the United Kingdom;
- c) Any Objections or Representations.

**Mandatory Grounds for Refusal:**

- (a) the Applicant is under the age of 18;
- (b) the Applicant is disqualified from holding a SEV Licence;
- (c) the Applicant has been convicted of an offence relating to the enforcement of SEV Licensing legislation;
- (d) the Applicant has not resided in the United Kingdom for at least 6 months, (or, if a Company, is not registered in the United Kingdom.);
- (e) the Applicant has been refused a SEV Licence in the past 12 months.

## Annex I – Application Form



Sexual Entertainment Venue  
Licence  
(under the Civic Government  
(Scotland) Act 1982, as modified by  
Section 76 of the Air Weapons and  
Licensing (Scotland) Act 2015)

### For Official use only

Date received	
Receipt No.	
New	Renewal
Exp	Ref

**COMPLETE QUESTIONS 1 OR 2 THEN QUESTIONS 3 TO 13 MUST BE ANSWERED FULLY  
IN BLOCK LETTERS**

1. TO BE COMPLETED BY AN INDIVIDUAL APPLICANT ONLY					
1 (a)	Full name of Applicant (including maiden and middle names)	Surname			
		Forenames			
		Maiden name			
Trading name, if applicable					
(b)	Home Address				
		Postcode			
(c)	Please enter the date you moved to your current address				
(d)	If you have lived at this address for less than 3 years please state any other addresses you have resided at during this time and your period of residence at those addresses				
(e)	E-mail				
(f)	Telephone No	Home		Mobile	

(g)	Age, date and place of birth	Age	Date of Birth	Place of Birth
(h)	National Insurance Number			
2.	<b>TO BE COMPLETED BY A COMPANY, PARTNERSHIP OR VOLUNTARY ORGANISATION ONLY</b>			
2 (a)	Full name of Company, Partnership or Voluntary Organisation			
(b)	Company Registration Number			
(c)	Address of Principal Office (including postcode)			
(d)	E-mail			
(e)	Contact Telephone No	Landline	Mobile	
(f)	<p>Full names, dates and places of birth and private addresses of all Directors, Partners, Committee Members or other persons responsible for the management of the business (including maiden and middle names) <b>Please continue on a separate sheet if necessary</b></p> <p>Private home addresses including postcode.</p>	Full Name	Date of Birth	
		Address (include date that you moved to this address)	Place of Birth	
		Full Name	Date of Birth	
			Place of Birth	
		Address (include date that you moved to this address)		

		Full Name	Date of Birth	
			Place of Birth	
		Address <i>(include date that you moved to this address)</i>		
(g)	If you have lived at this address for less than 3 years please state any other addresses you have resided at during this time and your period of residence at those addresses			

**QUESTIONS 3 TO 13 MUST BE ANSWERED BY ALL APPLICANTS**

3.	Please list all current convictions. (If applying on behalf of a company, partnership or voluntary organisation, please list convictions for all partners/ directors/chairman/ secretary/treasurer)  <b>* (Use separate sheet if necessary)</b>	Date	Court	Offence	Sentence
4.	Will you carry out the day to day management of the business?	Yes <input type="checkbox"/> If yes, go to Question 6    No <input type="checkbox"/> If no, go to Question 5			

5 (a)	Full name (including maiden and middle names) of Manager	Full name		Date of Birth	
				Place of Birth	
		Address ( <i>include date that you moved to this address</i> )			
		Private home address of Manager including postcode			
(b)	Please list all current convictions of Manager  <b>* (Use separate sheet if necessary)</b>	Date	Court	Offence	Sentence
(c)	Manager's Contact details	Telephone			
		Mobile			
		E-Mail			
6.	Have you and/or your Manager lived in the UK for at least 10 Years. If no, please provide a letter from your and/or your Manager's home country confirming that you or they have/have not got any convictions			Manager    Yes <input type="checkbox"/> No <input type="checkbox"/>  Self        Yes <input type="checkbox"/> No <input type="checkbox"/>	

7.	Licence applied for	<p>New <input type="checkbox"/>      1 year <input type="checkbox"/></p> <p>Renewal <input type="checkbox"/>      1 year <input type="checkbox"/></p> <p>Current Licence Number (For renewals only) .....</p>			
8.	Name and address of premises to be licensed	<div data-bbox="571 477 1398 674" style="height: 88px;"></div> <table border="1" data-bbox="571 674 1398 745"> <tr> <td data-bbox="571 674 732 745">Postcode</td> <td data-bbox="732 674 1398 745"></td> </tr> </table>		Postcode	
Postcode					
9.	<p>Brief description of Premises e.g building, vehicle, vessel etc including seating capacity, toilet accommodation and entrance and exits.</p> <p>Please also specify if the whole premises is to be licensed and, if not, please include a layout plan which details which parts are to be licensed</p>				
10.	<p><b>Security arrangements on the premises</b></p> <p>Please include as much information as possible and please specifically detail any CCTV arrangements and numbers of SIA door staff.</p>				

	Description of activities to be carried on the premises  Please specify what form of sexual entertainment will be provided e.g lap dancing			
11.	State the days and of operation <i>(Please note that if alcohol is to be sold at the premises, you will require to obtain the applicable liquor licence. Please also note that you should ensure that all other licences and consents are obtained (e.g Planning, Building Standards))</i>	Monday  Tuesday  Wednesday  Thursday  Friday  Saturday  Sunday	Opening	Closing
12.	Have you previously held a Sexual Entertainment Venue Licence within any area of the UK?	YES / NO If yes, please provide details of the area of the UK, dates and duration of the licence and reasons for no longer being licensed (if applicable)		
13.	Have you ever been refused a Sexual Entertainment Venue Licence in this area or any other area of the UK?	YES / NO If yes, please provide details of reasons for the refusal and date of refusal:		

**\* Subject to the provisions of the Rehabilitation of Offenders Act 1974, has any party named in this form ever been convicted of any crime or offence? (Continue on a separate sheet if necessary). Please read the guidance notes accompanying this form before completing this section.**

<b>CHECKLIST</b>		
<b>I have</b>	<b>Please tick</b>	
	<b>Yes</b>	<b>No</b>
• <b>Made or enclosed payment</b>		
• <b>I have completed all sections relating to any convictions that should be declared.</b>		
• <b>If I or my Manager have not lived in the UK for 10 years, I have enclosed a letter from my/his/her home country confirming that I/we have/have not got any convictions.</b>		
• <b>Enclosed Layout Plan</b>		
• <b>Enclosed copy of Location Plan</b>		
• <b>Enclosed copy of Fire Risk Assessment</b>		
• <b>Enclosed copy of current Public Liability Insurance Cover</b>		
• <b>I have displayed the Site Notice and confirm that I will return the Compliance Notice after 21 days to certify that I have complied with the display notice requirement. (Please enclose copy of Site Notice you have displayed).</b>		
• <b>I have signed and dated the declaration.</b>		

This Licence is subject to the Council's Standard Licence Conditions stated in Annex G of the Council's Sexual Entertainment Venue Licensing Policy Statement. The Licence is also subject to the additional Special Conditions: The Premises Manager is regarded as a joint Licence Holder. If the Licence Holder lodges with the Council an Application for renewal on or before the Expiry Date, this Licence will continue until the Council determines that Application.

## **HOW WE USE YOUR PERSONAL INFORMATION**

The information provided by you will be used by Perth & Kinross Council to process your application and thereafter to keep you informed of any updates with regard to your application or licence.

Your information will be shared with Police Scotland, Scottish Fire and Rescue Service, Planning Service and Environment Services in order to determine if you are a fit and proper person to hold a licence. A requirement for this licence is to display a site notice for 21 days which the public can view and this will contain personal information which will include your name and address.

The Council may also check information provided by you, or information about you provided by a third party, with other information held by us. We may also get information from certain third parties or share your information with them in order to verify its accuracy, prevent or detect crime, protect public funds or where required by law. You should be aware that the names of individuals who hold this licence appear on a register which is available for public inspection

I declare that the particulars given by me on this form are true. I consent to the sharing of my personal information for the purposes set out above.

Signature \_\_\_\_\_ of \_\_\_\_\_ applicant/agent

Date \_\_\_\_\_

It is an offence to make any statement in this application which you know to be false or to recklessly make any statement which is false in a material particular. Offences are punishable by a fine up to £1,000.

## Annex J – Occasional Use Exemption Letter

To

Perth and Kinross Council, Licensing Department, 2 High Street, Perth, PH1 5PH.

civiclicensing@pkc.gov.uk

Chief Constable, Police Scotland, Licensing Division, Bell Street, Dundee, DD1 1EX.

I want to use the exemption granted by the Civic Government (Scotland) Act 1982, Section 45A(9) to use these Premises as a “Sexual Entertainment Venue” on the occasion(s) below without having a SEV Licence:

Address of the Premises	
-------------------------	--

<b>Organiser</b>			
Full Name			
Email address			
Date of birth			
Place of birth			

<b>The First Occasion</b>			
The date of the occasion:			
The occasion starts:			
The occasion ends:			
Description of the “Sexual Entertainment”.			

<b>The Second Occasion</b>			
The date of the occasion:			
The occasion starts:			
The occasion ends:			
Description of the “Sexual Entertainment”.			

<b>The Third Occasion</b>			
The date of the occasion:			
The occasion starts:			
The occasion ends:			
Description of the "Sexual Entertainment".			

<b>The Fourth Occasion</b>			
The date of the occasion:			
The occasion starts:			
The occasion ends:			
Description of the "Sexual Entertainment".			

Have the Premises been used for "Sexual Entertainment" before?	Yes	
	No	

If you have answered "yes", tell us about the earlier occasions.

Date	Times (Start & End)	Description of the "Sexual Entertainment"

Date .....

Signed.....  
Organiser

## Annex K – Legal Test

Civic Government (Scotland) Act 1982  
Section 45B and Schedule 2  
Grant or Renewal – Sexual Entertainment Venue Licence

### LEGAL TEST

In terms of Section 45B(6) of the 1982 Act, references to a “sex shop” are to be read as references to a sexual entertainment venue and references to the use by a person of a premises, vehicles, vessels or stalls as a sexual entertainment venue are to be read as reference to their use by the organiser.

A licensing authority, **SHALL REFUSE** an application to grant or renew a licence if, in their opinion:

- a. that the applicant or, where the applicant is a person other than a natural person, any director of it or any partner in it or any person responsible for its management, is unsuitable to hold the licence by reason of having been convicted of an offence or for another reason;
- b. that, if the licence were to be granted or renewed, the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant or renewal of such licence if they made the application himself;
- c. that the number of sexual entertainment venues in the relevant locality the time of the application is made is equal to or exceeds the number which the local authority consider is appropriate for that locality;
- d. that the grant or renewal of the licence would be inappropriate, having regard -
  - i. to the character of the relevant locality; or
  - ii. to the use to which any premises in the vicinity are put, or
  - iii. to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

A licensing authority SHALL NOT grant a licence to:

- a. to a person under the age of 18;
- b. to a person who is for the time being disqualified under paragraphs 13(10) or 19(5) of Schedule 2 to the 1982 Act;
- c. to a person other than a natural person if any director of it or partner in it or any other person responsible for its management is disqualified under paragraphs 13(10) or 19(5) of Schedule 2 to the 1982 Act;
- d. to a person who has been convicted of an offence under paragraphs 19 to 21 of Schedule 2 to the 1982 Act;
- e. to a person who is not resident in a member state of the European Union or was not so resident throughout the period of six months immediately preceding the date when the application was made;
- f. to a body corporate which is not incorporated in a member state of the European Union;
- g. to a person who has, within the period of 12 months immediately preceding the date when the application was made, been refused by the same local authority the grant or renewal of a licence under the Schedule for the premises, vehicle, vessel or staff in respect of which the application is made, unless the refusal has been reversed on appeal; or
- h. to a person other than a natural person if any director of it or partner in it or any other person responsible for its management has, within that period been refused by the same local authority the grant or renewal of such a licence, unless the refusal has been reversed on appeal

And otherwise **SHALL** grant the application.

1. In terms of Paragraph 9(1A), in granting or renewing a licence, a local authority may (either or both):-
  - (a) disapply or vary any standard conditions (Paragraph 9(1A)a)).
  - (b) impose conditions in addition to mandatory or standard conditions to which the licence is subject (Paragraph 9(1A)b)).

2. In terms of Paragraph 9(2), subject to Paragraph 9(2ZA), the conditions referred to in Paragraph 9(1A)(b) above shall be such reasonable conditions as the local authority think fit and, without prejudice to that generality, may include conditions regulating:-
  - (a) the hours of opening and closing of sexual entertainment venues (SEVs),
  - (b) displays or advertisements on or in or otherwise connected with such SEVs,
  - (c) the visibility of the interior of SEVs to passers-by.
3. In terms of Paragraph 9(2ZA), a variation made under Paragraph 9(1A)(a) or a condition imposed under Paragraph 9(1A)(b) has no effect in so far as it is inconsistent with any mandatory condition to which the licence is subject.
4. In terms of Paragraph 9(2A), the conditions referred to in Paragraph 9(1A)(b) above shall not relate to any matter in relation to which requirements or prohibitions are or could be imposed by virtue of Part 3 of the Fire (Scotland) Act 2005.
5. In terms of Paragraph 9(6), Nil may be an appropriate number for the purposes of Paragraph 9(5)(c). (See refusal ground 'c' in 'LEGAL TEST' above).
6. In terms of Paragraph 9(7), "relevant locality" means:-
  - (a) in relation to premises, the locality where they are situated; and
  - (b) in relation to a vehicle, vessel or stall, any locality where it is desired to use it as a sex shop.

## Annex L - Definitions

### **(a) “Sexual Entertainment”**

The main definition is:

*“Sexual Entertainment’ means –*

- (a) any live performance, or*
- (b) any live Display of Nudity,*

*Which is of such a nature that, ignoring Financial Gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the Audience (whether by verbal or other means).”*

(1982 Act, Section 45A(3))

There does not have to be a performance, such as by Performers entertaining an Audience by singing, dancing, or acting. Any “live Display of Nudity” might need a Licence. Like any other activity where a Licence is needed, like driving a taxi or running a public house, if a person does the activity without a Licence, the Police can prosecute.

In deciding whether or not there is “Sexual Entertainment”, the Council will judge each case on its own merits, but these things are likely to be treated as “Sexual Entertainment”.

- Lap Dancing
- Pole Dancing
- Table Dancing
- Burlesque Dancing
- Strip Shows
- Peep Shows
- Live Sex Shows
- Sex Cinemas showing films with the British Board of Film Classification (BBFC) classifications “18” or “R18” or unclassified films.

### **(b) “Display of Nudity”**

The definition is:

- (a) “in the case of a woman, the showing of (to any extent and by any, means) her nipples, pubic area, genitals or anus,*
- (b) in the case of a man, the showing of (to any extent and by any means) his pubic area, genitals or anus”.*

(1982 Act, Section 45A(4))

**(c) “Audience”**

An “Audience” ‘*includes an audience of one*’ (Section 45A(3)). So a ‘peep show’ has an “Audience” and needs a SEV Licence.

**(d) “Organiser”** in relation to the provision of sexual entertainment in premises, means –

(a) *“the person (“A”) who is responsible for –*

*(i) the management of the Premises, or*

*(ii) the organisation or management of the Sexual Entertainment,*

*or*

*(b) where A exercises that responsibility on behalf of another person (whether by virtue of a contract of employment or otherwise), that other person” (Section 45A(3)).*

**(e) “Financial Gain”**

“Financial Gain” ‘*includes Financial Gain arising directly or indirectly from the provision of the Sexual Entertainment*’ (Section 45A(3)).

Two examples of the word ‘indirectly’:

(a) suppose that Premises have a Licence to sell alcohol, and patrons can also see a ‘free’ live performance of Sexual Entertainment while only paying for their drinks.
<p>This live performance requires a separate SEV Licence from the Council (as well as the alcohol Licence which the Premises have from the Licensing Board). This is because</p> <ul style="list-style-type: none"><li>- the definition of Sexual Entertainment says “ignoring Financial Gain”, and</li><li>- the definition of “Financial Gain” is “includes Financial Gain arising directly or indirectly from the provision of the Sexual Entertainment”.</li></ul>
(b) a publican who allows Customers to book a stripper, or who holds an event where Customers themselves create or arrange a “Display of Nudity”, obtains “Financial Gain arising...indirectly from the provision of the Sexual Entertainment” since the Customers are paying for their drinks. The fact that “Sexual Entertainment” is happening on the Premises may increase the business for the Premises – they might sell more drink.

Both the Premises Manager and the Premises Licence Holder can be prosecuted for not having a SEV Licence. The Licensing Board might revoke or suspend the Premises Licence if they allow Sexual Entertainment without a SEV Licence. They can only avoid the possibility of prosecution if they actively try to stop the Customers.