

LICENSING OF INDOOR EVENTS ACT, 2003

EXPLANATORY MEMORANDUM

Background

In essence, the Act arises from the need to implement the recommendation of the Hamilton Committee on Crowd Control at indoor concerts and the development of the Code of Practice for Safety at Indoor Concerts, when it became apparent that existing licensing systems governing such events did not adequately cater for matters such as public safety and crowd management.

Purpose of the Act

The purpose of the Act is to make provision for the licensing of certain indoor events by fire authorities and to make some miscellaneous amendments to the Fire Services Act, 1981 to resolve a number of difficulties and make better provision for enforcement.

Overview

The licensing system provided for in the Act focuses on issues of crowd control and safety appropriate to an indoor event or type of indoor event. Fire authorities will operate the licensing system with applicants having the right to appeal decisions to the District Court. The Act also provides for the strengthening of the enforcement provisions of the Fire Services Act, 1981 and the updating of some of its provisions bringing it into line with modern legislative codes.

PART 1

Preliminary and General

Section 1 is a standard provision relating to the short title, collective citation, construction and commencement of the Act.

Section 2 is an interpretation section and defines the terms, which are used throughout the Act.

Section 3 is a standard provision dealing with expenses incurred by the Minister in the administration of the Act.

Section 4 gives the Minister the power to make regulations for the purposes specified in the Act and provides for the laying of the regulations before each house of the Oireachtas. It contains specific provisions empowering the Minister to prescribe particular events/activities to be indoor events.

PART 2

Indoor Events

Section 5 contains the key provisions of the Act including the following:

- a licence will be required for certain indoor events;
- the Minister shall make regulations prescribing the class or classes of indoor events for which a licence is required and may specify the numbers threshold above which a licence is required for indoor events;
- a requirement to apply for a licence to a particular fire authority;
- a licence will be valid for a maximum of one year from the date of issue;
- The requirement to display information notices at each entrance to the indoor event
- the persons who will be guilty of an offence where an event is organised without or not in accordance with a licence.

Section 6 makes provision for the procedures to be followed by fire authorities for determining an application for a licence.

Section 7 provides that a licence does not of itself authorise the holding of an indoor event. Compliance with other relevant codes will still be required.

Section 8 provides that an applicant aggrieved by a decision of the fire authority may appeal to the District Court within 4 weeks of notification of the decision. No provision is made for third party appeals. Issues relating to the use of buildings to hold indoor events, of concern to third parties, will normally have already been determined through the planning process. The

purpose of the licensing system under this Bill is to provide for the safe holding of indoor events in buildings, which will have been granted planning permission to use the building for that purpose.

Section 9 provides the Minister, or any other Minister, with the statutory power to issue codes of practice relevant to indoor events. Notice of the codes of practice will be published in *Iris Oifigiúil*. In addition, as outlined in Section 6 subsection 3, fire authorities will be required to have regard to the codes of practice when considering applications for indoor event licences and, as outlined in Section 6 subsection 4, may attach conditions requiring compliance with such codes.

Section 10 outlines the general responsibilities of persons organising or attending an event i.e. a statutory duty to take reasonable care. It also ensures that fire authorities do not become responsible for the safe conduct of an event just because they licence it.

Section 11 will empower local authorities or an authorised officer to issue a notice of cessation where an event is taking place, or is likely to take place, without the necessary licence or in contravention of the terms of a licence. It also outlines the requirements and procedural issues relating to the service of such notices. Non-compliance with a cessation notice will be an offence.

Section 12 introduces fairly standard provisions governing powers of entry onto land and powers of inspection by authorised officers and members of the Garda Síochána. Events can therefore be properly monitored when they are being prepared and when they are in progress. It is desirable to have the Gardai involved in events to deal with issues of public order, drugs etc. Any person who refuses to allow an authorised officer or member of Garda Síochána to enter any land or building in exercise of their powers, or obstructs, impedes or assaults an authorised officer shall be guilty of an offence.

Section 13 provides that no action will be maintainable against the Minister, local authorities, health boards or Gardai for the recovery of damages for injury alleged to have been caused or contributed to by the failure to exercise any function under the Act. Provision is also made in the section to ensure that only the fire authority may take enforcement proceedings on foot of contravention of any provision of this Act, or any regulations made under it.

Section 14 empowers the District Court to revoke a licence on foot of an application by a local authority where the licensee has been convicted of an offence under the Act.

Section 15 deals with penalties and the prosecution of offences.

Section 16 empowers fire authorities to prosecute any summary offences committed in their functional area.

Section 17 provides that liability for an offence in this Act may be extended to the directors and other officers or the members of a corporate body, where it is the corporate body, which has committed the offence.

Section 18 provides that any fines imposed by a court will accrue to the local authority.

Section 19 provides for the maintenance of a register by local authorities and outlines the information, which must be entered in the register. The register will be available for inspection by any member of the public during office hours.

Section 20 provides that fire authorities may make arrangements to carry out the licensing function jointly or to provide assistance to other fire authorities.

Section 21 makes provision for the appointment and powers of an authorised officer under Parts 1 and 2 of the Act.

Section 22 makes the usual provision for the service of notices.

Section 23 makes provision for the holding of an indoor event by a local authority.

PART 3

Amendment of Fire Services Act, 1981

Section 24 amends the definition of “building” in the Fire Services Act, 1981 to include parts of buildings, structures or erections. This will provide the fire authority with the flexibility to serve notices on parts of buildings.

Section 25 together with section 26 provides a new power for fire authorities to opt to prosecute offences in Sections 18 (2), 20, 20A (the Closure Notice under section 30 of this Act) or regulations made under section 37 as either summary or indictable offences and also updates the penalty provisions of the 1981 Fire Services Act bringing it into line with more modern legislation.

Section 27 substitutes a new section 13, for the existing section 13 of the Fire Services Act 1981, this new section updates the provision to take account of the enactment of the Planning and Development Act, 2000.

Section 28 inserts two new paragraphs after subsection (2)(d) of section 16 of the Fire Services Act in respect of the Fire Services Council which will enable the Minister to strengthen the existing training and advisory role of the Fire Services Council by making provision for the Council to specifically undertake new roles, to provide support and advice to Fire Authorities in relation to the performance of their functions and to make an Annual Report to the Minister, or other reports, on fire services and fire safety activities of fire authorities.

Section 29 repeals the exclusions in the existing section 18 subsection (1) (f) of the Fire Services Act, 1981 in relation to Dangerous Substances premises, Explosives premises and Oil Jetties and the additional express inclusion in the section of any workplace so that fire safety in all such places clearly comes within the provisions of the Fire Services Act, 1981. A new subsection (2) is inserted in section 18 of the Fire Services Act which expands on the duties of persons in control of premises and puts beyond doubt, the duty of persons in control, to make adequate provision, whether or not an outbreak of fire has actually occurred, for ensuring the safety of persons on their premises. The insertion of a new subsection (5) strengthens the status of advice given by a fire authority or an authorised person and also substantially strengthens their inspection powers.

Section 30 provides that if an authorised officer is of the opinion that a very grave and immediate risk is posed to the safety of people in or on a premises that he or she may serve a closure notice on the spot on the person who owns, occupies or is in control of the said premises. The detailed procedures for issue of the notice, procedures for appealing the notice and revoking the notice are also provided for in the section.

Section 31 provides the Minister, or any other Minister, with the statutory power to issue codes of practice to provide practical guidance on matters relevant to the Fire Service Act, 1981. Notice of the issue of the codes of practice will be published in Iris Oifigúil.

Section 32 provides for a mechanism for the withdrawal or cancellation of fire safety notices.

Section 33 amends Section 38 of the Fire Services Act, 1981 and updates the provisions for the service of notices.

Section 34 amends section 19 subsection (2) of the Act of 1981 by deleting paragraphs (c) (d) and (e), relating to premises consisting of a store subject to licensing under regulations made under the Dangerous Substances Act, 1971, a magazine store or premises registered under the Explosives Act, 1875, or an oil jetty within the meaning of regulations made under the Dangerous Substances Act, 1972. This amendment takes place on foot of the inclusion of these premises in section 18(1)(f) of the Fire Services Act, 1981 under section 29 of this Licensing of Indoor Events Act, 2003.