

POLICY NOTE

THE CHILDREN (PERFORMANCES AND ACTIVITIES) (SCOTLAND) REGULATIONS 2014

SSI 2014/372

1. The above instrument is made in exercise of the powers conferred by sections 25(2) and (8) of the Children and Young Persons Act 1933 and sections 37(3), (4), (5) and (6) and 39(3) and (5) of the Children and Young Persons Act 1963. The instrument is subject to negative procedure.

Policy Objectives

2. The instrument revokes and replaces the Children (Performances) Regulations 1968 (“the 1968 Regulations”, S.I. 1968/1728) insofar as they extend to Scotland to update the procedures for child performance licensing.
3. Primary legislation focussing on the protection of children involved in performances was last reviewed in the 1960s. The Children and Young Persons Act 1963 places restrictions on the types of performances in which children under school leaving age can participate. It does this by prescribing in section 37 those performances or other activities (i.e. sport and modelling) for which a child requires a licence to be granted. Licences are granted by the education authority¹ in which the child resides (referred to in the instrument as the “licensing authority”)². The 1968 Regulations provide for certain restrictions and conditions applying to all licensable activities (for example, conditions relating to the child’s education) and some that only apply in relation to performance licences (for example, limits on working hours and rest and meal intervals).
4. The range and nature of performance opportunities available to children and young people has increased significantly since the current licensing arrangements were put in place. New genres of programmes and emerging media technologies have undoubtedly influenced the shape of our creative industries. Furthermore, our approach to protecting, promoting and supporting the wellbeing of our children has strengthened considerably in recent times.
5. Scottish Ministers have been approached on several occasions in recent years by a number of individuals and organisations highlighting the challenges now being faced, by both organisations hosting performances and young performers, as a result of a licensing regime which is no longer considered fit for purpose.
6. In light of these approaches, the Scottish Government has developed this instrument to replace the 1968 Regulations and update and modernise the procedures for child performance licensing. The main changes from the 1968 Regulations relate to the

¹ Whilst section 37(1) of the 1963 Act refers to a local authority granting a licence, by virtue of section 44(2) of that Act, references to a local authority are to be construed as if they were references to an education authority,

² Unless the child does not reside in Great Britain, in which case the licence is granted by the local authority in whose area the applicant or one of the applicants resides or has his place of business (Section 37(1) of the 1963 Act).

requirements around applying for a licence, the conditions relating to education, the requirements for a chaperone and also changes to the various working hour limits for performers of different ages. The instrument also removes the distinction made in the 1968 Regulations between broadcast performances and non-broadcast performances, subject to one exception in relation to education requirements.

Consultation

7. A public consultation on the proposals (“Getting it Right for Young Performers – National Consultation on the arrangements for ensuring the wellbeing of children involved in performances”) took place from 4 April 2014 to 6 June 2014. A full list of those consulted and who agreed to the release of this information is attached to the consultation report published on the Scottish Government website. It includes Barnardos, the BBC and Youth Theatre Scotland.

Impact Assessments

8. An initial child impact assessment was completed in March 2014 in relation to the proposals contained in the consultation paper and is attached.

Financial Effects

9. A partial Business and Regulatory Impact Assessment (BRIA) was completed in March 2014 in relation to the proposals contained in the consultation paper and is attached.
10. The summary of the partial BRIA was that the revised licensing arrangements for child performers are likely to offer moderate benefits to both the creative industries and to local authorities who will be implementing and enforcing the arrangements. These benefits will be delivered through:
 - i. A simplified application process to be followed by organisations hosting performances.
 - ii. More flexible working hours limits for young performers, making Scotland a more competitive option for organisations involved in the hosting of performances.
 - iii. A more straightforward licensing system for local authorities to operate and enforce, to be underpinned by non-statutory guidance.
11. It is not possible to quantify these benefits in financial terms at this point.
12. The changes will have some limited costs attached to them. These will fall primarily to local authorities and will relate primarily to the revision of internal resources and the production of updated information materials. The costs are not anticipated to be significant.