

**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982
AS AMENDED BY THE POLICING AND CRIME ACT 2009
CONTROL OF SEX ESTABLISHMENTS**



NOTICE IS HEREBY GIVEN, under Section 2(2) of the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009 ("The Act") that Southampton City Council resolved on 11th July 2012 to bring into force from 20th August 2012 Schedule 3 to the Act as amended by section 27 of the Policing and Crime Act which provides for the control of sexual entertainment venues.

A sexual entertainment venue is defined as any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or entertainer.

Relevant entertainment is defined as any live performance or 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 an audience (whether by verbal or other means).

From 20th August 2013 it will be an offence, punishable on summary conviction by a fine not exceeding £20,000 to use any premises including any vehicle, vessel or stall in the city of Portsmouth as a sexual entertainment venue unless a licence is in force under the Schedule in respect of the premises.

Transitional provisions exist for the period from 20th August 2012 to 20th August 2013 for existing operators in that for those premises currently operating as a sexual entertainment venue, that use may continue until the application is determined including any appeal provisions.

A licence shall not be granted to:

- (a) A person under the age of 18;
- (b) A person who has been disqualified from holding such a licence;
- (c) A person, other than a body corporate, who is not resident in an EEA state, or was not so resident throughout the period of six months immediately preceding the date of the application;
- (d) A body corporate which is not incorporated in an EEA state.

No appeal, other than on question of fact, exists against a refusal on any of these grounds.

An application may be refused if:

- (a) The applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
- (b) The business to which the application relates would be managed by, or carried on for the benefit of a person other than the applicant, who would be refused a licence if he made the application himself;
- (c) The number of sex establishments in the relevant locality at the time the application is made is equal to or exceeds the number (which may be nil) which the authority consider is appropriate for that locality;
- (d) It would be inappropriate to grant the application, having regard to:
 - (i) The character of the relevant locality;
 - (ii) The use to which any premises in the vicinity are put, or
 - (iii) The layout, character or condition of the premises concerned.

An appeal lies to the Magistrates' Court and then to the Crown Court against a refusal on grounds (a) or (b), but no appeal lies against a refusal on grounds (c) or (d).

The provisions of Schedule 3 of the Act provide an opportunity for objections to be made to the grant, renewal, variation and transfer of licences.

Licences may be issued for not more than a year and may be subject to such terms, conditions and restrictions as may be specified. Provision is made in the Schedule for the renewal, transfer, revocation and cancellation of licences and for the variation of terms, conditions or restrictions.

Licensed premises may be inspected at any reasonable time by a Constable or an authorised officer of the Council.

Those parts of Schedule 3 of the Act that provide that no person in the city of Southampton shall use any premises, vehicle, vessel or stall as a sex cinema or sex shop except under and in accordance with a licence issued by the Council, have previously been adopted by resolution of the Council on 3rd July 1995 and continue to have effect.

Dated this 20th day of July 2012

Richard Ivory
Head of Legal, HR and Democratic Services