

Guidance for Charitable and Philanthropic Events exempted from the requirements of the Liquor Licensing and Public Entertainments Act 2021

Consultation Version: July 2022

INTRODUCTION

Our Island supports a diverse array of organisations, and is home to many social or sporting activities.

As a nation, we are famed for our kindness and hospitality, and for the close knit and caring communities found all across the Island. We give freely of our time and our money to further causes that are charitable, religious or philanthropic in nature, and which bring our society together as a whole. Undoubtedly, the work done in the community by the many local charities and organisations is invaluable, and the public events which provide them with funding are a lifeline for that sector. Additionally, the philanthropic events run by the Island's local authorities or governmental bodies are enjoyed by many, and are seasonal high points throughout the Island calendar.

When the Department of Home Affairs brought forward proposals for the new comprehensive licensing framework, encompassing both alcohol and public entertainment, that would be set out under the Liquor Licensing and Public Entertainment Act 2021, it made a commitment to retain the current exemptions in the Music and Dancing Act 1961 for events of a charitable, philanthropic or religious nature even though that Act itself would be repealed.

Within the proposed Liquor Licensing and Public Entertainment Regulations 2022, the matters relating to public entertainment are contained in Part 2, with those activities that are set to be licensable, or to be excluded from licensing requirements, set out in Regulations 11, 12 and 13.¹ A fine balance is needed here, to ensure that an exemption giving an event status as either a charitable or philanthropic event, is wide enough to catch all suitable events, but still narrow enough to ensure that only events which are truly for these purposes are included.

The Department of Home Affairs has a statutory duty under section 59 of the Liquor Licensing and Public Entertainment Act 2021, to consult key stakeholders and interested parties on any Regulations issued under that Act prior to submitting them to Tynwald.

This guidance is intended to be user friendly, and to assist individuals and organisations in understanding both what is needed to ensure that they are compliant with the law, and also where they can seek help and advice on the safe organisation of their public entertainment event. It forms part of the mandatory consultation with interested parties taking place on the consultation hub, as the Department of Home Affairs regards the views of event organisers, including those whose events sit outside the licensing requirement through exception or exemption as being of vital importance in driving engagement and collaboration in all areas of the licensing framework.

For this first step in putting in place the new licensing framework, in addition to the written consultation on the Consultation Hub, organisations and individuals are encouraged to attend one of the face to face consultation sessions, details of which can also be found on the

¹ It is noted that for clarity music played or performed in a place of public religious worship or as an incident of a religious meeting or service are excepted under sub-section (4)3 the Liquor Licensing and Public Entertainments Act 2021.

Consultation Hub and we would encourage any interested party to make a contribution to the consultation or to attend one of these face-to-face sessions.

It is noted that this guidance is currently in draft form, as it is subject to modification or alteration depending on feedback provided by the consultation process. The consultation also includes the draft Liquor Licensing and Public Entertainment Regulations 2022 that are provided separately within the main consultation document.

The Department looks forward to receiving the views of event organisers and interested parties as part of the consultation process.



Please note that the guidance that follows within this document is subject to modification or alteration based on feedback received to the Liquor Licensing and Public Entertainment Regulations 2022

Please refer to the draft Regulations and accompanying consultation on secondary legislation for any other highlighted areas in respect of exemptions to licensing, consultees are invited to make comment on any matter associated with public entertainment in the questionnaire that accompanies the consultation.

WHICH PUBLIC EVENTS REOUIRE A LICENCE AND WHICH ARE EXEMPT?

If your event involves the sale of liquor (alcohol), <u>it will require a licence</u>, unless it takes place in a location/premises which is already suitably licensed and conforms to the conditions of that licence. Similarly, if a public music, dancing or singing event takes place in a premises/location that holds a public entertainment licence, then providing that the event activities are within the conditions of that licence, it will be able to proceed without additional separate licensing being obtained.

For public events where music, singing or dancing <u>and</u> the sale of liquor will occur and are planned to take <u>place</u> anywhere other than suitably licensed premises, an appropriate liquor licence stipulating all such music, singing or dancing components of your event will be required.

If you are unsure please contact the Central Alcohol Unit of the Isle of Man Constabulary or the Licensing Court.

Failure to obtain an appropriate licence leaves public event organisers open to potential legal action, particular where the event involves alcohol or where the noise level from an event is unreasonable, as defined in the Noise Act 2006.

Event Safety Advisory Group (ESAG)

When planning an event, do consider contacting the Event Safety Advisory Group (ESAG), particularly in the instances suggested in the guidance tables below. Appendix 1 contains a classification of Events/Activities and Appendix 2 provides some useful definitions... Generally this information should help you to decide whether your event requires a licence and whether it would be advisable to inform ESAG in advance. *Please note that this tabulated information is provided for ease of reference and does not constitute either a legal position or substitute for suitable legal advice being obtained by individual event organisers.*

Contacting ESAG helps to ensure that your event operates safely and also ensures that the range of events taking place on any given day, or in any local area, can be effectively co-ordinated. This is particularly important where these events may require the presence of emergency personnel (e.g. Police Officers or Fire Officers) or may be supported by other organisations who routinely attend ESAG e.g. the St John Ambulance. Other useful contacts are provided at Appendix 3.

For events that do not require licensing but are likely to lead to a **significant increase in footfall to the area** in which the event will be held (for example attendance is expected to exceed 200 people) or if **roads within that area are to be closed** in order that your event might take place, then please consider contacting ESAG for advice. Similarly, for events which contain components that could present a hazard e.g. water or fire, it is suggested that ESAG always be contacted for advice.

The ESAG webpage can be found here: https://www.gov.im/about-the-government/departments/home-affairs/emergency-planning-unit/event-safety/
This includes Event Management Plan Template and Guidance Notes and also an electronic Event Safety Notification Form which you can complete to notify ESAG of your event details.

<u>Event/Activity</u>	<u>Licensed?</u>	Suggest that ESAG be informed?	Exempt from licensing under LLPE Act 2021?	Additional information
Air displays	Separately governed under Civil Aviation legislation	No	N/A	https://www.gov.im/categories/business- and-industries/civil-aviation- administration-caa/air-displays/.
Car boot / tabletop sales, other small community or charity events, etc.	No	No	Exempt	It is noted that there is an exclusion within the definition of "sale by retail" found within section 5 <i>Meaning of "sale by retail"</i> of the Liquor Licensing and Public Entertainment Act 2021 to the effect that the giving of liquor as a prize in a lottery is not unlawful, provided that the lottery itself is not unlawful. ² Additional guidance is provided by the Gambling Supervision Commission for fundraising and lotteries, and can be located here .

 $^{^2}$ where by virtue of section 30(3), 31(1), 32(3), 33B or 34A of the Gaming, Betting and Lotteries Act 1988 the lottery is not unlawful

Event/Activity	<u>Licensed?</u>	Suggest that ESAG be informed?	Exempt from licensing under LLPE Act 2021?	Additional information
Buskers/Street Entertainers	A licence may be required under existing legislation for the local authority area in which the performer plans to operate.	No	N/A	Separate licensing requirements may exist for buskers/street entertainers. This is usually managed by local authorities and details may be found within local byelaws. Please contact the local authority in the area in which you plan to operate in advance for guidance.
Street trading	A licence may be required under existing legislation e.g. Pedlars and Street Trader's Act 1906 or Non Resident Traders Act 1983.	No	N/A	There may be existing legislative requirements which apply to street trading e.g. Pedlars and Street Trader's Act 1906 or Non Resident Traders Act 1983. Please contact the local authority in the area in which you plan to operate in advance for guidance, or alternatively for non-resident traders please contact the Office of Fair Trading.
Duck Races	No	Yes	Exempt	For any event taking place in/on water that is not otherwise subject to overarching governing body guidance in the case of sporting events, it is suggested that ESAG be contacted for advice.

Event/Activity	<u>Licensed?</u>	Suggest that ESAG be informed?	Exempt from licensing under LLPE Act 2021?	Additional information
Circus/Fun Fair	Yes – the music, singing or dancing components of such an event would be licensable when the event is being organised for pecuniary advantage (i.e. for the event organiser to derive monetary gain that exceeds reasonable operating costs or where the profits are intended to exceed reasonable operating costs) or where the noise level expected from the event is unreasonable, particularly if the event takes place within "night hours" being the period beginning at 11 p.m. and ending with 7 a.m. (see the Noise Act 2006).	Yes	Exempt only if provided for a philanthropic, non-profit or charitable purpose and noise level is not unreasonable particularly where the event is taking place within "night hours" (see the Noise Act 2006) — or taking place in a premises/location which is already licensed.	Dependent on the nature of the event all other relevant Manx legislation may apply e.g. Noise, Health and Safety, Fire safety, Food Hygiene, Performers Rights, Copyright etc. must be complied with. If any specific regulation should be made under the Local Government (Miscellaneous Provisions) Act 1976 then this would also need to be complied with.

Event/Activity	Licensed?	Suggest that ESAG be	Exempt from	Additional information
		informed?	licensing under	
			LLPE Act 2021?	
Festivals, Carnivals	Yes – the music, singing or dancing components of such an event would be licensable when the event is being organised for pecuniary advantage (i.e. for the event organiser to derive monetary gain that exceeds reasonable operating costs or where the profits are intended to exceed reasonable operating costs) or	Yes	Exempt only if provided for a philanthropic, non-profit or charitable purpose and noise level is not unreasonable particularly where the event is taking place within "night hours" (see the Noise Act 2006) — or taking place in a	Dependent on the nature of the event all other relevant Manx legislation may apply e.g. Noise, Health and Safety, Fire safety, Food Hygiene, Performers Rights, Copyright etc. must be complied with. If any specific regulation should be made under the Local Government (Miscellaneous Provisions) Act 1976 then this would also need to be complied with.
	where the noise level expected from the event is unreasonable, particularly if the event takes place within "night hours" being the period beginning at 11 p.m. and ending with 7 a.m. (see the Noise Act 2006).		premises/location which is already licensed.	

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Event/Activity	<u>Licensed?</u>	Suggest that ESAG be	Exempt from	<u>Additional information</u>
		<u>informed?</u>	licensing under	
			LLPE Act 2021?	
Films/Cinematography	A licence may be required	No	Exemption under	See Cinematograph licensing on the
	under the Cinematograph		LLPE Act 2021	Licensing Court webpage.
	Act 1977		4(3)(c) ³	
Firework displays	N/A	Notification may be	N/A	Please refer to guidance found on the <u>Isle</u>
i ii evre ii alapiaya	1.7.1	required under the		of Man Fire and Rescue Service webpage
		Fireworks Act 2004		or to the Fireworks Act 2004.
Equestrian Events / Dog	No	Yes	Exempt	
Shows / Fur and Feather				
Shows				
Silovis				

³ a film exhibition which complies with such conditions as are prescribed in regulations and — (i) is not promoted for private gain; or (ii) has as its sole or main purpose to demonstrate any product, to advertise any goods or services or to provide information, education or instruction

Event/Activity	<u>Licensed?</u>	Suggest that ESAG be informed?	Exempt from licensing under LLPE Act 2021?	Additional information
Music, Singing and Dancing	Yes - the music, singing or dancing components of such an event would be licensable when the event is being organised for pecuniary advantage (i.e. for the event organiser to derive monetary gain that exceeds reasonable operating or where the profits are intended to exceed reasonable operating) or where the noise level expected from the event is unreasonable, particularly if the event takes place within "night hours" being the period beginning at 11 p.m. and ending with 7 a.m. (see the Noise Act 2006).	Yes - unless taking place in a premises/location that is ordinarily licensed for music, singing or dancing and provided for under that existing licence.	Exempt only if provided for a philanthropic, non-profit or charitable purpose and noise level is not unreasonable particularly where the event is taking place within "night hours" (see the Noise Act 2006) — or taking place in a premises/location which is already licensed.	If the event takes place in a premises that is ordinarily licensed for music, singing or dancing e.g. church hall/community centre, then any event held in that premises will not need to be separately licensed providing that the event is in compliance with those existing licence conditions. For any event taking place in an "unlicensed premises" and where the noise level is unreasonable – particularly between "night hours" being the period between 11p.m. and 7a.m. – the Noise Act 2006 will apply unless the event is otherwise exempt from the provisions of that Act e.g. is separately licensed under a temporary Event Licence. Generally it is noted that any requirements under the Performers Protection Act 1996 and the Copyright Act 1991 (and any amendments) must be complied with and a suitable licence obtained if necessary.

Event/Activity	<u>Licensed?</u>	Suggest that ESAG be informed?	Exempt from licensing under LLPE Act 2021?	Additional information
New Year's Dip/Tin Baths	No	Yes	Exempt	For any event taking place in/on water that is not otherwise subject to overarching governing body guidance in the case of sporting events, it is recommended that ESAG be contacted for advice.
Organised walk/run	No	No – dependent on the nature of the event.	Exempt	For events to take place on a "road" where an order is in place under section 38 of the Highways Act 1986 generally a notice will be issued by the Department of Infrastructure setting out the conditions/requirement placed on the organiser. For events taking place "off-road" then notification to ESAG may be made for larger scale events and those which will cause a significant increase in footfall to the area, notification to ESAG allows emergency services co-ordination and will mitigate event impact on any local area.

Event/Activity	<u>Licensed?</u>	Suggest that ESAG be informed?	Exempt from licensing under LLPE Act 2021?	Additional information
Parades including Armed Forces Day/Civic Sunday/Remembrance Day	No	Yes	Exempt	For events to take place on a "road" where an order is in place under section 38 of the Highways Act 1986 generally a notice will be issued by the Department of Infrastructure setting out the conditions/requirement placed on the organiser. Please consider informing ESAG where the event gives rise to consideration of a rolling road closures or a significant increase in footfall to the area, notification to ESAG allows emergency services coordination and will mitigate event impact on any local area.
Plays/Dramatic performances	No – provided that the play/dramatic performance is age appropriate for the audience and does not breach provisions of the Noise Act 2006.	No	Exempt	Generally it is noted that any requirements under the Performers Protection Act 1996 and the Copyright Act 1991 (and any amendments) must be complied with and a suitable licence obtained if necessary.

Event/Activity	<u>Licensed?</u>	Suggest that ESAG be informed?	Exempt from licensing under LLPE Act 2021?	Additional information
Racing of bicycles, motorcycles, cars or people on highways. "road" means — (a) a road under the Highways Act 1986; (b) any path, way or verge (whether publicly or privately owned) next to or near to a road; (c) a barrier next to or near to a road; and (d) any land (whether publicly or privately owned) between the road and such a barrier;	No – provided that the Road Races Act 2016, Highways Act 1986 or Road Traffic Act 1985 or the relevant sporting body guidance is adhered to.	Yes – dependent on the nature of the event (i.e. only notifiable if not covered by Road Races Act 2016).	Exempt – if covered by Road Races Act 2016, Highways Act 1985 or the Road Traffic Act 1985 or conducted following relevant governing body guidance.	The racing of mechanically propelled vehicles with a maximum net engine power which exceeds 2kW and take place on a "road" is covered by the Road Races Act 2006 and will require the organiser to be duly authorised to run the event. The Highways Act 1986 section 14 and Road Traffic Act 1985 section 38 apply to the closure of a road for public entertainment purposes and to the regulation of cycle racing on highways respectively. The Road Traffic Act is supplemented with the Cycle Racing and Time Trials on Highways Regulations 1993 (SD 402/93). In these instances the Department of Infrastructure generally grants authorisation, stipulates conditions that must be adhered to by the event organiser, and requires that the organiser must have suitable insurance (and indemnity). ⁴⁵

⁴ See also https://www.motorsportuk.org/about-us/

⁵ For cycling events under SD 402/93 – 7. (1) The Chief Constable may authorise the holding of a cycle race on a public highway which is not a race proposed to be held and conducted in accordance with the standard conditions if before the holding of the race the promoter thereof applies to the Chief Constable for the race to be authorised and gives in writing the like particulars with respect to the race as are required by sub-paragraphs (a) to (e) of Regulation 3(1) to be given with respect to a proposed time trial. (2) The holding of a cycle race shall not be treated as authorised under this Regulation unless the circumstances in which it is held and conducted accord with the particulars given in accordance with paragraph (1). Provided that this paragraph shall have effect subject to any condition which may be imposed on the holding or conduct of the race under Regulation 8.

Event/Activity	<u>Licensed?</u>	Suggest that ESAG be	Exempt from	Additional information
		informed?	licensing under	
			LLPE Act 2021?	
Religious	No	No	Exempt	See section 4(3) of the Liquor Licensing
events/meetings/services				and Public Entertainments Act 2021
Snooker/Pool/Darts	No – provided that the	No	Exempt	
events	relevant governing body guidance is adhered to.		OY	
Sporting events	No – provided that the	No	Exempt	
	relevant governing body guidance is adhered to.			
Tynwald Day/Village	No	Yes	Exempt	
fetes/Agricultural shows/Christmas light				
switch on				
	(U)			

	What activities are included?	Additional Comments
Licensable Activities according to Liquor Licensing and Public Entertainment Act 2021	Brewing, Distillation, Storage, Transportation, Sale or Supply of Liquor	If the activity is being hosted by a premises which is already liquor licensed and is being held in accordance with licence conditions for that liquor licensed premises ⁶ , no new public entertainment licence will need to be applied for. Otherwise a specific Event Licence, Host Licence or Charitable Function Licence will need to be obtained by the activity organiser prior to the event taking place.
	Public Entertainment Activities that are "entertainment" as defined under Section 4(2) of the Liquor Licensing and Public Entertainment Act 2021 are: • any play; • any music; • any dancing; • any film exhibition; • any game, recreation, sport, exhibition, performance or amusement prescribed in regulations for the purpose of this subsection.	If the activity is not covered by any of the exclusions which are set out within Section 4 of the Liquor Licensing and Public Entertainment Act 2021, or within any other exemption contained within the Liquor Licensing and Public Entertainment Regulations 2022, or by any other existing legislation governing licensing of that activity, then a Public Entertainment Licence will need to be applied for in order to carry out the planned activity. The exclusions found in section 4(3) are set out in the following row.

⁶ Including Public Entertainment i.e. Music, Singing or Dancing conditions if applied to that premises under their existing Liquor Licence

	What activities are included?	Additional Comments
Activities which are not entertainment – excluded activities	Excluded Activities Activities that are not considered to be entertainments for the purposes of the Liquor Licensing and Public Entertainments Act 2021 are found within section 4(3) and are: • a play performed in a place of public religious worship; • music played or performed — • for a purpose merely incidental to a use of a place other than the provision of an entertainment falling within definition of "entertainment" • by the reproduction of programmes included in a programme service (within the meaning given in section 6 of the Communications Act 2021); • in a place of public religious worship; or • as an incident of a religious meeting or service; and • a film exhibition which complies with such conditions as are prescribed in regulations and — • is not promoted for private gain; or • has as its sole or main purpose to demonstrate any product, to advertise any goods or services or to provide information, education or instruction.	Other exempted activities are set out within Liquor Licensing and Public Entertainment Regulations 2022.

	What activities are included?	Additional Comments
Activities which are exempt from licensing requirements*	Activities organised by charity organisations, voluntary organisations or local authorities/public authorities (unless related to the supply of liquor) do not require a public entertainment licence, but depending	If you wish to host an event that is charitable or philanthropic in nature and you believe that it would meet the requirements of the Liquor
*see draft Regulations and associated consultation document.	liquor) do not require a public entertainment licence, but depending on the nature of the activity which is planned, the organiser may be wish to make a notification to the Event Safety Advisory Group (ESAG) in order that they might receive advice or guidance on the safe running of their planned activity. Licensing requirements apply to those individuals or organisations who will make a pecuniary gain from organising an activity and do not do wholly do so as part of fundraising towards their charity/voluntary organisation. Any activity/event organiser may make a notification to ESAG in order that they can receive advice or guidance around the safe running of their activity/event.	it would meet the requirements of the Liquor Licensing and Public Entertainments Regulations 2022 and therefore be exempt, it is recommended that you contact the Central Alcohol Unit of the Isle of Man Constabulary or the Licensing Court to discuss your event prior to going ahead with the event.

	What activities are included?	Additional Comments
Private Activities	"Public entertainment" as defined within the Liquor Licensing and Public Entertainment Act 2021 at section 4(1) means an entertainment to which the public are admitted, whether on payment or otherwise. Any entertainment which falls outside this definition i.e. where a person may not attend by purchasing/obtaining a ticket or by turning up to the public location at which the entertainment takes place — is a private event and does not generally fall within this legislation.	It is noted for ease of reference that private activities <u>cannot</u> include ticketing/entry fee that includes the provision of liquor without becoming an activity which requires to be liquor licensed. Additionally they cannot include the sale of alcohol without a liquor licence being in place that suitably provides for this. Those planning events should be mindful that any private event at which music, dancing or singing is to take place where the level of noise emitted could be considered unreasonable, particularly where the event is taking place during "night hours" (being the period from 11p.m. at night to 7a.m. in the morning), could be in breach of the Noise Act 2006 unless the event is otherwise exempt e.g. suitable licensing is obtained. This includes events taking place in temporary structures such as marquees, for which fire safety guidance should also be referred to ⁷ .

⁷See also https://www.courts.im/media/1460/gmarletterfs.pdf, https://www.courts.im/media/1460/gmarletterfs.pdf, https://www.courts.im/media/1458/gmar.pdf

Appendix 3 – Useful Contacts

Organisation	Contact Information
Event Safety Advisory Group	Webpage: https://www.gov.im/about-the-
	government/departments/home-affairs/emergency-planning- unit/event-safety/
	drift/event safety/
	Address: Emergency Planning Unit
	No 1 Drill Hall Cottages
	Tromode Douglas
	IM2 5PA
	Email: <u>CivilDefence.DHA@gov.im</u>
Isle of Man Constabulary	Webpage: https://www.iompolice.im/footer/corporate/central-
Central Alcohol Unit	alcohol-unit/
	Address: 3rd Floor
	The Old Police Station
	Lord Street
	Douglas
	IM1 2SR
	Tolophono, 01624 621222
	Telephone: 01624 631323 Email: PoliceAlcohol.DHA@gov.im
	Littuii. 1 Oilec/Iteorioi.DTI/Nes/gov.iiii
Licensing Court	Webpage: https://www.courts.im/court-procedures/licensing-
	courts/
	Address Tele of Man Courte of Justice
	Address: Isle of Man Courts of Justice Deemsters Walk
	Bucks Road
	Douglas
	IM1 3AR
	T 04634 605473
	Telephone: 01624 685473 Email: licensing@courts.im
	Linaii. <u>iicciisiiig@codi.ts.iiii</u>
Isle of Man Fire and Rescue	Webpage: https://www.gov.im/categories/home-and-
Service – Fire Safety	neighbourhood/emergency-services/fire-and-rescue-
	service/community-fire-safety/
	Address: Fire Service Headquarters
	Tromode Road
	Douglas
	Isle of Man
	IM2 5PA
	Telephone: 01624 647303
	Email: Fire.DHA@gov.im
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Organisation	Contact Information
Office of Fair Trading - Trading Standards	Website: https://www.gov.im/about-the-government/statutory-boards/isle-of-man-office-of-fair-trading/trading-standards/
	Address: Thie Slieau Whallian Foxdale Road St John's IM4 3AS
	Telephone: 01624 686500 Email: iomfairtrading@gov.im
Highways Services – Department of Infrastructure - Road Closures	Website: https://www.gov.im/categories/travel-traffic-and-motoring/apply-for-a-road-closure-or-traffic-restriction/apply-for-a-road-closure-for-events/
	Address: Sea Terminal Douglas IM1 2RF
	Telephone: 01624 686930 Email: <u>Highways@gov.im</u>
Charities Administration	Website: https://www.gov.im/charities Address: Attorney General's Chambers Belgravia House Circular Road Douglas Isle of Man IM1 1AE Telephone: 01624 687318 Email: charities@gov.im
Gambling Supervision Commission	Website: https://www.gov.im/about-the-government/statutory-boards/gambling-supervision-commission/ Ground Floor St George's Court Myrtle Street Douglas Isle of Man IM1 1ED
	Telephone: 01624 694331 Email: gaming@gov.im

Organisation	Contact Information
Tourist Events Development	Website: https://www.visitisleofman.com/trade/supporting-your-
Scheme (TEDS):	business/starting-up/events-support/looking-for-event-support

