



From mountain to sea

# Children (Performance and Activities) Licence

## Aberdeenshire Guidelines

January 2024





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**The following guidelines do not cover licences to perform and participate abroad. Current legislation regarding activities abroad can be found following the links below.**

[The Children \(Performances and Activities\) \(Scotland\) Regulations 2014](#)

[young-performers-licensing-guide-for-local-authorities](#)

[young-performers-guide-parents-guardians](#)

## Current legislation

- 1.1 The relevant primary legislation is Part II of the Children & Young Persons Act 1963 (1963 Act) which provides for the current licensing system for child performances and other activities. Also, section 25 of the Children and Young Persons Act 1933 (1933 Act) makes provision for licences to perform or take part in activities abroad.
- 1.2 The relevant secondary legislation is the Children (Performances and Activities) (Scotland) Regulations 2014 (2014 Regulations) which came into force on 20 February 2015. Unless otherwise stated, all legal references cited in this guidance relate to the 2014 Regulations. The 2014 Regulations revoked and replace the Children (Performances) Regulations 1968, as they applied to Scotland.
- 1.3 Also relevant is section 94 of the Children and Young People (Scotland) Act 2014, which was commenced on 1 August 2014, which repeals previous restrictions on the types of performances in which children under 14 could participate.
- 1.4 This guidance, which supersedes all advice issued previously in relation to child performances and other activities, is non-statutory and, therefore, is not a substitute for reference to the above stated Acts and Regulations. The guidance should also be read alongside other sector-led examples of best practice. It is important to note that the guidance should not be taken as providing an authoritative interpretation of the Acts or regulations as that, ultimately, is a matter for the courts.

## Obtaining a licence

- 2.1 The licensing system applies to all children and young people under school leaving age. In Scotland, children can leave school on 31 May if their 16th birthday falls between 1 March and 30 September of that year. Those who turn 16 between 1 October and the last day of February can leave at the start of the Christmas holidays of that particular school year.
- 2.2 Although the licensing system does not provide for children who are over the school leaving age but who are under 18 years, those responsible for organising performances and other activities should be mindful that these young people continue to have rights under the UNCRC. Similarly, under provisions in the Children and Young People (Scotland) Act 2014, a Named Person will continue to support their wellbeing until they are 18 years.

## When is a licence required?

- 3.1 Subject to the exceptions listed in paragraph 2.5 below, under section 37 of the 1963 Act, a licence must be obtained before a child or young person can take part in the following performances and activities within Scotland, England or Wales:
    - All performances for which a charge is made, whether for admission or otherwise
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- All performances held in licensed premises, for example in a hotel, pub or theatre.
  - All performances which are broadcast live, for example a television or radio broadcast or internet screening.
  - All performances recorded (by whatever means) with a view to its use in a broadcast or such service or in a film intended for public exhibition.\* For example, a live stage performance recorded for a cinema screening, a feature film, a video or sound recording of a performance on a website (Note that this does not extend to user generated content, for example, where a young person or a family record themselves and share it on a website or social media)
- \* This may include the recording of performances for use on internet sites
- Modelling or sporting activities where payment, other than for expenses, is made to the child or someone else in respect of the child's participation.

### 3.2 It should be noted that:

- A performance licence may be required whether or not the child is paid.
- Amateur groups, musical performances, student productions or films are not exempt from the requirements.
- Licensing requirements apply only to children under compulsory school age (as discussed at paragraph 2.1 above)

## Performances which do not require a licence.

4.1 Section 37(3) of the 1963 Act provides for certain exemptions where a licence for a performance is not required. Each of these exemptions only apply where no payment in respect of the child taking part in the performance is made to the child or to another person. These exemptions do not apply to paid sport or paid modelling. The exemptions are in respect of the following:

- A licence is not required where, in the 6 months preceding the performance, the child has not taken part in other licensable performances on more than 3 days. Once a child has performed on more than 4 days in a 6-month period then a licence is required for any further performances (known as the “4-day rule”) (section 37(3)(a)).
- Performances given under arrangements made by a school (where ‘school’ is as defined in section 135(1) of the Education (Scotland) Act 1980) (section 37(3)(b)); or
- Performances given under arrangements made by a “body of persons” approved by the local authority in whose area the performance takes place or, in a few exceptional circumstances, by the Scottish Ministers (section 37(3)(b) – for more detail on Body of Persons Approval see section 9 of this Guidance).”

4.2 Although a licence is not required for performances that are exempted under section 37(3)(a) of the 1963 Act, those will still be subject to the conditions which apply to all performances set out in Part 5 of the 2014 Regulations. These are discussed further in Section 8 below.

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- 4.3 It should be noted that it is a legal requirement to seek a licence where one is required and any person who causes or procures any child to do anything in contravention of the licensing requirement commits an offence and may be subject to a fine, imprisonment or both. (sections 37(1) and 40 of the 1963 Act).

### Consideration of a licensing request

- 5.1 Applications should be submitted to Aberdeenshire Council at least 21 days before the day on which the first performance or activity is due to take place. The licensing authority may refuse to grant a licence where the application is not received within this prescribed time scale. (Regulation 4(2) of the 2014 Regulations).
- 5.2 Although adoption of best practice by applicants and Aberdeenshire Council should help to speed up the application process, applicants should allow reasonable and realistic timescales for licensing authorities to assess applications and to satisfy themselves that appropriate arrangements to protect the safety and wellbeing of the child are in place, ahead of any business or operational considerations.
- 5.3 In keeping with section 37(4) of the 1963 Act, Aberdeenshire Council may only grant a licence in respect of a performance or activity where they are satisfied that:
- the child is fit to participate.
  - proper provision has been made to secure his or her “health” and “kind treatment”; and
  - the child’s education will not suffer as a consequence of the participation in the performance or activity.
- 5.4 When applying this test, Aberdeenshire Council should consider whether the child’s involvement in the performance or activity is likely to result in any additional risk to his or her wellbeing beyond that which they could expect to experience in the ordinary course of their daily life. This consideration should take account of the nature of the performance in relation to the individual child’s age, gender and needs. In doing so, Aberdeenshire Council should take into account any steps proposed by the organisation arranging the performance to mitigate potential risks. A report from the pupil’s head teacher or a medical examination (regulation 5) can be requested if required to ensure no additional risks are identified.

### Licence

- 6.1 The licence granted to the applicant by Aberdeenshire Council must take the form set out in Schedule 2 to the 2014 Regulations or a form which is similar to the prescribed form. It must clearly state the purpose of, and any conditions applying to the granting of, the licence. (Regulation 6)
- 6.2 Aberdeenshire Council is required to send a copy of the licence to the parent or guardian who signed the application form. (regulation 6(4)). In line with Article 12 of the UNCRC and taking account of the age and maturity of the child, the licensing authority should also forward a copy of the licence to the child as appropriate.
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- 6.3 Since the chaperone has responsibilities to safeguard, support and promote the wellbeing of the child at all times during the period for which the licence relates, the licence holder should ensure that the chaperone is informed of the terms of the licence, including any particular condition applied in the child's best interests. Similarly, the licence holder should also ensure that any private teacher is also made aware of the terms of the licence as appropriate.
- 6.4 Where the performance or activity is due to take place in the area of a host authority<sup>4</sup> other than Aberdeenshire Council, the latter should ensure that a copy of the application form and the licence are forwarded to the relevant host authority. (regulation 7)

<sup>4</sup> Host authority – the education authority or, in England and Wales, the local authority in whose area a performance or activity takes place.

## Conditions Applying to all Performances.

### Working hour limits

- 7.1 Part 5 of the 2014 Regulations provides for the conditions applying to all performances, including those which, in accordance with section 37(3)(a) of the 1963 Act, a licence is not required. It is important to note that, whilst these conditions relate to all performances, they do not apply to other activities. The conditions include a single set of working hour limits for children within the following age groups:
- Under 5 years.
  - Aged 5 to 8 years.
  - Aged 9 or above.
- 7.2 More detailed information about the associated conditions applying to each age grouping, is attached at **Annex 2**.
- 7.3 It should be noted that the working hour limits represent the maximum durations in relation to performance and attendance times for children and young people and the minimum durations of breaks. It is not intended that these working hours should be the default working pattern for all children. In line with Getting it Right for Every Child (GIFREC) in determining an application for a licence, licensing authorities are again required to consider the needs of individual children, including their age, maturity and wellbeing.
- 7.4 Any time spent in education, as required by regulation 12, will count towards the maximum permitted working hours in any one day.

### Minimum breaks overnight

- 7.5 Whilst 12 hours is the minimum required overnight break for all children (regulation 22), it is generally expected that most children should normally have an overnight break of no less than 14 hours duration. Aberdeenshire Council will want to consider factors such as the time that may be required for the child to travel to and from the place of the performance or rehearsal and their home
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or temporary accommodation and will wish to consider any conditions that may be required to ensure that the child has an appropriate overnight break.

### Breaks during Performances

7.6 In line with Article 31 of the UNCRC, the child has a right to rest and leisure, and to engage in play. In view of this, where a child is on a break, he or she must not take part in:

- Education
- Rehearsals
- Preparations for the performance (hair and make-up etc.)

### Restrictions and Conditions Applying to Performance Licences

8.1 Part 6 of the 2014 Regulations provides for the additional restrictions and conditions which apply to licences for performances only.

#### Maximum number of days in a week on which a child may take part in performances or rehearsals.

8.2 A child must not take part in performances or rehearsals on more than 6 consecutive days. This will allow a child to take part in a production which has a 6-day run or to participate in a dress rehearsal prior to a 5 day run. However, Aberdeenshire Council should consider this to be the maximum number of consecutive days in which a child may participate in a performance. (regulation 26) The licensing authority should consider the needs of the individual child when determining the application in this respect.

8.3 There are several factors that Aberdeenshire Council may wish to consider when approving the number of consecutive days in which a child will be involved in a performance, including the following:

- The nature of the production, for example whether it is a broadcasting or stage performance.
- Whether the days in a week in which the child is required to participate would involve the child being at the place of the performance for many hours in a day, or for short periods only.

#### Break in Performances

8.4 Where a child is required to take part in a performance or rehearsal (other than a circus performance) on 6 consecutive days for a period of 8 consecutive weeks, that child must not take part in any performance or rehearsal or be employed in any other form of employment during the 14 days following the date of the last performance. Again, this is to further safeguard the wellbeing of the child in question – allowing them appropriate time to rest and enjoy time with friends and family following the 8-week production. It should be noted, however, that this restriction does not apply if the number of days on which the child may perform, as specified in the licence, is less than 60 days. (regulation 27)

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## Night Work

- 8.5 Aberdeenshire Council may permit the child to participate in a performance after the latest permitted hour at which the child may be present at the place of performance or rehearsal provided it is satisfied that the performance must take place after that hour, for example, to allow the child to take part in a curtain call at the end of the performance. (regulation 28)
- 8.6 The child may only take part in a performance after midnight where Aberdeenshire Council is satisfied that it would be impracticable for the performance to be completed before midnight. However, regulation 28 provides for a number of restrictions and conditions which aim to safeguard any child who is required to work after the latest permitted hour as follows:
- The number of hours during which the child takes part in a performance after the latest permitted hour must be included when calculating the maximum number of hours during which the child may take part in a performance or rehearsal on any one day.
  - The child must not take part in any other performance or rehearsal until at least 16 hours have elapsed since the end of the child's part in the performance.
  - Where the child takes part in a performance after the latest permitted hour on 2 successive days, the licensing authority must not permit the child to participate in any further performance after the latest permitted hour during the 7 days immediately following those 2 days.
- 8.7 The decision to authorise an extension to the working hour limits, set out at Part 5 of the 2014 Regulations, should be based on Aberdeenshire Council's assessment of the best interests and wellbeing of the individual child. It is important to note that such extensions should not be granted as a matter of course. (regulation 28(1))

## Chaperone Discretion

- 8.8 To provide for unexpected circumstances outside the licence holder's control, the chaperone may allow the child to take part in a performance for a period not exceeding 30 minutes immediately following the latest permitted hour at which the child may be present at the place of performance or rehearsal as set out in Part 5 of the 2014 Regulations (regulation 29(1)). However, there are several conditions placed on the chaperone's agreement in this respect, as follows:
- The total number of hours during which the child takes part in the performance or rehearsal, including that period of 30 minutes, should not exceed the maximum number of hours during which the child is permitted to be present at a place of performance or rehearsal.
  - The chaperone must be satisfied that the child's participation in the additional 30-minute period does not adversely affect the child's wellbeing.
  - The chaperone must also be satisfied that the requirement for the child to participate in the permitted additional 30-minute period is due to circumstances outside the licence holder's control.
- 8.9 Where the chaperone agrees to the child's participation in the performance after the latest permitted hour, the licence holder must ensure that the chaperone
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notifies the licensing authority of the reasons for this decision no later than the following day. (regulation 29(2))

- 8.10 Aberdeenshire Council would only be expected to intervene where there is concern that the use of the chaperone's discretion is being misused or misapplied.
- 8.11 Where the child is required to participate in a performance or rehearsal that is outdoors, the chaperone also has discretion to allow one of the child's prescribed meal breaks to be reduced, provided that:
- The duration of the meal break is not less than 30 minutes; and
  - The maximum number of hours during which the child may take part in a performance or rehearsal (under regulations 20 or 21) is not exceeded. (regulation 29(3))

## Body of Persons Approval

### What is a Body of Persons Approval

- 9.1 Section 37(3)(b) of the Children & Young Persons Act 1963 allows for a Body of Persons approval to be granted to an organisation, removing the need for individual child performance licences to be obtained for a performance. Approval can be granted in respect of a single performance or for a series of performances taking place over a period of time. Scottish Ministers recommend that period does not exceed 24 months.
- 9.2 Approval cannot be granted in respect of any performances for which a child is being paid (other than for expenses).
- 9.3 The conditions which apply in respect of a child performance licence (working hour limits, chaperones, educations etc.) do not apply where a Body of Persons Approval has been granted. (See paragraph 9.11)

### Who can apply for a Body of Persons Approval

- 9.4 Body of Persons approvals may be granted in respect of amateur productions including, for example, productions hosted by organisations such as youth organisations or dramatic societies.
- 9.5 Approval may also be granted in respect of other organisations arranging unpaid performances involving children who would otherwise require a licence.

### Who can grant a Body of Persons Approval

- 9.6 Approval can be granted either by the local authority in which a performance is going to take place or by Scottish Ministers. Where a performance is being staged in either a single local authority or a small number of authorities, approval should be sought at local authority level. Only where a performance is taking place in a large number of local authority areas should approval be sought from Scottish Ministers.
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## How to apply for a Body of Persons Approval

9.7 When applying for a Body of Persons Approval, the applicant (those responsible for arranging the performances) should provide the following information to Aberdeenshire Council:

- Details of the organisation including name, address, contact details, information regarding its role and activities and responsibilities of individuals within the organisation.
- The numbers and age range(s) of the children involved in the productions.
- Confirmation that no payment (other than to cover expenses) is being made to any of the individuals taking part in the performance.
- Details of productions and rehearsals where available. Where details regarding particular productions are not available, information regarding the general nature of the productions should be provided.
- Details of the arrangements for appointing suitably skilled individuals to take on the role of chaperone. Whilst the child performance licensing conditions linked to chaperones do not apply in respect of Body of Persons Approvals, we would advise that production companies adopt those requirements as a matter of best practice and that local authorities apply the requirements when considering the suitability of the chaperone arrangements being proposed by an organisation seeking Body of Persons Approval
- Details of arrangements for the safe travel of children to and from the place(s) of performance
- Details of the organisation's child protection policies and training for relevant staff
- Name of the lead child protection officer within the organisation with responsibility for the productions in question
- Where a child requires to be absent from school in order to perform, confirmation that the absence has been approved by their Head teacher.

## Granting a Body of Persons approval

9.8 When deciding whether to grant a Body of Persons Approval, Aberdeenshire Council will wish to consider:

- Whether any children are being paid. Body of Persons Approval should not be granted in respect of paid performances by young people.
  - The robustness of relevant child protection arrangements, chaperone arrangements, travel arrangements
  - The numbers of children involved in the performance(s). Where larger groups of children are involved in performances, it may be preferable for a Body of Persons Approval to be granted as opposed to granting a significant number of individual child performance licences.
  - The age(s) of the children involved and timings of rehearsals/performances.
  - The duration of the performance(s). Where performances take place over a limited period of time and, as a result, are unlikely to impact significantly
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on the children's day-to-day lives, Body of Persons approval may be deemed suitable.

- Details of any planned absences from school as a result of a child's involvement in a performance. Body of Persons Approval cannot authorise removal from school. However, a child can be authorised by the head teacher to be absent from school in order to participate in a performance.
- Whether Aberdeenshire Council have an existing relationship with the organisation in question which suggests they are suitable to be approved
- Whether the performance is taking place abroad. Body of Persons Approval cannot be granted for such performances.

9.9 As a general rule, we would suggest that Body of Persons Approval only be granted where Aberdeenshire Council are satisfied that a child/children's involvement in a performance(s) is not going to have a prolonged impact on their day-to-day lives.

9.10 Where a child's daily routine, education or access to play and recreation opportunities are likely to be impacted over a prolonged period, a child performance licence should be sought.

### Conditions associated with a Body of Persons Approval

9.11 Aberdeenshire Council may choose to apply conditions as part of any Body of Persons Approval which is granted. These might include:

- Working hour limits
  - Limits on the number of days children can be involved in performances.
  - Conditions linked to chaperones, including maximum numbers of children per chaperone.
  - Conditions linked to travel.
  - Conditions linked to the full implementation of child protection procedures.
  - Conditions linked to the reporting of injuries and illness sustained during a child's participation in a performance.
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## Annex 1 – Conditions Applying to All Performances (Part 5 of the Regulations)

Child Performance Working Hour Limits			
Age of child	Maximum duration of attendance and performance per day	Latest and earliest hours of attendance	Breaks
0-4	Attend 5 hours  Perform 2 hours	08:00 – 20:00 but can be extended by half an hour in exceptional circumstances and with agreement of the chaperone. Any additional extension must be agreed with the licensing authority.	A break of at least 15 minutes after every 45 minutes performing or rehearsing.
5-8	Attend 8 Hours  Perform 3 hours	07:00 – 23:00 but can be extended by half an hour in exceptional circumstances and with the agreement of the chaperone. Any additional extension must be agreed with the licensing authority.	A break of at least 15 minutes after every hour of performing or rehearsing. A food break of not less than 1 hour if present for more than 3½ consecutive hours.
9-school leaving age	Attend 9½ hours  Perform 4 hours	07:00 – 23:00 but can be extended by half an hour in exceptional circumstances and with the agreement of the chaperone. Any additional extension must be agreed with the licensing authority.	A break of at least 15 minutes after every hour of performing or rehearsing. A food break of not less than 1 hour if present for more than 3½ consecutive hours. A further meal break of at least 30 minutes if present for more than 8 consecutive hours.
There must be a <b>minimum</b> 12-hour period between a child leaving a place of performance or rehearsal on one day and returning the next. Where the child has participated in a performance after the latest permitted hour, the child must not take part in any other performance or rehearsal until at least 16 hours have elapsed since the end of the performance. (See Regulations 22 and 28 respectively for more detailed information on this.)			

**Suitable arrangements must be made to protect, promote and support the wellbeing of the child whenever they are not performing or rehearsing. This should include access to food, play opportunities etc.**

## Annex 2 - Child Performance Licences Flowchart

