

# Travelling Funfairs (Licensing) (Scotland) Bill

---

## Delegated Powers Memorandum

### Introduction

1. This memorandum has been prepared by Scottish Parliament officials in accordance with Rule 9.4A of the Parliament's Standing Orders, in relation to the Travelling Funfairs (Licensing) (Scotland) Bill (a Member's Bill introduced by Richard Lyle MSP). It describes the purpose of the subordinate legislation provision in the Bill and outlines the reasons for seeking the proposed power. This memorandum should be read in conjunction with the Explanatory Notes and Policy Memorandum for the Bill.

### Outline of Bill provisions

2. The Bill exempts travelling funfairs, as defined in the Bill, from being licensable under the Civic Government (Scotland) Act 1982<sup>1</sup> and requires them to be licensed under a new regime which is set out in the Bill.

3. The Bill is in 20 sections as follows—

- Section 1 defines travelling funfairs;
- Sections 2–4 provide for travelling funfairs to be licensed, by local authorities, under the Bill rather than under the Civic Government (Scotland) Act 1982 and make it an offence to operate such a funfair without a licence;
- Sections 5 and 6 deal with licence applications, including by making it an offence to make false statements;

---

<sup>1</sup> The Civic Government (Scotland) Act 1982 (c.45). Available at: <http://www.legislation.gov.uk/ukpga/1982/45/contents>.

This document relates to the Travelling Funfairs (Licensing) (Scotland) Bill (SP Bill 69) as introduced in the Scottish Parliament on 28 April 2020

- Sections 7–11 deal with the process for handling applications, including timescales, consultation, grounds for refusal and licence conditions;
- Section 12 makes it an offence to breach a condition or other provision of a licence;
- Section 13 allows local authorities to revoke a licence;
- Section 14 allows for appeals against decisions made by the licensing authority;
- Sections 15 and 16 provide for entry, inspection and search powers and procedures; and
- Sections 17–20 are general provisions, including consequential amendments, commencement and saving provisions and the short title.

4. Further information about the Bill's provisions is contained in the Explanatory Notes, Policy Memorandum and Financial Memorandum.

5. The Bill only contains one delegated powers provision, described in detail below.

## Delegated Power

Section 5(6) – power to uprate application fee in line with inflation

Power conferred on: the Scottish Ministers

Power exercisable by: regulations made by Scottish statutory instrument

Parliamentary procedure: negative procedure

## Provision

6. Section 5(2) sets out a list of requirements for an application made under the Bill to be deemed valid. One of those requirements, in subsection (2)(d), is that an application must be accompanied by an application fee,

This document relates to the Travelling Funfairs (Licensing) (Scotland) Bill (SP Bill 69) as introduced in the Scottish Parliament on 28 April 2020

which is set at £50. Subsection 5(6) allows Scottish Ministers, by regulations, to amend the £50 fee as they think appropriate, but only to take account of “changes in the value of money”, that is, to reflect inflation.

### **Reason for taking power**

7. It is an important part of Richard Lyle’s policy to have a standardised fee for travelling funfair licence applications, rather than allowing fees to be determined by each local authority. It is also important to the policy that the fee be set at an affordable level, and he considers £50 to be an appropriate amount at current prices. But he also recognises a need to allow for the fee to be amended over time to reflect inflation, without primary legislation being needed to replace the figure of £50 currently specified. Given that the Bill provides for a uniform licensing regime for travelling funfairs, as defined in the Bill, which local authorities must administer, any changes to the application fee should be made by Scottish Ministers to ensure that the fee remains consistent for all local authorities in Scotland.

### **Choice of procedure**

8. Section 5(7) provides that regulations under section 5(6) are subject to the negative procedure. Section 5(6) specifically limits the exercise of the power to amending the application fee to take account of changes to the value of money. The power could not, therefore, be used to change the application fee to any greater extent or for any other reason (for example, because it was felt a different fee would be more appropriate as a payment towards the cost of administering the licensing regime).

9. This provision is of a minor, technical and administrative nature, rather than having any wider policy implication, and the negative procedure is therefore considered to be the appropriate level of Parliamentary scrutiny.

This document relates to the Travelling Funfairs (Licensing) (Scotland) Bill (SP Bill 69) as introduced in the Scottish Parliament on 28 April 2020

# Travelling Funfairs (Licensing) (Scotland) Bill

## Delegated Powers Memorandum

□ Parliamentary copyright. Scottish Parliamentary Corporate Body

Information on the Scottish Parliament's copyright policy can be found on the website -  
[www.parliament.scot](http://www.parliament.scot)

Produced and published in Scotland by the Scottish Parliamentary Corporate Body.

All documents are available on the Scottish Parliament website at:  
[www.parliament.scot/documents](http://www.parliament.scot/documents)