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Festivals and the Law

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After reading this chapter you should:

- Understand which legislation affects festivals and what detail you need to know
- Understand the principles of licensing
- Understand what sort of event licence you need and how to apply for one
- Understand the principles of copyright and how it affects your festival
- Understand what insurances you will need by law
- Understand the principles of contracts.

Introduction

In order to run your festival, you will need to comply with a range of legislation, obtain a number of licenses, and get permissions of some sort from various authorities. The nature of those permissions will depend entirely on the type of festival you are running, the country you are in and the types of locations you are using. If your festival is selling drink you will need an alcohol license and if it is taking place on public or private land it may well need a licence from the local authority. In a venue, like a theatre, which already has a creative programme it is likely that it will come with many of the permissions you need. If your festival is on a greenfield site, it is quite possible it will have none and that you will have to obtain all these permissions for yourself.

The legislation determining what you can and cannot do breaks down into two convenient categories:

- ◆ Legislation that you need to know and understand
- ◆ Legislation that you need to be aware of, but not necessarily in detail.

Although the detail will vary from country to country, the areas where the law will have an impact on your festival are generally:

- ◆ The ability to use a venue for public performance and venue capacity – the number of people you can cater for
- ◆ The sale of food and drink

- ◆ Processions – as in carnival processions
- ◆ Staff employment
- ◆ Copyright and payment to artists for the use of their works.

Health and safety forms a part of venue usage and the sale of food and drink and will be an important factor in gaining permissions, however these may not be legal issues in their own right. In addition, you will find it useful to be aware of the law in relation to contracts as you will almost certainly be encountering these both in relation to artists and possibly in relation to sub-contractors. You also have to deal with the law in relation to insurance.

This chapter will cover the basics of all of these matters. We have based it on the law in England and Wales as it stands today, but you need to be aware that over time new legislation is introduced and more importantly, far from being set in stone, the law is subject to interpretation. You would be well advised to find a friendly local solicitor, invite them onto your management committee and seek updated advice where required. If your solicitor is not an expert in the matters concerning festivals and events they might to be able to call on someone in their firm for low cost or no-cost (pro-bono) advice.

This chapter aims to familiarise festival managers with the general principles in law, permissions and licences required to run a festival, it must be emphasised however that it is always the responsibility of the festival organiser to ensure that they conform, in full, with all relevant statutory and other national and local requirements.

Key legislation

There are two key pieces of legislation affecting festivals which you need to be have a good knowledge of. One was the direct outcome of festivals activity. The two pieces of legislation are:

- ◆ The Public Order Act (1986) updated by the Criminal Justice and Public Order Act (1994)
- ◆ The Licensing Act (2003).

The Public Order Act regulates public gatherings of anything more than 20 people. It came about partly as the result of increasing tension in the 1980s between a convoy of counter-cultural activists known as New Age travellers and landowners, local authorities and the police. The New Age travellers travelled the country in repurposed buses and vans, staged impromptu festivals on common land, gathered at the annual solstice celebrations at Stonehenge and attended festivals like *Glastonbury*. It culminated in the Battle of Beanfields, a violent encounter between the convoy and the police as the travellers attempted to get to Stonehenge in 1985, resulting in damage, injuries and arrests (Worthington, 2004).

The outcome was the passing of the Public Order Act (1984) to regulate assemblies of more than 20 people, requiring them to obtain police consent. This had a two-fold cultural effect. It led to the commercialisation of music festivals and the development in the 1990s of underground rave culture. Although the clampdown was specific to England and Wales, it points to something all festival producers should be aware of. Governments, however liberal, are alert to the potentially disruptive effect of large gatherings and tend to want to control them. So, wherever your festival takes place there will probably be legislation that means you have to ask the authorities for permissions of one sort or another.

There are two key aspects in the Public Order Act (1986) that affect festivals in England and Wales.

Processions

Organisers of public processions of any kind – political, cultural or otherwise – need to give the police at least 6 clear days’ written notice, including details of the intended time and route, and the name and address of at least one person proposing it.

Assemblies

The police have the power to impose conditions on outdoor assemblies of 20 people or more “to prevent serious public disorder, serious criminal damage or serious disruption to the life of the community”. The conditions might specify the greatest number of people who may take part, the location of the assembly, and its maximum duration. This means that if you want to stage an outdoor event for more than 20 people, the police can ban it. In 1994 the Public Order Act was amended to add rules against covered trespass, squatting and unauthorised camping. If the site you want to use is private you will need the land owner’s permission, and, you will need to think about how your festival might affect the surrounding residents, and what to do in emergencies. These are the issues local councils and the police and emergency services will want to see you address in your licence applications.

Licensing Act 2003

The police powers outlined in the Public Order Act (1986) are rarely used today in relation to festivals and events owing to a streamlining of the licensing laws. In respect of festivals, licensing is permission from someone in authority for an organisation to sell alcohol and provide entertainment in a public place. If you don’t have a licence for these you may be acting illegally.

As Pick notes, there are four major ways in which festivals and other cultural events can be subject to licensing control: