

**REVIEW OF LOCAL STATUTORY PROVISIONS
LOCAL GOVERNMENT ETC (SCOTLAND) ACT 1994: SECTION 59
APPLICATION FOR EXEMPTION OR POSTPONEMENT FROM REPEAL**

1. **Title of Provision**
Management Rules for the Management of Public Parks.
2. **Effect and extent**
These Management Rules are effective from 1st April, 1994 and regulate the admission and conduct of members of the public within public parks.
3. **Has the Council reviewed this provision and concluded that it is still required beyond 31 December 1999?**
The Council has reviewed these provisions and concludes that they are still required beyond 31st December, 1999.
4. **Does the Council seek (i) exemption from repeal or (ii) postponement of repeal of the provision?**
The Council seeks exemption from repeal.
5. **Is the content of the provision appropriate to contemporary needs?**
It is considered that the Management Rules are still appropriate to contemporary needs.
6. **Does the provision apply to the whole of the Council's area? If not, why is it considered appropriate to continue to limit its application to the area in question?**
The Rules apply to the whole of The Moray Council area.
7. **Is it confirmed that the provision does not duplicate matters in public statute?**
It is confirmed that the Management Rules do not duplicate matters contained within public statute.
8. **If exemption is sought, why is it considered inappropriate to re-enact the provision, e.g. no changes required to existing legislation?**
The Management Rules work in practice and no change is considered necessary.
9. **If postponement is sought, when will a Provisional Order be deposited re-enacting the provision?**
N/A.
10. **Any other factors or information which the Council considers relevant.**
N/A.

MORAY DISTRICT COUNCIL

CIVIC GOVERNMENT (SCOTLAND) ACT 1982

RULES FOR THE MANAGEMENT OF PUBLIC PARKS

By virtue and in terms of the powers conferred on them by Section 112 of the Civic Government (Scotland) Act 1982, Moray District Council hereby make the following rules for the management of the public parks and other places of public resort:-

INTERPRETATION OF TERMS

1. In the construction of those rules, the following expressions shall have the meanings hereby assigned to them, that is to say,
 - (i) "The Council" means the Moray District Council as constituted by the Local Government (Scotland) Act 1973.
 - (ii) "Any park" means any park, public walk, woodland garden, amenity area, play ground or park, recreation ground or maintained open space under the control of the Council.
 - (iii) "Authorised Officer" means the Director of Leisure and Libraries or any other person appointed by the Director of Leisure and Libraries as an Authorised Officer.
 - (iv) "Drugs" mean any drug falling within the meaning of a "controlled drug" as defined under Section 2 and Schedule 2 of the Misuse of Drugs Act 1971 and any subsequent Act extending or amending the above.

2. REGULATION AND ADMISSION OF THE PUBLIC

- (a) The opening and closing times of any park shall be such times as may be intimated by Notices displayed at or near the main entrances thereto.
- (b) The Council may close part of any park to the public for such time as it may consider necessary by posting Notices at or near to the area concerned.
- (c) No person shall enter or leave any park except by the entrances and exits provided for that purpose during the hours in which the park is open to the public as stated in Rule 2 above.

3. EXCLUSION OF THE PUBLIC

- (a) The Council reserves the right to refuse admission to any individual, group or organisation.
- (b) No person shall enter or wilfully remain within any park except during the hours in which the park is open to the public as stated in Rule 2 above.

- (c) No person shall enter or remain in any glass house, conservatory or nursery in any park except when such house, conservatory or nursery is open to the public.
- (d) No parties whether organised or informal shall be permitted in any such park without the permission of the Council and then only subject to such regulations as may be made by the Director of Leisure and Libraries.
- (e) No person shall hold any public meetings, religious service, lecture or concert, or play any musical instrument or give or take part in any performance or exhibition in any park, except in pursuance of any agreement with the Council or with the special permission of the Council.

4. ANIMALS

- (a) No person shall race, break-in or train any horse or other animal in any park without specific permission granted, in writing by the Director of Leisure and Libraries.
- (b) No person shall ride or drive any horse or other animal in any park except in any part of any park which is for the time being appointed to be used as an equestrian ride.
- (c) With the exception of guide dogs for the blind under the control of their owners no person shall permit any dog belonging to them or in their charge to enter or remain in any park unless it be led on a leash and restricted to recognised paths or to worry or disturb any person or beast, or to foul any park or to damage or destroy any grass, flower, plant, tree or shrub in any park.
- (d) With the exception of guide dogs for the blind under the control of their owners any person in charge of any dog which fouls in any park shall take immediate and appropriate steps to remove and properly dispose of any deposit or excrement.
- (e) No person shall, except to the extent mentioned in the three preceding rules, or except in pursuance of any agreement with the Council, or with the special permission of the Council, drive or bring into or cause or suffer to be driven or brought into or remain in any park, any animal.

5. PROTECTION OF PRIVACY

No person shall:-

- (a) by disorderly or improper conduct disturb, interrupt or wilfully intrude upon, or interfere with, the privacy of any other person in the proper use of any facilities in any park.
- (b) by forcible or improper means seek admission to any dressing room or cubicle at any time when the dressing rooms or cubicles shall be occupied by a person authorised to use same.
- (c) No male, unless under eight years of age and accompanied by a responsible adult female, shall enter or use any bath, toilet, shower, changing room, or cubicle or any facility reserved by the Council exclusively for female use.

- (d) No female, unless under eight years of age and accompanied by a responsible adult male, shall enter or use any bath, toilet shower, changing room, or cubicle or any facility reserved by the Council exclusively for male use.

6. PREVENTION OF DAMAGE

- (a) No person shall in any park climb upon any tree, shrub, wall, fence or railing or upon any monument, fountain, statue, building or other erection.
- (b) No person shall in any park, wall on any shrubbery or flowerbed or enclosed plantation, or any land especially enclosed or any portion of the ground bearing the intimation "Keep of the Grass".
- (c) No person shall pollute or otherwise interfere with any pond, lake, loch, river, stream, fountain or other water in any park.
- (d) No person shall in any park:-
- (i) wilfully or carelessly break, damage, deface, disfigure, tamper with or improperly soil any tree, shrub, wall, fence, railing, monument, fountain, statue, building or other erection in any park;
 - (ii) wilfully or carelessly damage, destroy or improperly soil any article supplied for use by the Council;
 - (iii) retain or remove any article supplied for use by the Council after the purpose for which same was issued has been served.
- (e) No person shall in any park:-
- (i) wilfully or negligently displace, disturb, ill-treat, injure, take, destroy or attempt to displace, disturb, ill-treat, injure, take or destroy any animal, bird, game, nest or other habitat egg;
 - (ii) spread, set or use or attempt to spread, set or use, any net, snare, trap, line, firearm, instrument, weapon or other means for the taking injury or destruction of any animal, bird or game.

Nothing in these management rules, however shall affect the right of the Council, the Director of Leisure and Libraries or other person duly authorised by the Council to take such steps as the Secretary of State may require in the exercise of his powers under Section 39 of the Agricultural (Scotland) Act 1948 and any Act extending or amending the same for the killing, taking or destruction in any part of any animal or bird, to which the said section applied or the eggs of such birds.

7. PREVENTION OF INJURY

- (a) No person shall in any park play or practice to play the game of golf except in such parts thereof as may be set apart by the Council for this purpose and subject to such regulations as the Council may from time to time prescribe.

- (b) No person shall, excepting in such places as may be set apart for the purpose and indicated in a notice or notices, bathe, wade or wash in any pond, lake, loch, river, stream, fountain or other water in any park.
- (c) No person shall go upon any ice in any park until a notice intimating that the ice is safe has been posted near the place.
- (d) No person shall in any park without the prior written consent of the Director of Leisure and Libraries:-
 - (i) carry any firearm or weapon; or
 - (ii) discharge any firearm or weapon; or
 - (iii) throw, shoot or propel any stone, firework, arrow, knife, missile or other similar article; or
 - (iv) fly or otherwise put into motion any mechanically propelled model aeroplane or similar device, except in such part of any park designated for such purposes, from time to time, by the Council.

Notwithstanding the foregoing provisions of this management rule the Council may permit a fireworks or other similar display or entertainment within any such park on such terms and conditions as they may prescribe.

8. PREVENTION OF NUISANCE

- (a) No person shall, at any time, anywhere within a Public Park use obscene, indecent or offensive language or behave in an obscene, offensive or disorderly manner.
- (b) No person unless otherwise authorised, shall bring, or cause to be brought into any Public Park any alcoholic liquor, drugs or solvent and no person who is in a state of intoxication due to alcohol, drugs or solvent shall enter or remain in a Public Park.
- (c) Other than with the express permission of the Authorised Officer the public use of radios, compact disc or cassette players and other such sound emitting equipment is forbidden unless used in such a manner that only a person in close proximity to the radio etc. can hear it.
- (d) No person shall at any time, wilfully or improperly obstruct, disturb, interrupt or interfere with any authorised officer or servant of the Council in the exercise of his/her duty in connection with any Public Park or in the execution of any work associated therewith.
- (e) No person shall in any park play or make preparation to play organised games or organised races, or take part in any organised athletic sports, except in such parts thereof as may be set apart from time to time by the Council for such purposes and on such terms and subject to such regulations as the Council may from time to time prescribe.
- (f) No person shall in any park organise or participate in any gaming activity, except with the permission of the Council and on such terms and conditions as the Council may require.

- (g) No person without permission from the Director of Leisure and Libraries shall erect any post, rail, fence, platform, pole, peg, tent, booth, screen, stand or swing in any park.
- (h) No person shall use, propel, or drive any vehicle including a caravan except with the prior written consent of the Director of Leisure and Libraries other than on such roads or other parts of any park as are provided or designated for such purposes and during such hours as may be determined from time to time by the Council or in accordance with such Notices which may be erected in any park prohibiting or restricting said use.
- (i) The above provision shall not apply to the use in any park of any perambulator or similar vehicle propelled by hand for the use by a child or invalid or of any ambulance, fire engine, police vehicle, hearse and attendant vehicle, as may be permitted by the Director of Leisure and Libraries.
- (j) No person shall tow, park, or otherwise allow to remain, any caravan on any part of any park other than on such parts of any park as are provided or designated for such purposes from time to time by the Council or in accordance with such notices which may be erected in any park prohibiting or restricting said use.

9. SPECIAL PROVISIONS

- (a) Any person wishing to give instructions in sport or other activity in any park for any monetary or financial gain must make application in writing to the Council for the Council's written permission and such permission shall be subject to any conditions the Council may wish to impose.
- (b) Any person wishing to bring into any park, for sale or supply in connection with an organised event, any alcoholic liquor must make application in writing to the Council for the Council's permission and such permission shall be subject to any conditions the Council may wish to impose.

10. OUTDOOR FACILITIES

Any person using any of the facilities in any park shall be held to have satisfied himself/herself as to the condition of the facilities and as to the suitability thereof for the purpose of use.

The Council shall not be held responsible for any accident or injury to any such person arising from the use of the facilities, however such accident or injury may be caused.

11. GALA DAYS, FETES, AND OTHER LETS FOR USE

- (a) Where any organisation is granted the use of a facility in any park, that organisation shall be solely responsible for the control and safety of those using the facility during the period of use. All persons using the facility shall comply with these Management Rules and any legislation currently in statute at the time of use appertaining to Health & Safety Regulations and the preparation, handling, cooking and serving of foodstuffs and related items under their control. The Office Bearers of the organisation shall have the powers given by these Management Rules to the staff in any park, during the period of the let subject always to the provisions of rule 12(c) hereof.

- (b) Any organisation granted the use of a facility shall:-
- (i) ensure that these Management rules are complied with during the period of use.
 - (ii) require to effect a Public Liability Insurance cover with an established Insurance Company acceptable to the District Council for a sum of at least £1,000,000 and fully accepts liability for any damage or injury to property or persons during the course of the event.
 - (iii) in the absence of the organiser holding a Performing Rights Society (P.R.S.) licence and/or a Public Phonographic Licence (P.P.L.) shall require to meet all fees, as determined from time to time, relating to P.R.S. and/or P.P.L. levies and administration costs thereof.
 - (iv) make good any damage to the property of the Council caused during the period of use.
- (c) All persons and organisations must vacate the area of hire by the end of their period of allocation, regardless of the state of play of any event.

12. LICENSED FUNCTIONS

- (a) Any group or individual hiring or using any facilities for the purpose of a licensed function require to comply with any legislation currently in a statute at time of use or hire, appertaining to the preparation, handling and serving of alcohol and related items under their control.
- (b) It is the responsibility of users of facilities for licensed functions to remove any or all equipment or materials belonging to said user, brought in for the sole purpose of the function catered for, within an agreed timescale and any storage of materials or equipment awaiting use or uplift shall be at the risk of the user.
- (c) Any group or individual hiring or using the facilities shall further require to comply with any instructions, verbal or written, issued by the duty officer or his nominee in regard to use of said facilities.
- (d) Any group or individual, following the hire or use of facilities, shall return said facilities in a safe and clean condition on cessation of hire or use.

13. CONTROL AND REMOVAL OF OFFENDERS

- (a) Where any authorised officer of the Council has reasonable grounds for believing a person has contravened, is contravening or is about to contravene a management rule, he may expel that person from any park. A person may be served an Exclusion Order by the District Council and may be liable upon summary conviction to a fine if that Order is contravened.
- (b) A person failing to leave any park when requested to do so by an authorised officer of the Council will be committing a criminal offence and may be fined upon summary conviction.

14. RIGHT OF APPEAL

Any person wishing to appeal against a decision taken in terms of paras. 13(a) and (b) above must do so in writing to the Director of Administration and Law within 14 days of that decision.

15. MISCELLANEOUS

- (a) Car parking facilities provided by the Council for the convenience of patrons shall only be available during such times as the facilities of the park are being used.
- (b) The Council shall not be held responsible for any damage to vehicles or other property left in the car parking facilities, however such damage may be caused.
- (c) The Council shall not be held responsible for the loss of, or damage to, wearing apparel or valuable or any other belongings of any person using the park.

16. RULES NOT TO AFFECT EMPLOYEES IN THE PERFORMANCE OF THEIR DUTIES

The foregoing regulations shall not apply to an officer or servant of the Council while acting within the scope of his employment in or about any work in connection with any park.

NOTES

Copies of these rules can be inspected free at the Council's Department of Administration and Law, District Headquarters, Elgin, any Area Office or Public Library within Moray.

Any person contravening any of these Management Rules shall be subject to the penalties imposed by sections 116, 117 and 118 of the Civic Government (Scotland) Act 1982 exigible from time to time in terms of the relevant sections of the aforementioned Act.

Certified that these Management Rules are true copy of those made by Moray District Council and are effective from 1st April, 1994.

Director of Administration and Law
Moray District Council