

INCIDENTAL MUSIC (SUMMARY)

15.30 In addition to provisions introduced by the Live Music Act 2012, the performance of live music and playing of recorded music is not regulated entertainment under the 2003 Act to the extent that it is “incidental” to another activity which is not itself one of the entertainments described in paragraph 2(1) of Schedule 1 to the 2003 Act.

15.31 Whether or not music is “incidental” to another activity will depend on the facts of each case. In considering whether or not music is incidental, one relevant factor will be whether or not, against a background of the other activities already taking place, the addition of music will create the potential to undermine the promotion of one or more of the four licensing objectives of the 2003 Act. Other factors might include some or all of the following:

- Is the music the main, or one of the main, reasons for people attending the premises?
- Is the music advertised as the main attraction?
- Does the volume of the music disrupt or predominate over other activities, or could it be described as ‘background’ music?

15.32 Conversely, factors which would not normally be relevant in themselves include:

- The number of musicians, e.g. an orchestra providing incidental music at a large exhibition.
- Whether musicians are paid.
- Whether the performance is pre-arranged.
- Whether a charge is made for admission to the premises.