

Scout Shows - The Legal Aspect



Item Code FS120162 July/08 Edition no 2

0845 300 1818

These notes apply, in the main, to those types of Scout Shows to which the general public are invited, whether paying for admission or not. It is advisable for every organiser of a Scout Show to be aware of the law and, of course, to abide by it.

Where a child, who has exhausted his/her quota of performing days, could take part in further performances without harm, then he/she may perform on four extra single days in a period of six months.

Performers

The Children's (Performances) Regulations 1968 made under the Children and Young Persons Act 1963 make provision for those persons under compulsory school age (16 yrs) who take part in a performance (called "children" for the purposes of this legislation).

(b) Matrons

During the period covered by a licence, a licensed child must be in the charge of a Matron at all times when the licensed child is not in the charge of his parent or teacher.

Licences

The Scout Association and the Girl Guides Association have been granted an exemption from the licensing requirement on the understanding that conditions laid down are adhered to.

Satisfactory arrangements must be made for the child to be accompanied home after the performance. Warranted Leaders or any other adults (male or female) approved by the organiser of the event may act as a Matron but it is suggested there be at least one Matron for every six children.

(a) Number of Performing Days

A child 13 years of age or over may take part in performances, licensed and unlicensed, on not more than 80 days in any period of 12 months.

(c) Maximum Number of Performing Days in a Week

A child may not take part in a performance or a rehearsal on more than six days in any seven day period.

A child under 13 years of age may take part in performances on not more than 40 days in any period of 12 months.

(d) Maximum Number and Length of Performances and Rehearsals Daily

The Scout Information Centre

Gilwell Park Chingford London E4 7QW Tel 0845 300 1818 Fax + 44 (0)20 8433 7103 email info.centre@scout.org.uk www.scoutbase.org.uk

1. A child may not take part in a performance if the duration of the entire production, including intervals, exceeds 3½ hours, or if the child's part, or the aggregate of the child's appearance, exceeds 2½ hours.
2. A child may not take part in more than one performance or rehearsal on any day when normally required to attend school, unless the child has been granted leave of absence from school either for the whole day or for the session which takes place after the midday meal.
3. A child may not take part on any day in more than one performance or rehearsal unless the child performs the same part in the performance/rehearsal except where taking the place of another performer in the same performance and the performance/rehearsal is of the same nature.
4. Where a child takes part in two performances and/or rehearsals on the same day, there must be an interval of not less than 1½ hours between the last appearance in the first performance or rehearsal and the first appearance in the second performance or rehearsal. This interval may be reduced by not less than 45 minutes on two days in any week, but when this is done the total time that the child is at the place of performance, including intervals, must not exceed six hours.

(e) Earliest and Latest Hours at Performance

No child may remain at the place of performance later than 30 minutes after the end of his/her part, or 10 pm if under 13 years of age, or 10.30 pm if 13 years of age or over, whichever is the earlier. If however the performance (but not a rehearsal) could not be given without the child remaining until later she/he may be present until 11 pm on not more than 8 evenings in any period of 4

consecutive weeks and not more than 3 evenings in any one week. A child may not be present at a place of performance or rehearsal before 10 am on any day. If they have taken part in a performance or rehearsal on the previous day they may not again be present at such a place until at least 14 hours have elapsed since the end of their appearance in that performance or rehearsal.

Premises

Public Entertainment Licences

The provisions of the Local Government (Miscellaneous Provisions) Act 1982 relating to the Public Entertainment Licences are only effective once a Local Authority has resolved that they shall apply in that Authority's area. It may be that a Local Authority has not invoked powers under the 1982 Act because it already has satisfactory control through Bye-Laws. Inquiries should be made of your Local Authority before any public entertainment is organised.

When is a Licence Required?

1. Indoor Events

Under the terms of the Local Government (Miscellaneous Provisions) Act 1982 it is necessary to obtain a Public Entertainment Licence for most public dancing, music, singing or other performances which constitute public entertainment. However, where music or singing is performed in a place of public worship or as part of a religious service, no Public Entertainment Licence is required.

A public entertainment is a function or performance to which the general public may be admitted either free or for a payment. If members

of the general public are to be invited to, for example, a Gang Show or any public event (such as discos, swimming, sports etc.) held anywhere other than in the open air, then a Public Entertainment Licence will be required.

Many public theatres and halls which are available for hire for the presentation of entertainments will already hold Public Entertainment Licences but it is essential to check with the management of such places that your entertainment falls within the scope of their Licence.

2. Outdoor Events

A licence is also required for a public musical entertainment held wholly or mainly in the open air and on private land. This is intended to cover pop festivals, outdoor concerts etc. and does not apply to fetes, bazaars, sports days or other events of a similar nature merely because music is incidental to them. For further details consult the legal department or the Local Authority.

The venue of the show may also require a licence issued by the Performing Rights Society, depending upon the content of the show. Further details of this requirement are contained in the following section under Performing Right Society.

Copyright

The Copyright Designs and Patents Act 1988 reflects the current requirements relating to intellectual property ownership in our innovative and commercial environment, conferring upon a Copyright Owner the right to do, or authorise others to: adapt and copy the work; perform; show, play or broadcast the work in public.

(a) Intellectual Property

Music, Art, Literature, Computer Programs, Radio/Television Broadcasts, Audio and Video Recordings are a few examples of the above. These are all works of human intellect which in the reproduction process attract one or more rights e.g. Performing Right, Mechanical Right, Moral Right etc.

Infringement of any right attributable to a Copyright Owner is capable of giving rise to both Civil Actions and Criminal Proceedings.

(b) Performing Right Society PRS

This is a non-profit making Society, which represents composers, authors and publishers of almost all Copyright music, British and foreign.

PRS administers certain of the rights granted to its members under the Copyright Designs and Patents Act, 1988 and the Society's main objects are the collection and distribution of royalties for the *public performance and broadcasting of musical Works*. *Performing right* in relation to a musical Work, means the right to do, or authorise other persons, to perform it in public or to broadcast it.

When staging a show it is necessary to make certain that the creator of any Copyright Work to be included in the show, has given their permission and that they receive their 'Royalty'. This would be a daunting task indeed. Instead of attempting to contact composers or publishers all over the world for their permission to publicly perform their Work in your Show and to pay their royalty to such permission, in order to meet your legal obligations you simply need to make sure that (in the case of PRS-controlled music) the proposed venue is issued with a PRS Licence and that it will be in issue for the period of your show.

The normal practice of the PRS is to issue a blanket annual licence to a music user in return for the payment of royalty charges. However, you may obtain a permit for a one-off performance or short series of performances which may be cheaper than the blanket licence. This authorises the licensee to perform in public any of the millions of Copyright musical works under PRS control. The royalties collected are distributed to those members of PRS and its affiliated societies world-wide.

However, with particular regard to theatrical presentations, there are some types of musical works and performances not controlled by PRS. The following is a guide for those who may have found the matter rather confusing and is an outline checklist only.

1 . *What PRS Does Not License*

(a) *Grand Right Works*

PRS does not administer what are known as Grand Right Works. This term means ballets and dramatic or musical works - operas, operettas, musical-plays, revues and pantomimes insofar as they consist of words and music written expressly therefor. The public performing rights in entire staged works are administered by individual rights owners (e.g. music publisher or other Company). Application should be made direct to rights owners for permission to perform excerpts from operas etc. over 25 minutes in duration, music which covers a complete act or which forms a "potted" version of the show.

(b) *Dramatic Excerpt*

A dramatic excerpt from a dramatic or-musical work is one which uses original-type costumes, context or set. This requires prior permission from the copyright holder, not PRS.

(c) *Music specially Written for a Dramatic Work in a Theatre*

Application should be made direct to the rights owner (e.g. the composer) for permission to perform music specially written to accompany a non-musical play.

(d) *Adaptations*

Before the words of a song are altered or parodied the permission of the copyright holder must be obtained to authorise such adaptations.

2. *When Do You Need a PRS Licence*

(a) *Pre-existing Music Accompanying Plays*

Overture, extr'acte, exit, curtain and incidental music are readily licensed by PRS. However, music interpolated into the stage action of a play or making up a compilation show must be notified to PRS in advance so that the rights/licensing position can be examined in each instance.

(b) *Musical Compilation Shows*

These are shows made up of pre-existing music on the life or career of a particular composer or performer, or concerning a period or style of music. In some instances, by special arrangement with PRS, a music publisher can license music interpolated in a play or music making up a compilation show.

Where musical works are taken from one musical play and form only part of a nondramatic variety performance they can be covered by PRS if they do not exceed 25 minutes in duration, do not

cover a complete act, or form a "potted" version of the show. Otherwise, prior permission must be obtained direct from the copyright owner.

(c) *Pantomimes*

Traditional Christmas pantomimes typically include copyright musical works. Prior authorisation of the music publishers must be obtained if you seek to alter lyrics (in whatever type of presentation).

(d) *Variety Shows*

These have a mixture of musical and nonmusical items.

(e) *Musical Hall Entertainments*

Many songs written at the turn of the century are still in copyright, which normally lasts for fifty years after the death of the creator.

(f) *Concerts*

Both classical music concerts and recitals, and concerts of popular music of all descriptions (pop, rock, jazz, folk etc.).

(g) *Films Which Include Music*

Including those of ballets, operas, musical plays and the like.

(h) *Miscellaneous Presentations With Music*

Such as fashion shows, exhibitions, trade fairs etc.

(i) *Mechanically Performed Music*

By record/compact disc/tape players, juke boxes, television, radio, etc. whether featured (e.g. at discos) or as background music in theatre bars, restaurants and foyers. When considering the proposed venue of the show, establish whether a PRS blanket licence is in issue in the premises.

These notes are not exhaustive so should you have any queries please contact the Theatres Section at PRS. Tel. 071-580 5544.

Programme Returns

In certain circumstances a programme return needs to be made to PRS. The requirements for this procedure were amended, as of 1.1.1988. Only the following programme returns are needed:

1. *Classical and Light Classical Music*

All performances of classical and light classical music regardless of the PRS charge.

2. *Events Where the PRS Charge is £500 or More*

Whether for one performance or a series of performances of the same programme of works, the royalty assessed by PRS would be £500 or more (excluding VAT) according to the thresholds shown below.

(a) *Variety, Pantomime and Music Hall Entertainments*

Where the total box office receipts (excluding VAT) are £25,000 or more the tariff v royalty at

2% (standard rate) thereof would be F-500 or more.

(b) *Popular Music Concerts*

Where the total box office receipts (excluding VAT) are P-16,666 or more the tariff LP royalty at 3% thereof would be E500 or more.

3. *Bands*

The British Federation of Brass Bands and the British Association of Symphonic Bands and

Wind Ensemble participates in a scheme whereby BFBB and BASBWE provide sampled repertoire information to PRS. Otherwise programme returns are required as described in sections 1 and 2.

NB If a song has been produced locally and it is unpublished and you are certain that the writer is not a PRS member, it need not be included on a programme return should you be in the position of making a return.

When Making Returns - Programme details, only as follows, will be accepted for royalty distribution purposes.

(a) Printed programmes. When there is a printed programme detailing the works performed, send this along with completed PRS Declaration slip.

(b) PRS programme/declaration form. Self-explanatory forms are available from PRS for the following:

Concerts and recitals

Popular concerts

Variety/Pantomime entertainments

Plays (and compilation shows)

Cinema films

Service bands

Further Inquiries

If you have any further inquiries regarding programme returns or require slips or forms, contact the PRS Concert-Services section: Tel: 071-927 8387 071-927 8364.

Ralph Reader Material

Non-musical sketches written by the late Ralph Reader, CBE, for Gang Shows, may be performed without the need of obtaining any prior permission.

In a situation where you are required to make a programme return and if any *musical works* of the late Ralph Reader, have been used, then they must be included in the programme return to PRS.

Phonographic Rights

This is the right to publicly perform or broadcast a *sound recording*.

Phonographic Performance Ltd. (PPL) represent most UK record companies, and licenses the public performance of its members' sound recordings. All places where commercial recordings are publicly performed, whether from

tape, record or film should, in addition to PRS licence for the music, hold a PPL licence.

However, Phonographic Performance Ltd., have advised the Scout Association that if fundraising events are held to benefit various charities or The Scout Association, and constitute the public performance of sound recordings where all services connected with the event are given voluntarily and all monies received go to the charities or The Scout Movement, then any fees payable to PPL will be waived. This is a general exemption and therefore individual applications for a waiver of such fee are not necessary.

Mechanical Rights

This is the right of the Copyright Owner in either a sound recording OR a musical work to make, OR AUTHORISE OTHERS TO MAKE, recordings. Every Copyright Owner, e.g. composer, arranger, music publisher, record producer etc. has the right to permit or prohibit the recording of their works. This includes any form of recording - audio tape, video or cine film etc.

It is illegal therefore to make visual or sound recordings of copyright musical work and non-musical sketches without permission.

Before making any recording, application should be made to:

Mechanical-Copyright Protection Society Ltd.
(MCPS)

Elgar House
41 Streatham High Road
London SW16 1BR Tel: 020 8378 7500

Copying of Music and Scripts

It is illegal to reproduce manuscripts, scores, songsheets, lyrics etc. in visual form (e.g. photocopying) without the permission of the Copyright Owner.

There are exceptions, and these together with problems of "Non-supply" or "Out of Print" after ordering from a recognised dealer are dealt with in a small booklet entitled "COPYING MUSIC, A CODE OF FAIR PRACTICE Between Composers, Publishers and Users" issued by the Music Publishers Association (MPA), 18/20 York Building, London WC2N 6JU and

Telephone: 0207-839 7779.

Moral Rights

(a) Acknowledgements

Every copyright owner has the moral right to be identified, in accordance with U.K. copyright law. The author of a literary or dramatic work, the composer of a musical score, the director of a film, all have the right to be identified when their work is: published commercially; performed in public; broadcast or otherwise made available.

Therefore, in the situation whereby permission is needed and has been obtained to use an item of material in any of the ways mentioned above. then the copyright owner has the moral right to be acknowledged in the printed programme.

(b) Alterations to Existing Material

It is illegal to alter any copyright material without the prior permission of the copyright owner.

Under the Moral right the author of a literary, dramatic, musical or artistic work or the director of a copyright film is able to claim the right not to

have their work subjected to unjustified modification. If a work has been falsely attributed to a person they have the right to object.

Material published by the Scout Association is an exception, where it would be considered permissible to make slight alterations to place names and personalities to bring a local flavour or an alteration to update the material, e.g. "Bob-a-Job" to read "Scout Job Week" or "Epping Forest" to read "Sherwood Forest".

Publication of Words of Songs in Programmes

It is illegal to reproduce in programmes the words of songs unless prior permission has been obtained from the copyright owner. We advise that words of songs by the late Ralph Reader should not be reproduced in Programmes.

NB Material Published by The Scout Association

Whenever permission to do something is required to be given by the copyright owner, if that is The Scout Association, the permission can be assumed to have been given.

USEFUL ADDRESSES

MPA - Music Publishers Association 18/20 York Building

LONDON

WC2N 6JU Tel No: 0207-839 7779

MCPS - Mechanical Copyright Protection Society Limited

Elgar House

41 Streatham High Road

LONDON

SW1 6 1 ER. Tel No: 0208-769 4400

PRS - Performing Right Society Limited 29/33 Berners Street

LONDON

WI P 4AA Tel No: 0207-580 5544

PPL - Photographic Performance Limited

Ganton House

14/22 Ganton Street

LONDON

WIVILB TelNo:0207-4370311

Staging a Show

Consideration as to programme content is of the utmost importance at the conceptual stage of the Show production. The foregoing notes should make clear to those involved in the production of a Scout show, the requisite steps to take and those pitfalls to avoid.

The following "Rules of Thumb" may be of help when considering the production of a Scout Show:

- 1 Are the Producers, Parents and Performers aware of the conditions to be those Performers under compulsory school leaving age?
- 2 Is there a public Entertainment Licence in force covering the proposed venue for the period of the show?
- 3 Is the music in the Show controlled by the PRS or will it be necessary to seek the individual Copyright Owner's permission to perform e.g., a dramatic or-musical excerpt?

- 4 Is there a PRS Blanket Licence in issue to the proposed venue? If *not*- contact PRS for an Occasional Permit.

NB PRS has Regional (licensing) officers rather like our Field Commissioners. Therefore, when contacting PRS Head Office in London simply ask for the Licensing Officer covering your county.

GLOSSARY

Copyright - conferring upon the copyright owner in that work the right to do or authorise others to do the following acts.

- a) To copy Work
- b) To issue copies of the Work to the Public
- c) To perform, show or play the Work in Public
- d) To broadcast the work or include it in a cable programme service
- e) To make an adaptation of the Work or any of the above in relation to an adaptation.

Performing Rights

- I. the right to perform the work in public
- II. the right to broadcast the work or
- III. the right to include the work in a cable programme service.

In Public - anywhere outside your domestic circle.

Royalty - a percentage of the revenue of e.g. the public performance of a work, paid to the copyright owner.