



MUSIC LICENCES

Under the terms of The Copyright, Designs and Patents Act 1988 it is unlawful to perform, whether live or by recording, or allow to be performed, any copyright music in public without the permission of both the copyright owner and recording company. The term in public, has been held to mean anywhere outside the domestic circle so that even background music played in a sailing club¹ bar is public, whether or not entry is limited to club members.

Any live performance of music by an orchestra or band and the playing of sound recordings (eg. tapes, CDs) in the club will be a public performance for the purposes of copyright infringement and the person liable to pay any fee by way of copyright licence will be the proprietor of the club or organiser of the event – in the case of a club usually the Secretary of the Yacht Club on behalf of the Committee.

PERFORMING RIGHT SOCIETY²:

The Act provides the PRS with authority to collect royalty payments on behalf of composers, songwriters, authors and publishers for the copyright in live performances and sound recordings.

The PRS is an association of composers, songwriters, authors and publishers of musical works established to administer the collection of royalty payments on behalf of its 60,000 members, controlling the public performance rights in most of the copyright music played in the United Kingdom. A PRS licence is necessary for practically every public performance of copyright music.

PERFORMING RIGHT SOCIETY LICENCE:

The PRS will normally grant a licence to any prospective music user, provided only that the person concerned is prepared to enter into a standard form of licence contract and pay a standard royalty.

Licences issued by the PRS are in the form of annual contracts which run from year to year until cancelled by either party. These are blanket licences which authorise the public performance of any of the millions of works which PRS controls on behalf of its members and affiliated societies throughout the world. Royalties payable

¹ The reference to clubs also includes a reference to RYA Recognised Training Centres.

² Recently rebranded to call itself PRS for Music.

vary from time to time as the nature or extent of music usage changes in the premises concerned.

Licences cover both live performances and performances by mechanical means, such as radios, tape, record players and CD's. They are issued for numerous categories of premises. Sporting and social clubs falling within tariff JMC. This tariff is divided into a number of components, distinguishing between featured live music, featured recorded music (i.e. music played at a specific function) and background music. The PRS tariff can be downloaded from the RYA website.

PRS inspectors have been known to suggest substantial fees without investigating the use to which equipment is put, so it is well worth taking a critical look at your PRS licence fee to ensure that you are being charged the correct tariff. Since tariff JMC includes social clubs open all day every day, sports clubs with shorter opening hours (or fewer days) should attempt to negotiate a lower fee, particularly for background music.

Where a club occasionally opens its doors other than to members and guests (i.e. it holds some sort of public function) it is required to pay an additional fee to the PRS based on the number of such events and the capacity of the function room.

Further sections of the licence covers TV's, videos, juke boxes which are levied at a set scale of rates.

We have been advised by PRS that when a club first contacts PRS to obtain a licence, unless the club is newly formed, PRS usually impose the higher royalty rate charge for the first year of the licence. The second and subsequent year's fees will be based on the standard royalty rate charge, which is approximately 50% of the higher royalty rate. We have managed to negotiate a concession from PRS, who have confirmed that they will offer the standard royalty rate to any RYA affiliated club that contacts PRS to arrange for a licence. This concession will not be available to clubs that PRS contact nor will it provide any protection from back-dating a licence. For further information on the concession kindly contact the Legal Department.

The PRS does not have a right to demand that clubs inform them of their audio visual set up, nor do they have the right to demand physical entry onto club premises. However, it is established practice for clubs to allow PRS inspectors entry to examine the club's audio visual set up in order to assess an accurate tariff.

If a club were to refuse entry to PRS inspectors the PRS are able to commence civil proceedings if they believe that copyright infringement is taking place on the club's premises.

For further information on PRS licences, contact PRS for Music at 29/33 Bernes Street, London W1T 3AB Tel: 0207 580 5544.

For a Music Licence Tel: 0800 068 4828.

Website: www.prsformusic.com

Code of Practice:

PRS for Music has developed a Code of Practice which sets out the level of service you can expect from and it explains what to do if things go wrong. It can be downloaded from

<http://www.prsformusic.com/users/businessesandliveevents/codeofpractice/Documents/CodeofPractice.pdf>

PHONOGRAPHIC PERFORMANCE LTD:

PPL represents the interests of the recording industry. It administers sound recordings played in public and operates centrally on a similar basis to the PRS. Membership includes most of the recording companies.

When a recording of music is played in public, such as records, tapes, CDs etc, in addition to the copyright existing in the original music work (PRS), copyright also exists in the sound recording so that both the original composer and the maker of the sound recordings (eg. record company) are entitled to copyright protection (PPL).

A PPL Licence can be applied for online and includes a special flat rate tariff for registered members clubs (registered under the Licensing Act 2003). Non-registered members clubs will pay a fee based on the size of the venue.

EXCEPTIONS TO PPL LICENCES:

Section 67 of the Act provides that, where the playing of sound recordings in public as part of the activities of, or for the benefit of, a club, society or other organisation which is not established or conducted for profit and whose main objects are charitable³ or are otherwise concerned with the advancement of religion, education or social welfare, a PPL licence is not required. If a charge is made for

³ The Charities Act 2006 recognises the advancement of amateur sport as a charitable purpose.

admission to the place where the recording is heard, the proceeds of such charge must be applied solely for the purposes of the organisation.

Under Section 72 of the Act there is another exemption for the showing or playing in public of a broadcast and any film or sound recording included in it to an audience. Again the club must not be established or conducted for profit. This concession will not apply if a charge is made for admission to the place where the recording is heard.

The difficulty is whether or not sailing clubs fall within the exemptions. The Charities Act 2006 introduced the advancement of amateur sport itself as a charitable purpose (less restrictive than 'community participation in healthy recreation'), provided the club in question meets the 'public benefit' test. A club will have to demonstrate how it meets the 'public benefit' test thus 'public benefit' is no longer presumed. Alternatively, clubs may argue that they are concerned with the advancement of social welfare if membership is open to a sufficient proportion of the community. PPL will assess a club's eligibility for these exemptions on an individual club basis.

As a result of the Government's Music Licensing Review the exemption for sports clubs and charities has been withdrawn. From January 2012 clubs that use music will have to obtain both a PRS and a PPL licence.

For further information, contact the PPL at 1 Upper James Street, London W1F 9DE. Tel: 0207 534 1313 Email: team@ukperformerservices.com. Website: www.ppluk.com.

DVD/VIDEO PERFORMANCES:

Showing videos and/or DVDs outside of one's home creates a 'public performance' as defined by the Copyright, Designs and Patents Act 1988 and is illegal unless correctly licensed. The film industry has devised a motion picture licence to legalise the unlawful public performance of films.

Clubs showing educational material to students will need to seek permission from the copyright holder in order to do so. Permission for use of RYA educational material can be sought from the Business Development Department at the RYA.

For further information, contact the Motion Picture Licensing Company (International) Limited at Berkeley House, 1 Gildredge Road, Eastbourne, East Sussex, BN21 4SA. Tel: 01323 649647 Email: McDonald@mplc.com. Website: www.mplc.com.

WHAT DOES THIS MEAN FOR CLUBS

Clubs are likely to need both a PRS Licence and a PPL Licence if live performances and/or sound recordings are played. Whenever you play a sound recording in public there are two separate licence fees that have to be paid. There is a copyright in the musical and lyrical composition and a separate copyright in the actual sound recording. One payment goes to PPL, which is distributed to record companies and performers. The other payment goes to PRS who distribute it to composers and publishers.

Clubs will also need to consider their position regarding the showing of DVD and video material.

COPYRIGHT TRIBUNAL

The Copyright Tribunal is a specialised court where music users (i.e. clubs) can seek adjudication on tariff schemes. The Rules of the Tribunal, can be downloaded free of charge from www.opsi.gov.uk detail the process and costs involved in making a reference to the Tribunal. For more information on the Copyright Tribunal please visit the Intellectual Property Office website www.ipo.gov.uk/ctribunal/ctribunal-about.

For more information kindly contact the RYA Legal Team on 0844 5569519 or legal@rya.org.uk

Disclaimer:

The RYA Legal Team provides generic legal advice for its members, affiliated clubs and RTCs. This leaflet represents the RYA's interpretation of the law. It takes all reasonable care to ensure that the information contained in this leaflet is accurate. The RYA cannot accept responsibility for any errors or omissions contained in this leaflet, or for any loss caused or sustained by any person relying on it. Before taking any specific action based on the advice in this leaflet, members are advised to check the up to date position and take appropriate professional advice.

mep[Leaflets/Clubs/Red Tape/Music Licences]