



PRS & PPL UNDERSTANDING THE TARIFFS

This leaflet should be read in conjunction with our leaflet explaining the function of the Performing Rights Society (PRS) and Phonographic Performance Ltd (PPL) and the requirement to obtain appropriate Licences.

PERFORMING RIGHTS SOCIETY:

The PRS collects royalty payments on behalf of composers, songwriters, authors and publishers for the copyright in musical works. A PRS licence is necessary for practically every public performance of copyright music whether by live performances or the use of sound recordings.

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

PRS TARIFF JMC:

Licences cover both live performances and performances by mechanical means, such as radios, tape, record players and CD's.

Licences are issued for numerous categories of premises. Sporting and social clubs established and conducted in good faith as non profit-making member' clubs, capable of satisfying the conditions for determining a qualifying club under Part 4 of the Licensing Act 2003 fall 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.

- **Featured live music**

The tariff for featured live music (which means music performed by performers in person) is set at a percentage of the club's annual expenditure on live performances, subject to a room capacity of 100 people, and increasing with each 25 person capacity.

- **Featured recorded music**

This tariff may be suitable for clubs that hold a number of events throughout the year such as a disco or karaoke. Here the licence fee is based on the number of functions throughout the year, subject to a room capacity of 100 persons, thereafter a higher fee is payable for each 25 persons (or part thereof). Therefore if a club holds 15 functions a year, with a room capacity of 100 persons, it will pay a licence fee based on the number of actual functions. If the room capacity is 150, the fee will increase per 25 persons.

This is subject to a minimum royalty rate for featured music. For example, if the number of events a club holds per year amounts to less in licence fees than the minimum royalty rate the club will be subject to the minimum rate payment as opposed to paying for the number of events. However, where there are no more than three functions in a licence year the minimum royalty rate will not apply.

Public / Private Use

If you have a function room for hire then it is important you only declare events to the PRS which are public for copyright purposes.

Weddings, Engagement Parties, 21st Birthdays, Barmitzvah's, Christenings and similar family events, whether involving a member of the club or the public, are considered to be private events and do not require a licence from PRS.

Social or Members' events such as Staff/Office Parties are public for copyright purposes and do require a licence.

- **Background or mechanical music**

This tariff may be suitable in clubs which have music equipment for example, a record and/or compact disc and/or tape player and/or music centre. Under this tariff an annual licence fee is payable for the equipment; the number of times the music is used has no bearing on this type of licence nor does the room capacity.

The fee under this head will increase where a club has more than one piece of equipment so, for example, if a club has a record player and a radio and a television there will be 3 separate fees payable under the same licence.

The PRS tariff can be downloaded from the RYA website or obtained direct from PRS.

WHICH TARIFF SHOULD CLUBS OPT FOR?

Clubs who perhaps hold a number of events during the year, which may include a mixture of discos, karaoke's and live performances, should declare the numbers of each type of event. The same fee is payable for both featured live music and featured recorded music. Clubs needs to consider the tariff carefully to decide which tariff will most closely apply to its activities.

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, seasonal clubs or clubs operating on a fixed number of days in a year should attempt to negotiate a lower fee for background music.

The tariff extends to 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 guidance on the concession kindly contact the Legal Department.

PHONOGRAPHIC PERFORMANCE LTD

This company represents the interests of the record companies and the artists who perform on the recordings. PPL licenses the use of sound recordings played in public and operates centrally on a similar basis to the PRS.

When a recording of music is played in public, such as records, tapes, CDs etc, copyright exists in the sound recording so that both the maker of the sound recordings (e.g. record company) and the artists are entitled to copyright protection.

A PPL Licence can be applied for online (but not paid for online) and includes a special flat rate background music tariff for registered members clubs (registered under the Licensing Act 2003).

Seasonal clubs or clubs operating on a fixed number of days in a year should attempt to negotiate a lower fee for background music.

PPL operate a "Specially Featured Entertainment" tariff (Tariff 001) for discos based on hours of record use and average attendances. You should declare the number of events held each year.

Public / Private Use

If you have a function room for hire then it is important that in a similar fashion to PRS, you only declare events to PPL which are public for copyright purposes.

Weddings, Engagement Parties, 21st Birthdays, Barmitzvah's, Christenings and similar family events, whether involving a member of the club or the public, are considered to be private events and do not require a licence from PPL.

Social or Members' events such as Staff/Office Parties etc are public for copyright purposes and do require a licence.

Charitable Clubs

If a sound recording is played 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

charitable or are otherwise concerned with the advancement of religion, education or social welfare then a PPL licence is not required. This concession will not apply if a charge is made for admission to the place where the recording is heard.

The difficulty here is whether or not sailing clubs fall within the exemption. 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, it may be argued that clubs 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.

VAT

VAT is payable on both types of licence, calculated at the relevant rate on the royalty payable.

ACKNOWLEDGEMENT

This leaflet has been compiled with the assistance of David Newham Associates (DNA). DNA was established in 2004 by David Newham, immediate past Head of General Licensing at Phonographic Performance (PPL), with 30 years experience of music copyright licensing, in order to provide support & advice to music users and trade associations. DNA is happy to provide further advice to clubs where required.

CONTACTS:

PRS at 29/33 Berners Street, London W1T 3AB Tel: 0207 580 5544.
For a Music Licence Tel: 0800 068 4828. Website: www.mcps-prs-alliance.co.uk

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

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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.

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