



THE LICENSING ACT 2003

FEE LEVELS UNDER THE ACT

On 7th February 2005 the Licensing Act 2003 came into force. Under the legislation the Department for Culture, Media and Sport has imposed prohibitive increases to the current fee levels for licensing. The Government ignored the concerns we raised on the consultation, despite the fact that the sailing fraternity provided more response to the consultation than any other interested group. Instead of reducing the burden on clubs it raised levels by 50% on that originally proposed under the consultation.

WHAT DOES IT SAY:

The legislation categorises clubs, not-for-profit community based clubs, voluntary organisations and sport in the same way as commercial premises in terms of fee levels. It allocates organisations and businesses to particular fee bands using the non-domestic rateable value of premises.

The latest fee levels represent an increase in costs for clubs who will have to pay in the region of £190 in the first year of the new regime and £180 per year thereafter. Such fees may result in clubs not being able to afford to run a bar as they do not have the benefit of being able to offset fees against their profits in the way that commercial organisations can.

The approach taken by the Government ignores the fact that a club's premises is largely comprised of sailing facilities for club members such as boat storage, jetties and sea frontage upon which the non-domestic rateable value will be based and which has no relevance to the club's sale of alcohol.

WHY HAVE THEY SET SUCH HIGH FEE LEVELS:

Through the increased fee levels the Government intends to recover the costs of administration, inspection and enforcement that will fall on the licensing authorities as a result of the Act. In terms of social risk and issues relating to binge drinking, sailing clubs are being lumped into the same category as late discos and pubs! At the RYA we believe there is absolutely no justification for this.

The Government has justified the 50% increase in fee levels on the basis that the initial fees were pitched at too low a level to enable

the full costs recovery for administration and enforcement of the new regime.

In February 2005 we sent out a mailshot to all clubs seeking assistance on the fee levels and other issues that have arisen as a result of the Licensing Act 2003. Our initial letter to clubs went out on 26th November 2004. You can download both mailshots from our website.

If you wish to raise any issue under the new legislation with your MP contact details for your local MP can be found at <http://www.parliament.uk/directories/hciolists/alcm.cfm>.

HIGH LEVEL REVIEW GROUP:

As a result of the high volume of pressure put on the Government by National Governing Bodies, in which the RYA played a major role, the Government has set up an Independent Licensing Fees Review Panel ('the Panel'), upon which CCPR (Central Council for Physical Recreation) is represented, to review the Licensing Act scheme and its application to voluntary sports clubs.

Its terms of reference are:

- Considering whether the fees cover the full cost to licensing authorities;
- Identifying the scale, extent and nature of any problem(s) encountered by licensees/licence payers and licensing authorities;
- Making recommendations about how the existing fee structure and levels could be developed;
- Ensuring best practice is being fully realised across all authorities; and
- Identifying how the regime could be developed to address any other issues, which will include the impact of the structure of the fee scales on community amateur sports clubs, village and community halls.

In August 2005, we completed a survey on behalf of CCPR which it presented to the Panel on the issue of the impact of fees levels for voluntary run sports clubs.

Whilst the deadline for completion of the survey has now expired, if you have not yet replied on behalf of your club, we would still welcome your feedback. You can download the survey from our website and either email or post it to the Legal Department.

The Government has now published the interim report of the Independent Fees Review Panel. It can be downloaded from the Department for Culture Media and Sport website at www.culture.gov.uk.

The interim report concludes that it is not yet possible to reach decisions on the main issues until the final report (which is due in autumn 2006). Although, it has agreed on four immediate recommendations, namely:

- there should be a central source of information (completed within the next twelve months) addressed to fee payers which explains why the system has changed, what the new system does for licence payers and their duties and responsibilities as well as what licensing authority responsibilities are to licence payers;
- setting an annual date for the payment of the annual fee with incentives for paying it; and
- giving consideration to simplifying the application process, particularly in relation to advertising applications and clarification of the requirement for `professionally` drawn premises plans. This involves introducing an alternative method of advertising that is cost effective.
- there should be no impediment to licensing authorities making their monitoring, enforcement and administration more efficient and cost effective.

The Panel is due to provide its final report in Autumn 2006, however, where it is possible for it to make recommendations in advance of that time it will do so.

The issue of the impact of the fee scales on sports clubs, village halls etc is to be looked at in detail in the final report when the Panel has more data to hand.

We have offered further support to CCPR, and have been asked to encourage our clubs to complete a further survey in order to provide more extensive data to put to the Panel. CCPR acknowledge that yacht clubs have already provided a great deal of data for the Panel.

CCPR are trying to encourage other National Governing Bodies to get involved and provide data to present to the Panel.

It is highly likely that the 4th recommendation (above) will result in direct conflict with the Panel's 5th term of reference, namely the

fees impact on voluntary organisations. We therefore await the Panel's final report with interest.

The Panel has suggested a date for the payment of annual fees under the Act as 1st October. It acknowledges that there can be no one exact date for payment that will satisfy every stakeholder interest.

We understand that this date may cause problems for our clubs as generally club AGMs are held in November and if there are to be any rule changes that must be notified to the Licensing Authority, this may mean a further fee; if clubs were able to notify Licensing Authorities at the time of the payment of its annual fee this may avoid the need to incur a further fee. We have therefore raised this issue with the CCPR who intend to research it further.

ANNAUL FEE UPDATE JULY 06:

It may surprise you to learn that, whilst you may not yet be in receipt of your licence (due to Licensing Authority backlog), the time of year has arrived when you can expect to receive a bill for the annual fee.

The Guidance Notes to the Act say fees should be paid on the anniversary of the licence's approval date. However, Licensing Authorities are divided and unfortunately licensees face a postcode lottery over when they have to pay annual fees.

Some Licensing Authorities are setting the billing date at the time the licence was accepted, some on the anniversary of the Seconded Appointed Day (24th November 2005) and some Licensing Authorities, whilst sending bills out now, will not be seeking to enforce payment before 24th November.

The Department for Culture Media and Sport together with the High Level Review Group Independent Licensing Fees Review Panel are working towards a single payment date, which the Panel has suggested (in its interim report), could be 1st October. However the Panel is not due to publish its full report until November of this year.

In the meantime, if you do receive a bill you should liaise with your Licensing Authority as to the expected date of payment, which we would, in the circumstances, hope to be 24th November.

UPDATE FEB 06:

We understand that some Councils, unsurprisingly, have approached the DCMS to request further funding to cover their costs. If granted, this of course would mean higher licence fees for us!

Some Councils are requesting that Ward Councillors be allowed to make representations without being asked by a resident, in order, they say, to act as local leaders and speak and act for their communities. Also to use their knowledge on health and safety issues gathered whilst dealing with Public Entertainment Licences under the previous law.

PERMITTED TEMPORARY EVENT ACTIVITIES:

The Government has consulted on Permitted Temporary Event Activities (TENs) and draft Temporary Event Notices Regulations. The Consultation ended on 5th October 2005. You can download a copy of the Consultation Document from the Department for Culture Media and Sport Website at http://www.culture.gov.uk/global/consultations/2005+current+consultations/cons_pta_ten.htm

We urged clubs to respond to the Consultation as this really was your chance to help to change the number of Temporary Event Notices you, as a club, will be permitted to hold per year. The Act currently stipulates that club premises covered by a Club Premises Certificate may hold 12 Temporary Event Notices per calendar year. If you felt that 12 TENs would be too restrictive and that your club would benefit from being permitted a greater number of TENs then this was your chance to have your say...

We are waiting for the Government to announce its response to the Consultation.

GENERAL:

The Government has stated that it is keen to hear how the new licensing regime is progressing. It encourages all concerned to provide feedback by completing a feedback form which you can access by logging onto <http://www.culture.gov.uk/NR/rdonlyres/1450745B-1B55-43FB-9D44-EC9AD99BC293/0/feedback.doc> and emailing it to licensing.feedback@culture.gsi.gov.uk.

TOP TIP:

Do take some time to study your new paper Licence - if there are any errors with it you will need to go back to your Licensing Authority immediately to have these rectified. Some Licensing Authorities may have acted outside its powers by imposing conditions Licences and these anomalies must be raised and corrected. Due to recent pressure on the Licensing Authorities over the last few months there may be inaccuracies on your Licence. Again this should be raised with your Licensing Team immediately.

If you have any queries please contact the RYA Legal Department on 0845 3450373 legal@rya.org.uk

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