



# Police Reform and Social Responsibility Act 2011

## 2011 CHAPTER 13

### PART 2

#### LICENSING

### CHAPTER 2

#### LATE NIGHT LEVY

*Application of late night levy requirement in licensing authority's area*

#### **125 Late night levy requirement**

- (1) In this Chapter, “the late night levy requirement” means a requirement to pay the late night levy in accordance with this Chapter.
- (2) A licensing authority may decide that the late night levy requirement is to apply in its area.
- (3) In making a decision under subsection (2) a licensing authority must consider—
  - (a) the costs of policing and other arrangements for the reduction or prevention of crime and disorder, in connection with the supply of alcohol between midnight and 6 am, and
  - (b) having regard to those costs, the desirability of raising revenue to be applied in accordance with section 131.
- (4) A licensing authority may not decide that the late night levy requirement is to apply in part only of its area.
- (5) This section is subject to section 132.

*Liability to pay late night levy***126 “Relevant late night authorisation” and related definitions**

- (1) This section applies for the purposes of this Chapter.
- (2) “Relevant late night authorisation”, in relation to a licensing authority and a levy year, means a premises licence or club premises certificate which—
  - (a) is granted by the authority, and
  - (b) authorises the supply of alcohol at a time or times during the late night supply period on one or more days in the related payment year.
- (3) The “late night supply period” in relation to a licensing authority means the period of the day decided by the authority under section 132 or 133.
- (4) A late night supply period must—
  - (a) begin at or after midnight, and
  - (b) end at or before 6 am.
- (5) The late night supply period determined by a licensing authority for a levy year must be the same—
  - (a) for each payment year beginning during the levy year, and
  - (b) throughout each such payment year.
- (6) Regulations must make provision as to how payment years are to be determined in relation to holders of premises licences or club premises certificates.
- (7) Regulations under subsection (6) may, in particular—
  - (a) provide for a holder’s payment year to be determined by reference to the period in respect of which the holder is liable to pay an annual fee under section 55(2) or 92(2) of the Licensing Act 2003, or
  - (b) confer functions or a discretion on licensing authorities in relation to premises licences and club premises certificates granted by them.
- (8) Regulations under subsection (6) which provide for licensing authorities to determine payment years must require an authority to decide how the payment years are to be determined at the time the authority decides under section 125(2) that the late night levy requirement is to apply in its area.
- (9) For the purposes of this section, a payment year is related to a levy year if it begins at the same time as, or during, the levy year.

**127 Liability to pay late night levy**

- (1) Where the late night levy requirement applies in the area of a licensing authority, the holder of a relevant late night authorisation must pay a levy (“the late night levy”) to the authority in respect of that authorisation for each levy year, in accordance with this Chapter.
- (2) But a holder of a relevant late night authorisation who falls within an applicable exemption category is not liable to pay the late night levy in respect of that authorisation for the levy year.

- (3) For this purpose, “applicable exemption category”, in relation to a levy year, means a permitted exemption category that the licensing authority has decided under section 132 or 133 is to apply in its area for the levy year.

## **128 Amount of late night levy**

- (1) For any levy year, the amount of the levy is—
- (a) the amount prescribed by regulations, or
  - (b) the amount calculated in accordance with regulations.
- (2) But in the case of the holder of a relevant late night authorisation who falls within an applicable reduction category, the amount of the late night levy payable in respect of the authorisation is the reduced amount that applies in relation to that category (see section 135(4)).
- (3) For this purpose “applicable reduction category”, in relation to a levy year, means a permitted reduction category that the licensing authority has decided under section 132 or 133 is to apply in its area for the levy year.
- (4) Subject to subsection (2), regulations under subsection (1) must provide for the amount of the late night levy, or the manner in which it is to be calculated, to be the same for all persons liable to pay the levy in respect of an authorisation for the levy year.

### *Administration of late night levy*

## **129 Payment and administration of the levy**

- (1) Regulations—
- (a) must make provision as to collection and administration, and
  - (b) may make provision as to enforcement,
- of the late night levy.
- (2) Regulations under subsection (1) must make provision as to the time or times for payment of the levy to a licensing authority by holders of relevant late night authorisations.
- (3) Provision made by virtue of subsection (2) may in particular provide for any such time or times to be determined by reference to the holders’ payment years.
- (4) Regulations under subsection (1) may make provision for adjustments to be made in cases where—
- (a) a relevant late night authorisation ceases to be such an authorisation during the holder’s payment year;
  - (b) a premises licence or club premises certificate becomes a relevant late night authorisation during the holder’s payment year;
  - (c) an order under section 172A of that Act (early morning restriction orders) precludes the supply of alcohol by virtue of the relevant late night authorisation at all the times during the applicable late night supply period when it would otherwise have been permitted by virtue of the authorisation;
- including in cases where the change occurs after the end of the levy year.

- (5) Any payment of the late night levy which is owed to a licensing authority under this Chapter may be recovered as a debt due to the authority.
- (6) The following provisions of the Licensing Act 2003 apply for the purposes of this Chapter—
- (a) section 55A (suspension of premises licence for failure to pay annual fee);
  - (b) section 92A (suspension of club premises certificate for failure to pay annual fee),
- but as if a reference to an annual fee, or to the annual fee owed under section 55(2) or 92(2), were a reference to the late night levy, or to the amount of the late night levy owed under this Chapter.
- (7) Provision that may be made by regulations under this section includes provision conferring functions or a discretion on licensing authorities.

### **130 Net amount of levy payments**

- (1) In this Chapter “the net amount of levy payments” of a licensing authority in respect of any period means the amount, calculated in accordance with regulations, which represents—
- (a) the aggregate amount of payments to the authority in respect of the levy that are attributable to that period, less
  - (b) the aggregate amount of expenses of the authority attributable to that period that are permitted deductions under regulations under subsection (2)(a).
- (2) Regulations under subsection (1)—
- (a) must prescribe descriptions of relevant expenses which may be deducted for the purposes of calculating the net amount of levy payments for any period,
  - (b) may make provision for determining the amounts to be taken into account in calculating the net amount of levy payments,
  - (c) may make provision for determining the period to which a payment or deduction is attributable.
- (3) In subsection (2)(a), “relevant expenses” means expenses incurred by a licensing authority in the administration of the late night levy requirement including, in particular, such expenses incurred in, in connection with or in consequence of—
- (a) any decision mentioned in section 134(1);
  - (b) collection of payments of the late night levy;
  - (c) enforcement of the late night levy requirement.
- (4) Expenses incurred by a licensing authority which fall within subsection (3)(a) include, in particular, expenses which it incurs in connection with any application made by virtue of section 134(2)(c).
- (5) A licensing authority must publish the following, in respect of each levy year—
- (a) before the beginning of the year, a statement of its estimate of the amount of deductions permitted under regulations under subsection (2)(a) to be made in respect of the year;
  - (b) after the end of the year, a statement of the net amount of levy payments for the year, showing in particular the amounts mentioned in paragraphs (a) and (b) of subsection (1) attributable to the year.

- (6) It is for the licensing authority to determine the manner in which any statement under subsection (5) is to be published.

*Application of levy payments*

**131 Application of net amount of levy payments**

- (1) The net amount of levy payments for any levy year must be applied as follows.
- (2) The licensing authority—
- (a) must pay the specified proportion of that amount to the relevant local policing body, and
  - (b) must apply the remainder of that amount in accordance with regulations.
- (3) In subsection (2)(a), “specified proportion” means the proportion determined for the levy year under section 132(1)(b) or 133(1)(d).
- (4) The specified proportion must be not less than 70 per cent.
- (5) Regulations may amend subsection (4) by specifying a different proportion in place of the proportion for the time being specified in that subsection.
- (6) Regulations may make provision—
- (a) as to the time or times at which payments are to be made by the licensing authority under subsection (2);
  - (b) for adjustments of payments in cases where payments or repayments are made in respect of the levy after the end of the levy year.
- (7) Regulations under this section may make provision conferring functions or a discretion on a licensing authority.

*Late night levy requirement: further provision*

**132 Introduction of late night levy requirement**

- (1) Where a licensing authority decides under section 125 that the late night levy requirement is to apply in its area, it must also decide—
- (a) the date on which the late night levy requirement is first to apply, and
  - (b) for the first levy year and, subject to section 133, each subsequent levy year—
    - (i) the late night supply period;
    - (ii) the permitted exemption categories (if any) that are to apply in its area;
    - (iii) the permitted reduction categories (if any) that are to apply in its area;
    - (iv) the proportion of the net amount of levy payments that is to be paid to the relevant local policing body under section 131.
- (2) Subsection (1)(b)(i) is subject to section 126(4) and (5).
- (3) Subsection (1)(b)(iv) is subject to section 131(4).
- (4) Regulations under section 134 apply in relation to any decision of a licensing authority under section 125 or this section.

**133 Amendment of late night levy requirement**

- (1) Where the late night levy requirement applies in the area of a licensing authority under section 125, the authority may decide—
- (a) that the requirement is to cease to apply in the area;
  - (b) that a different late night supply period is to apply;
  - (c) that any permitted exemption categories or permitted reduction categories are to apply in addition to any that currently apply, or to cease to apply, in the area;
  - (d) that a different proportion of the net amount of levy payments is to be paid to the relevant local policing body.
- (2) Subsection (1)(b) is subject to section 126(4) and (5).
- (3) Subsection (1)(d) is subject to section 131(4).
- (4) Where—
- (a) regulations under section 135 alter the permitted exemption categories or permitted reduction categories, and
  - (b) by virtue of the regulations any category that applies in the area of a licensing authority as the result of a relevant decision ceases to be a permitted exemption category or permitted reduction category,
- the licensing authority must exercise its power under subsection (1)(c) so as to secure that all the categories that apply in its area in respect of future levy periods are permitted exemption categories or permitted reduction categories.
- (5) In subsection (4)(b), “relevant decision” means a decision under—
- (a) section 132(1)(b)(ii) or (iii), or
  - (b) subsection (1)(c) of this section.
- (6) Where—
- (a) regulations under subsection (5) of section 131 amend subsection (4) of that section, and
  - (b) by virtue of the regulations the proportion of the net amount of levy payments to be paid to the relevant local policing body ceases to satisfy section 131(4),
- the licensing authority must exercise its power under subsection (1)(d) so as to secure that the proportion of the net amount of levy payments to be paid to the relevant local policing body in respect of future levy years satisfies that provision.
- (7) Any decision made under subsection (1) may take effect only—
- (a) in the case of a decision under paragraph (a), at the end of a levy period,
  - (b) in the case of decision under paragraph (b), (c) or (d), in respect of future levy periods.
- (8) Regulations under section 134 apply in relation to any decision of a licensing authority under this section.

**134 Introduction or variation of late night levy requirement: procedure**

- (1) Regulations must make provision as to the procedure to be followed by a licensing authority in relation to any proposal for—
- (a) a decision under section 125(2) that the late night levy requirement is to apply in the area of the licensing authority (and any related decision under section 132(1));

- (b) a decision under section 133(1)(a) that the late night levy requirement is to cease to apply in the area of the licensing authority;
  - (c) a decision under section 133(1)(b), (c) or (d).
- (2) Regulations under this section must, in particular—
- (a) require the licensing authority, where it proposes to make any decision mentioned in subsection (1), to consult the following about the proposal—
    - (i) the relevant local policing body;
    - (ii) the relevant chief officer of police;
    - (iii) holders of relevant late night authorisations;
    - (iv) any other persons prescribed by the regulations;
  - (b) make provision requiring the licensing authority to publish notice of any decision mentioned in subsection (1) (and of related decisions);
  - (c) in the case of a decision under section 125(2), make provision—
    - (i) enabling any relevant late night authorisation to be varied under section 34, 41A, 84 or 86A of the Licensing Act 2003, on the application of the holder, so as to cease to be a relevant late night authorisation before the beginning of the first levy year, and
    - (ii) for no fee to be payable in respect of any such application to the extent that it relates to such a variation.
- (3) In the case of a proposal that the late night levy requirement should apply to the area of a licensing authority, the consultation about the proposal required under subsection (2) (a) must include consultation about the matters to be decided under section 132(1).
- (4) Regulations under this section may specify matters of which the licensing authority must be satisfied before deciding under section 125(2) that the late night levy requirement is to apply in its area.
- (5) In subsection (2)(c), “relevant late night authorisation” includes a premises licence or club premises certificate which would be a relevant late night authorisation if the licensing authority were to make the decisions in subsection (1)(a) in accordance with the proposal.

### **135 Permitted exemption and reduction categories**

- (1) Regulations may prescribe—
- (a) categories of holders of relevant late night authorisations in relation to whom, if a licensing authority so decides, the requirement to pay the late night levy is not to apply (“permitted exemption categories”);
  - (b) categories of holders of relevant late night authorisations in relation to whom, if a licensing authority so decides, a reduced amount of the levy is to apply (“permitted reduction categories”).
- (2) References in subsection (1) to a decision of a licensing authority are to a decision by the authority under section 132(1)(b)(ii) or (iii) or 133(1)(c) that the category in question is to apply in its area.
- (3) Without prejudice to section 136(3), categories of holders may be prescribed for this purpose by reference, in particular, to—
- (a) participation in arrangements of particular descriptions;
  - (b) particular descriptions of premises in respect of which authorisations are held.



- (4) Regulations under subsection (1) which prescribe permitted reduction categories must also prescribe, in relation to each such category—
- (a) what the reduced amount of the levy is, or
  - (b) the manner in which the reduced amount of the levy is to be calculated,
- and must provide for the reduced amount of the late night levy, or the manner in which it is to be calculated, to be the same for all holders of relevant late night authorisations in that category for a levy year.

### 136 Late night levy: regulations

- (1) Any power to make regulations under this Chapter is exercisable by the Secretary of State, but may be exercised only with consent of Treasury.
- (2) Regulations may amend any provision made by or under an Act so far as necessary or expedient in consequence of any provision made by or under this Chapter.
- (3) Any regulations under this Chapter may—
  - (a) make different provision for different cases;
  - (b) make provision subject to exceptions;
  - (c) make supplemental, incidental, consequential and transitional provision.
- (4) Subsection (3) is subject to section 128(4) and 135(4).

### 137 Interpretation

In this Chapter—

“club premises certificate” has the same meaning as in the Licensing Act 2003 (see section 60 of that Act);

“late night levy” means a levy payable under section 127(1);

“the late night levy requirement” has the meaning given by section 125;

“late night supply period”, has the meaning given by section 126;

“levy year”, in relation to a licensing authority, means a period of one year, beginning with the date specified under section 132(1)(a) or an anniversary of that date, for which the late night levy requirement applies in the area of the authority;

“licensing authority” means an authority which is a licensing authority within the meaning of the Licensing Act 2003 (see section 3 of that Act);

“net amount of levy payments” has the meaning given by section 130;

“payment year”, in relation to the holder of a relevant late night authorisation, means a year to which any payment of the late night levy by the holder in respect of the authorisation relates;

“permitted exemption category” and “permitted reduction category” have the meanings given by section 135;

“premises licence” has the same meaning as in the Licensing Act 2003 (see section 11 of that Act);

“relevant late night authorisation” has the meaning given by section 126;

“relevant chief officer of police”, in relation to a licensing authority, means the chief officer of police for the police area which comprises or includes the area of the licensing authority;



“relevant local policing body”, in relation to a licensing authority, means the local policing body for the police area which comprises or includes the area of the licensing authority;

“supply of alcohol” has the same meaning as in Part 3 of the Licensing Act 2003 (see section 14 of that Act).

### **138 Crown application**

- (1) This Chapter binds the Crown and has effect in relation to any premises licence, or club premises certificate, which relates to land in which there is—
  - (a) an interest belonging to Her Majesty in right of the Crown,
  - (b) an interest belonging to a government department, or
  - (c) an interest held in trust for Her Majesty for the purposes of such a department.
- (2) This Chapter also applies in relation to any premises licence, or club premises certificate, which relates to—
  - (a) land which is vested in, but not occupied by, Her Majesty in right of the Duchy of Lancaster, and
  - (b) land which is vested in, but not occupied by, the possessor for the time being of the Duchy of Cornwall.
- (3) Provision made by or under this Chapter applies to persons in the public service of the Crown as it applies to other persons.
- (4) But nothing in this Chapter affects Her Majesty in Her private capacity.

### **139 Amendments of the Licensing Act 2003**

- (1) The Licensing Act 2003 is amended as follows.
- (2) In section 55 (fees: premises licences), after subsection (1) insert—

“(1A) Subsection (1) is subject to regulations under section 134(2)(c)(ii) of the Police Reform and Social Responsibility Act 2011 (exemption from fees for variation applications prior to introduction of late night levy).”
- (3) In section 92 (fees: club premises certificates), after subsection (1) insert—

“(1A) Subsection (1) is subject to regulations under section 134(2)(c)(ii) of the Police Reform and Social Responsibility Act 2011 (exemption from fees for variation applications prior to introduction of late night levy).”