

2007 No. 553

LICENSING (LIQUOR)

The Licensing (Fees) (Scotland) Regulations 2007

Made - - - - - *4th December 2007*

Laid before the Scottish Parliament *10th December 2007*

Coming into force - - - *1st February 2008*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 136(1) and (2) and 146(2) of the Licensing (Scotland) Act 2005(a) and all other powers enabling them to do so.

In accordance with section 136(3) of that Act, they have consulted such bodies as appeared to them to be representative of the interests of Licensing Boards, councils and those likely to be affected by these Regulations.

Citation and commencement

1. These Regulations may be cited as the Licensing (Fees) (Scotland) Regulations 2007 and come into force on 1st February 2008.

Interpretation

2. In these Regulations—

“the Act” means the Licensing (Scotland) Act 2005;

“Board” means a Licensing Board continued in existence by or established under section 5 of the Act; and

“relevant Board”, in relation to premises, means the Board within the area of which the premises are situated.

Categories of premises – general

3.—(1) The category into which premises fall for the purposes of these Regulations is to be determined by reference to the position as at the date on which the fee in question is due.

(2) In particular, the rateable value of premises for the purposes of these Regulations is to be that shown on the valuation roll in respect of the date in question.

(3) Where a rateable value is changed with retrospective effect so as to place premises on a particular date in a different category from that by reference to which a fee due on that date has been paid, the appropriate amount is to be paid to the relevant Board or repaid by it (as the case may be).

(a) 2005 asp 16.

- (4) In paragraph (3), “the appropriate amount” is the difference between—
- (a) the fee paid; and
 - (b) the fee which would have been payable had the new rateable value been shown on the valuation roll as at the date on which the fee was due.

Premises in category 1

- 4.—(1) Premises fall within category 1 if—
- (a) they are not entered on the valuation roll or there is no rateable value or a nil value shown in respect of them on that roll;
 - (b) their main function is to provide a visitor attraction and any sale of alcohol on the premises will fall within paragraph (2);
 - (c) they are used wholly or mainly for the purposes of a club falling within the description specified in regulation 2 of the Licensing (Clubs) (Scotland) Regulations 2007^(a); or
 - (d) their main function is to provide accommodation, they are not open to the public other than for the provision of accommodation, and any alcohol sold on the premises is to be consumed on the premises by guests being accommodated there.
- (2) A sale of alcohol falls within this paragraph if—
- (a) the alcohol is not to be consumed on the premises; and
 - (b) it is considered by the relevant Board as likely to be incidental to other activities carried on on the premises.

Premises in categories 2 to 6

- 5.—(1) Premises which fall within category 1 cannot fall within categories 2 to 6.
- (2) Subject to paragraph (1), premises fall within—
- (a) category 2 if their appropriate rateable value is between £1 and £11,500;
 - (b) category 3 if their appropriate rateable value is between £11,501 and £35,000;
 - (c) category 4 if their appropriate rateable value is between £35,001 and £70,000;
 - (d) category 5 if their appropriate rateable value is between £70,001 and £140,000;
 - (e) category 6 if their appropriate rateable value is over £140,000.
- (3) In a case where part of licensed premises falls within one rating unit and part within one or more other rating units, the “appropriate rateable value” of the licensed premises is to be equal to the highest rateable value shown on the valuation roll in respect of any one of the rating units in question.
- (4) In any other case, the “appropriate rateable value” of licensed premises means the rateable value shown on the valuation roll in respect of those premises or of larger premises of which they form part.
- (5) In paragraph (3), “rating unit” means lands and heritages in respect of which there is a single entry on the valuation roll.

Application for premises licence

- 6.—(1) The fee payable in respect of an application under section 20(1) of the Act (other than a provisional premises licence application) is to be determined by the relevant Board but is not to exceed—
- (a) £200 in the case of premises within category 1;
 - (b) £800 in the case of premises within category 2;
 - (c) £1,100 in the case of premises within category 3;

(a) S.S.I. 2007/76.

- (d) £1,300 in the case of premises within category 4;
- (e) £1,700 in the case of premises within category 5;
- (f) £2,000 in the case of premises within category 6.

(2) Where a Board decides to determine fees lower than the maximum specified in paragraph (1), it must—

- (a) determine different fees for the different categories specified in that paragraph; and
- (b) set those fees by reducing each of the fees in that paragraph by an identical percentage.

(3) Any fee payable under paragraph (1) is due on the date on which the application in question is received by the Licensing Board.

Annual fee for premises licence

7.—(1) Where a premises licence is in effect or is suspended, the holder of that licence must make payment of an annual fee in respect of the performance in relation to that licence of functions by the relevant Board, the council within the area of which the premises are situated and that council's Licensing Standards Officers (other than functions in respect of which a separate fee is specified under these Regulations).

(2) The first annual fee under paragraph (1) is due—

- (a) on 1st October 2009 in the case of a licence which takes effect on 1st September 2009; or
- (b) in any other case, 30 days after the date on which the licence takes effect.

(3) Subsequent annual fees are due on 1st October each year or, where that date falls on a Saturday or Sunday, on the immediately following Monday.

(4) A Licensing Board may allow an annual fee under this regulation to be paid in 4 or 12 equal instalments over the course of the year following the date on which the fee would otherwise be due.

(5) Where a Board allows a fee to be paid as described in paragraph (4), this does not affect the date on which that fee is due for the purposes of regulation 3.

Amount of annual fee

8.—(1) The annual fee payable under regulation 7 is to be determined by the relevant Board but is not to exceed—

- (a) £180 in the case of premises within category 1;
- (b) £220 in the case of premises within category 2;
- (c) £280 in the case of premises within category 3;
- (d) £500 in the case of premises within category 4;
- (e) £700 in the case of premises within category 5;
- (f) £900 in the case of premises within category 6.

(2) Where a Board decides to determine fees lower than the maximum specified in paragraph (1), it must—

- (a) determine different fees for the different categories specified in that paragraph; and
- (b) set those fees by reducing each of the fees in that paragraph by an identical percentage.

(3) Where a first annual fee is payable in accordance with regulation 7(2)(b), that fee is not to exceed—

$$A \times \frac{B}{365}$$

Where—

A is the full annual fee which the Board would charge for the relevant year in respect of premises in the same category as the premises in question; and

B is the number of days between the date on which the first annual fee for the premises in question is due and the next 1st October.

Notification of annual fee

9.—(1) Each Licensing Board is to give notification in accordance with paragraph (2) to every holder of a premises licence liable to pay a fee to that Board under regulation 7.

(2) Notification under paragraph (1) is to be given no later than 30 days before the date on which the fee is due and is to specify the amount of the fee payable.

Applications in relation to provisional premises licences

10.—(1) The fee payable in respect of an application under section 20(1) of the Act for a provisional premises licence is to be the fee which would be payable under regulation 6(1) in respect of an application made on the date in question in relation to premises within category 1.

(2) The fee payable in respect of an application under section 46(1) of the Act for confirmation of a provisional premises licence is—

$$A-B$$

Where—

A is the fee which would have been payable under paragraph (1) of regulation 6 had an application to which that paragraph applies been made in respect of the premises on the same date as the application under section 46(1); and

B is the amount already paid under paragraph (1) above.

Miscellaneous applications

11.—(1) The fee payable in respect of an application falling within paragraph (3) is to be determined by the Board to which the application is made.

(2) Different fees may be determined in respect of different applications falling within paragraph (3) but, subject to regulation 14(2), a Board must charge the same fee for every application falling within a particular sub-paragraph of that paragraph.

(3) An application falls within this paragraph if it is an application under—

- (a) section 33(1) of the Act (transfer on application of licence holder) which includes an application for variation under section 35(1);
- (b) section 33(1) of the Act which does not include an application for variation;
- (c) section 34(1) of the Act (transfer on application of person other than licence holder) which includes an application for variation under section 35(1);
- (d) section 34(1) of the Act which does not include an application for variation;
- (e) section 47(2) of the Act (temporary premises licence); or

- (f) section 92(1) of the Act (replacement personal licence).

Application to vary premises licence

- 12.—(1) The fee payable in respect of an application under section 29(1) of the Act is—
- (a) £31 if the application is one referred to in section 31(1) of the Act and any other variation sought in the application is a minor variation;
 - (b) £20 if the application seeks only a minor variation or variations and does not fall within sub-paragraph (a).
- (2) The fee payable in respect of any other application under section 29(1) of the Act is to be determined by the relevant Board and different fees may be determined in respect of different applications.

Determining fees

13. In determining any fee under regulation 6(1), 8(1), 11(1) or 12(2), a Board is to have regard to the desirability of ensuring that the total fees payable under these Regulations to that Board in respect of any period are likely to be broadly equivalent to the expenses incurred by that Board, and the council for the area of that Board, in administering the Act generally during that period.

Variation of fees

- 14.—(1) Annual fees payable under regulation 7(3) may be varied from year to year.
- (2) A fee determined under regulation 6(1) or 11(1) may be varied from time to time but—
- (a) such a fee may not be varied so that the variation comes into effect less than a year after the date with effect from which the fee in question was first determined or last varied; and
 - (b) a fee determined under regulation 6(1) may not be varied with effect from a date earlier than 1st September 2009.

Application for occasional licence

15. The fee payable in respect of an application under section 56(1) of the Act is £10.

Application for extended hours

16. The fee payable in respect of an application under section 68(1) of the Act is £10.

Application for personal licence

17. The fee payable in respect of an application under section 72(1) of the Act is £50.

Publication of fees

18. Each Board is to take such steps as it considers appropriate to publish details of any fee determined by that Board under these Regulations.

KENNY MACASKILL
A member of the Scottish Executive

St Andrew's House,
Edinburgh
4th December 2007

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision as to fees payable to Licensing Boards under the Licensing (Scotland) Act 2005. Provision is made for some fees to be determined by the Boards, subject to specified upper limits in certain cases and to the general rule on cost recovery in regulation 13. Other fees are of set amounts specified in the Regulations.

Fees for premises licence applications and annual fees for such licences are dealt with in regulations 6 to 8 and 10. The fee for a personal licence application is set by regulation 17.

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