

LICENSING (SCOTLAND) ACT 2005 – LICENSING FEES

A CONSULTATION ON DRAFT REGULATIONS

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1. Introduction

The Act

1. Section 136 of the Licensing (Scotland) Act 2005 allows Ministers to make provision for the level of fees to be charged by licensing boards in respect of: -

- Applications under the Act; and
- Otherwise in respect of the performance of functions by Licensing Boards, councils and Licensing Standards Officers under the Act

2. Section 136(3) requires that before making such regulations, they must consult with those persons specified in that section. We are now consulting on a draft of the proposed regulations regarding fees. The draft regulations are provided at section 3 of this consultation document.

Background

3. A key principle of the new Act is that income from fees should cover the running costs of Licensing Boards and Licensing Standards Officers. This is a change from the current arrangements where income from fees create an average recovery rate of 63% with significant variations across local authorities. The licensing regime is therefore subsidised by other local authority income.

4. Prior to developing the regulations, an independent analysis of proposed fees for the new licensing system was carried out. The researchers were asked to define a system that (1) allowed full cost recovery, (2) had the same scale of charges across Scotland and (3) would not be unfair to small/medium enterprises and clubs. The draft regulations including the proposed fee levels have been based on the recommendations of this report.

5. The main findings of the research report are provided at **Annex B** to this consultation document and the full report – *Licensing (Scotland) Bill 2005: Proposal and Analysis of Fee Charging Options* can be found on the Scottish Executive website at www.scotland.gov.uk

6. Listed below are a number of areas where we would particularly welcome comments when responding to the consultation.

- **Q1 - The proposed fee levels have been determined based on the rateable value of the premises (with some exceptions to that rule set out in regulations). Do you agree with this approach, or do you wish to suggest an alternative approach that ensures that fee levels are fair?**
- **Q2 – Do agree with the fee levels proposed? If not, can you suggest alternative fee levels and show your rationale for arriving at particular figures.**
- **Q.3 – Although not part of these draft regulations we would also particularly welcome views on a suggestion that Licensing Boards should have the discretion to charge further fees to help meet the additional policing costs in a particular**

area or areas. For example, this may be appropriate in respect of city centre locations with a high number of late-opening premises. We would particularly welcome views on whether further consideration should be given to this issue.

- **Q4 – Do you have any comments on the draft regulatory impact assessment that has been prepared to accompany these regulations?**

2. Invitation to comment on draft proposals

1. You are invited to submit your comments on the draft fee regulations and the draft regulatory impact assessment. We would further welcome comments on the questions in paragraph 6 of section 1 of this documents, or on any other aspect of fee arrangements for the new licensing regime.

Responding to this consultation paper

2. We are inviting written responses to this consultation paper by **Monday 17 September**.

3. Please send your response to:

by email: **LicensingConsultations@scotland.gsi.gov.uk**

in writing: **Gary Cox
Criminal Law & Licensing Division
Scottish Executive
St Andrew's House
Edinburgh EH1 3DG**

4. If you have any queries contact Tony Rednall on **0131 244 4533**.

5. This consultation, and all other Scottish Executive consultation exercises, can be viewed online on the consultation web pages of the Scottish Executive website at <http://www.scotland.gov.uk/consultations/seconsult.aspx>. You can Freephone 0800 77 1234 to find out your nearest public internet access point.

6. The Scottish Executive now has an email alert system for consultations ([SEconsult: http://www.scotland.gov.uk/consultations/seconsult.aspx](http://www.scotland.gov.uk/consultations/seconsult.aspx)). This system allows stakeholder individuals and organisations to register and receive a weekly email containing details of all new consultations (including web links). SEconsult complements, but in no way replaces SE distribution lists, and is designed to allow stakeholders to keep up to date with all SE consultation activity, and therefore be alerted at the earliest opportunity to those of most interest. We would encourage you to register.

Handling your response

7. We need to know how you wish your response to be handled and, in particular, whether you are happy for your response to be made public. Please complete and return the **Respondent Information Form** enclosed with this consultation paper as this will ensure that we treat your response appropriately. If you ask for your response not to be published we will regard it as confidential, and we will treat it accordingly.

8. All respondents should be aware that the Scottish Executive is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

Next steps in the process

9. Where respondents have given permission for their response to be made public, these will be made available to the public in the Scottish Executive Library and on the Scottish Executive consultation web pages. We will check all responses where agreement to publish has been given for any potentially defamatory material before logging them in the library or placing them on the website. You can make arrangements to view responses by contacting the SE Library on 0131 244 4565. Responses can be copied and sent to you, but a charge may be made for this service.

What happens next?

10. Following the closing date, all responses will be analysed and considered along with any other available evidence to help us reach a decision. We will prepare a short analysis of responses for publication.

Comments and complaints

11. If you have any comments about how this consultation exercise has been conducted, please send them to:

Name: **Gary Cox**

Address: **Criminal Law & Licensing Division
Scottish Executive
St Andrew's House
Edinburgh EH1 3DG**

E-mail: **LicensingConsultations@scotland.gsi.gov.uk**

3. Draft Regulations

SCOTTISH STATUTORY INSTRUMENTS

2007 No.

LICENSING (LIQUOR)

The Licensing (Fees) (Scotland) Regulations 2007

Made - - - - - 2007

Laid before the Scottish Parliament 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⁽¹⁾ and of all other powers enabling them to do so.

In accordance with section 136(3) for 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 shall come into force on 1st February 2008.

Interpretation

2. In these Regulations—

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

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

(1) 2005 asp 16.

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).

(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 are entered on that roll with a nil value;
- (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(2); 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 is—

- (a) £100 in the case of premises within category 1;
- (b) £400 in the case of premises within category 2;
- (c) £550 in the case of premises within category 3;
- (d) £650 in the case of premises within category 4;
- (e) £850 in the case of premises within category 5;
- (f) £1,000 in the case of premises within category 6.

(2) 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 after having regard to the expenses likely to be incurred by that Board in administering the Act generally.

(2) The annual fee is not to exceed—

- (a) £90 in the case of premises within category 1;
- (b) £110 in the case of premises within category 2;
- (c) £140 in the case of premises within category 3;
- (d) £250 in the case of premises within category 4;
- (e) £350 in the case of premises within category 5;
- (f) £450 in the case of premises within category 6.

(3) Where a Board decides to determine fees lower than those specified in paragraph (2), 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.

(4) 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.

Application to vary premises licence

10. 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 paragraph (a); or
- (c) £160 in any other case.

Application for transfer by licence holder

11. The fee payable in respect of an application under section 33(1) of the Act is £34.

Application for transfer by other person

12. The fee payable in respect of an application under section 35(1) of the Act is £21.

Application for provisional premises licence

13. The fee payable in respect of an application under section 45(1) of the Act is £160.

Application for confirmation of provisional premises licence

14. The fee payable in respect of an application under section 46(1) of the Act is £34.

Application for temporary premises licence

15. The fee payable in respect of an application under section 47(2) of the Act is £27.

Application for occasional licence

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

Application for extended hours

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

Application for personal licence

18. The fee payable in respect of an application under section 72(1) of the Act is £42.

Issue of replacement personal licence

19. The fee payable in respect of the issue by a Board of a replacement personal licence under section 92 of the Act is £8.

St Andrew's House,
Edinburgh

2007

Authorised to sign by the Scottish Ministers

4. Draft Regulatory Impact Assessment for consultation

Title of proposal

1. The Licensing (Fees) (Scotland) Regulations 2007

Purpose and intended effect

(i) objective

2. The purpose of the SSI is to prescribe the framework and levels of fees which licensing boards may charge in relation to the Licensing (Scotland) Act 2005.
3. The SSI will come into force on 1 February 2008.

(ii) background

4. The Licensing (Scotland) Act 2005 represents a major overhaul of the alcohol licensing system. In relation to fees, the Act allows Ministers to make provision for the level of fees to be charged by licensing boards. Latterly around 63% of the total costs incurred by the boards have been covered by income from fees paid by the licensed trade and it is the intention that fee levels for the new licensing regime should be set at a level which fully meets Licensing Boards' costs.

5. The draft regulations propose that the fee which will accompany an application for a Personal Licence fees should be a flat-rate regardless of the area in which the applicant resides, or the Licensing Board to which an application is made. For Premises Licences, the draft regulations propose that both the application fee and thereafter the annual fee should be determined by the rateable value of the premises concerned. Some exceptions to this rule are proposed.

6. The fee levels proposed reflect the research carried out for the Scottish Executive- "Licensing (Scotland) Bill 2005: Proposal and Analysis of Fee Charging Options". The research was shaped by the aims of the Licensing (Scotland) Act to provide a system which creates 100% coverage of Licensing Board costs, promotes equal treatment of fees across Scotland, and does not create a disproportionate burden on smaller business and clubs. The information which formed the basis of the report was comprehensive with all but one local authority providing information on their costs.

(iii) Risk assessment

7. Failure to fully provide for the costs to Licensing Boards of implementing the new regime risks undermining the objectives of the Licensing Act by leaving important innovations such as Licensing Standards Officers under-funded. The absence of any fees, or fees at too low a level, would create a funding gap that would need to be met from other local authority budgets to the detriment of other public services.

Benefits

8. The main benefits will be to the Licensing Boards both through full coverage of their costs and a more predictable income stream which will allow better planning. As the fees will also fund Licensing Standards Officers, there will be benefit to the public at large from the increased and dedicated supervision of licensed premises. The introduction of Licensing Standards Officers should also benefit the licensed trade if it helps to discourage breaches of licence conditions, or premises operating without a licence, which would provide an unfair advantage over those which are law-abiding and well run.

Costs

Personal Licences

9. The basis for calculating the proposed fee to be paid on application for a personal licence is the cost of administrative time and resource that will be used in processing the application and producing the licence. In the research document, this has been calculated at £42 and will recur every 10 years, upon renewal of the licence.

Premises Licences

10. The proposed method of determining the fees payable with an application for a premises licence premises fees is based on the rateable value of the premises. This fulfils the needs for the system to be simple, and, broadly speaking, ensures that businesses which take up more of the licensing board's time and resources pay more. Rateable values:

- are an indicator of business size/turnover
- take into account the location of the business
- are reviewed regularly
- are a known quantity.

11. There is an view that some premises with a high rateable value but which only generate a small proportion of their income from alcohol sales are disproportionately affected by these proposals. The research accepts that this is possible but concludes that the overall benefits of the system chosen far outweigh the disadvantages.

12. The research shows that the vast majority premises (82%) fall into the lowest 3 rateable value categories. Within that, 51% of premises will fall into either category 1 or 2 and will therefore pay application fees of either £100 or £400 and annual fees of either £90 or £110. It is important to note that category 1 contains premises, as set out in regulation 4, which are to be included in the lowest category regardless of their rateable value. For example, registered clubs are automatically included in the lowest category, along with visitor attractions and Bed and Breakfast type establishments where alcohol is only available to guests. This approach is considered proportionate and reasonable. In the case of registered clubs, it stems from a recommendation in the research report.

13. The fees proposed are set out the regulations and can be summarised as follows:-

Fig. 1

Proposed Rateable Value Categories					
Cat. 1	Cat. 2	Cat. 3	Cat. 4	Cat. 5	Cat. 6
*as laid out in regulation 4	£1- £11,500	£11,501- £35,000	£35,001- £70,000	£70,001- £140,000	Over £140,000

Fig. 2

Fees for New Applications for Premises Licenses					
Cat. 1	Cat. 2	Cat. 3	Cat. 4	Cat. 5	Cat. 6
£100	£400	£550	£650	£850	£1,000

Fig. 3

Annual Fees for Premises Licenses					
Cat. 1	Cat. 2	Cat. 3	Cat. 4	Cat. 5	Cat. 6
£90	£110	£140	£250	£350	£450

14. The application fee is at a higher level than the annual fee because, as the research points out, the costs of processing an application are likely to be higher than the ongoing costs of monitoring compliance with the new licensing system and the running costs of boards after completion of the transition period.

15. The draft regulations provide that the annual fee levels shown above are to be the *maximum* amounts chargeable – there is an expectation that licensing boards will require to charge the full fees shown above to cover their costs initially, (as anticipated by the research report, but thereafter may begin to benefit from the efficiencies of the new system and be able to pass these savings on to the trade.

16. The regulations also propose other fees payable in relation to certain activities under the Act. The effect of these fees on business will depend upon how many times a business requires the licensing board to consider various issues, for example, how many times it chooses to apply for an occasional licence. The fees proposed are considered reasonable to meet the costs that licensing boards will incur in dealing with these applications and requests.

Savings

17. It is expected that there will be savings to business from the removal of certain renewals required under the current licensing system, in particular:-

- removal of licence renewals every 3 years (£86)
- removal of need to obtain a regular annual extension to hours (£86); and
- removal of need to obtain a children's certificate (£86)

Small/Micro firms impact test

18. The use of rateable values as a determinant of fee level is specifically designed to make the fee proportionate to the size of the business. Small businesses will also tend to have less personal licence holders per premises, minimising the cost arising from personal licence applications and renewals of these licences 10 years thereafter.

Competition Assessment

19. Since both new and existing premises will have to go through the same process and pay the same fees, the regulations will not be more detrimental to one premises over another and can be considered competition neutral in that respect. As the fees are scaled by business premises' rateable value, which is closely related to business size, it is not thought that there will be a disproportionate effect on either large or small businesses and the cost of the proposed fees will be small compared to the turnover of the business.

Enforcements and sanctions

20. The need for the owners of a premises to pay the application fee is immediate, in that the application will not be processed unless the fee is included. This also applies to personal licences.

21. The requirement to pay the annual premises fee is set out in both regulation 7(1) of the SSI and in schedule 3, paragraph 10 of the Licensing (Scotland) Act 2005. The latter provision ensures that the requirement to pay the annual fee is a mandatory condition of the licence and failure to comply will be dealt with by licensing boards in the same way as any other breach of conditions. Sanctions available include the suspension or revocation of the licence.

Monitoring and review

22. The effect of the regulations will be kept under review. The Executive retains the ability to review the fee levels as it considers appropriate and will do so in consultation with licensing boards and the licensed trade. It is also expected that any findings from Best Value audits of Licensing Boards' running costs will be considered as appropriate in determining fee levels in the future.

Consultation

23. This SSI will be distributed to all key stakeholders for the recommended period of 12 weeks which will allow a sufficient timeframe for all parties to consider the issues in sufficient depth and respond. The Scottish Executive will offer to meet key trade bodies and COSLA to discuss the regulations as part of the consultation process.

Summary and recommendation

24. The Executive considers that the regulations seek to cover the full costs of administration connected to the new system introduced by the Licensing (Scotland) Act 2005 with fee levels which are appropriate to the businesses concerned. It is considered that the regulations are proportionate to the risks involved. It is recommended that the SSI be implemented as described.

ANNEX A

RESPONDENT INFORMATION FORM: LICENSING (SCOTLAND) ACT 2005 – LICENSING FEES - CONSULTATION ON DRAFT REGULATIONS

Please complete the details below and return it with your response. This will help ensure we handle your response appropriately. Thank you for your help.

Name:

Postal Address:

1. Are you responding: (please tick one box)
- (a) as an individual go to Q2a/b and then Q4
- (b) **on behalf of** a group/organisation go to Q3 and then Q4

INDIVIDUALS

- 2a. Do you agree to your response being made available to the public (in Scottish Executive library and/or on the Scottish Executive website)?

Yes (go to 2b below)

No, not at all We will treat your response as confidential

- 2b. Where *confidentiality is not requested*, we will make your response available to the public on the following basis (**please tick one** of the following boxes)

Yes, make my response, name and address all available

Yes, make my response available, but not my name or address

Yes, make my response and name available, but not my address

ON BEHALF OF GROUPS OR ORGANISATIONS:

- 3 The name and address of your organisation *will be* made available to the public (in the Scottish Executive library and/or on the Scottish Executive website). Are you also content for your **response** to be made available?

Yes

No We will treat your response as confidential

SHARING RESPONSES/FUTURE ENGAGEMENT

4 We will share your response internally with other Scottish Executive policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for the Scottish Executive to contact you again in the future in relation to this consultation response?

Yes

No

THE SCOTTISH EXECUTIVE CONSULTATION PROCESS

Consultation is an essential and important aspect of Scottish Executive working methods. Given the wide-ranging areas of work of the Scottish Executive, there are many varied types of consultation. However, in general, Scottish Executive consultation exercises aim to provide opportunities for all those who wish to express their opinions on a proposed area of work to do so in ways which will inform and enhance that work.

The Scottish Executive encourages consultation that is thorough, effective and appropriate to the issue under consideration and the nature of the target audience. Consultation exercises take account of a wide range of factors, and no two exercises are likely to be the same.

Typically Scottish Executive consultations involve a written paper inviting answers to specific questions or more general views about the material presented. Written papers are distributed to organisations and individuals with an interest in the issue, and they are also placed on the Scottish Executive web site enabling a wider audience to access the paper and submit their responses³. Consultation exercises may also involve seeking views in a number of different ways, such as through public meetings, focus groups or questionnaire exercises. Copies of all the written responses received to a consultation exercise (except those where the individual or organisation requested confidentiality) are placed in the Scottish Executive library at Saughton House, Edinburgh (K Spur, Saughton House, Broomhouse Drive, Edinburgh, EH11 3XD, telephone 0131 244 4565).

All Scottish Executive consultation papers and related publications (e.g., analysis of response reports) can be accessed at: [Scottish Executive consultations](http://www.scotland.gov.uk/consultations) (<http://www.scotland.gov.uk/consultations>)

The views and suggestions detailed in consultation responses are analysed and used as part of the decision making process, along with a range of other available information and evidence. Depending on the nature of the consultation exercise the responses received may:

- indicate the need for policy development or review
- inform the development of a particular policy
- help decisions to be made between alternative policy proposals
- be used to finalise legislation before it is implemented

Final decisions on the issues under consideration will also take account of a range of other factors, including other available information and research evidence.

While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.

³ <http://www.scotland.gov.uk/consultations>

ANNEX A – SUMMARY OF RESEARCH FINDINGS

The research report

- The analysis of the proposed fees for the new licensing system suggests that the following should apply:-
 - Personal licences £42
 - Premises licences £460
 - Annual fee for premises licences £155

Remit was to define a system:

- Allowing for full cost recovery
- Having the same scale of charges across Scotland as a whole
- Which would not be unfair to SMEs and clubs

Execution of the research

- Very thorough piece of work
- Used data from 31 of 32 local authorities
- Includes input from the licensed trade
- Able to benefit from knowledge gained from similar work in England and Wales
- Provides a sound basis for defining a suitable system based on a 5% sample of rateable values across Scotland

Current Costs for Licensing Boards

- The total current annual costs are estimated at £4.5m
- The total current annual revenue is £2.85m
- Which represents an average recovery rate of 63% - which significant variation across local authorities
- This implies that local authorities are failing to achieve cost recovery with a deficit of £1.6m – equivalent to more than one third of what is required to fully recover the costs of the system
- The trade are generally aware of this, and the fact that application fees will have to rise

Future costs for Licensing Boards

- For the 18 month transition period, to achieve cost recovery the estimated costs will be £9.9m
- Thereafter to achieve cost recovery from new premises and annual fees annual costs are estimated at £3.4m
- For simplicity, standard unit costs have been applied across all local authorities (whereas there will be significant variations in reality).

Full Cost Recovery

- The proposed system of a higher initial charge, and a lower level annual charge fits reasonably well with the estimated level and pattern of costs for the new system.

The average proposed charges for premises licences are an initial charge of £460 and an annual charge of £155.

Use of Rateable Values

- The proposed system used Rateable Values as the basis for calculating fees. This has been adopted as the most suitable basis for the following reasons:-
 - Provides a measure of business size
 - Takes location into account
 - Regular reviews take place
- A system of 'banding' would be used to calculate fees. The model uses a special band for Members Clubs (i.e. – British legion, sports clubs, miners' welfare etc) and 5 further bands for commercial premises.
- The proposed band widths are designed to minimise the impact on small businesses and to ensure a fair and equal distribution. For example, under the new system 82% of licensed premises fall into the two lowest bands, so there is scope to set a level of licence fee which would be seen to be fair for the vast majority of SMEs.
- Although there is scope to change the band widths or level of fees for each band in the model, the consultants believe this is the fairest distribution of charges.

Issues for Licensing Boards

- The consultants carried out case studies involving a representative sample of 5 local authorities, using the proposed model it was established that 4 out of 5 would achieve cost recovery.
- Nevertheless further consideration of the one case where there may potentially be less than full cost recovery shows that their unit costs per licence are likely to be less than the national average; and therefore that full cost recovery would be likely.

Issues for the trade

- The report realistically concludes that use of Rateable Values is the best basis for graduating charges. It takes into account business size, turnover and location and is reviewed on a regular basis.
- The suggested scales are such that initial charges for licensed premises would range from £400 to £1,000; and the annual charges would range from £110 to £450.
- Members' clubs would be charged an initial fee of £100 and an annual fee of £90.

- The proposed system of having a lower set of charges for clubs; and a graduated scale of charges based on 5 rateable value bands means that SMEs will have relatively low charges – 82% of licensed premises fall into the lowest 2 bands for charges.
- The Trade's associated costs will follow a similar pattern; i.e. additional costs to prepare for transition; but lower costs for retaining ongoing licences.
- Using the system of graduated rateable values, licensed premises with a high turnover, but a relatively low proportion of their business in sales of alcohol (e.g. department stores or cinemas) may have grounds for concern. However, most businesses of this size should not suffer unduly in having to pay the proposed maximum application fee of £1,000 and a maximum annual fee of £450.

Further points to note

- The running costs of the new system are higher for transition, at £9.9m but will be lower going forward, due to the streamlining of the licensing system to £3.4m
- The new regime requiring an annual cost of £3.4m versus £4.5m with the current system.
- The proposed model allows significant flexibility to reallocate fees at different levels across Rateable Value bands – so different pricing levels can be assessed.
- One of the advantages of the model is it is likely that revenues will generally exceed costs as the new system becomes fully implemented, from around year 2 onwards.
- Consequently there may be an opportunity to suggest a review by the Accounts Commission at some point in the future.
- The research has indicated that the processes and IT systems currently in place are generally outdated and inefficient. An appropriate means of using any surpluses in the short to medium terms would be to fund initiatives such as web-based systems for processing licence applications. This could be expected to allow for even larger reductions in charges in the longer term.

LICENSING (SCOTLAND) ACT 2005

**CONSULTATION ON THE LICENSING
(VESSELS) (SCOTLAND) REGULATIONS 2007**

Contents

1. Introduction
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Annex A - Respondee Information Form

1. Introduction

1. The Licensing (Scotland) Act 2005 provides that alcohol is not to be sold on any premises except under and in accordance with (a) a premises licence, or (b) an occasional licence, granted under the Act in respect of the premises.

2. Section 126(10) allows Ministers, by regulations, to provide for this Act to apply in relation to vessels, vehicles and moveable structures subject to such further modification as they consider necessary or expedient.

3. The draft regulations attached would essentially exempt from the requirements of Act vessels which are not moored or berthed in any place, while there are no more than 50 persons on board the vessel. A vessel which can have more than 50 people on board would not need to have a premises licence, but could apply for an occasional licence for events where there were more than 50 people on board. Where a premises licence has been obtained for a vessel, the conditions of that licence would have to be complied with when there were less than 50 people on board because the vessel would still constitute "licensed premises" at that time.

4. Further, the regulations allows for an individual to be a premises manager of two or more licensed premises where each of those premises is a vessel which is not permanently moored or berthed.

2. Invitation to comment

We are consulting on the terms of the draft Licensing (Vessels) (Scotland) Regulations 2007. You are invited to submit your comments.

Responding to this consultation paper

We are inviting written responses to this consultation paper by **Monday 17 September 2007.**

Please send your response to:

by email: LicensingConsultations@scotland.gsi.gov.uk

in writing: Criminal Law & Licensing Division
Criminal Justice Directorate
Scottish Executive
GW.14
St Andrews House
Edinburgh EH1 3DG

If you have any queries contact Tony Rednall on **0131 244 4533**.

I would also ask that everyone completes and submits the attached respondent information form provided at **Annex A** when responding to this consultation.

This consultation, and all other Scottish Executive consultation exercises, can be viewed online on the consultation web pages of the Scottish Executive website at <http://www.scotland.gov.uk/consultations/seconsult.aspx>. You can Freephone 0800 77 1234 to find out your nearest public internet access point.

The Scottish Executive now has an email alert system for consultations (**SEconsult**: <http://www.scotland.gov.uk/consultations/seconsult.aspx>). This system allows stakeholder individuals and organisations to register and receive a weekly email containing details of all new consultations (including web links). SEconsult complements, but in no way replaces SE distribution lists, and is designed to allow stakeholders to keep up to date with all SE consultation activity, and therefore be alerted at the earliest opportunity to those of most interest. We would encourage you to register.

Handling your response

We need to know how you wish your response to be handled and, in particular, whether you are happy for your response to be made public. Please complete and return the **Respondent Information Form** enclosed with this consultation paper as this will ensure that we treat your response appropriately. If you ask for your response not to be published we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Executive is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any

request made to it under the Act for information relating to responses made to this consultation exercise.

Next steps in the process

Where respondents have given permission for their response to be made public, these will be made available to the public in the Scottish Executive Library and on the Scottish Executive consultation web pages. We will check all responses where agreement to publish has been given for any potentially defamatory material before logging them in the library or placing them on the website. You can make arrangements to view responses by contacting the SE Library on 0131 244 4565. Responses can be copied and sent to you, but a charge may be made for this service.

What happens next?

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us reach a decision. We will prepare a short analysis of responses for publication.

Comments and complaints

If you have any comments about how this consultation exercise has been conducted, please send them to:

Name: Gary Cox

Address: Criminal Law & Licensing Division
Criminal Justice Directorate
Scottish Executive
GW.14
St Andrews House
Edinburgh EH1 3DG

E-mail: **gary.cox@scotland.gsi.gov.uk**

3. Draft Regulations

SCOTTISH STATUTORY INSTRUMENTS

2007 No.

LICENSING (LIQUOR)

The Licensing (Vessels) (Scotland) Regulations 2007

Made - - - - 2007

Laid before the Scottish Parliament 2007

Coming into force - - 1st February 2008

The Scottish Ministers, in exercise of the powers conferred by sections 126(10) and 146(2) of the Licensing (Scotland) Act 2005⁽¹⁾ and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation and commencement

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

Sale of alcohol on certain vessels

2. It is not an offence under section 1(1) of the Licensing (Scotland) Act 2005 for alcohol to be sold on a vessel which does not constitute licensed premises while—

- (a) the vessel is not moored or berthed in any place; and
- (b) there are no more than 50 persons on board the vessel

Premises manager of vessels

3. The prohibition in section 19(2) of the Licensing (Scotland) Act 2005 is not to prevent an individual being the premises manager of two or more licensed premises if each of those premises is a vessel which is not permanently moored or berthed.

St. Andrew's House,
Edinburgh

2007

Authorised to sign by the Scottish Ministers

(1) 2005 asp 16.

ANNEX A

RESPONDENT INFORMATION FORM: LICENSING (SCOTLAND) ACT 2005 – STATEMENT OF REASONS - CONSULTATION ON DRAFT FORM

Please complete the details below and return it with your response. This will help ensure we handle your response appropriately. Thank you for your help.

Name:

Postal Address:

1. Are you responding: (please tick one box)
- (a) as an individual go to Q2a/b and then Q4
- (b) **on behalf of** a group/organisation go to Q3 and then Q4

INDIVIDUALS

- 2a. Do you agree to your response being made available to the public (in Scottish Executive library and/or on the Scottish Executive website)?

Yes (go to 2b below)

No, not at all We will treat your response as confidential

- 2b. **Where *confidentiality is not requested***, we will make your response available to the public on the following basis (**please tick one** of the following boxes)

Yes, make my response, name and address all available

Yes, make my response available, but not my name or address

Yes, make my response and name available, but not my address

ON BEHALF OF GROUPS OR ORGANISATIONS:

- 3 The name and address of your organisation **will be** made available to the public (in the Scottish Executive library and/or on the Scottish Executive website). Are you also content for your **response** to be made available?

Yes

No We will treat your response as confidential

SHARING RESPONSES/FUTURE ENGAGEMENT

4 We will share your response internally with other Scottish Executive policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for the Scottish Executive to contact you again in the future in relation to this consultation response?

Yes

No

THE SCOTTISH EXECUTIVE CONSULTATION PROCESS

Consultation is an essential and important aspect of Scottish Executive working methods. Given the wide-ranging areas of work of the Scottish Executive, there are many varied types of consultation. However, in general, Scottish Executive consultation exercises aim to provide opportunities for all those who wish to express their opinions on a proposed area of work to do so in ways which will inform and enhance that work.

The Scottish Executive encourages consultation that is thorough, effective and appropriate to the issue under consideration and the nature of the target audience. Consultation exercises take account of a wide range of factors, and no two exercises are likely to be the same.

Typically Scottish Executive consultations involve a written paper inviting answers to specific questions or more general views about the material presented. Written papers are distributed to organisations and individuals with an interest in the issue, and they are also placed on the Scottish Executive web site enabling a wider audience to access the paper and submit their responses². Consultation exercises may also involve seeking views in a number of different ways, such as through public meetings, focus groups or questionnaire exercises. Copies of all the written responses received to a consultation exercise (except those where the individual or organisation requested confidentiality) are placed in the Scottish Executive library at Saughton House, Edinburgh (K Spur, Saughton House, Broomhouse Drive, Edinburgh, EH11 3XD, telephone 0131 244 4565).

All Scottish Executive consultation papers and related publications (eg, analysis of response reports) can be accessed at: [Scottish Executive consultations](http://www.scotland.gov.uk/consultations) (<http://www.scotland.gov.uk/consultations>)

The views and suggestions detailed in consultation responses are analysed and used as part of the decision making process, along with a range of other available information and evidence. Depending on the nature of the consultation exercise the responses received may:

- indicate the need for policy development or review
- inform the development of a particular policy
- help decisions to be made between alternative policy proposals
- be used to finalise legislation before it is implemented

Final decisions on the issues under consideration will also take account of a range of other factors, including other available information and research evidence.

While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.

² <http://www.scotland.gov.uk/consultations>

