

2012 No. 2550

LICENCES AND LICENSING, ENGLAND AND WALES

**The Late Night Levy (Expenses, Exemptions and Reductions)
Regulations 2012**

<i>Made</i> - - - -	<i>4th October 2012</i>
<i>Laid before Parliament</i>	<i>9th October 2012</i>
<i>Coming into force</i> - -	<i>31st October 2012</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 130, 135 and 136 of the Police Reform and Social Responsibility Act 2011(a).

In accordance with section 136(1) of that Act, the Treasury have consented to the making of these Regulations.

Citation and commencement

1.—(1) These Regulations may be cited as the Late Night Levy (Expenses, Exemptions and Reductions) Regulations 2012.

(2) These Regulations come into force on 31st October 2012.

Interpretation

2. In these Regulations—

“the Act” means the Police Reform and Social Responsibility Act 2011;

“alternative licence condition” has the same meaning as in sections 25A(2) and 41D(3) of the Licensing Act 2003(b);

“BID arrangements” and “BID levy” have the same meaning as in section 41 of the Local Government Act 2003(c);

“community premises” has the same meaning as in section 193 of the Licensing Act 2003(d);

“performance of a play” has the same meaning as in paragraph 14 of Schedule 1 to the Licensing Act 2003;

“public house” has the same meaning as in article 1(2) of the Non-Domestic Rating (Public Houses and Petrol Filling Stations) (England) Order 2001(e);

(a) 2011 c. 13.

(b) 2003 c. 17. Sections 25A and 41D were inserted into the Licensing Act 2003 by the Legislative Reform (Supervision of Alcohol Sales in Church and Village Halls &c) Order 2009 (S.I. 2009/1724).

(c) 2003 c.26.

(d) Section 193 was amended by the Legislative Reform (Supervision of Alcohol Sales in Church and Village Halls &c) Order 2009.

(e) S.I. 2001/1345 as amended by S.I. 2006/591 and S.I. 2007/724.

“rateable value”, in relation to any premises, is the value for the time being in force for the premises entered in the local non-domestic rating list for the purposes of Part III of the Local Government Finance Act 1988(a);

“relevant decision” means a decision of a licensing authority under section 125(2), 132(1) or 133(1) of the Act;

“relevant production” means—

- (i) a performance of a play, or
- (ii) a performance of dance;

“relevant purposes” are purposes which result in, or are likely to result in, the reduction or prevention of crime and disorder in connection with the supply of alcohol between midnight and 6am at premises in relation to which a relevant late night authorisation has effect.

Late night levy: net amount of levy payments

3.—(1) For the purposes of section 130(2)(a) of the Act, the descriptions of relevant expenses are expenses incurred by a licensing authority in connection with or in consequence of—

- (a) the procedure it must follow in relation to a proposal to make a relevant decision(b),
- (b) the collection of payments of the late night levy,
- (c) the enforcement of the late night levy requirement,
- (d) its application of the net amount of levy payments in accordance with section 131(2) of the Act,
- (e) its publication of a statement in accordance with section 131(5) of the Act.

(2) For the purposes of section 130(2)(c) of the Act—

- (a) a payment of the late night levy in, or in respect of, a payment year is attributable to the levy year to which that payment year relates whether the payment is made before or after the cessation of that levy year;
- (b) the levy year to which relevant expenses are attributable is—
 - (i) in respect of the expenses described in paragraph (1)(a), the first levy year in which the relevant decision has effect,
 - (ii) in respect of the expenses described in paragraph (1)(b), the levy year to which the payment being collected is attributed in accordance with paragraph (2)(a),
 - (iii) in respect of the expenses described in paragraph (1)(c), the levy year to which the payment being enforced is attributed in accordance with paragraph (2)(a),
 - (iv) in respect of the expenses described in paragraph (1)(d), the levy year in which the payments to the licensing authority which give rise to the net amount of levy payments were payable,
 - (v) in respect of the expenses described in paragraph (1)(e), the levy year to which the requirement to publish a statement relates.

Late night levy: permitted exemption categories

4. For the purposes of section 135(1)(a) of the Act, permitted exemption categories are holders of relevant late night authorisations in relation to premises which are—

- (a) a hotel or guest house, lodging house or hostel at which the supply of alcohol between midnight and 6am on any day may only be made to a person—
 - (i) who is staying at the premises, and
 - (ii) for consumption on the premises;

(a) 1988 c. 41.

(b) The procedure is prescribed in regulations made under section 134 of the Act.

- (b) a theatre at which the supply of alcohol between midnight and 6am on any day may only be made to a person for consumption on the premises who is—
 - (i) a ticket holder in relation to a relevant production at the premises,
 - (ii) concerned in the performance, organisation or management of the relevant production, or
 - (iii) invited to the premises as a guest to attend an event to which the public do not have access;
- (c) a cinema at which the supply of alcohol between midnight and 6am on any day may only be made to a person for consumption on the premises who is—
 - (i) a ticket holder in relation to the exhibition of a film at the premises, or
 - (ii) invited to the premises as a guest to attend an event to which the public do not have access;
- (d) premises in respect of which—
 - (i) the provision of facilities for the playing of bingo is authorised by a bingo premises licence granted in accordance with section 163 of the Gambling Act 2005(a),
 - (ii) the holder of the bingo premises licence is authorised to provide facilities for the playing of bingo by virtue of a non-remote bingo operating licence granted in accordance with section 74 of the Gambling Act 2005, and
 - (iii) the playing of bingo is the primary activity carried on at the premises;
- (e) a club which is registered as a community amateur sports club by virtue of section 658 of the Corporation Tax Act 2010(b);
- (f) community premises in relation to which the premises licence contains the alternative licence condition;
- (g) a public house which is a hereditament in respect of which the ratepayer is subject to a non-domestic rate calculated in accordance with section 43(6A) of the Local Government Finance Act 1988(c);
- (h) a hereditament in respect of which—
 - (i) the ratepayer is liable for a BID levy in accordance with section 46 of the Local Government Act 2003(d), and
 - (ii) the BID arrangements in relation to which a BID levy is imposed are established for purposes which include relevant purposes; or
- (i) authorised to supply alcohol for consumption on the premises between midnight and 6am on 1st January in every year (but are not so authorised at those times on any other day in any year).

Late night levy: permitted reduction categories

5.—(1) For the purposes of section 135(1)(b) of the Act, permitted reduction categories are holders of relevant late night authorisations—

- (a) who are members of a relevant arrangement; or
- (b) in relation to premises, at which the authorisation permits the supply of alcohol for consumption on the premises only, which are a hereditament in respect of which—

(a) 2005 c. 19.

(b) 2010 c. 4. Section 658(1), (1A) and (1B) was substituted for subsection (1) (as originally enacted) by section 52(1) of the Finance Act 2012 (c. 14).

(c) 1988 c. 41. Section 43(6A) to (6E) was inserted by section 1 of, and paragraph 2 of Schedule 1 to, the Local Government and Rating Act 1997 (c. 29). Section 43(6B)(aa) was inserted by section 63(2) of the Local Government Act 2003 (c. 26).

(d) 2003 c. 26.

- (i) the ratepayer is subject to a non-domestic rate calculated in accordance with section 43(4A) of the Local Government Finance Act 1988(a), and
- (ii) the rateable value is not more than £12,000.

(2) The amount of the late night levy payable by the holder of a relevant late night authorisation who falls within a permitted reduction category is reduced by 30%.

(3) The reduced amount of the levy in paragraph (2) is the same in relation to—

- (a) a holder who falls within a permitted reduction category by virtue of paragraph (1)(a) or (b) or both,
- (b) a holder who is a member of one or more relevant arrangements.

(4) In this regulation “relevant arrangement” is an arrangement which—

- (a) is established for purposes which include relevant purposes,
- (b) requires its members to take steps to promote the relevant purposes, and
- (c) contains provision for the cessation of the membership of a holder of a relevant late night authorisation who has failed to take steps to promote the relevant purposes.

Home Office
4th October 2012

Jeremy Browne
Minister of State

We consent

David Evennett
Robert Goodwill

4th October 2012

Two of the Lords Commissioners of Her Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of these Regulations)

These Regulations prescribe a number of matters relating to application of the late night levy (“the levy”). The framework for the levy is set out in Chapter 2 of Part 2 of the Police Reform and Social Responsibility Act 2011 (“the 2011 Act”). This framework enables a licensing authority in England and Wales to introduce a late night levy in its area if it considers it desirable to raise revenue in relation to the costs of policing crime and disorder connected to the supply of alcohol in that area between midnight and 6am. If the levy is introduced, it is payable by holders of premises licences or club premises certificates which authorise the supply of alcohol at times beginning at or after midnight and ending at or before 6am (the licensing authority may determine the times but these must be the same each night). Section 126(2) of the 2011 Act defines such licences and certificates as relevant late night authorisations.

The framework for the levy confers a number of powers on the Secretary of State to prescribe by regulations a number of matters relating to the administration or application of the levy. These matters include the basis on which licensing authorities may deduct their expenses of administering the levy from levy receipts, and the categories of holders of relevant late night authorisations which the licensing authority may decide are exempt from the levy (“permitted exemption categories”) or are afforded a reduction to their liability for the levy (“permitted reduction categories”).

(a) Section 43(4A) to (4D) was inserted by section 61(1) and (3) of the Local Government Act 2003 (c. 26). Section 43(4D) was amended by section 70(1) and (4) of the Localism Act 2011 (c. 20).

Regulation 1 makes provision to enable these Regulations to come into force simultaneously with the commencement of the provisions in Chapter 2 of Part 2 of the 2011 Act, because these Regulations prescribe matters which are necessary to give effect to those provisions.

Regulation 3 prescribes the descriptions of expenses which a licensing authority may deduct from levy receipts for the purpose of calculating the net amount of levy payments for any levy year. These are a licensing authority's expenses in relation to:

- the procedure it must follow when introducing or amending the levy in its area,
- its collection and enforcement of the levy,
- the authority's application of the net amount of levy payments (whether by virtue of payment to the local policing body or in its application of its share of this sum in relation to arrangements it has put in place under section 131 of the 2011 Act), and
- its publication of a statement of estimated expenses (before the beginning of the levy year) and a statement of the net amount of levy payments (after the end of the levy year).

Regulation 3 also prescribes the basis on which payments of the levy to a licensing authority and its expenses are each attributed to a levy year.

Regulation 4 prescribes the permitted exemption categories. These are categories of holders of relevant late night authorisation (defined in section 126 of the 2011 Act) which a licensing authority may decide should not be liable to pay the levy. The categories include holders in relation to premises which are hotels, theatres, cinemas, bingo halls, community amateur sports clubs, community premises, public houses entitled to rural rate relief, participants in business improvement districts for relevant purposes and licensed premises which supply alcohol in the early hours on New Year's Eve.

Regulation 5 prescribes the permitted reduction categories. These are categories of holders of relevant late night authorisation which a licensing authority may decide should be entitled to a reduction from their liability to pay the levy. The categories include holders in relation to premises which are members of best practice schemes established for relevant purposes and which require active participation by their members, and certain licensed premises which are entitled to small business rate relief.

The reference in regulations 4 and 5 to "relevant purposes" in relation to the requirement which business improvement districts (in relation to permitted exemption categories) and best practice schemes (in relation to permitted reduction categories) must meet is defined as purposes which result in, or are likely to result in, the reduction or prevention of crime and disorder in connection with the supply of alcohol at premises in relation to which a relevant late night authorisation has effect.

A full regulatory impact assessment on the effect of this instrument is annexed to the Explanatory Memorandum which is available alongside this instrument on www.legislation.gov.uk.

© Crown copyright 2012

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Carol Tullo, Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.

STATUTORY INSTRUMENTS

2012 No. 2550

LICENCES AND LICENSING, ENGLAND AND WALES

The Late Night Levy (Expenses, Exemptions and Reductions)
Regulations 2012

£4.00

E4670 10/2012 124670T 19585

ISBN 978-0-11-152923-2



9 780111 529232