
EXPLANATORY NOTE

(This note is not part of these Regulations)

These Regulations prescribe a number of matters relating to the introduction and administration 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 matters relating to the basis on which the holders of relevant late night authorisations are liable, when they are liable, how they discharge that liability, what adjustments may be made to their liability if their circumstances change and what procedural steps licensing authorities must take in relation to the introduction of the levy in their areas (or the variation to the levy in subsequent years).

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 2 defines a number of terms to which reference is made in these Regulations.

Regulation 3 provides for the basis on which a payment year for the holder of a relevant late night authorisation is determined (“payment year” and “relevant late night authorisation” are defined in section 137 of the 2011 Act).

Regulations 4 and 5 (in tandem with the tables in Schedules 1 and 2) prescribe the basis on which the liability of holders of relevant late night authorisations to pay the levy is determined. This closely reflects the approach prescribed under the Licensing Act 2003 (by reference to which licence fees payable by licensed premises are determined), and is based on the rateable value of premises in relation to which authorisations are held and whether, in the case of premises with higher rateable values, they are used exclusively or primarily for the supply of alcohol for consumption on the premises.

Regulation 6 prescribes when the holder of a relevant late night authorisation must make the first and subsequent payments of the levy. This is determined in accordance with whether the authorisation was held at the beginning of the first levy year or was granted once the levy year had begun.

Regulation 7 makes provision for the circumstances in which the holder of a relevant late night authorisation may be entitled to a reduction in that holder’s liability to the levy. This arises in three cases. The first is where the holder’s authorisation lapses by virtue of section 27 of the Licensing Act 2003 (“the 2003 Act”) (i.e. where the holder has died, becomes mentally incapable or insolvent). The second is where the holder is prohibited from supplying alcohol as a result of an early morning restriction order made by the licensing authority under section 172A of the 2003 Act. The third is where the holder surrenders the authorisation under section 28 or 81 of the 2003 Act; in this case, the licensing authority may decide to treat this occurrence as entitling the holder to a reduction in liability. This regulation prescribes the basis on which the reduction is calculated, and includes

provision for cases where the holder’s estate or assets are administered by, for example, a personal representative or insolvency practitioner.

Regulation 8 provides that the licensing authority must pay the relevant local policing body (defined in section 137 of the 2011 Act) its share of the net levy revenue within 28 days of the end of the levy year to which the revenue relates. This share (called the “specified proportion”) represents 70% of the net levy revenue (the net amount is reached after the licensing authority has deducted its costs of introducing and administering the levy). This regulation also prescribes the purposes by reference to which the licensing authority can apply the remainder of the net levy revenue, and permits the authority to apply that revenue for those purposes.

Regulation 9 prescribes the procedural requirements which a licensing authority must observe when it proposes to introduce a levy in its area, or to vary the basis on which an existing levy is administered. In relation to either step, the licensing authority must consult specified persons (for example, the relevant local policing body and holders of relevant late night authorisations) and publish notice of the proposal (by publication of specified information on its website, by publication in a newspaper or similar document and by sending direct notification to holders of relevant late night authorisations). In relation to a proposal to introduce the levy, a licensing authority is required to make arrangements that no fee is required to be paid by the holders of authorisations (who would become relevant late night authorisations were the levy to be introduced) who apply to vary their authorisations under the 2003 Act so as to avoid becoming liable for the levy, and to require that no fee accompany any such applications.