

*Certified true copy – R N Gould, 22nd February 2005*

*This Statutory Instrument has been made in consequence of defects in S.I. 2005/79 and is being issued free of charge to all known recipients of that Statutory Instrument.*

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STATUTORY INSTRUMENTS

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**2005 No. 357**

**LICENCES AND LICENSING**

**The Licensing Act 2003 (Fees) (Amendment) Regulations 2005**

<i>Made</i> - - - -	<i>21st February 2005</i>
<i>Laid before Parliament</i>	<i>22nd February 2005</i>
<i>Coming into force</i> - -	<i>23rd February 2005</i>

The Secretary of State, in exercise of the powers conferred upon her by section 55 of the Licensing Act 2003(a), hereby makes the following Regulations:

**Citation and Commencement**

1. These Regulations may be cited as the Licensing Act 2003 (Fees) (Amendment) Regulations 2005 and shall come into force on 23rd February 2005.

**Amendment of Licensing Act 2003 (Fees) Regulations 2005**

2.—(1) Regulation 4 (fee to accompany application for grant or variation of premises licence) of the Licensing Act (Fees) Regulations 2005(b) shall be amended as set out below.

(2) For paragraph (2) there shall be substituted the following—

“Subject to paragraphs (4) and, in the case of an application under section 34, (6) and (7), where the application under section 17 or section 34 relates to a premises in Band D or Band E and the premises is used exclusively or primarily for the carrying on on the premises of the supply of alcohol for consumption on the premises, the amount of the fee shall be—

(a) in the case of premises in Band D, two times the amount of the fee applicable for the Band appearing in column 1 of the table in Schedule 2 specified in column 2 of that table, and

(b) in the case of premises in Band E, three times the amount of the fee applicable for that Band appearing in column 1 of the table in Schedule 2 specified in column 2 of that table.”.

(3) In paragraph (3) after “(6)” insert “and (7)”.

(4) In paragraph (4)—

(a) after “paragraph (5)” insert “and, in the case of an application under section 34, (8)”; and

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(a) 2003 c.17.

(b) S.I. 2005/79.

(b) in line four, for “an additional fee” substitute “a fee in addition to any fee determined under paragraphs (2) or (3)”.

(5) At the end insert—

“(7) In respect of an application under section 34 made at the same time as an application under paragraph 2 of Schedule 8 to the Act and which does not relate in any way or to any extent to the supply of alcohol for consumption on the premises to which the application relates, the requirement under paragraph (1) for a fee determined in accordance with paragraphs (2) or (3) of this regulation, as applicable, to accompany the application under section 34 does not apply.

(8) Subject to paragraph (9), in respect of an application under section 34 made at the same time as an application under paragraph 2 of Schedule 8 to the Act, the requirement under paragraph (4) for a fee in addition to any fee determined under paragraphs (2) or (3) to accompany the application under section 34 does not apply.

(9) Paragraph (8) does not apply where the application to vary under section 34 is made in respect of a licence which at the time of the application does not authorise licensable activities to take place on the premises when the maximum number of people allowed on the premises at the same time is 5000 or more and the application seeks a variation of the licence to authorise licensable activities to take place on the premises when the maximum number of persons allowed on the premises at the same time is 5000 or more.”.

*Richard Caborn*  
Minister of State

21st February 2005

Department for Culture, Media and Sport

#### **EXPLANATORY NOTE**

*(This note is not part of the Order)*

These Regulations amend the Licensing Act 2003 (Fees) Regulations 2005 (S.I. 2005/79) (“the principal Regulations”) to correct errors in the scope of regulation 4(2) in the principal Regulations and concerning the fees payable where an application is made for the conversion of an existing licence during the transitional period and an application to vary is made at the same time.

In regulation 4, paragraph (2) has been amended so as to provide that the paragraph applies where an application relates to premises in Band D or Band E which are used exclusively or primarily for the carrying on on the premises of the supply of alcohol for consumption on the premises. Previously it appeared that the paragraph applied where the application related to premises in Band D or Band E and to the use of premises exclusively or primarily for the carrying on on the premises of the supply of alcohol for consumption on the premises.

Regulation 4(2) has also been amended to make it subject to paragraphs (6) and (7) in the case of an application under section 34. Regulation 4(3) has been amended to make it subject to paragraph (7) as well as to paragraph (6) in the case of an application under section 34. The effect of these amendments is that in respect of an application to vary which is made at the same time as an application to convert an existing licence to a new premises licence:-

(a) where the application relates in any way or to any extent to the supply of alcohol for consumption on the premises, a reduced fee will be payable for the application to vary (paragraph (6) and Schedule 4); and

(b) where such an application does not relate in any way or to any extent to the supply of alcohol for consumption on the premises, no fee will be payable for the application to vary (paragraph (7)).

In regulation 4(4) for “an additional fee” there has been substituted “a fee in addition to any fee determined under paragraph (2) or (3).” This is intended to reflect the fact that, in consequence of the new regulation 4(7), there are circumstances in which there is no requirement for the application to be accompanied by a fee determined under paragraph (2) or (3).

New paragraphs (7), (8) and (9) are inserted at the end of regulation 4.

The effect of regulation 4(7) is that no fee is payable in respect of an application to vary which is made at the same time as an application to convert an existing licence to a new premises licence under paragraph 2 of Schedule 8 to the Act where the application does not relate in any way or to any extent to the supply of alcohol for consumption on the premises to which the application relates.

The effect of regulation 4(8) is that, subject to paragraph (9), no fee is payable under regulation 4(4) in respect of an application to vary which is made at the same time as an application to convert an existing licence to a new licence under paragraph 2 of Schedule 8 to the Act.

Regulation 4(9) provides that paragraph (8) does not apply where the licence, in respect of which the application under section 34 is made, does not authorise licensable activities to take place when the maximum number of people allowed on the premises is 5000 or more, and the variation sought would authorise licensable activities to take place when the maximum number of people allowed on the premises is 5000 or more.