

FINAL REGULATORY IMPACT ASSESSMENT

1. Title

The Licensing Act 2003 (Transitional conversions fees) Order 2005

The Licensing Act 2003 (Fees) Regulations 2005

2. Purpose and intended effect of the measure

(i) **The objective**

The Licensing Act 2003 gives the Secretary of State power to make regulations and orders prescribing the amount of the fees payable to licensing authorities by a person making an application or giving a notice under the 2003 Act. All but a few licensing authorities are local authorities. The others are the Inner Temple and Middle Temple and the Council of the Isles of Scilly.

The objective of the regulations and order is to set the level of these fees so far as possible at a level that would achieve full recovery of the administrative, inspection and enforcement costs falling on licensing authorities associated with their licensing functions under the 2003 Act, while at the same time achieving arrangements which are fair to businesses of differing sizes and to other non-commercial organisations and individuals seeking licences.

The Secretary of State is empowered to revise the regulations and order setting the fees at any time.

(ii) **The background**

There are currently six licensing regimes which govern the licensable activities addressed by the Licensing Act 2003. These involve the sale and supply of alcohol, the provision of public entertainment, theatre, cinema and late night refreshment, including night cafes. Although many premises hold multiple licences, fees must be paid in respect of the services provided under each regime. Fees in respect of alcohol and cinema licences are set centrally by statutory provision, while those in respect of public entertainment, theatres, late night refreshment houses and night cafés are set locally by local authorities and vary considerably. The 2003 Act effectively integrates the six existing regimes into a single new scheme.

The 2003 Act received Royal Assent on 10 July 2003. The transitional period, during which existing licences and certificates can be converted to new forms of licences and certificates, commences on 7 February 2005. Fees will be payable

from then onwards. The new licensing regime is expected to become fully operational in November 2005.

The 2003 Act governs a discrete range of activities. These are broadly the sale by retail of alcohol, the supply of alcohol in qualifying members' clubs, the provision of regulated entertainment and the provision of late night refreshment between 11.00pm and 5.00am. Unless benefiting from an exemption provided in the 2003 Act, all those who engage in such activities will be required to do so under the various authorisations provided by the Act and this will in turn require them to pay the relevant fees.

The 2003 Act requires that the fee levels be set centrally by the Secretary of State for Culture, Media and Sport. Estimated fee levels were first published for consultation in April 2000 as part of a White Paper¹. They were published again in the Regulatory Impact Assessment which accompanied the Licensing Bill in November 2002. Finally, the fee estimates were published for further consultation on 3 November 2004. The consultation ended on 23 December.

The Government has consistently expressed the aim of ensuring that the costs of local authorities administration, inspection and enforcement associated with the new regime should not fall on the central or local taxpayer, but on those choosing to engage in licensable activities. It is important to note that cost recovery should so far as possible be of the full legitimate and efficient costs falling on local authorities under the Act and not just those costs falling on them under their role as licensing authorities. This will therefore include some costs that are not associated with formal licensing functions under the 2003 Act. For example, the costs incurred by environmental health departments that directly result from their role as a responsible authority under the 2003 Act must be included but not the costs associated with their other non-licensing statutory functions.

The administrative costs resulting from the processes that licensing authorities will need to carry out as a result of the 2003 Act and its subordinate legislation should be relatively fixed and subject only to variations resulting from overheads (labour, accommodation costs etc) and levels of efficiency. While this equally applies to inspection and enforcement, at least in part costs in respect of those elements will depend on the approach adopted to these matters and will therefore to a degree be driven by policy.

The Secretary of State has favoured the more efficient course as do the local authority representative bodies because it represents best practice in this field of activity. This is the basis on which the costs of the regime have been estimated.

Over a period of ten years, the Government expects the new licensing regime to produce savings to industry of about £2 billion and administrative savings of more than £150 million to the police through the reduction in red tape. However, the savings to industry are not necessarily produced through the

¹ Time for Reform: Proposals for the Modernisation of Our Licensing Laws (CM 4696)

introduction of lower fees compared to those under existing licensing regimes. The main savings arise through the reduction in licensing processes in the mid- to long-terms and therefore reductions in management, legal and administrative costs to the industry and the police.

There are approximately 190,000 businesses and clubs (for example, Labour, Liberal, Conservative, ex-services, working men's and sports and social clubs that supply alcohol and/or provide regulated entertainment for their members and guests) affected by the new regime, and the majority of these are small businesses. A significant proportion are non-profit-making.

(iii) Risk Assessment

There are essentially three major risks associated with the regulations and order. These are that the fees will be set too high or too low; and that the fees affecting particular classes of premises would be disproportionate because one class of premises or another may attract a disproportionate level of costs (for example, higher enforcement costs) but which is otherwise shared by all classes.

Too high: This would create an unfair financial burden on industry, voluntary groups, charities, members' clubs and others who pay fees; and the excess expenditure could not be retrospectively recovered.

Too low: This would mean that licensing authorities and responsible authorities forming part of the local authority would be underfunded or any deficit would have to be recovered through council tax, with the burden falling on local taxpayers. Public protection with regard to the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm would suffer if there was inadequate funding for the enforcement of the new licensing regime and the associated offences.

Disproportionate: Establishing a national fee regime which is fair to all risks imposing an unfair or disproportionate burden on particular classes of premises that attract lower overall costs than other classes of premises. For example, large premises that exclusively or primarily engage in the sale of alcohol for consumption on the premises may attract higher enforcement costs under the licensing regime than a similarly large venue where sales of alcohol are entirely secondary to the main activity there, for example, a theatre.

Those expected to be affected as either recipients of income from fees or as those who will pay fees are as follows:

- about 190,000 businesses in the hospitality, leisure, entertainment, retail and late night refreshment industries, including circuses (about 30) and for the first time passenger boats (about 600) ;
- about 240,000 individuals employed in the on- and off- licence sector who will want to apply for personal licences;

- about 20,000 non-profit making members' clubs – including political, sports, ex-services and other clubs;
- many charitable, community and voluntary groups who run permanent venues for forms of entertainment;
- a large body of performers who provide entertainment;
- about 400 licensing authorities (mostly local authorities);
- a range of other responsible authorities which form part of local authorities including environment health authorities, health and safety authorities, Area Child Protection Committees and social services departments, Crime And Disorder Reduction Partnerships and Community Safety Partnerships.

3. Options

The Government does not consider that an option involving not making the fee regulations and order mentioned above is feasible. Applications could not be made under the terms of the primary legislation unless fees are paid.

Responses to the recent public consultation, proposed various alternative methods for calculating individual fees, including:

- Relating fees to the capacity of the premises involved;
- Sub-delegating powers to licensing authorities to set or waive fees;
- Basing fees on the hours at which premises are open, or the hours after midnight that they are open; and
- Basing fee levels on a detailed risk assessment relating to the impact of the premises, its activities and its customers on the surrounding environment.

These were not regarded as viable options by the Government either because they are outside the powers given to the Secretary of State in the primary legislation or because they are impractical (for example, not all premises have formal capacities and the only mandatory conditions which can be imposed on individual licences are on the face of the primary legislation and cannot be added to by subordinate legislation).

Option 1 – Set fee levels at an agreed lower level but subsidise the fees through either council tax or central taxation

The Government rejects this option. It does not consider that it would be reasonable or fair to expect the taxpayer to subsidise the activities of persons engaging in licensable activities. Many of the activities are conducted commercially for the benefit of individuals and shareholders. In the case of members' clubs, they are conducted for the benefit of the members' only and not the wider community. In the case, of voluntary groups and charities, the Government recognises the altruistic nature and community benefit of many of activities undertaken, but they are conducted voluntarily and it would be unreasonable to expect taxpayers who do not support the aims of the bodies concerned to support them indirectly through additional taxation. Where an activity is

in the general interests of the community, it would remain open to the local authority to support and sponsor the activity by paying the fee itself. But that should remain a decision for the democratically elected authority in any particular area. As a result of commitments made during the Parliamentary stages of the Licensing Bill, the Government has proposed two exceptions to this rule:

- No fee or annual charge would be payable by church halls, chapel halls or other premises of a similar nature and village halls, parish halls and community halls or other premises of a similar nature for a premises licence authorizing **only** the provision of regulated entertainment. The costs associated with these licences will be met by central Government.
- No fee or annual charge would be payable by a school providing education for pupils up to Year 13 or a sixth form college for a premises licence authorizing **only** the provision of regulated entertainment carried on by the school or sixth form college itself at the school or college premises for the purposes of the school or college. Again the costs of these licences will be met by central Government as agreed with ODPM during the passage of the Bill.

These exceptional arrangements can be included under other options.

Option 2 – proceed as proposed in the public consultation and set fee levels for individual premises on the basis of recovering the full cost to the licensing authorities of the new statutory functions and allocate premises to fee levels using non-domestic rateable value.

Option 2 was the preferred position on which the Government recently conducted a public consultation. So far as possible, prior to the full operation of the new regime, this option should ensure that the licensing authorities' costs relating to administration, inspection and enforcement of the new regime should be fully recovered from applicants and no costs should fall on the taxpayer. The Government favours non-domestic rateable value as a means of allocating premises to fee bands for the following reasons because it:

- appears fair in ensuring that larger businesses pay more than smaller businesses;
- is an indicator of business size and turnover;
- takes into account the location of the business;
- reflects higher overheads falling on local authorities in certain areas;
- is reviewed regularly (new non-domestic rateable values will come into force in April 2005);
- is a known quantity with the data readily available to applicants and licensing authorities; and
- has its own appeal mechanisms.

Premises without non-domestic rateable value could be allocated to the lowest band as most involve the types of applicant unlikely to give rise to significant inspection and enforcement costs. The exemption for schools and community halls with regard to regulated entertainment could be incorporated into this option.

On the other hand, non-domestic rateable value can produce some anomalies. For example, a museum may have a very high non-domestic rateable value but engage in licensable activities infrequently and on a quite modest scale. No system is likely to be perfect and the anomalies are likely to be rare set against the 190,000 or so existing premises affected. However, from the evidence received during the public consultation, the Government believes its original proposal may fail to recognise that different classes of premises with similar non-domestic rateable values may attract different enforcement costs. It may therefore be unfair not to include some flexibility within the regulations which addresses those differences.

Under this option, we estimate that the overall fees payable to licensing authorities during the period of transitions would be £41 million; £33.8 million in the first year following the first appointed day; and £30 million in the year following that; and £31 million in the year after that.

Option 3 - set fee levels for individual premises on the basis of recovering the full cost to the licensing authorities of the new statutory functions and allocate premises to fee levels using non-domestic rateable value, but also introduce flexibilities which respond to disproportionate costs expected to emerge in respect of certain classes of premises.

This option would involve the Government adopting the methodology proposed in the consultation, but taking into account new information provided in responses to it. The new information also relates to the potential volume of applications which may be made to licensing authorities under the regime. This approach has been suggested by some licensing authorities as being fairer than NDRV alone in allocating premises to fee levels.

The option would involve:

- a general uplift across the board for fees relating to applications for and variations of premises licences and club premises certificates and in respect of the annual fees to be paid, recognising increased volumes of applications, increased levels of representation by residents and responsible authorities, increased numbers of hearings and reviews of licences; and higher appeal costs than were originally estimated. This would add approximately £15 million to overall income during the period of transition, and £19 million in the first year after transition and each year thereafter;
- requiring an additional payment during the period of transition for the variations of converted existing licences which relate to sales of alcohol, recognising the higher level of representations which are likely to be made in respect of applications to vary the hours during which alcohol is sold compared to variations in connection with other matters. This is estimated to add £4.4 million to overall licensing authorities' income during the period of transition only;
- applying a multiplier (and therefore a higher fee) for larger premises which are exclusively or primarily engaged in the sale of alcohol for consumption

on the premises, recognising the potentially disproportionate costs expected to be incurred in enforcing licensing law in respect of town and city centre public houses (and what are commonly called "High Volume Vertical Drinking Establishments"). This is expected to add about £3 million to overall income in the period of transition; and about £1.8 million in the first year after transition and thereafter.

This is the Government's preferred option and responds directly to the more detailed information provided in responses to the public consultation. In comparison with Option 2, it would cost applicants applying for licences or certificates or giving notices under the 2003 Act approximately £22 million more in the period of transition and £21 million in the first year after transition and each year thereafter. However, the Government believes that this is a truer reflection of the costs of the new regime and the flexibilities included are fairer to the applicants involved.

4. Benefits

The benefits of the regulations and order lie in the ability to set fees which allow the full cost recovery of the legitimate and efficient costs of the new licensing regime, and the ability to review the fee levels on a continuing basis.

(i) Economic

The level of fees envisaged should not place an unreasonable burden on industry or damage current business activity. If the fees were not paid, the new regime would have to be financed almost entirely through council tax increases. The fees should produce a properly resourced licensing regime allowing the Licensing Act 2003 to be implemented efficiently and therefore produce the benefits envisaged by Parliament when scrutinising the primary legislation. These benefits were detailed in the Regulatory Impact Assessment produced for the 2003 Act.

(ii) Environmental

The fee regulations and order do not directly impact on the environment, but the Government considers that an efficient and properly resourced licensing regime will assist in producing safer and more attractive town and city centres.

(iii) Social

The fee regulations and order should ensure that licensing fees do not themselves function perversely as an inhibition to the provision of live music. Public entertainment licence fees are currently set locally and vary enormously. In areas where licence fees are high, this has deterred premises selling alcohol from diversifying by putting on live entertainment. Under the Government's preferred option (Option 3), there would be no additional fee payable when existing premises convert their existing licences and vary them only to include the provision of live music.

Business Sectors Affected

There is no individual business which can be described as wholly typical of the retail, hospitality, entertainment and leisure sectors affected because the new licensing regime covers such a wide-range of business outlets.

In England and Wales, there are currently 113,000 premises licensed for the sale of alcohol for consumption on the premises. These include pubs, nightclubs, restaurants, hotels, wine-bars and café bars. Some are owned by major companies, which own as many as 9,000 premises, many of which are often directly operated by tenants. Other major companies directly manage and operate the venues themselves through managers. A large proportion comprises single businesses.

There are also about 47,000 shops, stores and supermarkets currently licensed to sell alcohol for consumption exclusively off the premises. Once again the businesses range from major chains of supermarkets (about 8,000) to small shops (about 32,700) run individually. Some of the shops form part of medium and large chains, while the majority are individual businesses. In general, garage forecourt convenience stores find it difficult to obtain alcohol licences because of special provisions in the Licensing Act 1964. About 1600 garages and petrol stations are licensed to sell alcohol.

Just over 20,000 non-profit making registered members' clubs hold certificates granted by magistrates' courts permitting them to supply alcohol for their members and guests for consumption off or on those premises. Such clubs include political clubs (eg. Labour, Liberal, Liberal Democrat and Conservative Clubs), ex-services clubs (eg. the Royal British Legion), sports clubs (eg rugby, tennis and golf clubs) and various others. Membership of such clubs varies from as few as twenty-five members to several thousands.

Just over 200 theatres are also licensed to sell alcohol.

The 160,000 licensed premises are required to renew their licences every three years. Renewal periods for club registration certificates vary at the discretion of magistrates' courts between three, five and ten years. [Public entertainment licences last for one year].

Full details are provided in Table 1 below.

Table 1

Premises licensed for the sale of alcohol	England	Wales	Total
Pubs, nightclubs, bars, wine-bars etc	75,972	5,483	81,455
Restaurants	19,910	1,344	21,254
Residential	3,686	284	3,970
Combined residential and Restaurant	2,539	401	2,940
Proprietary membership clubs (commercial)	3,488	263	3,751
Registered members' clubs (non-profit making)	18,471	1,442	19,913
Theatres	201	17	218
Supermarkets	10,179	501	10,680
Shops and stores	31,852	2,500	34,352
Garages/petrol stations	1,417	133	1,550
Total	149,244	10,926	160,170

In addition, about 25,000 organisations each year seek "occasional permissions" from magistrates to sell alcohol temporarily at premises which are normally unlicensed. These organisations include, for example, charities, schools and local community groups. Around 54,500 occasional permissions are sought each year by these organisations and just over 53,600 are granted.

The number of venues licensed for public entertainment on a permanent basis is not known but surveys suggest that 46,000 public entertainment licences are issued in England and Wales annually and that as many as 30 per cent of premises licensed to sell alcohol for consumption on the premises also hold public entertainment licences. Just over 12,000 on-licensed premises and registered members' clubs hold public entertainment licences (or "certificates of suitability" as they are called for registered clubs) to enable them to obtain special hours certificates and sell alcohol up to 2.00am (or 3.00am in the West End of London). About 2,000 of the premises holding such licences are traditional nightclubs which provide dancing or the "clubbing" experience. The businesses affected again vary considerably from small independent clubs with capacities in the low hundreds to major chains and a small number of very large nightclubs with capacities over 2,000. Public entertainment licences must be renewed annually by application to the local authority.

There are also about 600 cinemas in England and Wales employing about 13,000 people. Each holds a cinema licence issued by the local authority, which must be renewed annually. The number of theatres holding theatre licences – other than those that are also licensed to sell alcohol – is uncertain.

Figures for the number of premises licensed as night cafés or for the provision of late night refreshment (where no alcohol is involved) are also uncertain as no central data is maintained, and many local authorities maintain only paper records. In London, night cafés include "sit down" cafés not serving alcohol, take-aways, and similar fast food outlets.

Outside London, late night refreshment houses refer solely to “sit down” cafés not serving alcohol, but the authorities have powers to issue closing orders in respect of take-aways causing disturbance in the community. Many late night refreshment retailers, take-aways and cafés currently close before pub closing times to avoid the peak density of disorderly males and the uneven spread of demand. The range of premises affected is extremely diverse, including sandwich bars, coffee shops, cafés, fish and chip shops, mainstream chicken, burger and pizza suppliers, and a huge range of ethnically diverse takeaway meal providers. These businesses range from major chains to small independents.

There are estimated to be 23,500 takeaways in the United Kingdom of which about 9,000 are fish and chip shops, but the figures are questionable because the uncertainty about which premises are being included. There is also no data available purely for England and Wales. The number that open later than 11.00pm is unknown and as has been pointed out above, many choose not to open later because of the problems associated with the exodus of vast numbers of people from public houses simultaneously.

Recent surveys also show that an estimated 1.7m live music events are staged in each year in small and medium sized venues. To this must be added live music events in major venues and concert halls.

Issues of Equity and Fairness

The three main methods that the Government has adopted to ensure that the fee levels set are fair and equitable are:

- ensuring so far as possible that they achieve the full costs of the administration, inspection and enforcement functions carried out by licensing authorities/local authorities, and no more;
- using non-domestic rateable values and a banding system designed to achieve reasonable fairness between smaller and larger businesses. Non-domestic rateable value is set using formulae which relate to the turnover of the business, its location and a range of other factors;
- ensuring that particular premises which appear on the evidence of the public consultation and our discussions with enforcement agencies to be more likely to generate higher enforcement costs or generate an increased number of representations (and therefore hearings), should pay more than premises which are likely to generate only normal costs.

The Government recognises that any arrangements of this kind are based on assumptions and projections. Until the transitional period begins and in respect of some costs, until the regime is fully implemented, the actual costs which need to be recovered will not be accurately known. The Government will therefore take three steps in order to ensure equity and fairness in future:

- the actual costs of the regime will be closely monitored in partnership with the Local Government Association and in consultation with industry;
- If there are early indications that the costs are not as predicted, the Government will amend the fee regulations and order; and
- an independent review of the costs and fees will be conducted approximately one year after the Act has been fully implemented, which will inform any necessary further revisions to fee regulations.

5. Costs

Business Compliance costs

Although the implementation of the Licensing Act 2003 should broadly deliver savings to industry of almost £2 billion over ten years, these savings are not primarily derived through savings in respect of fees. The cost to industry (and other applicants) arising from the fee regulations and order is the difference between the fees charged for the six existing licensing regimes and the fees that would be charged under the new regulations and order.

Following the public consultation and the publication of the 2004 Liquor Licensing Statistical Bulletin, our estimates of the fees payable annually by industry (and others) is set out in Table 2 below:

Table 2

<i>Estimated annual income from existing licensing regimes</i>			
Number	Item	Annual unit fee	Total
168,000	On/Off licence- grant and renewal	£10	£1,680,000
25,000	Variations	£10	£250,000
20,500	Club registration	£5.33	£109,000
220,000	Occasional licence	£10	£2,200,000
55,000	Occasional permissions	£10	£550,000
1,500,000	Special Order Exemption	£10	£15,000,000
20,000	Transfers	£30	£600,000
200	Affirming provisional grant	£10	£2,000
200	Declaring provisional grant	£10	£2,000
2,000	Interim authority	£10	£20,000
17,000	Registration as owner	£5	£85,000
2,500	Special Hours Certificates	£25	£62,500
12,000	Special Hours certificates ongoing	£8.33	£100,000

500	Children's Certificate	£16	£8,000
500	Variation club registration	£16	£8,000
30,000	Grant/Variation Extended Hours Orders/Supper Hour certificates etc	£8.33	£250,000
46,000	Public Entertainment licences	Various	£18,000,000
600	Cinema licence	Various	£240,000
300	Theatre licence	Various	£150,000
5,000	Night café/LNR	Various	£2,500,000
Grand Total		£41.8 million	

Total compliance costs over a period of four years under the old licensing regime are therefore estimated to be £167.2 million.

Option 1

This Option would involve setting the fees at a level that does not achieve full recovery of the costs of the regime and would impose costs on the central or local taxpayer. As fees would not relate to costs, they could be set at any arbitrary level.

At present, the evidence suggests that the existing licensing regimes under the control of the local authorities in England and Wales cost them up to £7 million more than they receive in income. The Government's own investigations also suggest that the costs of the functions carried out now by the licensing justices and the magistrates' courts under existing licensing law are being subsidised by the taxpayer. Although the available data is limited, we believe that the existing fees are not recovering the costs of the alcohol licensing regime to the licensing justices and magistrates' courts. In order to do so, these fees should be about 150 per cent higher. At present, the magistrates' courts (of which the licensing justices form part) are funded by normal grant and fee income is returned to the Treasury to off-set any costs associated with the court's licensing responsibilities. If our assumptions as to the level of the shortfall are correct, the fee levels are being subsidised by the taxpayer to the tune of about £25.5 million annually. There is therefore a significant failure to recover costs fully now and it is clear that even if the new regime had not been introduced, alcohol licensing fees under the existing regime would have had to be increased substantially.

Accordingly, while the current annual income from the six licensing regimes is approximately £41.8 million, the full cost of the regimes to the existing licensing authorities is estimated to be £74.3 million annually and the possible total shortfall is of the order of £32.5 million.

In addition, alcohol licence fees currently do not recover the costs of enforcement, as the fees do no more than recover part of the courts' administrative costs.

No precise costs can be given in respect of Option 1 as the Government is unwilling to propose that the taxpayer should subsidise licensing costs falling on applicants, but they would clearly be lower than those proposed under other options. However, if the existing arrangements were replicated by the regulations and order, total cost to the industry over four years would be £167.2 million and the costs to the taxpayer would be of the order of £130 million.

Option 2

Under Option 2 the full compliance cost was estimated in the public consultation document to be as shown in Table 3 below:

Table 3

Transition (nine months)	Year 1	Year 2	Year 3
£41m	£33.8m	£30.0m	£31.0m

Accordingly, the total costs over a period of approximately four years would be £136 million compared with fee expenditure of £167 million over the same period if the existing licensing regimes continued. This represents a saving to the industry and other applicants of £31.2 million over four years.

Option 3

Under Option 3, total compliance costs would be as shown in Table 4:

Table 4

Transition	Year 1	Year 2	Year 3
£63m	£55m	£51m	£52m

When compared with Option 2, this represents additional expenditure for the businesses and other premises involved as shown in Table 5:

Table 5

Transition	Year 1	Year 2	Year 3
£22m	£21m	£21m	£21m

Total fee expenditure over a period of approximately four years would be £221 million compared with fee expenditure of £167.2 million over the same period if the existing licensing regimes continued. This is a cost to the industry (and other applicants) of about £54 million over four years or £13.5 million annually. However, this income eradicates the unintended subsidies that existed under the old regimes of £32.5 million annually and for the first time, recovers fully the legitimate and efficient enforcement costs expected to fall on licensing authorities.

Other costs/savings

While the implementation of the Licensing Act 2003 generally should produce a range of other savings for industry and the police, these do not arise from the fee regulations and order.

Local authorities currently carry a deficit nationally of £7 million annually from their failure to recover fully the costs of public entertainment licensing. This will no longer be incurred from the second appointed day at the end of the transitional period.

We also estimate that there is a failure to recover £25.5 million annually under the existing alcohol licensing regime, which will no longer fall on the magistrates' courts (ie the public purse).

Costs of a typical business

The public consultation document indicated the compliance costs falling on individual businesses. These would be set in bands relating to the rateable value of the premises concerned. The bands proposed were as follows in Table 6.

Table 6

Band	A	B	C	D	E
Non-domestic rateable value	£0 - £4300	£4,301 - £33,000	£33,001- £87,000	£87,001- £125,000	£125,001 and over

The Secretary of State proposed in the consultation document that the fees relating to applications for premises licences, club premises certificate, variations (but not changes of name and address etc or changes of designated premises supervisor), the conversion of existing licences, and conversion/variations should be graduated using the five bands mentioned above, in the manner shown in Table 7.

Table 7

A	B	C	D	E
£80	£150	£250	£350	£500

The Secretary of State also proposed that the fees relating to the annual charges payable by those holding premises licences and club premises certificates should be as shown in Table 8:

Table 8

A	B	C	D	E
£40	£125	£175	£200	£225

There are a number of other fees and charges that must be paid by applicants and those giving notices under the new regime. The Secretary of State proposed that these should be as follows in Table 9.

Table 9

Occasion on which fee may be payable	Fee
Supply of copies of information contained in register	Set by relevant local authority
Application for copy of licence or summary on theft, loss etc of premises licence or summary	£10.50 in all cases
Notification of change of name or address (holder of premises licence)	£10.50 in all cases
Application to vary to specify individual as premises supervisor	£23.00
Application to transfer premises licence	£23.00
Interim authority notice	£23.00
Application for making of a provisional statement	£195.00
Application for copy of certificate or summary on theft, loss etc of certificate or summary	£10.50 in all cases
Notification of change of name or alteration of club rules	£10.50 in all cases
Change of relevant registered address of club	£10.50 in all cases
Temporary event notices	£21.00
Application for copy of notice on theft, loss etc of temporary event notice	£10.50
Application for copy of licence on theft, loss etc. of personal licence	£10.50
Notification of change of name or address (personal licence)	£10.50

Notice of interest in any premises	£21.00
------------------------------------	--------

Finally, the consultation proposed that an additional fee be paid for exceptionally large one-off events involving licensable activities and the attendance (at any one time) of more than 6,000 people. The Glastonbury Festival would be one example of an event occurring temporarily but annually that gives rise to high licensing authority costs. The Government proposed that these additional fees should be paid according to the scale in Table 10 below:

Table 10

Number	Additional Fee
6,000 - 9,999	£5,000
10,000 - 19,999	£7,500
20,000 - 29,999	£10,000
30,000 - 39,999	£15,000
40,000 - 49,999	£20,000
50,000 - 74,999	£30,000
75,000 and over	£50,000

The consultation document also proposed that where any event organiser sought and obtained a permanent premises licence to enable a large scale temporary event to take place each year, an additional annual fee would be payable amounting to 50 per cent of the charges payable in the scale in Table 10.

Option 3

Option 3, the Government's preferred option, would involve adopting a similar methodology to that described in the public consultation and as shown in Table 6 above.

However, reflecting on the evidence provided by the public consultation, particularly by local authorities and work undertaken on behalf of the Government and the Local Government Association by independent consultants, the Government has concluded that there needs to be a general uplift in the proposed fee levels in order to generate the income needed nationally to cover the costs of the new licensing regime.

Under this option, the fees relating to applications for premises licences, club premises certificate, variations (but not changes of name and address etc or changes of designated premises supervisor), the conversion of existing licences, and conversion/variations should be graduated using the five bands mentioned in Table 6 above, in the manner shown in Table 11 below.

Table 11

A	B	C	D	E
100	190	315	450	635

In addition, the fees relating to the annual charges payable by those holding premises licences and club premises certificates would be as shown in Table 12.

Table 12

A	B	C	D	E
70	180	295	320	350

It should be noted that "premises", which includes any place and therefore open land, and premises without a rateable are placed by the regulations in Band A. The types of business in each of the bands is clearly very variable. However, the majority of the businesses involved are in Bands A and B. Non-commercial premises such as village halls and passenger boats would tend to fall in Band A and most clubs, including sports clubs, would fall into Bands A and B. Following the public consultation, we are able to estimate the spectrum of premises lying in each Band as a percentage of the total: This is shown in Table 13 below:

Table 13

Rateable value bands	A	B	C	D	E
% of premises in band	19%	60%	13%	3%	5%

The Government is therefore confident that the fees at this level would not place an undue or disproportionate burden on the premises affected.

Under Option 3, there would be little change to fees set out in Table 6 above under Option 2. However, the cost of applying for a provisional statement (which relates to premises not yet completed or being built) would be increased from £195 to £315, the equivalent fee to an application for a premises licence under Band C.

It should also be noted that circuses under all options would need to obtain many licences each year. We have previously estimated that each of approximately 30 circuses in England and Wales would require up to 40 licences. But open land tends to fall into Band A.

Option 3 includes specific flexibilities which address disproportionate costs expected to arise in respect of certain particular classes of premises. The first of these concerns large premises engaged exclusively or primarily in the sale of alcohol for consumption on the premises. The public consultation strongly suggested that such premises, and particularly those in town and city centres and those described as "high volume vertical

drinking” establishments, generate disproportionately high enforcement costs to which it would be unreasonable to expect other businesses to contribute.

Accordingly, Option 3 includes a multiplier applied to town and city centre public houses, primarily or exclusively engaged in the sale of alcohol for consumption on the premises and currently falling in Bands D and E. Premises in Band D would pay twice the normal application fee and annual fee; and those in Band E would pay three times the normal application fee and annual fee. It is difficult to estimate precisely how many premises will meet these definitions. However, we believe that there are at least 2,000 such premises and at most 4,000. The multiplier would have the effect shown in Table 14:

Table 14

Band	D (x 2)	E (x 3)
Large City / town centre pub application Fee	£900	£1905
Large City / town centre pub annual charge	£640	£1050

The Government estimates that this would amount to additional national fee expenditure of for the businesses affected of about £3m in the period of transition and £1.8m in each of the years following full implementation of the 2003 Act.

Evidence from the responses to the public consultation also strongly suggests that premises, involved in the sale of alcohol varying converted (existing) licences during the period of transition could be expected to generate higher levels of representations from responsible authorities and interested parties (local residents and local businesses). For example, these might involve applications to extend existing hours. This in turn generates higher levels of hearings, which is a key cost driver for licensing authorities. Option 3 therefore includes a one-off additional fee to be paid for variations of premises licences involving the sale alcohol. The additional fee would be as follows in Table 15:

Table 15

Rateable value bands	A	B	C	D	E
Variation Fee	£20	£60	£80	£100	£120

We have graduated this fee by rateable value bands to ensure fairness between smaller and larger businesses paying these costs. We estimate that this additional one-off fee will add £4.4 million overall in the period of transition to the fee expenditure of the businesses affected during the period concerned.

Finally, the Government have examined very carefully responses to the public consultation relating to large one-off events. In the light of this evidence, the Government considers that the fees have been set too high at the lower end of the

scale and are insufficient to meet licensing authority costs at the higher end of the scale. Option 3 therefore includes an amended scale as shown in Table 16:

Table 16

Number	Additional fee
5,000 to 9,999	£1,000
10,000 to 14,999	£2,000
15,000 to 19,999	£4,000
20,000 to 29,999	£8,000
30,000 to 39,999	£16,000
40,000 to 49,999	£24,000
50,000 to 59,999	£32,000
60,000 to 69,999	£40,000
70,000 to 79,999	£48,000
80,000 to 89,999	£56,000
90,000 and over	£64,000

Once again, where any event organiser sought and obtained a permanent premises licence to enable a large scale temporary event to take place each year, an additional annual fee would be payable amounting to 50 per cent of the charges payable in the scale in Table 16.

The Government remains concerned that the hard data and evidence regarding the actual licensing authority costs is extremely thin and it has been difficult to undertake projections allowing accurate prediction of appropriate fee levels. The Government will monitor the costs and fees closely, and if necessary would amend these fees to ensure that they are fair to all and reflect no more than full cost recovery.

Costs to individuals applying for personal licences

Under all the options above the costs of applying for a personal licence may fall on the individual applicant. This may be an employee or a community volunteer supporting his village hall. The licence relating to an application for a personal licence has been set at £37 under both Options 2 and 3 and would be paid every ten years. This reflects the costs which we believe are needed for both administrative and enforcement purposes.

Following the public consultation, the Government has reflected changes in the anticipated volume of such applications. The consultation document estimated that there would be about 160,000 applications to convert existing justices' licences to new personal licences and 10,000 applications for entirely new personal licences. We have revised these figures to 200,000 and 40,000 respectively.

6. Consultation with small businesses: Small Firms Impact Test

The proposals relating to the fee levels contained in the regulations and order were subject to public consultation, including with small businesses, between 4 November and 23 December 2004. Fee estimates were first published in April 2000 and subject to a three month consultation then. The estimates were also published when the Licensing Bill was presented to Parliament in November 2002. There were 427 responses to the recent consultation of which 124 came from industry and their representatives. In preparing the Licensing Bill and in preparing for the implementation of the Licensing Act 2003, the DCMS formed an Advisory Group, including representatives of all the businesses affected. In addition, the DCMS has also directly consulted some unique small business groups, including the passenger boat industry and circuses.

The Government is satisfied that the burden on small businesses created by the fee regulations and order is proportionate and fair, and will not place an undue burden on them. Indeed, the overall benefits and savings generated by the Licensing Act 2003 greatly outweigh the costs of the fees falling on these businesses.

About 102 clubs, of which 97 were sports clubs, argued that the fees were too high. The Government however had made clear that while it does subsidise and sponsor sport in this country, it does not consider it appropriate for the taxpayer to be required to subsidise the consumption of alcohol. The fees for most sports clubs will not be overly burdensome. Even the smallest of clubs (25 members is the minimum required to qualify for a club premises certificate) would only require a few pounds from each member to recover the costs of the licence fees; and indeed, the costs could be recovered by less than 1 pence added to the price of a pint of beer.

7. Competition Assessment

The implementation of the Licensing Act 2003 should increase competition in and diversify the late night economy. Option 3, the Government's preferred option, while generally treating all sectors conducting licensable activities equally, does include differential fees generating increased costs for one part of the industry. These are the larger premises, mostly located in town and city centres, that exclusively or primarily engage in the sale of alcohol for consumption on the premises; and premises varying converted licences during the period of transition in connection with sales of alcohol. In neither case does the Government consider that there would be any material impact on competition within the night-time economy.

8. Enforcement and Sanctions

Under the terms of the Licensing Act 2003, non-payment of a fee has several consequences. In the case of applications, any application would be incomplete if no fee accompanied it. Accordingly, no licence or certificate or variation of such a licence or certificate would be granted. In the case of annual fees, any unpaid fee is recoverable as a debt to the licensing authority. There are no other sanctions relating to the regulations and order.

9. Monitoring and Review

The Government intends to monitor the costs of and working of the new licensing regime closely from its inception. From the first appointed day, in partnership with the Local Government Association and the Local Authorities Co-ordinators of Regulatory Services (LACORS), and in consultation with industry, the Government will monitor the costs of the new licensing regime. If it emerges that the fees do not reflect the actual costs of the new licensing regime, the Government will move swiftly to amend the fee regulations and order, whether increasing or decreasing the fees in question as appropriate. In addition, a full independent review of the costs and fees will be conducted about one year after the second appointed day when the 2003 Act becomes fully operational. If necessary, the fee regulations will be amended as a result of that review.

10. Consultation

Government Departments

All Government Departments were consulted about the proposed fee levels and about the methodology and assumptions underpinning the estimates of the costs of the new regime. In particular, the DCMS has consulted very closely with the Home Office and the ODPM about these matters and the final proposals explained under Option 3.

Public consultation

The proposals relating to the fee levels contained in Option 2 were subject to public consultation between 4 November and 23 December 2004. The Government limited the period of the consultation to ensure that the regulations and order could be put in place before the first appointed day and because of requests from local authorities, the industry and other groups not to delay these matters. The fee estimates were first published in April 2000 and subject to a consultation for three months then. The estimates were also published when the Licensing Bill was presented to Parliament in November 2002 and were thoroughly scrutinised by Parliament at that time.

There were 427 responses to the most recent public consultation. Responses came from the following categories:

- 34 Members of Parliament
- 102 registered clubs (including 97 sports clubs)
- 124 industry and their representatives
- 138 local authorities
- 12 village halls

- 2 fire authorities
- 2 police forces and their representatives
- 1 solicitor
- 12 others

The Local Government Association also conducted a survey of the forecast costs of about 120 local authorities to inform their response to the consultation.

The DCMS also interviewed eight local authorities from a reasonable cross-section of types of authority to understand the key cost drivers better. Finally, these authorities were also interviewed by independent consultants to help both the DCMS and the LGA understand variations in predicted costs between individual authorities.

The most important changes made to the regulations and order as a result of the public consultation are fully explained under Option 3.

11. Summary and Recommendation

The fee expenditure for industry and others under the existing six licensing regimes (alcohol, public entertainment, theatre, cinema, late night refreshment house and night café) is estimated to be £167.2 million. The Options are as shown in Table 17 below:

Table 17

Option	Cost	Benefit
1. Set fees at a level below that required to recover fully the costs of the licensing regime	Costs – not predicted but at any level – would be absorbed by the central and local taxpayer. If reflecting current subsidies, cost to the taxpayer would be £32.5 million annually or £130 million over four years.	Businesses and other applicants would be protected from meeting full costs of the new licensing regime, as well as enjoying almost £2 billion deregulatory savings over 10 years.
2. Set the fees at the level proposed in the consultation document.	Costs to industry and other applicants would total £136 million over the period of transition and next three years. Full cost recovery of the costs to local authorities would not be achieved; and the local taxpayer would need to subsidise businesses and other applicants to the order of £22 million during the period of transition; and	Compared with the existing regime, the industry would enjoy a saving of £31.2 million over four years. Industry and other applicants would also have a lower fee burden than envisaged under Option 3.

	<p>£21 million in each subsequent year.</p> <p>Severe risk of the licensing regime being under-resourced and therefore the objectives of the 2003 Act would not be fully realised.</p>	
<p>3. Set the fees to reflect the evidence emerging from the public consultation, and introduce flexibilities to respond to disproportionate costs likely to emerge if reliance is based solely on non-domestic rateable value</p>	<p>Total fee expenditure would equal £221 million.</p> <p>When compared with existing fee expenditure, this option represents an additional cost to the industry (and other applicants) of £53.8 million over four years or on average, £13.5 million per year.</p>	<p>This option should achieve full cost recovery of the licensing authority/local authority (as responsible authority) administrative, inspection and enforcement costs. Neither the central nor the local taxpayer would need to subsidise the regime.</p> <p>The fee levels would be more evidence based, fairer between applicants and more proportionate than those envisaged under Option 2.</p> <p>Implementation of the Licensing Act 2003 would not be inhibited to the benefit of the four licensing objectives.</p> <p>Fees would for the first time make a direct contribution to the costs of enforcement in respect of alcohol licensing.</p> <p>Fees for large scale "one-off" events would be better matched to actual costs incurred by licensing authorities</p>

The Government has decided that Option 3 represents the best starting point, and will continue to monitor and review the impact of the regulations and order and if necessary, will amend them in the light of actual experience.

12. Declaration

I have read the Regulatory Impact Assessment and I am satisfied the benefits justify the costs.

Signed.....RICHARD CABORN.....

Date.....21 JANUARY 2005.....

Richard Caborn, Minister for Sport and Tourism, DCMS

Contact point:

Simon Richardson
Alcohol and Entertainment Licensing Policy Branch
Tourism Division
020 7211 6380
simon.richardson@culture.gsi.gov.uk