



# Police Reform and Social Responsibility Act 2011

## 2011 CHAPTER 13

### PART 2

#### LICENSING

### CHAPTER 1

#### AMENDMENTS OF THE LICENSING ACT 2003

#### *Fees*

#### **120 Suspension of licence or certificate for failing to pay annual fee**

- (1) The Licensing Act 2003 is amended as set out in subsections (2) to (5).
- (2) In section 26(2) (period of validity of premises licence), after “section 52” insert “or 55A”.
- (3) After section 55 (annual fee for premises licence) insert—

#### **“55A Suspension of premises licence for failing to pay annual fee**

- (1) A licensing authority must suspend a premises licence if the holder of the licence has failed to pay the authority an annual fee that has become due under section 55(2).
- (2) Subsection (1) does not apply if—
  - (a) either—
    - (i) the holder’s failure to pay the fee at the time it became due was because of an administrative error (whether made by the holder, the authority or anyone else), or

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- (ii) before or at the time the fee became due, the holder notified the authority in writing that the holder disputed liability for, or the amount of, the fee, and
  - (b) the grace period for payment of the fee has not expired (see subsection (8)).
- (3) If a licensing authority suspends a premises licence under subsection (1), the authority must give the holder of the licence a notice to that effect, specifying the day the suspension takes effect.
- (4) A day specified in a notice under subsection (3) must be at least two working days after the day the authority gives the notice.
- (5) If the holder of the licence pays the annual fee, the licensing authority must give the holder written acknowledgement of receipt of the fee.
- (6) The acknowledgement of receipt under subsection (5) must—
  - (a) specify the day the authority received the fee (the “receipt day”), and
  - (b) be given to the holder as soon as is reasonably practicable but in any event—
    - (i) if the receipt day was a working day, before the end of the first working day after the receipt day,
    - (ii) otherwise, before the end of the second working day after the receipt day.
- (7) A suspension of a premises licence under subsection (1)—
  - (a) takes effect on the day specified in the notice under subsection (3), and
  - (b) ceases to have effect on the receipt day, as specified in the acknowledgement of receipt under subsection (5).
- (8) In this section, the “grace period” for payment of a fee is the period of 21 days, beginning on the day after the day the fee became due.”
- (4) In section 80(2) (period of validity of club premises certificate), after “section 88” insert “or 92A”.
- (5) After section 92 (annual fee for club premises certificate) insert—

**“92A Suspension of club premises certificate for failing to pay annual fee**

- (1) A licensing authority must suspend a club premises certificate if the holder of the certificate has failed to pay the authority an annual fee that has become due under section 92(2).
- (2) Subsection (1) does not apply if—
  - (a) either—
    - (i) the holder’s failure to pay the fee at the time it became due was because of an administrative error (whether made by the holder, the authority or anyone else), or
    - (ii) before or at the time the fee became due, the holder notified the authority in writing that the holder disputed liability for, or the amount of, the fee, and

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- (b) the grace period for payment of the fee has not expired (see subsection (8)).
  - (3) If a licensing authority suspends a club premises certificate under subsection (1), the authority must give the holder of the certificate a notice to that effect, specifying the day the suspension takes effect.
  - (4) A day specified in a notice under subsection (3) must be at least 2 working days after the day the authority gives the notice.
  - (5) If the holder of the certificate pays the annual fee, the licensing authority must give the holder written acknowledgement of receipt of the fee.
  - (6) The acknowledgement of receipt under subsection (5) must—
    - (a) specify the day the authority received the fee (the “receipt day”), and
    - (b) be given to the holder as soon as is reasonably practicable but in any event—
      - (i) if the receipt day was a working day, before the end of the first working day after the receipt day,
      - (ii) otherwise, before the end of the second working day after the receipt day.
  - (7) A suspension of a club premises certificate under subsection (1)—
    - (a) takes effect on the day specified in the notice under subsection (3), and
    - (b) ceases to have effect on the receipt day, as specified in the acknowledgement of receipt under subsection (5).
  - (8) In this section, the “grace period” for payment of a fee is the period of 21 days, beginning on the day after the day the fee became due.”.
- (6) The amendments made by this section apply in relation to premises licences and club premises certificates in relation to which annual fees become due on or after the commencement of this section.

## **121 Power for licensing authorities to set fees**

- (1) The Licensing Act 2003 is amended as follows.
- (2) After section 197 insert—

### **“197A Regulations about fees**

- (1) Subsection (2) applies where the Secretary of State makes regulations under this Act prescribing the amount of any fee.
- (2) The Secretary of State may, in determining the amount of the fee, have regard, in particular, to—
  - (a) the costs of any licensing authority to whom the fee is to be payable which are referable to the discharge of the function to which the fee relates, and
  - (b) the general costs of any such licensing authority;and may determine an amount by reference to fees payable to, and costs of, any such licensing authorities, taken together.

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- (3) A power under this Act to prescribe the amount of a fee includes power to provide that the amount of the fee is to be determined by the licensing authority to whom it is to be payable.
- (4) Regulations which so provide may also specify constraints on the licensing authority's power to determine the amount of the fee.
- (5) Subsections (6) and (7)—
  - (a) apply where, by virtue of subsection (3), regulations provide that the amount of a fee is to be determined by a licensing authority, and
  - (b) are subject to any constraint imposed under subsection (4).
- (6) The licensing authority—
  - (a) must determine the amount of the fee (and may from time to time determine a revised amount),
  - (b) may determine different amounts for different classes of case specified in the regulations (but may not otherwise determine different amounts for different cases), and
  - (c) must publish the amount of the fee as determined from time to time.
- (7) In determining the amount of the fee, the licensing authority must seek to secure that the income from fees of that kind will equate, as nearly as possible, to the aggregate of—
  - (a) the licensing authority's costs referable to the discharge of the function to which the fee relates, and
  - (b) a reasonable share of the licensing authority's general costs;
 and must assess income and costs for this purpose in such manner as it considers appropriate.

### **197B Regulations about fees: supplementary provision**

- (1) Subsections (2) and (3) apply for the purposes of section 197A.
- (2) References to a licensing authority's costs referable to the discharge of a function include, in particular—
  - (a) administrative costs of the licensing authority so far as they are referable to the discharge of the function, and
  - (b) costs in connection with the discharge of the function which are incurred by the licensing authority acting—
    - (i) under this Act, but
    - (ii) in a capacity other than that of licensing authority (whether that of local authority, local planning authority or any other authority).
- (3) References to the general costs of a licensing authority are to costs of the authority so far as they are referable to the discharge of functions under this Act in respect of which no fee is otherwise chargeable and include, in particular—
  - (a) costs referable to the authority's functions under section 5;
  - (b) costs of or incurred in connection with the monitoring and enforcement of Parts 7 and 8 of this Act;

- (c) costs incurred in exercising functions conferred by virtue of section 197A.
- (4) To the extent that they prescribe the amount of a fee or include provision made by virtue of section 197A(3) or (4), regulations may—
  - (a) make provision which applies generally or only to specified authorities or descriptions of authority, and
  - (b) make different provision for different authorities or descriptions of authority.
- (5) Subsection (4) is not to be taken to limit the generality of section 197.”.
- (3) In section 10(4) (sub-delegation of functions by licensing committee etc)—
  - (a) omit “or” at the end of paragraph (c), and
  - (b) after paragraph (d) insert “or
    - (e) any function conferred by virtue of section 197A (regulations about fees).”.