
STATUTORY INSTRUMENTS

1996 No. 772

HEALTH AND SAFETY

The Adventure Activities Licensing Regulations 1996

<i>Made</i>	- - - -	<i>18th March 1996</i>
<i>Laid before Parliament</i>		<i>26th March 1996</i>
<i>Coming into force</i>	- -	<i>16th April 1996</i>

The Secretary of State, in exercise of the powers conferred by sections 1(1), (3) and (4), 2(1) and (3) and 3(2) of the Activity Centres (Young Persons' Safety) Act 1995⁽¹⁾ after consultation with the Health and Safety Commission in accordance with section 3(3) of that Act hereby makes the following Regulations:—

Citation and commencement

1. These Regulations may be cited as the Adventure Activities Licensing Regulations 1996 and shall come into force on 16th April 1996.

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires—

“the 1974 Act” means the Health and Safety at Work etc. Act 1974⁽²⁾;

“the 1995 Act” means the Activity Centres (Young Persons' Safety) Act 1995;

“accessible road” means a road which is, at the time in question, accessible to ambulances which are road-going vehicles not specially adapted for rugged terrain;

“activity centre” means an establishment which is, at the time in question, primarily used for, or as a base for, the provision of instruction or leadership in sporting, recreational or outdoor activities;

“adventure activity” means caving, climbing, trekking or watersports;

“caving” means the exploration of underground passages (other than those principally used as show-places open to the public):—

(a) in parts of mines which are no longer worked; or

(1) 1995 c. 15.
(2) 1974 c. 37.

- (b) in natural caves where the exploration of those passages requires, in order to be carried out safely, the use of rock climbing or diving equipment or the application of special skills or techniques;

“climbing” means climbing, traversing, abseiling or scrambling over natural terrain or outdoor man-made structures (other than structures designed for such activities) which requires, in order to be carried out safely, the use of equipment for, or the application of special skills or techniques in, rock climbing or ice climbing;

“educational establishment” means an educational establishment attended by young persons except such an establishment engaged primarily in the provision of sporting, recreational or outdoor activities;

“enforcing authority” has the meaning assigned to it by section 18(7) of the 1974 Act;

“facilities for adventure activities” means any facilities which consist of, or include some element of, instruction or leadership given to one or more young persons in connection with their engagement in an adventure activity (other than instructions given solely in connection with the supply of equipment for use in such an activity);

“horse” includes pony;

“instructor” means a person giving instruction or leadership in the course of the provision of facilities for adventure activities;

“licence” means a licence granted by the licensing authority in accordance with these Regulations (whether as a renewal of a licence or otherwise);

“licence-holder” means a person to whom a licence has been granted in accordance with these Regulations;

“licensing authority” means the person for the time being designated by the Secretary of State by order under section 1(1) of the 1995 Act;

“local authority” means—

- (a) in relation to England, a county council, a district council, a London borough council, the Common Council of the City of London or the Council of the Isles of Scilly;
- (b) in relation to Wales, a county council or county borough council; and
- (c) in relation to Scotland, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994(3);

“moorland” excludes any woodland or cultivated land;

“non-standard condition” means a condition imposed on a licence other than a condition imposed under regulation 7(1);

“refuge” means a building which would, in an emergency, provide shelter and which was, at the time in question, either occupied or provided with a telephone, or other means of communication, by which help could be summoned;

“ski-ing” means sliding over snow or ice on skis, skates, sledges or similar equipment;

“specified waters” means:—

- (a) the sea;
- (b) tidal waters;
- (c) inland waters at a location where any part of those waters is more than 50 metres from the nearest land excluding any island; or

- (d) inland waters where the surface of the water is made turbulent because of weirs, rapids, waterfalls or fast flowing currents;

“travelling time” means the time it would take a person to walk by the quickest safe route; and for this purpose a person shall be deemed to walk at 5 kilometres per hour and to take, in addition, one minute for every 10 metres of increase in the height above sea level of any uphill section of that route;

“trekking” means journeying on foot, horse or pedal cycle or ski-ing over terrain—

- (a) which is moorland or more than 600 metres above sea level; and
(b) from which it would take more than 30 minutes travelling time to reach any accessible road or refuge;

but does not include ski-ing on a prepared and marked-out ski-run which is patrolled by persons engaged to assist in cases of injury;

“voluntary association” means an association, club, society, organisation or other body (whether corporate or unincorporate) which provides facilities to its members and is not a business, or part of a business, conducted for profit; and “member” in relation to such an association shall exclude a person who is made a member solely in connection with the sale to him by the association of a course of instruction;

“watersports” means the use on specified waters of:—

- (a) canoes, kayaks or similar craft propelled or steered by paddles held in the hand (but excluding rowing-boats propelled or steered by oars);
(b) rafts (including those which are inflatable or which are improvised from various materials but excluding those propelled by means of a motor or towed by a motor-boat); or
(c) sailing boats, windsurfers, sailing dinghies or other craft whose principal means of propulsion is the wind but excluding craft the construction, equipment and use of which is subject to a requirement for a certificate issued pursuant to the Merchant Shipping Act 1995(4) or any regulation or order made thereunder;

“young persons” means persons who have not attained the age of 18.

(2) Any reference in these Regulations to varying a licence includes a reference to varying a non-standard condition attached to a licence or adding or deleting such a condition from a licence.

(3) Any reference in regulations 14, 15 and 19 to an application for a licence is a reference to an application which the licensing authority is, by virtue of regulation 4, obliged to consider.

Persons who are required to hold a licence

3.—(1) Subject to paragraph (2) and regulations 15(1) and 19 a person is required to hold a licence in respect of the provision of facilities for adventure activities if that person—

- (a) provides such facilities in return for payment; or
(b) is a local authority and the facilities are provided to an educational establishment in respect of the pupils of such an establishment;

and where such facilities are so provided by a person at or from more than one activity centre, and those activity centres are being operated by that person at the same time throughout any period of 28 days or more, a separate licence shall be required in respect of the facilities provided at or from each such centre.

(2) A person is not required to hold a licence in respect of facilities for adventure activities where those facilities are provided—

(4) 1995 c. 21.

- (a) by a voluntary association—
 - (i) to its members;
 - (ii) to the members of some other voluntary association pursuant to an agreement between the associations; or
 - (iii) to persons who are not its members for the purpose only of encouraging interest in its activities or attracting new members; provided that such facilities shall not be provided, in respect of any one person, on more than three days in any period of twelve months;
- (b) by an educational establishment to pupils of that establishment;
- (c) to young persons who are, during their participation in the activities in question, accompanied—
 - (i) by an individual who is their parent or guardian or who has parental responsibility for them within the meaning of the Children Act 1989⁽⁵⁾; or
 - (ii) by an individual who has parental rights within the meaning of the Law Reform (Parent and Child) (Scotland) Act 1986⁽⁶⁾ in respect of them or, on and after the day on which section 1 of the Children (Scotland) Act 1995⁽⁷⁾ has come into force, has parental responsibilities for them within the meaning of that section; or
- (d) under the authority of a licence held by some other person.

Applications for licences

4. The licensing authority shall consider an application for a licence where—
- (a) such application is made in a form and manner approved by the authority;
 - (b) such application is accompanied by such supporting documentation as the authority reasonably requires; and
 - (c) the basic fee required by Schedule 1 to be paid on the application has been paid.

Consideration of applications for licences

5.—(1) The licensing authority may grant or refuse a licence but, without prejudice to its discretion to refuse a licence on other grounds, the authority shall not grant a licence unless—

- (a) it is satisfied that the applicant has—
 - (i) made a suitable and sufficient assessment of the risks to the safety of the young persons and other persons who will be engaged in the adventure activities in respect of which the application is made or whose safety may be affected thereby;
 - (ii) identified the measures he needs to take in consequence of that assessment to ensure, so far as is reasonably practicable, the safety of those persons;
 - (iii) made the arrangements referred to in regulation 7(1)(a) and (b);
 - (iv) appointed competent persons to advise him on safety matters or has competence in such matters himself; and
- (b) the inspection fee required by Schedule 1 has been paid.

(2) The licensing authority shall, before reaching a decision as to whether or not it will grant a licence, first consider a report made to the authority by a person authorised by it for that purpose pursuant to regulation 10.

⁽⁵⁾ 1989 c. 41.

⁽⁶⁾ 1986 c. 9.

⁽⁷⁾ 1995 c. 36.

(3) The report referred to in paragraph (2) shall, subject to paragraph (5), be made only following an inspection by the person making the report and carried out after the application for the licence has been received.

(4) The inspection referred to in paragraph (3) shall be of any such places, equipment and documents as the person making the inspection thinks necessary for the purpose of enabling the licensing authority to satisfy itself on the matters referred to in paragraph (1).

(5) In the case of an application for a renewal of a licence, paragraph (3) shall not apply where an inspection referred to therein has been made in respect of the licence within one year before the date the renewal is to commence.

Grant of licences

6. A licence granted by the licensing authority shall be in writing and shall state—
- (a) the name and address of the licence-holder;
 - (b) the facilities for adventure activities which may be provided pursuant to the licence;
 - (c) where the licence is issued in respect of a particular activity centre, the address of the centre concerned;
 - (d) the date on which the licence will commence and the date on which the licence will expire which shall be no longer than 3 years from the date of its commencement; and
 - (e) the conditions subject to which the licence has been granted.

Conditions

- 7.—(1) The licensing authority shall attach the following conditions to all licences—
- (a) that the licence-holder shall maintain such arrangements as are appropriate for the review of the assessment referred to in regulation 5(1)(a) and for the effective implementation, control, monitoring and review of the measures referred to in regulation 5(1)(b);
 - (b) that the licence-holder shall maintain suitable and sufficient arrangements—
 - (i) for the appointment of a sufficient number of competent and adequately qualified instructors;
 - (ii) for the giving of safety information to instructors and participants;
 - (iii) for the provision of such equipment as is needed to ensure that the activities are carried out safely;
 - (iv) for the maintenance of that equipment in an efficient state and in good repair; and
 - (v) for the provision of first-aid, for the summoning of medical and rescue services in the event of an emergency, and for otherwise dealing with an emergency;
 - (c) that the licence-holder shall ensure that he is advised by competent persons on safety matters unless he has competence in such matters himself;
 - (d) that the licence-holder shall ensure that the authority is permitted to inspect at any reasonable time any place or equipment used in, or in connection with, the provision of the facilities for adventure activities to which the licence relates and any documents held by or on behalf of the licence-holder relating to such provision;
 - (e) that the licence-holder shall accede to any reasonable request for information from the authority relating to the provision of such facilities;
 - (f) that where such facilities are provided at or from an activity centre on two or more consecutive days, the licence-holder shall display at that centre a copy of the licence; and

that where such facilities are not so provided the licence-holder shall have available for inspection, at any reasonable time, such a copy; and

- (g) that the licence-holder shall not refer to his holding of a licence, in any advertisement or information issued by him or on his behalf, unless that reference states which adventure activities are covered by the licence and gives the telephone number of the licensing authority.

(2) The licensing authority may attach to the licence such other conditions relating to safety as it considers necessary.

Revocation or variation of licences

8.—(1) Subject to the provisions of Schedule 2 the licensing authority may at any time revoke or vary a licence—

- (a) on application being made to it by the licence-holder;
- (b) if there has been a contravention of any condition attached to the licence;
- (c) if any information supplied by the holder of the licence is false in any material particular; or
- (d) if it considers such a revocation or variation necessary to ensure safety.

(2) The provisions of regulation 4 shall apply to an application for the variation of a licence as if the references in that regulation to an application for a licence were references to an application for the variation.

(3) Where a licence is revoked or varied pursuant to this regulation—

- (a) the licensing authority shall give notice in writing to the licence-holder informing him of the revocation or, as the case may be, giving details of the variation; and
- (b) the licence-holder shall, if so required by the licensing authority, return the licence to the authority and the authority shall, if the licence is to be varied, reissue the licence to the licence-holder in a varied form.

Complaints

9.—(1) The licensing authority shall consider any complaints which it receives relating to the provision of facilities for adventure activities by licence-holders and shall, if it considers it necessary, cause those complaints to be investigated.

(2) Following the investigation of a complaint the authority shall take such action as it considers appropriate and, in particular, it may—

- (a) revoke or vary the relevant licence;
- (b) refer the matter to the relevant enforcing authority.

(3) Where a complaint has been investigated by the authority the authority shall advise the complainant of the result of that investigation and of any action taken by it in consequence.

Exercise of functions by authorised persons

10.—(1) The licensing authority may authorise—

- (a) suitably experienced or qualified persons (whether or not its officers or employees) to make a report pursuant to regulation 5(2) and to conduct investigations and carry out inspections pursuant to these Regulations; and
- (b) suitably experienced or qualified persons who are its officers or employees to exercise any other functions conferred on the authority pursuant to these Regulations.

(2) Any person authorised by the licensing authority to conduct investigations or carry out inspections shall be required to carry and produce on request a written authorisation from the authority stating the functions exercisable by that person and the period for which the authorisation will remain in force.

The register of licences and provision of information

11.—(1) The licensing authority shall keep, in such form as it considers appropriate, a register of licences which shall include the name and address of each licence-holder, a description of the facilities for adventure activities which may be provided pursuant to the licence and, where the licence is issued in respect of a particular activity centre, the address of the centre concerned.

(2) The licensing authority shall make the register available for public inspection without charge during reasonable office hours and shall allow copies to be taken on payment of such charge, if any, as it may reasonably require.

(3) Without prejudice to paragraph (2), the licensing authority shall provide information, without charge, to any person seeking to know whether certain named persons are licence-holders but the information which the authority is obliged to provide under this paragraph shall be limited to a request in respect of no more than five such named persons.

Fees

12. Schedule 1 (fees payable by applicants for licences and for variations of licences) shall have effect.

Requirements for notifications

13. Schedule 2 (requirements for notifications to applicants and licence-holders) shall have effect.

Appeals

14.—(1) An applicant for a licence may appeal to the Secretary of State against the refusal of a licence and for the purposes of this regulation a failure to issue a decision on an application within three months of the date on which the application was received by the licensing authority shall, subject to regulation 19(4), be treated as a refusal.

(2) A licence-holder may appeal to the Secretary of State against—

- (a) any non-standard condition attached to a licence;
- (b) the revocation or variation of a licence; or
- (c) the refusal to vary a licence.

(3) Before the determination of an appeal the Secretary of State shall ask the appellant and the licensing authority whether they wish to appear and be heard on the appeal and—

- (a) the appeal may be determined without a hearing of the parties if both of them express a wish not to appear and be heard;
- (b) the Secretary of State shall, if either of the parties expresses a wish to appear and be heard, afford to both of them an opportunity of so doing.

(4) The Health and Safety Licensing Appeals (Hearings Procedure) Rules 1974⁽⁸⁾ or the Health and Safety Licensing Appeals (Hearings Procedure) (Scotland) Rules 1974⁽⁹⁾ (as appropriate) shall

⁽⁸⁾ S.I.1974/2040.

⁽⁹⁾ S.I. 1974/2068.

apply to hearings under paragraph (3) as they apply to hearings in pursuance of section 44(3) of the 1974 Act.

(5) The Secretary of State may dismiss or allow the appeal and if he allows the appeal he shall direct the licensing authority—

- (a) where the appeal is against refusal of a licence, to grant a licence on the conditions specified in regulation 7(1) and on such other conditions relating to safety, if any, as he may specify in the direction;
- (b) where the appeal is against any non-standard condition attached to a licence, to remove the condition or vary it in the way specified in the direction;
- (c) where the appeal is against the revocation of a licence, to reinstate the licence with such variations, if any, as he may specify in the direction; or
- (d) where the appeal is against the variation of a licence or against the refusal to vary a licence, to reinstate the licence in the form in which it was before the variation or to vary the licence in the way specified in the direction.

Licences: supplementary provisions

15.—(1) Where on or after 1st October 1997 a person has applied for a licence other than a renewal of a licence in respect of the provision of facilities for adventure activities but the authority has failed to issue a decision on that application within three months of the date on which the application was received by the licensing authority, nothing in these Regulations shall require the person to hold a licence in respect of such provision during the period commencing on the expiry of the three months mentioned above and ending on the date on which a decision is issued on that application either by the authority or by the Secretary of State on an appeal under regulation 14.

(2) Where the licensing authority has received an application for the renewal of a licence more than three months before the expiry date of that licence but the authority has failed to issue a decision on that application before the expiry date then the licence shall be regarded as continuing in force until such time as a decision is issued on that application either by the authority or by the Secretary of State on an appeal under regulation 14.

Offences

16.—(1) It is an offence for a person to do anything for which a licence is required to be held by him under these Regulations otherwise than in accordance with such a licence.

- (2) It is an offence for a person for the purposes of obtaining or holding a licence—
 - (a) to make a statement to the licensing authority (or someone acting on its behalf) knowing it to be false in a material particular, or
 - (b) recklessly to make a statement to the licensing authority (or someone acting on its behalf) which is false in a material particular.

Application of enforcement provisions of health and safety legislation

17. Sections 18 to 27, 33(1)(e) to (i), (n) and (o) and (2) to (4), 34(2) to (6), 36(1), 37 to 42 and 46 of the 1974 Act shall apply for the purposes of providing for the enforcement of these Regulations and in respect of proceedings for a contravention thereof as if—

- (a) references to relevant statutory provisions were references to those provisions applied by this regulation and to these Regulations; and
- (b) the reference in section 33(2) to paragraph (d) of subsection (1) were omitted.

Annual report

18. The licensing authority shall as soon as possible after 31st March in each year prepare and submit to the Health and Safety Commission a report on the carrying out of the functions of the authority over the period of twelve months preceding that date.

Transitional provisions

19.—(1) Nothing in these Regulations shall require a person to hold a licence before 1st August 1996.

(2) Without prejudice to paragraph (1), where before 1st August 1996 a person has applied for a licence in respect of the provision of facilities for adventure activities, nothing in these Regulations shall require a person to hold a licence in respect of such provision until the earlier of—

- (a) 1st October 1997; and
- (b) the grant or refusal of the licence.

(3) Where on or after 1st August 1996 but before 1st October 1997 a person has applied for a licence in respect of the provision of facilities for adventure activities, nothing in these Regulations shall require a person to hold a licence in respect of such provision during the period commencing on the twenty eighth day after the receipt by the licensing authority of the application and ending on the earlier of—

- (a) 1st October 1997, or the date 3 months after the application is made (whichever is the later); and
- (b) the grant or refusal of the licence.

(4) Where an application for a licence is made before 1st October 1997, a failure by the licensing authority to issue a decision on the application by that date or within 3 months after the application is made (whichever is the later) shall be treated for the purposes of regulation 14 (appeals) as a refusal of the licence.

18th March 1996

Henley
Minister of State,
Department for Education and Employment

SCHEDULE 1

Regulation 12

FEES PAYABLE BY APPLICANTS FOR LICENCES AND FOR VARIATION OF LICENCES

1. A basic fee of £200 shall be payable by the applicant to the licensing authority on each application for a licence or renewal of a licence.
2. A basic fee of £100 shall be payable by the applicant to the licensing authority on each application for variation of a licence.
3. Where an application for renewal of a licence is accompanied by an application for the variation of that licence the basic fee shall be £200.
4. In addition to the basic fee an inspection fee shall be payable by the applicant to the licensing authority in respect of any inspection under regulation 5(3).
5. The amount of the inspection fee shall be £200 with an addition of £30 for each hour or part of an hour spent by the person authorised under regulation 10 in carrying out the inspection subject to a maximum of £1,200.
6. The inspection fee shall be payable by the applicant prior to the notification to him by the licensing authority of the result of the application.

SCHEDULE 2

Regulation 13

REQUIREMENTS FOR NOTIFICATIONS TO APPLICANTS AND LICENCE-HOLDERS

1. In this Schedule “relevant action” means a refusal to grant or vary a licence, the imposition of any non-standard condition on the grant of a licence or the revocation of a licence.
- 2.—(1) Where the licensing authority expresses to any person any opinion as to what remedial action should be taken by that person, then, if that person so requests, the authority—
 - (a) shall as soon as practicable give to him a written notice which satisfies the requirements of sub-paragraph (2) below; and
 - (b) shall not take any relevant action against him until after the end of 28 days beginning with the giving of the notice.
 (2) A notice satisfies the requirement of this sub-paragraph if it—
 - (a) states the nature of the remedial action which in the opinion of the authority should be taken, and explains why and within what period;
 - (b) in the case where the authority is of the opinion that a condition of a licence is not being complied with, explains what constitutes the failure to comply with that condition; and
 - (c) states the nature of the relevant action which could be taken and states the effect of paragraph 3 below and of regulation 14 (appeals).
3. Before the licensing authority takes any relevant action against any person, the authority—
 - (a) shall give to that person a written notice stating—
 - (i) that it is considering taking the action and the reasons why; and
 - (ii) that the person may, within a period specified in the notice, make written representations to the authority or, if the person so requests, make oral representations to the authority; and
 - (b) shall consider any representations which are duly made and not withdrawn.

4. Where the licensing authority has taken relevant action against any person the authority shall, as soon as practicable, give to that person a written notice explaining the effect of regulation 14 (appeals).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for the licensing of persons in respect of the provision of facilities for adventure activities. “Facilities for adventure activities” is defined in regulation 2; subject to certain exceptions they are facilities which consist of or include some element of instruction or leadership to persons under the age of 18 in connection with their engagement in an adventure activity. An “adventure activity” is caving, climbing, trekking or watersports (all of which are themselves defined in regulation 2). These regulations come into force on 16th April 1996 but under transitional provisions in regulation 19 a person is not required to hold a licence before 1st August 1996.

Regulation 3 prescribes the persons who are required to hold a licence; subject to the exceptions contained in paragraph (2) a person is required to hold a licence if he provides facilities for adventure activities in return for payment or (under certain circumstances) if the provider is a local authority. Under certain circumstances a separate licence is required in respect of each activity centre if facilities are provided at or from more than one activity centre.

Regulations 4–7 provide for application for licences, the licensing authority’s consideration of licences, the grant of licences and the conditions to be attached to licences. Regulation 8 provides for the cases where the licensing authority may vary or revoke a licence.

Regulation 9 places a duty on the licensing authority to consider and, if necessary, investigate any complaint relating to the provision of facilities for adventure activities by licence-holders.

Regulation 10 makes provision for certain functions of the licensing authority to be exercised by suitably experienced or qualified persons.

Regulation 11 makes provision for the licensing authority to keep a register of licences which is to be open to public inspection.

Regulation 14 makes provision for appeals to the Secretary of State against the refusal of a licence and against the imposition of certain conditions, the revocation or variation of a licence or the refusal to vary a licence. Regulation 15 provides that if after 1st October 1997 an application for a licence has been made but no decision has been taken after three months no licence is needed until the decision has been taken and for the continuation of a licence under certain circumstances where an application has been made for a renewal of the licence.

Regulation 16 provides for offences; it is an offence to do anything for which a licence is required otherwise than in accordance with the licence; it is also an offence to make certain false statements for the purpose of obtaining or holding a licence. Regulation 17 applies certain provisions of the Health and Safety at Work etc. Act 1974 for the purpose of providing for enforcement of these Regulations.

Regulation 18 provides for the licensing authority to make an annual report.

Regulation 19 contains transitional provisions; under certain circumstances a licence is not required until 1st October 1997 or 3 months after the date of the application for the licence whichever is the later.

Status: *This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

Schedule 1 provides for fees payable by applicants for licences and for variation of licences. Schedule 2 prescribes the procedure to be followed where the licensing authority expresses to any person any opinion as to remedial action which should be taken and the procedure to be followed before the licensing authority refuses to grant or vary, imposes certain conditions on, or revokes a licence.

A copy of the compliance cost assessment prepared in respect of these Regulations can be obtained from the Health and Safety Executive, Rose Court, 2 Southwark Bridge, London SE1 9HS. A copy has been placed in the library of each House of Parliament.