

Response to Licensing (Scotland) Act 2005 – Licensing Fees

September 2007

Introduction

The Federation of Small Businesses is Scotland's largest direct-member business organisation, representing over 19,000 members. The FSB campaigns for an economic and social environment which allows small businesses to prosper.

Around 2,000 of our members are involved in the Hospitality industry, so we welcome the opportunity to comment on the consultation on draft regulations concerning licensing fees. In general, we support the establishment at national level of maximum licensing fees, but our members do have some concerns about the fee levels proposed which are set out below.

Q1 The proposed fee levels have been determined based on the rateable value of the premises (with some exceptions to that rule set out in regulations.) Do you agree with this approach, or do you wish to suggest an alternative approach that ensures that fee levels are fair?

A Although not a perfect measure of size of premise or turnover, we accept that fee levels should in general be determined on the basis of Rateable Value with the exceptions set out in the regulations.

We are unsure as to the exact definition of a "visitor attraction" as set out in (4) (1) (b), and would like to see clear guidance from Ministers to ensure that Licensing Boards include "tourist" shops which derive a small part of their turnover from selling speciality liquors, Scottish real ales or whisky to the tourist market.

We are, however, concerned that the proposals could disadvantage some businesses, such as small hotels whose relatively high rateable value may be based on the provision of accommodation which may be their primary function, but which may sell alcohol to non-residents and are therefore not exempt under section 4.-(1) d. The draft RIA should look into cases such as this and further consideration should be given to avoiding any disproportionate increase in licensing fees.

Q2 Do you agree with the fee levels proposed? If not, can you suggest alternative fee levels and show your rationale for arriving at particular figures?

- A. The proposed application fee level for the smallest licensed premises is £400 (for properties with a RV of up to £11,500), while the fee for the largest premises is 2.5 times greater at £1,000. Obviously, a licensed premise with a RV of £140,000 will have a turnover many times greater than that of the smallest premises and we believe that the fees for categories 5 & 6 should be considerably more than that for bands 1, 2, and 3.

Many premises in the largest banding will be city centre nightclubs or large chain pubs and they should be expected to make a larger contribution to the running costs of the Licensing Boards and LSO's due to the strain that these types of premises can put on the system. It is envisaged that a large part of the work of the LSO's will be ensuring that these types of premises comply with their licence conditions.

We are also of the view that there should be more bands for fee levels as the proposed bands are extremely wide at the upper ranges. For example, category 5 extends from £70,001 to £140,000, while category 2 only extends up to £11,500. Having narrower bands with more expensive fee levels at the top end of the RV scale would allow the fees to be reduced for category 1, 2, and 3 premises while ensuring that the Licensing Boards could recover running costs.

The unequal loading of the cost on to smaller premises is also evident in the annual fees, where the largest businesses pay just over four times more than the very smallest, despite their RV being at least nine times higher. We would therefore like more bands for annual fees, with higher charges placed on larger premises which place greatest strain on the system and which are more likely to be able to absorb the impact of an increase in fee levels.

Q3 Although not part of these draft regulations we would also particularly welcome views on a suggestion that Licensing Boards should have the discretion to charge further fees to help meet the additional policing costs in a particular area or areas. For example, this may be appropriate in respect of city centre locations with a higher number of late-opening premises. We would particularly welcome views on whether further consideration should be given to this issue.

- A This issue could be given further consideration, but it is difficult to see how this would work in practice. While one business may take a highly responsible approach to the sale of alcohol, it may be unfairly penalised by the behaviour of others in the vicinity. In many cases, it is also difficult to track the source of the sale of alcohol which may be the cause of anti-social behaviour outwith the area in which it was bought. If new Licensing Officer posts are to be created, it may be more appropriate to ensure that the Licensing Officers liaise with the Police to identify premises which are contributing to anti-social behaviour in a particular locality and action could be taken against the premises at fault.

Q4 Do you have any comments on the draft regulatory impact assessment that has been prepared to accompany these regulations?

A Whilst the draft RIA is a reasonably comprehensive summary of the proposed structure, it is difficult to compare with the current situation as it contains no “before and after” case studies to assess the cost implications of the proposals to different sizes of business. This is a significant concern, given that there is no doubt that most businesses will see an increase in costs as Licensing Boards seek to cover their own running costs as well as the cost of employing Licensing Standards Officers.

We note that the draft Regulatory Impact Assessment states that there will be a saving of £86 per year from the removal of the licence renewals every three years. However, with the annual fees for premises licences beginning at £90 per year, over and above the one-off cost for this Licence, it seems a little disingenuous to describe this as a “saving.”

We also note from the draft regulatory impact assessment, (in point 15), that the annual fee levels shown are the maximum amounts chargeable and that licensing boards will require to charge the full fee to cover their costs initially, but thereafter, “may” begin to benefit from the efficiencies of the new system and be able to pass these savings on to the trade. We would like to see the level of fees reviewed at regular intervals so as to avoid undue financial burdens on small businesses.

For further information on any of the points raised in this submission, please contact Eileen Calveley, Policy Officer, on eileen.calveley@fsb.org.uk or Tel: **0141 221 0775**.