Draft Regulations laid before Parliament under section 154(2) of the Police Reform and Social Responsibility Act 2011, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2012 No.

LICENCES AND LICENSING, ENGLAND AND WALES

The Late Night Levy (Application and Administration) Regulations 2012

Made - - - -	*2012*
Coming into force - -	*31st October 2012*

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 126, 128, 129, 131, 134 and 136 of the Police Reform and Social Responsibility Act 2011(**1**).

In accordance with section 136(1) of that Act, the Treasury have consented to the making of these Regulations.

In accordance with section 154(2) of that Act, a draft of these Regulations was laid before and approved by a resolution of each House of Parliament.

Citation and commencement

1.—(1) These Regulations may be cited as the Late Night Levy (Application and Administration) Regulations 2012.

(2) These Regulations come into force on 31st October 2012.

Interpretation

2. In these Regulations—

"the Act" means the Police Reform and Social Responsibility Act 2011;

"the 2003 Act" means the Licensing Act 2003(**2**);

(**1**) 2011 c. 13.

(**2**) 2003 c. 17. Section 27(1)(b) was amended by section 67(1) of, and paragraph 46 of Schedule 6 to, the Mental Capacity Act (c. 9). Section 172A was inserted by section 119 of the Police Reform and Social Responsibility Act 2011 (c. 13). Sections 41A and 86A were inserted by the Legislative Reform (Minor Variations to Premises Licences and Club Premises Certificates) Order 2009 (S.I. 2009/1772).

"insolvency practitioner", in relation to a person, means a person acting as an insolvency practitioner in relation to that person within the meaning of section 388 of the Insolvency Act 1986(**3**);

"personal representative" has the same meaning as in section 55 of the Administration of Estates Act 1925(**4**);

"rateable value", in relation to any premises, is the value for the time being in force for the premises entered in the local non-domestic rating list for the purposes of Part III of the Local Government Finance Act 1988(**5**);

"relevant premises" means premises in relation to which there is a relevant late night authorisation;

"specified proportion" has the same meaning as in section 131(3) of the Act.

Late night levy: payment years

3.—(1) A payment year in relation to a person who holds a relevant late night authorisation at the beginning of a levy year is—

(a) the period of one year beginning immediately following the beginning of the levy year, and

(b) each subsequent year.

(2) A payment year in relation to a person who is granted a relevant late night authorisation in a levy year is—

(a) the period of one year beginning on the date of the grant of the authorisation, and

(b) each subsequent year.

Late night levy: bands for relevant premises

4.—(1) In a case where the relevant premises have a rateable value specified in column 1 of the table in Schedule 1, the premises shall be in the band specified for that rateable value in column 2 of that table.

(2) In all other cases, the relevant premises shall be in Band A except where the relevant premises are in the course of construction, in which case the relevant premises shall be in Band C.

(3) For the purposes of this regulation, in a case where the relevant premises form part only of a hereditament(**6**) in the local non-domestic rating list for the purposes of Part III of the Local Government Finance Act 1988, the relevant premises shall be treated as having a rateable value equal to the rateable value for the hereditament of which they form part.

(4) For the purposes of this regulation, in a case where the relevant premises comprise two or more hereditaments in the local non-domestic rating list, the relevant premises shall be treated as having a rateable value equal to the rateable value for the hereditament with the higher or highest rateable value.

Late night levy: amount

5.—(1) Subject to paragraph (2), the amount of the late night levy payable in respect of relevant premises shall be the amount applicable to the band appearing in column 1 of the table in Schedule 2

(**3**) 1986 c. 45. Section 388 was amended by article 15 of the Insolvent Partnerships Order 1994 (S.I. 1994/2421) and section 4 of the Insolvency Act 2000 (c. 39).
(**4**) 1925 c. 23.
(**5**) 1988 c. 41.
(**6**) A hereditament is defined in section 64 of the Local Government Finance Act 1988 (c. 41).

for the relevant premises to which the late night levy relates, determined in accordance with regulation 4, specified in column 2 of that table.

(2) In respect of relevant premises in Band D or Band E which are used exclusively or primarily for the supply of alcohol for consumption on the premises, the amount of the late night levy shall be—

(a) in the case of relevant premises in Band D, £2,730, and

(b) in the case of relevant premises in Band E, £4,440.

Late night levy: first and subsequent payments

6.—(1) The holder of a relevant late night authorisation must make the first payment of the late night levy—

(a) in a case to which regulation 3(1) applies, on the date in the first payment year on which the annual fee in relation to the authorisation is payable under section 55(2) or 92(2) of the 2003 Act, or

(b) in a case to which regulation 3(2) applies, 14 days after the date of the grant of the authorisation.

(2) The holder of a relevant late night authorisation must in any second or subsequent payment year make a payment of the late night levy on the date in that payment year on which the annual fee is payable under section 55(2) or 92(2) of the 2003 Act.

Late night levy: adjustments to payments

7.—(1) The amount of the late night levy payable by the holder of a relevant late night authorisation is reduced by an amount ("the levy reduction"), determined in accordance with paragraph (4), if a relevant event occurs in the payment year to which the liability relates.

(2) A relevant event occurs on the date on which—

(a) a relevant late night authorisation lapses under section 27 of the 2003 Act, or

(b) the supply of alcohol during the late night supply period in accordance with a relevant late night authorisation is prohibited by an order made under section 172A of the 2003 Act.

(3) For the purposes of paragraph (1), a licensing authority may also decide that a relevant event occurs on the date on which a relevant late night authorisation is surrendered under section 28 or 81 of the 2003 Act.

(4) The amount of the levy reduction is the amount found by applying the formula—

$$R = \left(L / 365 \right) xN$$

where—

(a) R is the levy reduction,

(b) L is the amount of the late night levy payable by the holder of the relevant late night authorisation, and

(c) N is the number of days in the payment year beginning on the day following the date on which the relevant event occurred.

(5) Where the holder of a relevant late night authorisation has made a payment of the late night levy in accordance with regulation 6, the licensing authority must pay the amount of any levy reduction to the holder within 28 days of the day following the date on which the relevant event occurred.

(6) Where a payment of the late night levy has not become payable by the holder of a relevant late night authorisation in accordance with regulation 6, the licensing authority must reduce the amount of the holder's liability to pay the late night levy by the amount of any levy reduction.

(7) In this regulation, a reference to a holder of a late night authorisation includes a person who, in relation to a person who held a relevant late night authorisation, is—

(a) a personal representative,

(b) a person who acts for the holder of the relevant late night authorisation under an enduring power of attorney or lasting power of attorney registered under the Mental Capacity Act 2005(**7**), or

(c) an insolvency practitioner.

Late night levy: payment and application of net amount of late night levy payments

8.—(1) The licensing authority must pay the specified proportion to the relevant local policing body within 28 days of the last day of the levy year to which it relates.

(2) The licensing authority must apply the non-specified proportion of the net amount of levy payments having regard, in each case in connection with the supply of alcohol between midnight and 6am, to arrangements for—

(a) the reduction or prevention of crime and disorder,

(b) the promotion of public safety,

(c) the reduction or prevention of public nuisance,

(d) the cleaning of any relevant highway or relevant land in its area.

(3) The licensing authority may determine from time to time when it will apply the non-specified proportion in relation to arrangements set out in paragraph (2).

(4) In this regulation—

"non-specified proportion" means the remainder of the net amount of levy payments for any levy year after deduction of the specified proportion;

"relevant highway" means a highway which is—

(a) maintainable at the public expense other than a trunk road which is a special road, and

(b) in the licensing authority's area;

"relevant land" means land—

(a) to which the public are entitled or permitted to have access with or without payment, and

(b) which is—

(i) open to the air,

(ii) not a relevant highway, and

(iii) in the licensing authority's area;

"highway" (and "highway maintainable at the public expense"), "special road" and "trunk road" have the same meaning as in the Highways Act 1980(**8**).

Late night levy: procedure on introduction or variation

9.—(1) A licensing authority must—

(a) in relation to any proposal to make a relevant decision—

(**7**) 2005 c. 9.
(**8**) 1980 c. 66.