SUPPLEMENTARY FINANCIAL MEMORANDUM

INTRODUCTION

1. This memorandum has been prepared by the Scottish Executive to update the Financial Memorandum concerning the changes made to the Licensing (Scotland) Bill at stage 2.

COSTS ON BUSINESS

Fees

2. Section 127(1)(c) introduced to the fee regime within the Bill an ability for Licensing Boards to recover any increased costs for providing public services from a particular licence holder which are directly attributable to their premises either in relation to activities carried out on or in the vicinity of the premises, or to customers or staff.

3. At present all businesses contribute to public service costs though their Business Rates. These new charges may relate not only to activities on the premises but also to the behaviour of staff and customers in the neighbourhood as they enter or leave the premises. This new provision could place additional costs on the licence holder who may find they are charged, for example, for additional street cleaning or policing in the vicinity of their premises.

4. The detail of how this cost recovery regime will be implemented is still to be decided and would be set out in regulations.

Alcohol Promotions

5. The Bill as introduced proposed restrictions on the use of alcohol promotions for on-sales premises to curb binge drinking and some on-sales businesses may therefore face a change in costs related to how they market or promote themselves. They may also, in some cases, face a reduction in profits. Amendments at stage 2 extended some promotion controls to off sales as well as on sales premises. This means that the same additional costs/reduction in profits may apply. In addition, prices must be maintained (in both on and off sales) for a minimum of 72 hours (rather than 48). So, lower prices must be maintained for a longer period and this too may impact on profit margins or marketing costs.
Transport

6. The Bill originally proposed that all Passenger ships or boats which ply their trade between ports in Scotland or on Scotland’s lakes and waterways would be obliged to have a premises licence and to have a designated personal licence holder. Previously such craft have been excluded from the licensing regime if they only served alcohol when the craft had left its berth. Stage 2 amendments provided that those vessels providing a ferry service will be exempt from the need for a premises or personal licence. However, pleasure boat operators would still be faced with the additional costs of obtaining a premises licence and in ensuring each vessel has a designated a personal licence.

COSTS ON THE POLICE

7. Police responsibility will generally remain the same with responsibility for conducting checks on licence holders, enforcement and offering views on complaints. We already stated that the Police would require to make checks on applications for both premises and personal licences but this would be specifically linked in future to whether or not relevant criminal convictions exist rather than, as at present, a check on other intelligence in order to decide whether someone is a ‘fit and proper person’. This latter concept is considered to be outdated and has already been abolished in England and Wales. Section 20(3)(b) places a new duty on the Police, when they are notified of a new premises application, to submit a report to the Licensing Board regarding antisocial behaviour which has taken place on or in the vicinity of the premises and all complaints about such behaviour.

8. In the absence of a specified timeframe, it is not possible to quantify exactly how much of a burden this would place on the Police although it could be considerable. In providing this information it may be necessary for the Police to engage the services of an analyst to collate figures for all crimes of violence and all breaches of the peace. It would also be necessary to collate figures narrating all such calls made to the Police, whether a crime had been recorded or not. This would involve interrogation of computer systems to obtain the raw data, then generating a report in which the data could be presented in a comprehensible manner. Raw figures can be misleading and it is likely that a written narrative by the analyst would be required, to explain the relevance or otherwise of the data to the application under consideration.

ADDITIONAL FINANCIAL INFORMATION

9. The Executive commissioned an independent report investigating the existing and proposed new licensing system in Scotland which makes recommendations as to the method for allocating licensing fees and the size of the fees that will be paid by the licensed trade under the new system. This report was published on 4 November 2005 and copies are available in Spice. Ministers will consider the report when developing the new fee structure.

10. A fundamental objective of the Scottish Executive in commissioning this analysis is that the new licensing fees should fully cover the costs of the Licensing Boards. A second objective is that the fees should be standardised across Licensing Board areas to ensure equity and fairness in their allocation. At the same time, it is recognised that the fees must not be set so high that they will be injurious to any part of the licensed trade.
11. In this regard, small and medium sized licensed premises would be disproportionately affected by the introduction of a flat rate fee. The proposal for fee charging options therefore proposes a system of progressive fees that is based on graduated non-domestic rateable value bands.

12. In proposing the fees to be paid under the new system, allowance is made for the fact that, at the present time, Licensing Boards are only covering 63% of their costs from licensing fees. The proposed new system is designed to correct this and to ensure that full cost recovery is achieved.

13. The analysis of this report estimates the total costs of operating the new system of liquor licences and apportions those costs to each of the new licences.

14. The basis for calculating the fee to be paid under the personal licence is the administrative time and resource that will be used up in processing the licence. This has been calculated at £42.

15. The premises licence fee includes the costs of administration, inspection and enforcement. To each licence is also apportioned the average costs of hearings and appeals. Taking these components into account, the premises licence fee has been calculated at an average of £460 per licensed premises in the transition year and £303 in subsequent years.

16. Basing the premises licence on the higher average fee in the transition year will bring in additional income to the Licensing Boards, which will mean that the costs of transition are fully covered as well as other extraordinary costs that the Boards may incur in affecting the changeover to the new system. There is also a strong possibility that the new system will lead to greater efficiency in the operation of Licensing Boards and concomitant productivity gains. Accordingly, this report includes the recommendation that licensing fees should be reviewed after a suitable period of time has elapsed.

17. An important consideration in the context of full-cost recovery is that the premises licence is a one-off licence and is non-renewable. An annual fee is therefore also proposed to cover the recurrent (annual) costs of the Licensing Boards.

18. The annual fee is based on the requirement to meet the ongoing administrative, inspection and enforcement costs of the Licensing Boards. The average fee in respect of these costs is approximately £155. In apportioning this fee across the system of graduated rateable value bands it has been possible to ensure that the annual fee is lower than this for more than 80 percent of licensed premises that fall into the category of small and medium sized enterprises.

19. In summary, the fees proposed in this report arise from a thorough investigation of the costs of the Licensing Boards. The fees, as proposed will cover the costs of providing the licensing service and in many cases will benefit the licensed trade. The allocation of the fees according to graduated non-domestic rateable value bands meets the objective of equity and fairness and the scale of the proposed fees meets the objective that they should not be injurious to the licensed trade.
This document relates to the Licensing (Scotland) Bill as amended at Stage 2 (SP Bill 37A)

LICENSING (SCOTLAND) BILL
[AS AMENDED AT STAGE 2]

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