Appendix 7 – Extracts from Licensing Legislation

Extracts from relevant licensing legislation providing legal framework within which local authorities may charge licensing fees

Local Government (Miscellaneous Provisions) Act 1982

Controls sex establishments, street trading, acupuncture, tattooing, semi-permanent skin colouring, cosmetic piercing and electrolysis

Sex establishments - Schedule 3 paragraph 19

An application for the grant, variation, renewal or transfer of a licence under this Schedule shall pay a reasonable fee determined by the appropriate authority.

Street Trading – Schedule 4 paragraph 9

(1) A district council may charge such fees as they consider reasonable for the grant or renewal of a street trading licence or a street trading consent.

(2) A council may determine different fees for different types of licence or consent and, in particular, but without prejudice to the generality of this sub-paragraph, may determine fees differing according—

(a) to the duration of the licence or consent;

(b) to the street in which it authorises trading; and

(c) to the descriptions of articles in which the holder is authorised to trade.

(3) A council may require that applications for the grant or renewal of licences or consents shall be accompanied by so much of the fee as the council may require, by way of a deposit to be repaid by the council to the applicant if the application is refused.

(4) A council may determine that fees may be paid by instalments.

(5) Where a consent is surrendered or revoked, the council shall remit or refund, as they consider appropriate, the whole or a part of any fee paid for the grant or renewal of the consent.

(6) A council may recover from a licence-holder such reasonable charges as they may determine for the collection of refuse, the cleansing of streets and other services rendered by them to him in his capacity as licence-holder.

(7) Where a licence—

(a) is surrendered or revoked; or

(b) ceases to be valid by virtue of paragraph 4(7) above,

the council may remit or refund, as they consider appropriate, the whole or a part—

(i) of any fee paid for the grant or renewal of the licence; or

(ii) of any charges recoverable under sub-paragraph (6) above.

(8) The council may determine—

(a) that charges under sub-paragraph (6) above shall be included in a fee payable under sub-paragraph (1) above; or

(b) that they shall be separately recoverable.

(9) Before determining charges to be made under sub-paragraph (6) above or varying the amount of such charges the council—

(a) shall give notice of the proposed charges to licence-holders; and

(b) shall publish notice of the proposed charges in a local newspaper circulating in their area.

(10) A notice under sub-paragraph (9) above shall specify a reasonable period within which representations concerning the proposed charges may be made to the council.

(11) It shall be the duty of a council to consider any such representations which are made to them within the period specified in the notice.

Acupuncture - Section 14 (6)

A local authority may charge such reasonable fees as they may determine for registration under this section.

Tattooing, semi-permanent skin colouring, cosmetic piercing and electrolysis – Section 15 (6)

A local authority may charge such reasonable fees as they may determine for registration under this section.

Local Government (Miscellaneous Provisions) Act 1976

Controls hackney carriages and private hire vehicles

Section 53 - Drivers' licences for hackney carriages and private hire vehicles

(2) Notwithstanding the provisions of the Act of 1847*, a district council may demand and recover for the grant to any person of a licence to drive a hackney carriage, or a private hire vehicle, as the case may be, such a fee as they consider reasonable with a view to recovering the costs of issue and administration and may remit the whole or part of the fee in respect of a private hire vehicle in any case in which they think it appropriate to do so.

*Town Police Clauses Act 1847

Section 70 - Fees for vehicle and operators' licences

(1) Subject to the provisions of subsection (2) of this section, a district council may charge such fees for the grant of vehicle and operators' licences as may be resolved by them from time to time and as may be sufficient in the aggregate to cover in whole or in part—

(a) the reasonable cost of the carrying out by or on behalf of the district council of inspections of hackney carriages and private hire vehicles for the

purpose of determining whether any such licence should be granted or renewed;

(b) the reasonable cost of providing hackney carriage stands; and

(c) any reasonable administrative or other costs in connection with the foregoing and with the control and supervision of hackney carriages and private hire vehicles.

(2) The fees chargeable under this section shall not exceed—

(a) for the grant of a vehicle licence in respect of a hackney carriage, twenty-five pounds;

(b) for the grant of a vehicle licence in respect of a private hire vehicle, twenty-five pounds; and

(c) for the grant of an operator's licence, twenty-five pounds per annum;

or, in any such case, such other sums as a district council may, subject to the following provisions of this section, from time to time determine.

(3) (a) If a district council determine that the maximum fees specified in subsection (2) of this section should be varied they shall publish in at least one local newspaper circulating in the district a notice setting out the variation proposed, drawing attention to the provisions of paragraph (b) of this subsection and specifying the period, which shall not be less than twenty-eight days from the date of the first publication of the notice, within which and the manner in which objections to the variation can be made.

(b) A copy of the notice referred to in paragraph (a) of this subsection shall for the period of twenty-eight days from the date of the first publication thereof be deposited at the offices of the council which published the notice and shall at all reasonable hours be open to public inspection without payment.

(4) If no objection to a variation is duly made within the period specified in the notice referred to in subsection (3) of this section, or if all objections so made are withdrawn, the variation shall come into operation on the date of the expiration of the period specified in the notice or the date of withdrawal of the objection or, if more than one, of the last objection, whichever date is the later.

(5) If objection is duly made as aforesaid and is not withdrawn, the district council shall set a further date, not later than two months after the first specified date, on which the variation shall come into force with or without modification as decided by the district council after consideration of the objections.

(6) A district council may remit the whole or part of any fee chargeable in pursuance of this section for the grant of a licence under section 48 or 55 of this Act in any case in which they think it appropriate to do so.

Zoo Licensing Act 1981

Controls zoos – Section 15

(1) Subject to this section, the local authority may charge such reasonable fees as they may determine in respect of—

(a) applications for the grant, renewal or transfer of licences;

(b) the grant, renewal, alteration or transfer of licences;

(2) Any fee charged under paragraph (a) of subsection (1) in respect of an application shall be treated as paid on account of the fee charged under paragraph (b) on the grant, renewal or transfer applied for.

(2A) Subject to this section, the authority may charge to the operator of the zoo such sums as they may determine in respect of reasonable expenses incurred by them—

(a) in connection with inspections in accordance with section 9A and under sections 10 to 12;

(b) in connection with the exercise of their powers to make directions under this Act;

(c) in the exercise of their function under section 16E(4) of supervising the implementation of plans prepared under section 16E(2); and

(d) in connection with the exercise of their function under section 16E(7) or (8).

(2B) The authority's charge under subsection (2A)(d) shall take into account any sums that have been, or will fall to be, deducted by them from a payment under section 16F(7) in respect of their costs.

(3) In respect of any fee or other sum charged under this section, the local authority may, if so requested by the operator, accept payment by instalments.

(4) Any fee or other charge payable under this section by any person shall be recoverable by the local authority as a debt due from him to them.

(5) The local authority shall secure that the amount of all the fees and other sums charged by them under this section in a year is sufficient to cover the reasonable expenditure incurred by the authority in the year by virtue of this Act.

Dangerous Wild Animals Act 1976

Controls dangerous wild animals as listed in the Act – Section 1

(2) A local authority shall not grant a licence under this Act unless an application for it—

…. and

(e) is accompanied by such fee as the authority may stipulate (being a fee which is in the authority's opinion sufficient to meet the direct and indirect costs which it may incur as a result of the application).

Public Health Acts Amendment Act 1907

Controls pleasure boats/vessels - Section 94

(1) The local authority may grant upon such terms and conditions as they may think fit licences for pleasure boats and pleasure vessels to be let for hire or to be used for carrying passengers for hire, and to the persons in charge of or navigating such boats and vessels, and may charge for each type of licence such annual fee as appears to them to be appropriate.

Environmental Protection Act 1990

Controls free printed matter – Schedule 3A paragraphs 3 & 4

3 (1) A principal litter authority may on the application of any person consent to that person or any other person (identified specifically or by description) distributing free printed matter on any land designated by the authority under this Schedule.

4 (1) A principal litter authority may require the payment of a fee before giving consent under paragraph 3 above.

(2) The amount of a fee under this paragraph is to be such as the authority may determine, but may not be more than, when taken together with all other fees charged by the authority under this paragraph, is reasonable to cover the costs of operating and enforcing this Schedule.

Gambling Act 2005

Statutory fees are prescribed for:-

- small society lotteries (Schedule 11 – Part 5)
- club gaming permits and club machine permits (Schedule 12)
- notification of gaming machines in alcohol licensed premises (Section 282)
- family entertainment centre gaming machine permits (Schedule 10)
- licensed premises gaming machine permits (Schedule 13)
- prize gaming permits (Schedule 14)

And, therefore, the licensing authority has no control over these fees. The following statutory instruments are relevant:-

- Small Society Lotteries (Registration of Non-Commercial Societies) Regulations 2007
- Gambling Act 2005 (Club Gaming and Club Machine Permits) Regulations 2007
- Gaming Machines in Alcohol Licensed Premises (Notification Fee) (England and Wales) Regulations 2007
- Gambling Act 2005 (Family Entertainment Centre Gaming Machine) (Permits) Regulations 2007
- Gambling Act 2005 (Licensed Premises Gaming Machine Permits) (England and Wales) Regulations 2007
- Gambling Act 2005 (Prize Gaming) (Permits) Regulations 2007

The licensing authority must determine the fees, up to certain statutory maximums, that are applicable to premises licences, e.g. adult gaming centres, betting at race tracks, betting shops, bingo premises, casinos and for temporary use notices. The Gambling (Premises Licence Fees) (England and Wales) Regulations 2007 and the Gambling (Temporary Use Notices) Regulations 2007 set the relevant statutory maximums. In addition, Section 212 of the Act states:-

(2) …. the authority—

(a) shall determine the amount of the fee,

(b) may determine different amounts for different classes of case specified in the regulations (but may not otherwise determine different amounts for different cases),

(c) shall publish the amount of the fee as determined from time to time, and

(d) shall aim to ensure that the income from fees of that kind as nearly as possible equates to the costs of providing the service to which the fee relates (including a reasonable share of expenditure which is referable only partly or only indirectly to the provision of that service).

(3) For the purposes of subsection (2)(d) a licensing authority shall compare income and costs in such manner, at such times and by reference to such periods as the authority, having regard to any guidance issued by the Secretary of State, think appropriate.

In addition, where the licensing authority is required to maintain licensing registers, the authority may determine fees for providing access to, making copies of and/or providing information to members of the public from those registers.

Premises licences (Section 156)

(1) A licensing authority shall—

(a) maintain a register of premises licences issued by the authority together with such other information as may be prescribed,

(b) make the register and information available for inspection by members of the public at all reasonable times, and

(c) make arrangements for the provision of a copy of an entry in the register, or of information, to a member of the public on request.

(2) A licensing authority may refuse to provide a copy of an entry or of information unless the person seeking it pays a reasonable fee specified by the authority.

Small society lotteries (Schedule 11 Part 5 paragraph 55)

(1) Where a statement is sent to a local authority under paragraph 39 the authority shall—

(a) retain it for at least 18 months,

(b) make it available for inspection by members of the public at all reasonable times, and

(c) make arrangements for the provision of a copy of it or part of it to any member of the public on request.

(2) But a local authority may refuse to provide access or a copy unless the person seeking access or a copy pays a fee specified by the authority.

(3) A local authority may not specify a fee under sub-paragraph (2) which exceeds the reasonable cost of providing the service sought (but in calculating the cost of providing a service to a person the authority may include a reasonable share of expenditure which is referable only indirectly to the provision of that service).

Club gaming permits and club machine permits (Schedule 12 paragraph 26)

(1) A licensing authority shall—

(a) maintain a register of permits issued by the authority together with such other information as may be prescribed,

(b) make the register and information available for inspection by members of the public at all reasonable times, and

(c) make arrangements for the provision of a copy of an entry in the register, or of information, to a member of the public on request.

(2) A licensing authority may refuse to provide a copy of an entry or of information unless the person seeking it pays a reasonable fee specified by the authority.

Temporary Use Notice (Section 234)

1) A licensing authority shall—

(a) maintain a register of temporary use notices given to them together with such other information as may be prescribed,

(b) make the register and information available for inspection by members of the public at all reasonable times, and

(c) make arrangements for the provision of a copy of an entry in the register, or of information, to a member of the public on request.

(2) A licensing authority may refuse to provide a copy of an entry or of information unless the person seeking it pays a reasonable fee specified by the authority.

Family entertainment centre gaming machine permits (Schedule 10 paragraph 23)

(1) A licensing authority shall—

(a) maintain a register of permits issued by the authority together with such other information as may be prescribed,

(b) make the register and information available for inspection by members of the public at all reasonable times, and

(c) make arrangements for the provision of a copy of an entry in the register, or of information, to a member of the public on request.

(2) A licensing authority may refuse to provide a copy of an entry or of information unless the person seeking it pays a reasonable fee specified by the authority.

Licensed premises gaming machine permits (Schedule 13 paragraph 22)

(1) A licensing authority shall—

(a) maintain a register of permits issued by the authority together with such other information as may be prescribed,

(b) make the register and information available for inspection by members of the public at all reasonable times, and

(c) make arrangements for the provision of a copy of an entry in the register, or of information, to a member of the public on request.

(2) A licensing authority may refuse to provide a copy of an entry or of information unless the person seeking it pays a reasonable fee specified by the authority.

Prize gaming permits (Schedule 14 paragraph 23)

(1) A licensing authority shall—

(a) maintain a register of permits issued by the authority together with such other information as may be prescribed,

(b) make the register and information available for inspection by members of the public at all reasonable times, and

(c) make arrangements for the provision of a copy of an entry in the register, or of information, to a member of the public on request.

(2) A licensing authority may refuse to provide a copy of an entry or of information unless the person seeking it pays a reasonable fee specified by the authority.

Scrap Metal Dealers Act 2013

Controls buyers/sellers of scrap metal and motor salvage operators (Section 5 Schedule 1 paragraph 6)

(1) An application must be accompanied by a fee set by the authority.

(2) In setting a fee under this paragraph, the authority must have regard to any guidance* issued from time to time by the Secretary of State with the approval of the Treasury.

*Scrap Metal Dealers Act 2013: guidance on licence fee charges – issued by Home Office 12 August 2013

Licensing Act 2003

Statutory fees for premises licences, club premises certificates, temporary event notices and personal licences are currently prescribed by the Licensing Act 2003 (Fees) Regulations 2005. The licensing authority has no control over these fees.

In addition, there is a requirement to maintain a register and make it available for inspection without payment but if requested to provide a copy of information contained in the register a fee may be charged under Section 8 of the Act.

(4) If requested to do so by any person, a licensing authority must supply him with a copy of the information contained in any entry in its register in legible form.

(5) A licensing authority may charge such reasonable fee as it may determine in respect of any copy supplied under subsection (4).

Caravan Sites and Control of Development Act 1960

Under the Caravan Sites and Control of Development Act 1960, as amended by the Mobile Homes Act 2013, licensing authorities are permitted to charge fees for the licensing of residential caravan sites with effect from 1 April 2014. Transitional arrangements will be in place and the licensing authority is required to publish a fees policy. (NB The Council has not yet prepared a fees policy and therefore is currently unable to charge fees in this respect.)

Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018

13.—(1) A local authority may charge such fees as it considers necessary for—

(a) the consideration of an application for the grant, renewal or variation of a Licence including any inspection relating to that consideration, and for the grant, renewal or variation,

(b) the reasonable anticipated costs of consideration of a licence holder's compliance with these Regulations and the licence conditions to which the licence holder is subject in circumstances other than those described in sub-paragraph (a) including any inspection relating to that consideration,

(c) the reasonable anticipated costs of enforcement in relation to any licensable activity of an unlicensed operator, and

(d) the reasonable anticipated costs of compliance with regulation 29.

(2) The fee charged for the consideration of an application for the grant, renewal or variation of a licence and for any inspection relating to that consideration must not exceed the reasonable costs of that consideration and related inspection.

Business and Planning Act 2020

Applications
This section has no associated Explanatory Notes
(1)An application for a pavement licence made to a local authority must—

(a)be made in writing and in such form as the authority may specify,
(b)be sent to the authority using electronic communications in such manner as the authority may specify, and
(c)be accompanied by such fee not exceeding the relevant amount as the local authority may require.

"the relevant amount" means—

(a)£350, in the case of an application which—
(i)is made by a person who already holds a pavement licence, and
(ii)is in respect of the premises to which that existing licence relates (whether or not it is a renewal application), and

(b)£500, in any other case.

Licences for which the licensing authority is NOT permitted to charge

- House-to-house collections: House to House Collections Act 1939
- Street collections: Police, Factories, etc. (Miscellaneous Provisions) Act 1916
- Hypnotism consent