

To: Business Committee:
From: Jane Davidson AM
Minister for Education and Lifelong Learning

Explanatory Memorandum:

ADVENTURE ACTIVITIES LICENSING REGULATIONS 2004

Summary:

The intention is to revoke the existing regulations and make new ones, which will apply to England, Wales and Scotland. The proposed regulations would change inspection timings by separating inspection from licence renewal so that AALA will be able to inspect a provider's facilities at any time during the 12 months prior to licence expiry. The proposed regulations will also raise the level of fees in line with inflation, in order to keep a balance between costs falling on licensees and their customers, and costs falling on general taxpayers who subsidise each licence through DfES grant-in-aid to AALA.

1. This memorandum is submitted to the Assembly's Business Committee in relation to the draft Adventure Activities Licensing Regulations 2004.
2. A copy of the instrument is submitted with this memorandum.

Enabling Power:

3. The power(s) enabling this instrument to be made is contained in the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) which transferred all the functions of the Secretary of State under the Activity Centres (Young Persons) Act 1995, including functions of the Secretary of State under the Adventure Activities Licensing Regulations 1996, were transferred to the National Assembly for Wales in relation to Wales. The functions were subsequently delegated to my portfolio as the Minister for Education and Life Long Learning.

Effect:

4. DfES propose to change inspection timings and increase fees in line with inflation. Currently, AALA must inspect, report, process payment and issue or refuse a licence within 3 months. As most activities run in summer, most licences come up for renewal then. To meet this demand, the Adventure Activities Licensing Authority (AALA) hire temporary inspectors to enable them to complete inspections in time. This makes the scheme more complex and drives up costs.
5. Therefore the new regulations will allow AALA to take into account any inspection in the 12 months prior to a licence expiry date, when considering a renewal application. This will reduce pressure at peak times, remove the need to pay temporary inspectors and be more convenient to AALA and to an extent, to providers.
6. The new regulations will increase the licensing fee and change the fee structure. The separate basic fee, inspection fee and hourly charge will be combined into one flat rate payment of £620 per licence. This will streamline the payment system and include all necessary inspection charges. The main reason for the

change is to re-balance the financial costs of the licensing scheme. The financial burden on licensees has decreased in real and cash terms since 1996: as well as the price freeze, AALA has granted more longer licenses. As a result the taxpayer is meeting more of the costs through the annual grant-in-aid to AALA, which now subsidises inspections by £400,000 a year. Increasing fees in line with inflation will still let licensees benefit from a lower annual real terms cost than at the start of the scheme.

Target Implementation:

7. It is intended that the proposed instrument be considered by the Assembly on 12 May 2004. The coming into force date for the instrument is on 9th June 2004.

Financial Implications:

8. The effect of the regulations would be to allow AALA to continue to carry out its functions within its £0.4m a year grant in aid from DfES. Currently the Assembly does not bear any of the costs of the licensing arrangements. That will continue to be the position if the proposed new regulations are put in place.

Regulatory Appraisal:

9. A regulatory appraisal has been carried out by DfES covering England, Scotland and Wales and is attached.

Consultation:

With Stakeholders

10. DfES carried out their second triennial review of the arrangements in 2003, consulting relevant interests in the three countries on behalf of the devolved administrations in Scotland and Wales. The responses showed support for the licensing arrangements and a wish for them to continue. A second stage consultation on the proposed draft regulations took place in February/March this year also had similar results.

With Subject Committee

11. The instrument has been included in the list of forthcoming legislation provided to the Education and Lifelong Learning Committee on 17 March 2004, and also included in the Minister's report to the ELL Committee. The Committee were advised that as the proposed draft Regulations are being made under Standing Order 23 section 2, under this procedure the Assembly cannot make any amendments, it may only approve or reject the legislation.

Recommended Procedure

12. Having regard to the views of the Business Committee, I recommend that this Instrument proceeds to Plenary without debate as this Instrument merely changes inspection timings by separating inspection from licence renewal so that AALA will be able to inspect a provider's facilities at any time during the 12 months prior to licence expiry. The proposed regulations will also raise the level of fees in line with inflation, in order to keep a balance between costs falling on licensees and their customers, and costs falling on general tax-payers who subsidise each licence through DfES grant-in-aid to AALA.

13. I can confirm that the proposed legislation will (as far as is applicable):

- have due regard to the principle of equality of opportunity for all people (Government of Wales Act 1998 Section 120);
- be compatible with the Assembly's scheme for sustainable development (Section 121);
- be compatible with Community law (Section 106);
- be compatible with the Assembly's human rights legislation (Section 107);
- be compatible with any international obligations binding the UK Government and the Assembly (Section 108).

Confirm that the information in this memorandum has been cleared with the Office of the Counsel General (OCG) and the Assembly Compliance Officer (ACO).

14. Drafting lawyer: Diane Dunning, 6748.

15. Head of division Elizabeth Taylor, 6087

16. Drafting Policy Official: Malcolm Hobbs, .3546

April 2004

**Jane Davidson AM
Minister for Education and Lifelong Learning**