

# Commercial discotheques and commercial dance halls Tariff 'D' (2011.08)



*As varied by the Copyright Tribunal on 1st August 1989  
Effective from 1st August 2011  
(Also showing previous year's details in brackets)*

## 1. Scope of tariff

This tariff shall apply to commercial discotheques and commercial dance halls as defined in paragraph 2 of this tariff.

## 2. Definitions

Under this tariff:

- (a) **Commercial discotheques** means establishments in fixed premises equipped and furnished for the purpose of the conduct by commercial enterprises for profit of entertainments consisting of the provision of music, wholly or principally by recorded means and with a disc-jockey or other presenter, the provision of facilities for dancing, and the availability of refreshments. Provided that no establishments shall be deemed to fall within this definition:
- (i) if the establishment is open to the public for less than 100 nights per year, save in the case of establishments trading only during a season or part of the year which shall be excluded if they are open to the public for an average of less than three nights per week of the season; or
  - (ii) if the provision of music and of facilities for dancing is only a part of, and plays only a minor and ancillary role in, another and different commercial activity conducted in the premises in question.
- (b) **Commercial dance halls** means establishments in fixed premises where the main business carried on is dancing and where dances take place on not less than one day each week throughout the year or during a season of not less than 75 days in the year.

- (c) **Licence period** means any period of one year from either the commencement of the Licence or from any anniversary of that date, while the Licence subsists.
- (d) **PRS for Music's repertoire** means all and any musical works (including any words associated therewith), the public performing rights in which are controlled by *PRS for Music* or by any of the Societies in other countries with which *PRS for Music* is affiliated.
- (e) **The Licensee** is the company or persons to whom *PRS for Music's* Licence is granted hereunder.

### 3. Application for licences

- (a) An applicant for a Licence under this tariff shall complete the appropriate application form and give to *PRS for Music* such information as may be required to enable it to decide whether this tariff is applicable.
- (b) *PRS for Music* is not bound to issue a Licence under this tariff unless application has been made therefor in advance. For Licences issued in any other circumstances, the royalty for the first year will be the tariff charge plus 50%.

### 4. Licence fee

The annual Licence fee payable for performance of *PRS for Music's* repertoire covered by this tariff will be **£92.07** (previous year **£87.69**) for each unit of 1,000 persons (or part thereof) admitted to the establishment in question during a Licence period, adjusted in accordance with paragraph 7. It will be payable annually in advance.

### 5. Manner of payment

- (a) Within 42 days from the end of each Licence period, a Licensee shall furnish to *PRS for Music* a statement, certified by an accountant who is qualified to be appointed an auditor to a public company or who is approved by *PRS for Music*, showing the actual number of persons admitted to the licensed premises for discotheques or dancing sessions during the Licence period.
- (b) As the actual royalty payment by the Licensee in respect of each Licence period cannot be ascertained until the actual total admissions for that year have been certified pursuant to paragraph (a) above the Licensee shall, when the certified statement in respect of the preceding period is submitted to *PRS for Music*, make a payment on account of the royalty due for the ensuing Licence period which is equal to the amount of the actual royalty for that preceding Licence period.

- (c) When a Licence is issued on the opening of a new Commercial discotheque or Commercial dance hall, or the re-opening of a Commercial discotheque or Commercial dance hall after a closure, or otherwise for the first time in terms of this tariff, a provisional royalty shall be calculated in respect of the initial Licence period on the basis of a certificate, prepared in accordance with the provisions of paragraph (a) above, for the most recent year of operation at the discotheque or dance hall (if any). Should it be certified that the number of persons admitted to the licensed premises during that period cannot be declared, the number admitted shall be deemed to have been one-half of the licensed capacity of the licensed premises, in terms of the local Fire Officer's Certificate (a copy of which shall be furnished on request). This number shall be multiplied by the number of nights when the licensed premises were open for business as a Commercial discotheque or Commercial dance hall (whether to the public or on private hire) during that year or, where it was not open for that year, then by the number of nights it is expected to be open during the ensuing year.
- (d) A provisional royalty shall be payable in respect of each ensuing Licence period on the basis of the actual numbers admitted for discotheques or dancing sessions to the licensed premises during the previous Licence period and all provisional royalties shall be adjusted on the basis of actual admissions during the Licence period as certified under sub-paragraph (a) above.
- (e) Should the Licensee fail to produce a certificate as required in sub-paragraphs (a) or (c) above and where appropriate to complete the form required by paragraph 3(a) above then the premises shall be deemed not to be a Commercial discotheque or a Commercial dance hall for the purposes of this tariff.

## 6. Value Added Tax

Every Licensee under this tariff will pay to *PRS for Music*, in addition to the Licence fee due under this tariff, a sum in respect of Value Added Tax calculated at the relevant rate on the annual fee payable and *PRS for Music* shall provide to the Licensee a duly receipted VAT invoice in relation to the provisional Licence fee payable pursuant to paragraph 4 above and in relation to any additional sum payable pursuant to paragraph 5(b) above forthwith upon receipt of the relevant payment by *PRS for Music*.

## 7. Inflation adjustment

- (a) This tariff which replaces all previous versions of Tariff 'D' came into effect on 1st August 2011 and applies to all Licence periods beginning on and after that date. The basis of the annual fee set out in paragraph 4 will be adjusted in accordance with paragraph 7(b) on 1st August 2012 and on each succeeding anniversary of this tariff thereafter.
- (b) On each anniversary of this tariff the basis of the annual fee expressed in paragraph 4 (as adjusted from year to year) will be multiplied by a fraction of which the numerator is the Retail Prices Index for April 2012, being the latest month prior to the anniversary date for which a figure is published, and the denominator is the Retail Prices Index for April in the previous year. The result will be rounded to the nearest penny.
- (c) All Licence fees are charged at the royalty rate in force at the beginning of the Licence period.

## 8. Certificates and checking the particulars of admissions

- (a) The Licensee will keep records of all persons admitted to the licensed premises during discotheques or dance hall sessions, whether those persons are admitted to functions when the premises are hired to an organisation which invites or admits guests, or to functions open to the general public.
- (b) *PRS for Music* through its representatives will have the right of free entry to the licensed premises at reasonable times, and without prior notice, for the purpose of observing the system of counting all admissions to the premises and checking records relating thereto.
- (c) The Licensee will also, when called upon by *PRS for Music*, produce certificates as set out in paragraph 5(a) above showing the total number of admissions on any particular day specified by *PRS for Music*, provided that *PRS for Music* shall not be entitled to request such details in respect of more than seven days in any Licence period.
- (d) All information provided to *PRS for Music* for the purposes of this tariff and made available to *PRS for Music* shall be used by *PRS for Music* solely for the purposes of administering the tariff, including reference to the Copyright Tribunal, and that information or any part of it shall not be used for any other purpose or divulged by *PRS for Music*.

*PRS for Music* is the trading name of the Performing Right Society Limited

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