



GUIDANCE NOTE ON ADVENTURE ACTIVITIES LICENSING

INTRODUCTION:

The Activity Centres (Young Persons' Safety) Act 1995 (the "1995 Act") was introduced following the Lyme Bay canoeing tragedy, in which four young people at a commercial adventure activities centre died during a short sea canoeing expedition.

The legislation is aimed at commercial providers of outdoor adventure activities and not at private members' clubs. As a result of RYA pressure during the passage of the Bill through Parliament, bona fide non-profit making clubs providing instruction to their own members were excluded from the application of the legislation.

However, under certain circumstances when providing instruction or leadership training to young non-members, a club may need to obtain a licence from the Adventure Activities Licensing Authority.

The 1995 Act provides for the detail of the licensing regime to be set out in secondary legislation and the current regulations are the Adventure Activities Licensing Regulations 2004 (the "2004 Regs").

ACTIVITY CENTRE LICENSING:

The 2004 Regs provide that a person who provides facilities for adventure activities is required to hold a licence if that person provides such facilities in return for payment; or is a local authority and provides the facilities to an educational establishment in respect of the pupils of such an establishment.

Facilities for adventure activities are defined as being any facilities which consist of, or include, some element of instruction or leadership given to one or more young persons [i.e. under 18] in connection with their engagement in an adventure activity (other than instructions given solely in connection with the supply of equipment for use in such an activity).

Adventure activities are caving, climbing, trekking or watersports (which includes the use of canoes, kayaks, rafts, sailing boats, windsurfers and sailing dinghies but excludes the use of craft certified pursuant to the Merchant Shipping Act 1995). Powerboating does not fall within the scope of the 2004 Regs.

Where a person provides those facilities at or from more than one activity centre, and operates those activity centres at the same time throughout any period of 28 days or more, a separate licence is required for each centre.

It is an offence for a person to do anything for which a licence is required, if they do not hold a licence.

EXCLUDED ACTIVITIES:

It is not necessary for a person to hold an adventure activities licence if the facilities for adventure activities are provided:-

- (a) by a voluntary association (see below)
 - (i) to its members (see below)
 - (ii) to the members of some other voluntary association pursuant to an agreement between the associations; or
 - (iii) to persons who are not its members for the purpose only of encouraging interest in its activities or attracting new members; provided that such facilities shall not be provided, in respect of any one person, on more than three days in any period of twelve months;
- (b) by an educational establishment to pupils of that establishment;
- (c) to young persons who are, during their participation in the activities in question, accompanied by an individual who is their parent or guardian or who has parental responsibility for them within the meaning of the Children Act 1989; or
- (d) under the authority of a licence held by some other person.

Also excluded from the licensing regime are watersports on inland waters where no part of the water is more than 50m from land and the surface is not made turbulent because of weirs, rapids, waterfalls, or fast flowing currents (referred to in the flow chart below as "placid and confined inland waters").

A "**voluntary association**" is defined as being an association, club, society, organisation or other body (whether corporate or unincorporate) which provides facilities to its members and is not a business, or part of a business, conducted for profit.

A "**member**" in relation to such a voluntary association excludes a person who is made a member solely in connection with the sale to them by the association of a course of instruction.

Many club activities will therefore fall within the scope of this exclusion and will not give rise to a need for the club to obtain an adventure activities licence.

TEMPORARY MEMBERSHIP:

The 2004 Regs require that an association that provides facilities for adventure activities to individuals who are made members solely in connection with the sale to them by the association of a course of instruction must hold an adventure activities licence.

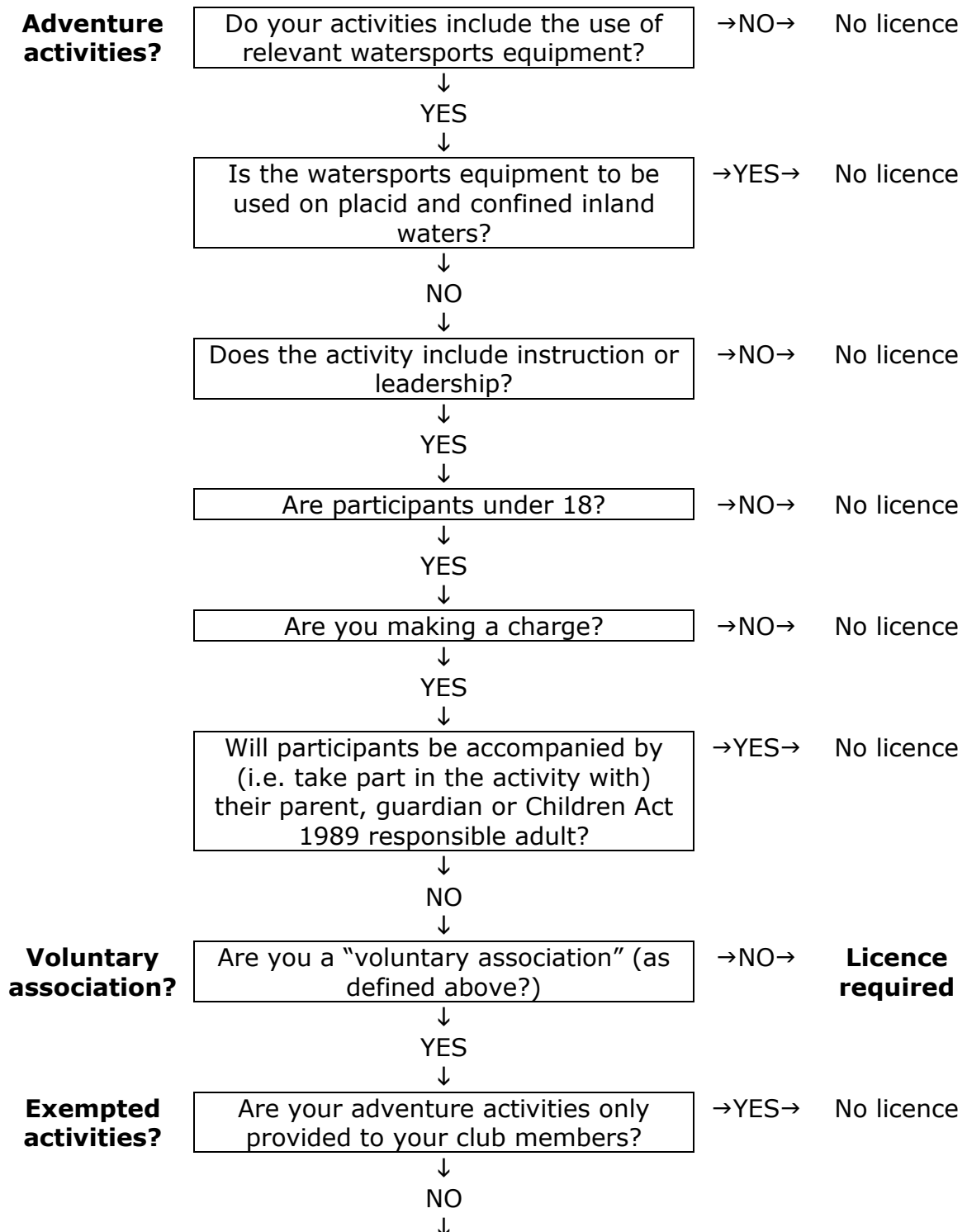
Many clubs, however, grant temporary membership to individuals who may then wish to take part in club training activities during the period of their temporary membership and the 2004 Regs do not provide specific criteria for assessing whether or not such temporary membership is "solely in connection with the sale ... by the association of a course of instruction."

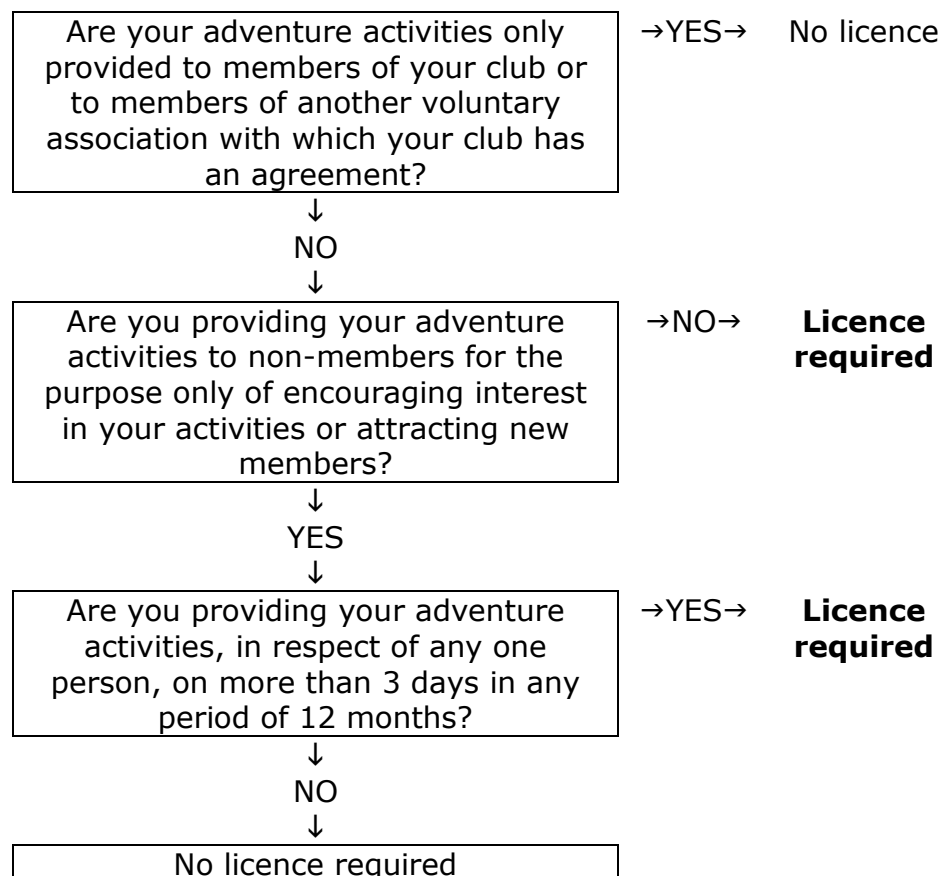
Each case would be considered on its individual circumstances, and there are no hard and fast criteria. However, if a club satisfies most of the following criteria then it may be able to demonstrate that its temporary members are "members" for the purposes of the 2004 Regs:-

1. The club is constituted and run as a non-profit making private members' sports club;
2. The genuine object of granting temporary membership is to encourage new membership and any training activity that such temporary members take part in is not a commercial sideline to support other club activities;
3. The scale of the training activity is proportionate to the size of the club, the size of the cadet or junior section (if any) and the capacity of the club to take in more cadet or junior members;
4. Temporary members are actively encouraged to take part in other club activities and to convert to full (or cadet / junior) membership when the temporary membership expires;
5. The course fee is set on a cost-recovery basis, plus a reasonable margin for club overheads;
6. The period of temporary membership lasts for significantly longer than the duration of any training course that the temporary member may take part in.

DO YOU NEED A LICENCE?

We have produced a flow chart to help you decide whether you need to apply for an adventure activities licence in order to offer training courses in dinghy sailing and windsurfing (the licensing system does not apply to powerboat training courses). This flow chart is only a guideline – it is a club’s responsibility to decide whether it needs to be licensed.





If your activities require the club to hold an adventure activities licence, you should contact the Adventure Activities Licensing Authority.

Further information is available from the Adventure Activities Licensing Authority by telephone on 029 2075 5715, by email at info@aals.org.uk or via their website at www.aals.org.uk

Alternatively, please contact the RYA Legal Team by telephone on 0844 5569519 or by email at legal@rya.org.uk

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