

Fitness & Dance Tariff 'F&D' (2019.02)



Effective 1st February 2019

1. Scope of tariff

- 1.1** This tariff applies to performances of copyright music within the *PRS for Music** repertoire at:
- gyms, health clubs, leisure centres, swimming pools and similar facilities (whether operated as a stand-alone business or in the course of the activities of a business or organisation the main purpose is the provision of other facilities and/or amenities);
 - subject to paragraph 2.4 (exceptions for certain performances in educational establishments), dance schools and other establishments whose sole or main purpose is the provision of facilities for giving and receiving instruction in dance.
- 1.2** This tariff does not apply to performances of copyright music at the premises of a business, organisation or establishment described at 1.1 above where and to the extent that the performance is given by or on behalf of a third party in the course of the activities of a business, organisation or establishment under the ownership or control of that party, including cafés, shops, bars, nurseries/creches, and the like).

2. Royalty rates

The following rates apply to all licence royalties due in the period 1st February 2019

Higher royalty rate: Where the music user has not applied for a licence in advance of first using PRS for Music repertoire, *PRS for Music* reserves the right to apply the higher rate royalty for the first year of the licence. The higher rate royalty is the standard rate for that year plus 50%.

2.1 Royalty rates: background music*

Background music* by any audio or audio-visual device or combination of devices throughout the premises including staff areas, and staff training films		
Total audible area (square metres)	Standard rate	Higher rate
Up to 99 m ²	£208.95	£313.43
100 - 249 m ²	£391.10	£586.65
250 - 649 m ²	£616.12	£924.18
650 - 949 m ²	£851.85	£1,277.78
950 m ² and above	£948.29	£1,422.44

* See Definitions, section 5

2.1 Royalty rates for classes & lessons

	Type of activity	Standard rate	Higher rate
2.2.1	Classes: A group instruction where the music performed is continuous, and directions are issued throughout the class, either by means of an instructor, video instruction or otherwise. For example: spin, aerobics, <i>Zumba</i> , toning, strength and conditioning	£1.67 per class	£2.51 per class
2.2.2	Lessons: A tuition based activity where the music performed is discontinuous and useful knowledge and/or principles can be learned. For example: ballet, tap, modern, jazz, ballroom, street, Latin, swing.	£1.06 per lesson	£1.59 per lesson

2.3 Minimum charge per premises

	Standard rate	Higher rate
Minimum charge per premises	£51.50	£77.25

This tariff and the charges set out in 2.1-2.3 are intended to reflect the value to the customer of access to PRS for Music repertoire in the ordinary course of the licensee's business or activities providing fitness and dance facilities to members of the public and/or tuition. All music usage outside the scope of such business and/or activities and not described above will be charged using other PRS for Music tariff(s).

2.4 Educational Exemptions

The Copyright, Designs & Patents Act 1988, as amended ("the 1988 Act"), permits educational establishments and other individuals to use copyright works for educational purposes without a licence.

In general, the term "educational establishment" includes all schools and other institutions of further and higher education, including specialist dance and music conservatoires and colleges.

Where a dance school qualifies as an educational establishment, section 34 of the 1988 Act provides that a public performance licence will not be required from PRS (or any other copyright owner) for performances before an audience of teachers and pupils/students at the school (and other persons directly connected with it) provided that the performance is given -

- by a teacher or pupil in the course of the activities of the dance school; or
- at the dance school by any person for the purposes of instruction.

Accordingly, no charge will be made for performances of PRS for Music repertoire falling within the scope of the statutory exception.

* See Definitions, section 5

In relation to dance tuition provided by persons other than educational establishments, please refer to the Schedule below.

3. Value Added Tax

Invoices under this tariff will include an additional sum in respect of Value Added Tax calculated at the relevant rate.

4. Inflation adjustment

Every year on 1 February, the monetary sums in this tariff will be adjusted for inflation. The adjustment formula will apply to the standard rates, using the mean (to the nearest whole percentage point) of the percentages by which the Retail Prices Index and Average Weekly Earnings index (unadjusted) change in the year to the previous September.

September is the latest month before the tariff anniversary date for which figures are likely to be published for both indices.

After application of the inflation adjustment, each royalty rate will be rounded to the nearest penny.

All royalties will be charged at the rate(s) in force at the beginning of the licence-year.

5. Definitions

5.1 Background music means in the context of paragraph 2.1, music performed for any purpose other than a featured* purpose by means of: a device for the of sound recordings, for example, by a compact disc player, MP3 or digital audio player; or by means of a radio, television set or other apparatus used for receiving broadcasts operated on the premises or diffused through a loud speaker from another part of the premises or a source outside the premises.

5.2 Featured music means music performed:

- by performers in person ("live performance");
- specifically, for the purpose of accompanying a live performance or other featured activity, event or entertainment, including, but not limited to, performances of music in the course of a discotheque, karaoke event, music quiz or film show (other than a film shown for staff training purposes). For the avoidance of doubt, in terms of this tariff, the performance of music during fitness classes and dance lessons is considered featured music.

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

* See Definitions, section 5

SCHEDULE – Discretionary Charging Policy

This Schedule and the following Policy does not form part of the Tariff and is provided for the information and assistance of licensees and other users.

PRS for Music currently operates a discretionary charging policy (“DCP”) for performances of PRS for Music repertoire by providers of dance tuition who are not classed as “educational establishments” under the Copyright Designs & Patents Act 1988.

Provided that music is performed within the context of and for the purposes of a lesson and/or examination leading to a qualification aligned with Regulated Qualifications Framework (RQF) Level 1 or above, for the purposes of calculating charges under Tariff F&D, PRS will treat such performance as if it were given in circumstances to which section 34 of the Copyright, Designs and Patent Act 1988 applies and accordingly will not make any charge respect of the session concerned.

PRS for Music reserves the right to amend or withdraw any DCP at any time subject to providing one month’s notice of any forthcoming changes on the PPL PRS Ltd websites.

* See Definitions, section 5