

ANGUS LICENSING BOARD – 6 APRIL 2017

**PREMISES LICENCES UNDER THE LICENSING (SCOTLAND) ACT 2005
LICENCES SURRENDERED**

REPORT BY THE CLERK TO THE BOARD

ABSTRACT

The purpose of this report is to present information on premises licence which the licence holder has surrendered.

1. RECOMMENDATION

It is recommended that the Board determine that the premises licences detailed in the attached appendix has been surrendered and has ceased to have effect.

2. BACKGROUND

2.1 The Clerk has received notification from the premises licence holders of those premises detailed in the appendix, to the effect that the licence holders are surrendering their respective licences.

2.2 Section 28 of the Licensing (Scotland) Act 2005 (“the Act”) provides that a premises licence ceases to have effect where the Licensing Board receives a notice from the premises licence holder stating that the licence holder wishes to surrender the licence. The Act provides that the notice be accompanied by the premises licence, or where that is not practicable, by a statement of reasons for failure to produce the licence. The licence holders have been requested to return their licences as required by Section 28 of the Act and have done so.

3. LEGAL IMPLICATIONS

On determining that a licence has been surrendered and has ceased to have effect, any future application for a premises licence in respect of those premises shall be an application for a new licence.

4. FINANCIAL IMPLICATIONS

There are no financial implications arising from this report.

5. HUMAN RIGHTS IMPLICATIONS

5.1 In dealing with the matters as set out in this report, the Board will have regard to any human rights issues in relation to the licence holders.

5.2 Members are advised that Article 1 of the First Protocol of the European Convention of Human Rights (i.e. protection of property) applies in relation to this Report. The licence holder is considered to be the owner of the licence and as such is entitled to the peaceful enjoyment of his/her possession. However, Angus Licensing Board may take such action as it deems necessary to control the use of the property in accordance with the general interest and subject to the conditions provided for by law. Article 14 requires non-discriminatory treatment of individuals in the enjoyment of their rights.

5.3 The legal basis for taking any action in connection with this Report is in terms of Section 28 of the 2005 Act.

- 5.4 Any actions considered by the Licensing Board must be proportionate, i.e. there should be as little intervention as possible to achieve the Board's desired aim. If the Board is minded to suspend the licence, members must first consider the Board's desired aim in imposing a period of suspension and must also consider an appropriate period of suspension taking into account the guidance on proportionality and must ensure that their decision does not discriminate against the licence holder.

6. NOTIFICATION

Notification of the terms of this Report has been sent to the licensees at their last known addresses.

NOTE: The background papers (other than any containing confidential or exempt information) which were relied on to any material extent in preparing the above report are: The Licensing (Scotland) Act 2005

REPORT AUTHOR: Dawn Smeaton, Licensing and Litigation Assistant

E-MAIL: LEGDEM@angus.gov.uk

**PREMISES LICENCES WHICH HAVE BEEN SURRENDERED
AND CEASE TO HAVE EFFECT**

LICENCE NO. 263, THE SPAR, 85 BRECHIN ROAD, ARBROATH, DD11 1TA

Licence Holder: J & P Croall, 85 Brechin Road, Arbroath, DD11 1TA

The licence holder requested in an email dated 7 February 2017 that this licence be cancelled. The licence was previously returned to the Board on an earlier date.