

**ANGUS LICENSING BOARD – 14 MAY 2015**

**REQUEST TO RELIEVE THE FAILURE TO COMPLY WITH A PROCEDURAL REQUIREMENT**

**REPORT BY SHEONA C HUNTER CLERK TO THE BOARD**

**ABSTRACT**

The purpose of this report is to advise the Board of a request for the Board to relieve an applicant of a failure to comply with a procedural requirement which requires to be determined by the Board.

**1. RECOMMENDATION**

It is recommended that the Board:-

- (i) note that the Clerk has received a request from an applicant to relieve a failure to comply with a procedural requirement which requires to be determined by the Board; and
- (ii) determine whether to relieve the failure to comply with the procedural requirement.

**2. BACKGROUND**

- 2.1 On 1 April 2015, the Clerk to the Board received a Transfer under Section 34(1) from Bellrock Property Limited, 145 - 147 John Street, London, in connection with Cath Rennies, 2 Mattocks Road, Wellbank. Correspondence subsequently received in respect of the Application from Begbies-Traynor as Liquidators of the previous licence holder, advised that with effect from 14 November 2014, the premises had been purchased by Blue Spark (Dundee) Limited (Company Number SC470061) registered office at 10 Douglas Street, Dundee. They also advised that they had no objection to the Application being made by Bellrock Property Limited. Bellrock Property Limited lease Cath Rennies from Blue Spark, Dundee Limited and are the Applicants and proposed licence holders.
- 2.2 Section 34 of the Licensing (Scotland) Act 2005 provides that there are certain circumstances when a premises licence can be transferred on the application of a person other than the licence holder. One of these circumstances is when a company who is the premises licence holder becomes insolvent. Section 34 also provides that such an application must be made within 28 days of the occurrence of the event. If such an application is not made within 28 days then the licence ceases to have effect.
- 2.3 The application received was outwith the 28 day period and the Liquidator and Applicant were advised that, accordingly, the Board could not consider the application unless the Clerk received a request for the Board to relieve a failure to comply with a procedural requirement.
- 2.4 Section 135 of the Licensing (Scotland) Act 2005 provides that the Board may relieve any applicant or other party to proceedings before the Board of any failure to comply with any procedural provision if—
  - (a) the failure is due to mistake, oversight or other excusable cause, and
  - (b) the Board considers it appropriate in all the circumstances to relieve the failure.
- 2.5 Where a Board exercises this power it may make such order as appears necessary or expedient to enable the proceedings to continue as if the failure had not occurred.
- 2.6 The Applicant has received a copy of this report and has been invited to appear before the Board and address it on the terms of their request.

**3. FINANCIAL IMPLICATIONS**

There are no significant financial implications arising from this report.

**4. HUMAN RIGHTS IMPLICATIONS**

There are no human rights implications arising from this report

**5. EQUALITIES IMPLICATIONS**

The issues dealt with in this report have been the subject of consideration from an equalities perspective (as required by legislation). An equalities impact assessment is not required.

**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

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