

ANGUS LICENSING BOARD – 4 JANUARY 2018

PREMISES LICENCES UNDER THE LICENSING (SCOTLAND) ACT 2005 – LICENCE REVIEW PROPOSAL

REPORT BY THE CLERK TO THE LICENSING BOARD

ABSTRACT

The purpose of this report is to advise Members of the non payment of Annual Fees under the Licensing (Scotland) Act 2005 (“the 2005 Act”) as detailed in the Appendix to the Report which the Board may wish to consider and take action in relation to.

1. RECOMMENDATION

It is recommended that the Board:

- (i) propose to review the premises licences specified in the appendix thereby making a “premises licence review proposal”; and
- (ii) determine to hold a hearing to consider same.

2. BACKGROUND

In terms of the 2005 Act, it is a mandatory condition applicable to all premises licences that the annual fee must be paid.

Despite requests for payment and reminders, the annual fees in respect of each of the licensed premises detailed in the attached Appendix have not been paid.

Members should note that, in terms of section 37 of the 2005 Act, the Licensing Board may, on its own initiative, propose to review a premises licence - “a premises licence review proposal”. In terms of section 36(3), the grounds for review are:

- (za) that, having regard to the licensing objectives, the licence holder is not a fit and proper person to be the holder of a premises licence;
- (a) that one or more of the conditions to which the premises licence is subject has been breached; or
- (b) any other ground relevant to one or more of the licensing objectives.

3. FINANCIAL IMPLICATIONS

There are no financial implications arising from this report.

4. OTHER IMPLICATIONS

Legal

In terms of the 2005 Act, a premises licence review proposal must specify the alleged ground for review as per section 37(4):

- (a) where the ground is that specified in subsection (3)(za), a summary of the information on which the Board's view that the alleged ground applies is based;
- (b) where the ground is that specified in (3)(a), the condition or conditions alleged to have been breached;
- (c) where the ground is that specified in (3)(b), the licensing objective or objectives to which the alleged ground of review relates.

In these particular cases, the condition alleged to have been breached is that the licence holders have failed to pay their annual fee.

5. HUMAN RIGHTS IMPLICATIONS

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.

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.

The legal basis for taking any action in connection with this report is in terms of the 2005 Act.

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.

6. CONCLUSION

The Board is requested to propose to review the licences specified in the appendix thereby making a "premises licence review proposal" and to fix a hearing date or dates to consider same. The Board is asked to agree that any hearing would be cancelled should the outstanding fees be paid prior to the hearing.

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APPENDIX TO REPORT LB 5/18

ANGUS LICENSING BOARD – 4 JANUARY 2018

NON PAYMENT OF ANNUAL FEES FOR 2017

Premises Number	Premises Name	Premises Address	Amount
128	Forfar Golf Range	Brechin Road, Forfar, DD8 3RN	£220
140	The East End Bar & Nova Suite	91 Montrose Street, Brechin, DD9 7DG	£220
154	Club One	89-91 North Street, Forfar, DD8 3BL	£280
158	The Old Bolag Bar	1 Church Street, Brechin, DD9 6HB	£220
182	Azzurro Restaurante	43 High Street, Arbroath, DD11 1AN	£220
185	The Webster Memorial Theatre	64 High Street, Arbroath, DD11 1AW	£500
222	Belmont Arms Hotel	Meigle, PH12 8TJ	£220
237	Forfar Golf Club	Cunninghill Arbroath Road, Forfar, DD8 2RL	£500
273	Sunny's Bar and Kitchen	2 Mattocks Road, Wellbank Dundee, DD5 3PJ	£280
313	Stag Inn	1 West Port, Arbroath, DD11 1RF	£280
333	The Milton Hotel	Grange Road, Monifieth, DD5 4LU	£280
377	Wellbank Shop	13 Kellas Road, Wellbank, DD5 3PE	£220
379	Shotz Pool & Snooker Club	2-4 John Street West, Arbroath, DD11 1RT	£280