

ANGUS LICENSING BOARD – 10 NOVEMBER 2022

PREMISES LICENCES UNDER THE LICENSING (SCOTLAND) ACT 2005

LICENCE REVIEW PROPOSALS

REPORT BY CLERK TO THE BOARD

ABSTRACT

The purpose of this report is to advise members of the non-payment of Annual Premises Licence Fees under the Licensing (Scotland) Act 2005 (“the 2005 Act”) as detailed in the Appendix to this Report.

1. RECOMMENDATIONS

It is recommended that the Board consider and determine:-

- (i) to hold a review hearing (“a premises licence review proposal”) in respect of each of those premises detailed in the attached Appendix;
- (ii) to fix a review hearing date in respect of each of those premises within 42 days of the decision to make the premises licence review proposal; and
- (iii) to agree that any review hearing be cancelled should the outstanding fees be paid prior to the Hearing.

2. LEGAL

Paragraph 10 of Schedule 3 to the 2005 Act makes it a mandatory condition applicable to all premises licences that the fee must be paid as required by The Licensing (Fees) (Scotland) Regulations 2007. The regulations provide for the fee being an annual fee and specifies the amounts due by different types of premises.

The Regulations specify that the first annual fee is due within 30 days after the date on which the licence takes effect.

The Regulations further specify that subsequent annual fees are due on 1st October each year or, where that date falls on a Saturday or Sunday, on the immediately following Monday.

Despite reminders for payment being made to the licence holders the annual fees in respect of each of the licensed premises detailed in the attached Appendix have not been paid.

In terms of Section 37(1) of the 2005 Act, the Licensing Board may, on its own initiative, propose to review a premises licence on any grounds for review. The grounds for the Licensing Board making such a premises licence review proposal 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.

In terms of section 37(4) of the 2005 Act, a premises licence review proposal must specify the alleged ground for review, including in particular: -

- i) where the ground is that specified in za) above, a summary of the information on which the Board's view that the alleged ground applies is based
- ii) where the ground is that specified in a) above the condition or conditions alleged to have been breached
- iii) where the ground is that specified in c) above, the licensing objective to which the ground of review relates

In these particular cases, it is recommended that the condition alleged to have been breached is that the licence holders have failed to pay their annual fee and that the Board ought to specify this in making a premises review proposal.

In making a premises review proposal, the Board may include in the proposal any information that the Board considers may be relevant to their consideration of the alleged ground for reviewing, including, in particular, information in relation to: -

- a) the licence holder,
- b) where the licence holder is neither an individual nor a council, a connected person in relation to the licence holder, or
- c) any person who is an interested party in relation to the licensed premises.

If the Board decides to make a premises review proposal, they should be aware that the review hearing must take place within **42 days** from the date they make the proposal in line with the Licensing (Procedure) (Scotland) Regulations 2007.

3. FINANCIAL IMPLICATIONS

If the fees below are not paid by the licence holders, Board income will decrease by £14,560

4. 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. 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.

5. CONCLUSION

The Board is requested to determine to agree to make a premises licence review proposal in respect of the premises detailed in the Appendix and to fix a review hearing date within 42 days of their decision to make the proposal. The Board is asked to agree that any hearing be cancelled should the outstanding fees be paid prior to the hearing.

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APPENDIX 1 TO REPORT LB52/22

ANGUS LICENSING BOARD - 10 NOVEMBER 2022

NON-PAYMENT OF ANNUAL FEES FOR 2022

Lic. No.	Premises Name	Premises Address	Amount
2	Pucci's	24-30 Murray Street, Montrose, DD10 8LB	£220
7	The Pageant	8 Kirk Square, Arbroath, DD11 1DX	£280
11	Ram's Heid	East Muirlands Road, Arbroath, DD11 3ES	£220
27	Thistle Bar	199-201 East High Street, Forfar, DD8 2HL	£220
30	The Park Bar	19-21 Park Road, Brechin, DD9 7AE	£280
37	The Old Mason's Arms	135-139 East High Street, Forfar, DD8 2EQ	£280
52	Costcutter	4 Lower Craigo Street, Montrose, DD10 8TG	£220
57	Aldi Store	Western Road, Montrose, DD10 8DE	£900
58	Spar	83 High Street, Carnoustie, DD7 7EA	£280
66	Rupali Restaurant	3/5 Queen Street, Forfar, DD8 3AJ	£220
73	The Letham Hotel	12 The Square, Angus, DD8 2PZ	£220
102	Bob's Bar	Tayock Caravan Park, Brechin Road, Montrose, DD10 9LE	£220
118	Lochlands Restaurant Outlet	The Mill, Forfar, DD8 1XF	£220
121	Brechin Arms	44 St David Street, Montrose, DD9 5EQ	£280
128	Forfar Golf Range	Brechin Road, Forfar, DD8 3RN	£220
132	Keystore	39 Queen Street, Montrose, DD10 8NH	£280
137	Hospitalfield House	Westway, Arbroath, DD11 2NH	£700
146	The Crown Inn	49 High Street, Monifieth, DD5 4AA	£280
151	Hillside Shop & Post Office	2 Lindsey Place, Main Road, Hillside by Montrose, DD10 9HQ	£190
157	10 Café Bar	12-14 Castle Street, Forfar, DD8 3AD	£280
162	Railway Inn	48 Market Street, Forfar, DD8 3EW	£220

163	Corner Newsmarket	6-8 Barry Road, Carnoustie, DD7 7QL	£190
169	Royal Night Club	33 Castle Street, Forfar, DD8 3AE	£220
172	Ziggies	16 West Port, Arbroath, DD11 1RE	£280
178	The Star Hotel	7 New Wynd, Montrose, DD10 8RB	£280
184	The Northern Hotel	2 Clerk Street, Brechin, DD9 6AE	£500
186	The Strathmore Arms	1 The Square, Glamis By Forfar, DD8 1RS	£500
201	Arbroath United Cricket Club	Lochlands, Keptie Road, Arbroath, DD11 3EN	£180
204	Panmure Club	1 Church Street, Carnoustie, DD7 6DD	£180
209	Airlie Lodge No 286	47 Roods, Kirriemuir, DD8 4EY	£180
231	Brown Horse	62 Market Street, Brechin, DD9 6BD	£280
233	Royal Hotel	35 Castle Street, Forfar, DD8 3AE	£280
240	Grange & Broughty Golf Club	4 Princess Street, Monifieth, DD5 4AW	£180
244	Lochlands Bowling Club	Lochlands Drive, Arbroath, DD11 3BZ	£220
250	Muirhead & Birkhill Bowling Club	Coupar Angus Road, Birkhill, DD2 5QE	£180
252	The Royal British Legion	88 Dundee Street, Carnoustie, DD7 7PH	£180
253	The Royal British Legion	1 Academy Street, Forfar, DD8 2HA	£220
259	Newgate Bowling Club	West Newgate, Arbroath, DD11 1BL	£180
261	Tutties Neuk	Gayfield, Dundee Road, Arbroath, DD11 1QJ	£220
273	Sunny's Bar & Kitchen	2 Mattocks Road, Wellbank, DD5 3PJ	£220
308	The Drover's Inn Part paid £280 on 06/09/2022	Memus, By Forfar, DD8 3TY	£500 minus £280 fee outstandi ng £220
313	Bar 1320	1 West Port, Arbroath, DD11 1RF	£280
320	The Bengal	St Malcolm's Wynd, Kirriemuir, DD8 4HB	£220
321	Zoar Inn	20 Muir Street, Forfar, DD8 3JY	£280
323	Shelby's	116 Castle Street, Forfar, DD8 3HS	£220

325	Indian Cottage	204/206 High Street, Montrose, DD10 8PH	£220
333	The Milton Hotel	Grange Road, Monifieth, DD5 4LU	£280
339	Rupali Palace	198 High Street, Forfar, DD8 2HG	£280
349	Newtyle Post Office	19 North Street, Newtyle, Blairgowrie, PH12 8TU	£220
378	Sportsterz	14 Market Place, Arbroath, DD11 1HR	£280
379	Shotz Pool & Snooker Club	2-4 John Street West, Arbroath, DD11 1RT	£280
409	Smugglers Tavern	65 Ladybridge Street, Arbroath, DD11 1AX	£220
410	The Attic Club	2A St Malcolm's Wynd, Kirriemuir, DD8 4HB	£220
413	Copper Oven	14 Applegate, Arbroath, DD11 1HX	£220
428	Kescoweth	High Trees of Cockhill, Renmuire, Arbroath, DD11 4RZ	£220
		TOTAL OUTSTANDING	£14,560