

AGENDA ITEM NO 6

REPORT NO LB42/23

ANGUS LICENSING BOARD – 17 AUGUST 2023

PREMISES LICENCE – MILLGATE BAR, 3 MILLGATE, ARBROATH

REPORT BY CLERK TO THE BOARD

ABSTRACT

The purpose of this report is to seek the approval of Members to administratively revoke a Premises Licence because this is not a matter of delegation to the Clerk.

1. RECOMMENDATION

It is recommended that the Board directs the Clerk to administratively revoke Premise Licence 181 held by dissolved company STM Bars Limited with immediate effect.

2. BACKGROUND

The holder of Premises Licence 181 is STM Bars Limited, 20-22 Wenlock Road, London, N1 7GU. The postal address of the premises is Millgate Bar, 3 Millgate Loan, Arbroath. Companies House website confirms that STM Bars Limited (Company number 10070125) was dissolved on the 25 June 2019.

3. LEGAL IMPLICATIONS

3.1 The Licensing (Scotland) Act 2005 does not state what happens to a Premises Licence held by a limited company that has been dissolved, unless by reason of insolvency. Section 28 of the Act, makes provision for other circumstances arising, as follows:

3.2 Section 28 Period of effect of premises licence

- (1) A premises licence—
 - (a) takes effect on such date as the Licensing Board issuing it may determine, and
 - (b) ceases to have effect on the occurrence of any of the events mentioned in subsection (5).
- (2) However, a premises licence is not to be taken to have ceased to have effect under subsection (1)(b) by virtue of the occurrence of any of the events mentioned in paragraphs (c) to (e) of subsection (5) if, within 28 days of the occurrence of the event, an application for the transfer of the licence is made under section 34(1).
- (3) If such an application is made but refused, the premises licence ceases to have effect on the refusal.
- (4) A premises licence does not have effect for any period during which it is suspended by virtue of any provision of this Act.
- (5) The events referred to in subsection (1)(b) are—
 - (a) the premises licence is revoked under any provision of this Act,
 - (b) the licensed premises in respect of which the licence was issued cease to be used for the sale of alcohol,
 - (c) the premises licence holder, being an individual—
 - (i) dies, or
 - (ii) becomes incapable within the meaning of section 1(6) of the Adults with Incapacity (Scotland) Act 2000 (asp 4),
 - (d) the premises licence holder, being an individual, a partnership or a company, becomes insolvent,

- (e) the premises licence holder, being a person other than an individual, a partnership or a company, is dissolved, and
 - (f) the appropriate Licensing Board receives from the premises licence holder a notice under subsection (6).
- (6) That is a notice—
- (a) accompanied by the premises licence, or where that is not practicable, by a statement of reasons for failure to produce the licence, and
 - (b) stating that the licence holder wishes to surrender the licence.
- (7) For the purposes of subsection (5)(d)—
- (a) an individual or partnership becomes insolvent on—
 - (i) the approval of a voluntary arrangement proposed by the individual or partnership,
 - (ii) being adjudged bankrupt,
 - (iii) the individual's or partnership's estate being sequestrated,
 - (iv) entering into a deed of arrangement made for the benefit of creditors, or
 - (v) granting a trust deed for creditors, and
 - (b) a company becomes insolvent on—
 - (i) the approval of a voluntary arrangement proposed by its creditors,
 - (ii) the appointment of an administrator or administrative receiver in respect of it, or
 - (iii) going into liquidation.
- (8) An expression used in subsection (7) which is also used in the Bankruptcy (Scotland) Act 2016, or the Insolvency Act 1986 has the same meaning in that subsection as it has in that Act.

3.3 The practical effect of the dissolution of the Company, not by reason of insolvency, is that the licence, as held, cannot be used to trade in the sale of alcohol. The view of the Clerk is that Premises Licence 181 has no formal status under the Licensing (Scotland) Act 2005 due to the named premises licence holder being a dissolved company. A transfer application has not been accepted for processing in terms of section 34 of the Act. Four Occasional Licences in respect of the premises were recently granted by the Board.

4. FINANCIAL IMPLICATIONS

There are no financial implications arising from this report.

5. NOTIFICATION

The licence holder has been dissolved. It is not possible to notify the licence holder of this report.

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
Premises Licence 181

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