

SPECIAL ANGUS LICENSING BOARD – 19 DECEMBER 2024

REVIEW OF PREMISES LICENCES

REPORT BY THE CLERK TO THE LICENSING BOARD

ABSTRACT

The purpose of this Report is to present premises licences to the Board for review due to non-payment of Annual Fees in accordance with the Licensing (Scotland) Act 2005 (“the 2005 Act”).

1. RECOMMENDATIONS

It is recommended that the Board: -

- a) Note the licences contained in **Appendix 1** which have been surrendered;
- b) Note the licences contained in **Appendix 2** have ceased to have effect for the reasons given; and
- c) Conducts a Hearing to review the premises licences listed in **Appendix 3** to this Report and, if satisfied that a ground for review is established, the Board may take such of the following steps as it considers necessary and appropriate, for the purposes of any of the licensing objectives: -
 - (i) to issue a written warning to the licence holder;
 - (ii) to make a variation of the licence;
 - (iii) to suspend the licence for such period as the Board may determine;
 - (iv) to revoke the licence; or
 - (v) to take no action.

2. BACKGROUND

2.1 At the meeting of the Board on 14 November 2024, Board Members agreed to review the premises licences, detailed in **Appendix 1** to Report LB44/24, on the grounds that one or more conditions to which the premises licence is subject have been breached, in that the said licence holders have failed to pay their annual fee. Board members also agreed that should the outstanding fee be paid prior to the Review Hearing; the hearing would be cancelled. Members should note that following further discussions with licence holders and investigations some licences were surrendered and one had ceased to have effect as noted in the Appendices.

2.2 In terms of section 36(3) of the 2005 Act, 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.

The licensing objectives are: -

- (a) preventing crime and disorder;
- (b) securing public safety;
- (c) preventing public nuisance;
- (d) protecting and improving public health; and
- (e) protecting children and young persons from harm.

- 2.3 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.
- 2.4 Where a premises licence is in effect, or is suspended, the holder of that licence must make payment of the annual fee:
- The first annual fee being payable on 1 October 2009 or 30 days after the date on which the licence takes effect.
 - Subsequent annual fees are due on 1 October each year, or where that date falls on a Saturday or a Sunday, on the immediately following Monday.
- 2.5 Despite reminders and requests for payment being made, the annual fees in respect of the licensed premises detailed in **APPENDIX 3** remain unpaid. The respective premises licence holders would therefore appear to be in breach of the said condition of their licence.
- 2.6 Where a review hearing is to be held, the Board must, in the case of a premises licence review proposal, give notice of the hearing to the applicant and give notice of the hearing and a copy of the premises licence review proposal to the licence holder, and any report from the Licensing Standards Officer for the area in which the premises concerned are situated.

3. FINANCIAL IMPLICATIONS

- 3.1 There are no financial implications arising directly from this report.

4. HUMAN RIGHTS IMPLICATIONS

- 4.1 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.
- 4.2 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.
- 4.3 The legal basis for taking any action in connection with this report is in accordance with the 2005 Act.
- 4.4 Any actions considered by the Board must be proportionate i.e., there should be as little intervention as possible to achieve the Board's desired aim.

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.

6. NOTIFICATION

Each premises licence holder, and/or their Agent, have been given a copy of the Premises Licence Review Proposal and a copy of this Report.

7. CONCLUSION

The Board is requested to review the premises licences as detailed in **APPENDIX 3** to this Report and determine, what steps, if any, they consider to be necessary and appropriate for the purposes of the licensing objectives.

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PREMISES LICENCES SURRENDERED

(a) LICENCE NO. 264, The Retreat, Tarfside, Glenesk, Brechin, DD9 7YT

Licence Holder: The Glenesk Trust, Dalhousie Estates, Dalhousie Estates Office, Brechin, DD9 6SG

The licence holder requested in an email dated 19 November 2024 that the licence be surrendered and an electronic copy of the licence was returned. Business Support acknowledged receipt of this email and requested the licence holder destroy all paper copies of said licence.

(b) LICENCE NO. 406, Grey Harlings, 5 Traill Drive, East Links, Montrose, DD10 8SW

Licence Holder: Framework Property Development Ltd., 5 Traill Drive, East Links, Montrose, DD10 8SW

The licence holder requested in an email dated 20 November 2024 that this licence be surrendered with immediate effect. The premises licence issued to the applicant was delivered electronically and so no premises licence is required to be returned.

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PREMISES LICENCES CEASED TO HAVE EFFECT

(a) LICENCE NO. 408, The Daily Grind, 1B Millgate, Arbroath, DD11 1NN

Licence Holder: Daily Grind Coffee Co. Ltd.

On enquiry it was noted that the licence holder, Daily Grind Coffee Co. Ltd., was dissolved on 14 November 2023. The Licensing (S) Act 2005 does not specifically provide for a solution to such circumstances; however, it is the view of the Clerk that the licence no longer has any status in law and as such cannot be held by anyone – transfer provisions therefore do not apply – consequently, the licence has ceased to have effect.

APPENDIX 3 TO REPORT LB 52/24

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NON-PAYMENT OF ANNUAL FEES FOR 2024

Lic. No	Premises	Address	Town	Postcode	Annual Fee
2	Pucci's	24-30 Murray Street	Montrose	DD10 8LB	£220.00
25	Steeplejacks	178 High Street	Montrose	DD10 8PH	£220.00
121	Brechin Arms	44 St David Street	Brechin	DD9 6EQ	£280.00
135	The Quayside	14 Trinity Road	Brechin	DD9 6BE	£220.00
156	Keystore	34/36 Dundee Street	Carnoustie	DD7 7PF	£220.00
310	The Railway Inn	1 Gardyne Street	Friockheim	DD11 4SN	£220.00
333	The Milton Hotel	Grange Road	Monifieth	DD5 4LU	£280.00
445	Nisa Local	25 Fisheracre	Arbroath	DD11 1LE	£280.00