

ANGUS LICENSING BOARD – 16 AUGUST 2012

POLICY ON REMOTE TRADING/INTERNET SALES OF ALCOHOL

REPORT BY THE CLERK

ABSTRACT

To note the legislative requirements imposed on remote/internet sales of alcohol by the Licensing (Scotland) Act 2005 and to recommend the adoption of standard conditions by the Board in respect of the grant of Premises Licences for such sales.

1. RECOMMENDATION

It is recommended that the Board:-

- (i) notes that:-
 - (a) Section 65 of the Licensing (Scotland) Act 2005 provides that the Board must refuse any kind of application if the hours proposed are such that alcohol would be sold for consumption off the premises before 10am or after 10pm (or both),
 - (b) Section 139 of the Licensing (Scotland) Act 2005 provides that where premises from which alcohol is despatched are in Scotland, the sale is, for the purposes of the Act, to be treated as taking place on those premises; and
 - (c) Section 63 of the Licensing (Scotland) Act 2005 provides that a person commits a criminal offence if, outwith licensed hours, the person sells alcohol or allows alcohol to be sold, on licensed premises but that nothing in this section prevents or restricts the ordering of alcohol for consumption off licensed premises; or the despatch of alcohol so ordered by the person selling it.
- (ii) agrees that in respect of applications for premises licences where the intention is that the premises will only receive orders for alcohol for consumption off licensed premises and/or the despatch of alcohol so ordered by the person selling it then the following conditions will be applied:-
 - (a) no sales will take place to the public over the counter unless the Board is satisfied that the premises are suitable for such sales; and
 - (b) no deliveries will be permitted to or from the premises between the hours of midnight and 6am.

2. BACKGROUND

- 2.1 The Board has recently been required to consider applications for premises licences when the only reason that such a licence is sought is to permit the receipt of orders for alcohol for consumption off licensed premises and/or the despatch of alcohol so ordered by the person selling it. Such transactions have become increasingly popular with the internet being the usual medium for such transactions. Issues have arisen in that some of these premises would not, traditionally, be suitable for the sale of alcohol (for either consumption on or off the premises) but would be suitable for, for example, a mail order business. Issues could also arise in respect of noise nuisance in respect of additional traffic at unsociable hours in respect of deliveries to, or despatches from, such premises (particularly if the premises are situated in residential areas).

- 2.2 Section 65 of the Licensing (Scotland) Act 2005 (the "Act") provides that the Board must refuse any kind of application if the hours proposed are such that alcohol would be sold for consumption off the premises before 10am or after 10pm (or both).
- 2.3 Section 139 of the Act 2005 provides that where premises from which alcohol is despatched are in Scotland, the sale is, for the purposes of the Act to be treated as taking place on those premises.
- 2.4 Section 63 of the Licensing (Scotland) Act 2005 provides that a person commits a criminal offence if, outwith licensed hours, the person sells alcohol or allows alcohol to be sold, on licensed premises but that nothing in this section prevents or restricts the ordering of alcohol for consumption off licensed premises; or the despatch of alcohol so ordered by the person selling it.
- 2.5 It should be noted from the above that the normal restrictions in the Act in respect of licensed hours do not apply to internet or remote transactions.
- 2.6 This report recommends that the Board, in determining whether to grant a premises licence, or a variation to a licence, that permits the receipt of orders for alcohol for consumption off licensed premises and/or the despatch of alcohol so ordered by the person selling it, then the Board consider applying the following conditions:-
- (a) no sales will take place to the public over the counter unless the Board is satisfied that the premises are suitable for such sales; and
 - (b) no deliveries will be permitted to or from the premises between the hours of midnight and 6am.

3. FINANCIAL IMPLICATIONS

There are no financial implications arising directly from this report.

4. HUMAN RIGHTS IMPLICATIONS

There are no Human Rights issues arising directly 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.

6. CONSULTATION

The Head of Finance and the Chief Constable have been consulted in the preparation of this report.

**SHEONA C HUNTER
CLERK TO THE LICENSING BOARD**

NOTE: No background papers were relied on to any material extent in preparing the above report.

L&A/SCH/DT