

ANGUS LICENSING BOARD – 16 AUGUST 2012

**PREMISES LICENCES UNDER THE LICENSING (SCOTLAND) ACT 2005 – LICENCES
SURRENDERED**

REPORT BY THE CLERK

ABSTRACT

The purpose of this report is to present information on premises licences which the licence holders have surrendered.

1. RECOMMENDATION

It is recommended that the Board determine that the premises licences detailed in the attached appendix have been surrendered and have ceased to have effect.

2. BACKGROUND

The Clerk has received notification from the premises licence holders of those premises detailed in the appendix, to the effect that the licence holders are surrendering their respective licences.

Section 28 of the Licensing (Scotland) Act 2005 ("the Act") provides that a premises licence ceases to have effect where the Licensing Board receives a notice from the premises licence holder stating that the licence holder wishes to surrender the licence. The Act provides that the notice be accompanied by the premises licence, or where that is not practicable, by a statement of reasons for failure to produce the licence. The licence holders have been requested to return their licences as required by Section 28 of the Act but they have not done so, nor have they provided a statement of reasons for failure to produce the licence.

3. LEGAL IMPLICATIONS

On determining that a licence has been surrendered and has ceased to have effect, any future application for a premises licence in respect of those premises shall be an application for a new licence.

4. FINANCIAL IMPLICATIONS

There are no financial implications arising from this report.

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 Section 28 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.

6. CONSULTATION

The Head of Finance, Director of Infrastructure Services and Chief Constable of Tayside Police have been consulted in the preparation of this report.

7. NOTIFICATION

Notification of the terms of this Report has been sent to the licensees at their last known addresses.

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

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 LICENCES WHICH HAVE BEEN SURRENDERED
AND CEASE TO HAVE EFFECT**

(a) LICENCE NO. 262 - SPARKLE, 49 BARRY ROAD, CARNOUSTIE

Licence Holder: Landsburgh Brothers Limited, 83 High Street, Carnoustie, DD7 7EA

The licence holder requested in a letter dated 8 May 2012 that his licence be cancelled as the business ceased trading on 8 July 2011.

**(b) LICENCE NO. 344 - THE CORNER HOUSE DELICATESSEN, 225 HIGH STREET,
ARBROATH, DD11 1DZ**

Licence Holder: Brian and Sarah Skerritt trading as The Corner House Delicatessen, 225 High Street, Arbroath, DD11 1DZ

The premises licence was surrendered and returned on 5 July 2012.