

ANGUS LICENSING BOARD – 4 OCTOBER 2012

PREMISES LICENCES  
UNDER THE LICENSING (SCOTLAND) ACT 2005 – LICENCES CEASED

REPORT BY THE CLERK

**ABSTRACT**

The purpose of this Report is to provide information on certain Premises Licences, and to invite the Board to determine that these Premises Licences have ceased to have effect.

**1. RECOMMENDATION**

It is recommended that the Board determine that the premises licence(s) detailed in the attached appendix have ceased to have effect.

**2. BACKGROUND**

Section 28 of the Licensing (Scotland) Act 2005 ("the 2005 Act") provides, amongst others, that a premises licence ceases to have effect where:

- (a) the premises licence is revoked under any provision of the 2005 Act;
- (b) the licensed premises 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) 2000;
- (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;
- (f) the Licensing Board receives from the premises licence holder a notice surrendering the licence, accompanied by the premises licence or a statement of reasons for failure to produce the licence.

There are exceptions to the above. A premises licence does not cease to have effect in respect of the insolvency, dissolution, death or incapacity of the premises licence holder if an application to transfer the premises licence is received by the Clerk within 28 days of the date of the insolvency, dissolution, death or incapacity of the premises licence holder as the case may be.

**3. LEGAL IMPLICATIONS**

It appears to the Clerk that the licences referred to in the Appendix have respectively ceased to have effect in terms of the 2005 Act. The Board is asked to determine that the Premises Licences referred to in the Appendix have ceased to have effect and for the reasons referred to therein.

#### **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 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, the Director of Infrastructure Services and the Chief Constable, 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 licence holders 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:

Licensing (Scotland) Act 2005  
Licensing (Transitional and Saving Provisions) (Scotland) Order 2007

**PREMISES LICENCES WHICH HAVE CEASED TO HAVE EFFECT**

**(a) LICENCE NO. 35 – THE CROWN INN, 41 – 43 WEST ABBEY STREET, ARBROATH, DD11 1EQ**

Members are asked to note that the premises were closed in or around August 2010 and have therefore ceased to be used for the sale of alcohol.

Letters sent by the Clerk to the licence holder at the premises since August 2010 have been returned by Royal Mail marked “addressee gone away”. No payment has been received in respect of the 2009 and 2010 annual fees.

The Board is asked to note that the licence has ceased to have effect and to determine that the licence be removed from the register.

**(b) LICENCE NO. 54 – GOLF INN, 5 PARK AVENUE, CARNOUSTIE, DD7 7JA**

Members are asked to note that the premises were closed in or around May 2011 and have therefore ceased to be used for the sale of alcohol.

A letter sent by the Clerk to the licence holder at the premises in February 2012 has been returned by Royal Mail marked “addressee gone away”. No payment has been received in respect of the 2011 annual fee.

The Board is asked to note that the licence has ceased to have effect and to determine that the licence be removed from the register.

**(c) LICENCE NO. 79 – INVERALDIE INN, TEALING, DD4 0RH**

Members are asked to note that the premises were closed in and around June 2011 and have therefore ceased to be used for the sale of alcohol.

The Council’s Planning Division has confirmed that an application has recently been received to change the use of the premises to a private dwelling house.

The Board is asked to note that the licence has ceased to have effect and to determine that the licence be removed from the register.

**(d) LICENCE NO. 85 – VICTORIA BAR, 11 CATHERINE STREET, ARBROATH, DD11 1RL**

Members are asked to note that the premises were closed in and around March 2011 and have therefore ceased to be used for the sale of alcohol.

No payment has been received in respect of the 2011 annual fee.

The Board is asked to note that the licence has ceased to have effect and to determine that the licence be removed from the register.

**(e) LICENCE NO. 88 – RISTORANTE BELMONTE, 2 BURNSIDE STREET, CARNOUSTIE, DD7 7EU**

Members are asked to note that the premises have been closed since 2010 and have therefore ceased to be used for the sale of alcohol.

The Board is asked to note that the licence has ceased to have effect and to determine that the licence be removed from the register.

**(f) LICENCE NO. 118 – LOCHLANDS COFFEE MILL, DUNDEE ROAD, FORFAR, DD8 1XF**

Members are asked to note that the premises have been closed since a fire occurred at the premises in August 2010 and the premises have therefore ceased to be used for the sale of alcohol.

No reply has been received to letters sent by the Clerk to the licence holder's agent in August 2010 and in January 2011 and no payment has been received in respect of the 2010 and 2011 annual fee.

The Board is asked to note that the licence has ceased to have effect and to determine that the licence be removed from the register.

**(g) LICENCE NO. 126 – DALHOUSIE BAR, 1 MARKET STREET, BRECHIN, DD9 6BA**

Members are asked to note that the premises were closed in and around June 2011 and have therefore ceased to be used for the sale of alcohol.

A letter sent by the Clerk to the licence holder in February 2012 was returned by Royal Mail marked "address inaccessible". No payment has been received in respect of the 2011 annual fee.

The Board is asked to note that the licence has ceased to have effect and to determine that the licence be removed from the register.

**(h) LICENCE NO. 131 – HOOK'S HOTEL, 3 BANK STREET, KIRRIEMUIR, DD8 4BE**

Members are asked to note that the premises have been closed since a fire at the premises prior to February 2010 and the premises have therefore ceased to be used for the sale of alcohol.

The Council's Planning Division has confirmed that an application was approved in 2010 to change the use of the premises to a dental surgery.

Letters sent by the Clerk to the licence holder in January 2011 and February 2012 were returned by the Royal Mail marked "address inaccessible/gone away". No payment has been received in respect of the 2010 and 2011 annual fees.

The Board is asked to note that the licence has ceased to have effect and to determine that the licence be removed from the register.

**(i) LICENCE NO. 148 – ALL STARS (CLANCY’S) , MARKET PLACE, ARBROATH, DD11 1HR**

Members are asked to note that the premises were closed in and around February 2012 and have therefore ceased to be used for the sale of alcohol.

A letter was sent by the Board on 15 February 2012 and this was returned by the Royal Mail marked “gone away”.

The Board is asked to note that the licence has ceased to have effect and to determine that the licence be removed from the register.

**(j) LICENCE NO. 155 – WATERFRONT, QUEENS DRIVE, ARBROATH, DD11 1QD**

Members are asked to note that the premises have been closed since the end of 2011 and have therefore ceased to be used for the sale of alcohol.

No payment has been received in respect of the 2011 annual fees.

The Board is asked to note that the licence has ceased to have effect and to determine that the licence be removed from the register.

**(k) LICENCE NO. 169 – MAJESTIC NIGHTCLUB, ROYAL HOTEL, 33 CASTLE STREET, FORFAR, DD8 3AE**

Members are asked to note that the licence holder’s agent advised that the premises were closed in December 2010 and have therefore ceased to be used for the sale of alcohol.

The Board is asked to note that the licence has ceased to have effect and to determine that the licence be removed from the register.

**(l) LICENCE NO. 191 – THE VOLLIES, 1 ARBROATH ROAD, FORFAR, DD8 2HS**

Members are asked to note that the premises were closed prior to March 2010 and that the licence holder wrote to the Board on 1 March 2010 confirming the closure of the premises. The premises have therefore ceased to be used for the sale of alcohol.

No payment has been received in respect of the 2010 and 2011 annual fees.

The Board is asked to note that the licence has ceased to have effect and to determine that the licence be removed from the register.

**(m) LICENCE NO. 233 – ROYAL HOTEL, 33 CASTLE STREET, FORFAR, DD8 3AE**

Members are asked to note that the licence holder’s agent advised that the premises have been closed since December 2010 and have therefore ceased to be used for the sale of alcohol.

The Board is asked to note that the licence has ceased to have effect and to determine that the licence be removed from the register.

**(n) LICENCE NO. 267 – BLUE MARLIN SEAFOOD RESTAURANT, 9A REFORM STREET, MONIFIETH, DD5 4BA**

Members are asked to note that the premises were closed in and around August 2011 and that the premises are no longer operating as a restaurant. The premises have therefore ceased to be used for the sale of alcohol.

No payment has been received in respect of the 2011 annual fees.

The Board is asked to note that the licence has ceased to have effect and to determine that the licence be removed from the register.

**(o) LICENCE NO. 283 – HALDANES, 45 CASTLE STREET, FORFAR, DD8 3AB**

Members are asked to note that the premises were closed in and around October 2011 and that the premises have now been taken over by Iceland Stores. The premises have therefore ceased to be used for the sale of alcohol.

No payment has been received in respect of the 2011 annual fees.

A new premises licence no. 359 was granted in March 2012 in respect of the Iceland, 45 Castle Street, Forfar.

The Board is asked to note that the licence has ceased to have effect and to determine that the licence be removed from the register.

**(p) LICENCE NO. 285 – ABBEYGATE SUPERMARKET, ACADEMY STREET, FORFAR, DD8 2HA**

Members are asked to note that the premises were closed in and around December 2011 and the premises have therefore ceased to be used for the sale of alcohol.

The premises had an existing garage facility close to the supermarket and the Co-operative Group Limited decided to build a new purpose built local convenience store adjacent to the garage. A new premises licence no. 356 was granted in December 2011 in respect of the new local convenience store.

The Board is asked to note that the licence has ceased to have effect and to determine that the licence be removed from the register.

**(q) LICENCE NO. 291 – CO-OPERATIVE STORE, UNIT 16, ABBEYGATE MALL, ARBROATH, DD11 1HY**

Members are asked to note that the premises were closed sometime in 2010 and that a letter of confirmation was received from the licence holder's agents on 2 November 2011. The premises have therefore ceased to be used for the sale of alcohol.

The Board is asked to note that the licence has ceased to have effect and to determine that the licence be removed from the register.

**(r) LICENCE NO. 300 – HALDANES, 22 EAST MUIRLANDS ROAD, ARBROATH, DD11 3ES**

Members are asked to note that the premises were closed in and around August 2011 and the premises have therefore ceased to be used for the sale of alcohol.

No payment has been received in respect of the 2011 annual fees.

The Board is asked to note that the licence has ceased to have effect and to determine that the licence be removed from the register.

**(s) LICENCE NO. 329 – LETHAM GRANGE HOTEL, LETHAM GRANGE, COLLISTON, ARBROATH, DD11 4RL**

Members are asked to note that the premises have been closed for a number of years and the premises have therefore ceased to be used for the sale of alcohol.

No payment has been received in respect of the 2011 annual fees.

The Board is asked to note that the licence has ceased to have effect and to determine that the licence be removed from the register.

**(t) LICENCE NO. 343 – ODINS, CATHERINE STREET, ARBROATH, DD8 1RL**

Members are asked to note that the licence holder's agent confirmed in a letter dated 7 January 2010 that the premises were currently closed and the premises have therefore ceased to be used for the sale of alcohol.

The Board is asked to note that the licence has ceased to have effect and to determine that the licence be removed from the register.