

FALKIRK COUNCIL LICENSING BOARD

Subject: Licensing (Scotland) Act 2005
The Licensing (Fees) (Scotland) Regulations 2007
Premises Licences – Annual Fees

Meeting: Licensing Board

Date: 4 June 2014

Author: Clerk to the Licensing Board

1. BACKGROUND

- 1.1 In accordance with the Licensing (Fees)(Scotland) Regulations 2007, the Board is required to set an annual fee for payment by holders of premises licences. Payment then requires to be made by licence holders not later than 1 October in that year.
- 1.2 While the level of fee is within the discretion of the Board up to a prescribed amount (as set out in further detail below), the Regulations require the Board to have regard to the desirability of ensuring that the total fees payable are likely to be broadly equivalent to the expenses incurred by the Board.
- 1.3 The annual fee for 2014/15 is due on 1 October 2014 for all Premises Licences in effect or suspended on that date or, in any other case, 30 days after the date on which the licence takes effect.
- 1.4 The annual fee payable under regulation 7 of the Licensing (Fees) (Scotland) Regulations 2007, requires to be determined by the Board in accordance with regulation 8. There are six categories of premises referred to in this regulation, determined according to the premises' rateable value. For each category there is a maximum fee that may be set, varying from £180 to £900. The maximum fee levels have remained unchanged since their introduction in 2009.
- 1.5 Should the Board decide to set a fee level lower than the maximum, it must:
 - determine different fees for the six different categories, and
 - set those fees by reducing each of the fees by an identical percentage

2. BUDGETARY INFORMATION

- 2.1 The financial year runs from 1 April to 31 March the following year. In terms of the Licensing (Scotland) Act 2005, however, the annual retention fee is payable midway through the financial year on 1 October. The income generated from the annual retention fees is therefore split equally between consecutive financial years; the income received from the annual retention fees in October 2013 being added to 50% of the retention fee income from October 2012. The remaining 50% of the October 2013 retention income is carried forward at the end of March 2014 into the 2014/15 budget.

- 2.2 Following the successful pilot scheme in 2012, the gathering of annual retention fees was again undertaken by Falkirk Council's Sundry Accounts Team in 2013. The Licensing Team provided details of the all current premises licenceholders to the Sundry Accounts Team, who issued invoices and the statutory notification, a reminder and a final reminder. Details of those fees which remained unpaid were then sent to the Licensing Team for appropriate action to be taken. Three Section 14 Notices were served by the Licensing Standards Officers which resulted in one outstanding fee being paid and two premises licences being surrendered: The Great Wall and The Maddiston Inn.

3. 2013/14 BUDGET DETAILS

- 3.1 The Licensing Board income is made up of the annual retention fee for premises licences issued under the Licensing (Scotland) Act 2005 and the Gambling Act 2005 plus additional fee income from applications received during the financial year. The following table shows the income generated by applications made during 2013/14.

Licensing (Scotland) Act 2005 Application Type	Income (£)
Personal Licence	6050
New Premises Licence	2700
Provisional Premises Licence	1400
Confirmation of Provisional Premises Licence	6400
Non minor Variation	5760
Minor Variation	3045
Transfer	630
Extended Hours	1230
Occasional Licence	3640
Sub total	30855
Gambling Act 2005 Application Type	
Bingo	2450
Betting (Other)	5250
Adult Gaming Centre	0
Small Lottery	360
Notification of Gaming Machine	700
Sub total	8760
TOTAL	39615

- 3.2 Licensing Board income from the annual retention fees during the 2012/13 financial year amounted to £178,412, made up of £154,742 for liquor and £23,670 for gambling. This is a slight reduction on the previous year's income of £180,769.

- 3.3 Income generated by the Board contributed to the gross budget for administering it. An overspend of c.£100k was still encountered. Around half of this overspend is attributed to certain non-recurring expenses that will be met by a corresponding underspend on that part of the budget during the current financial year. To a great extent, it was an issue of timing. The Board is also aware that the staffing complement within the Licensing Section has been reduced by one following a recent retirement. That post will not be filled. Other factors that contributed to the overspend include internal recharging of various costs including accommodation, finance, HR, legal, payroll, ICT and records management provision.
- 3.4 While the reduction in staffing numbers will generate a saving during the 2014/15 financial year it is almost inevitable that there will again be a certain degree of overspend. In these circumstances, it is recommended that the Board maintains the same level of annual fees as has been charged during the last five financial years.

4. REVIEW OF ALCOHOL FEES

- 4.1 Since the fees regime came into effect, in 2009, a number of concerns have been raised by stakeholders who feel that the regime should be made fairer and that smaller businesses currently pay disproportionately large fees.

- 4.2 In January 2013, an Edinburgh based company, 4-consulting, was commissioned by The Scottish Government's Justice Analytical Services, on behalf of the Criminal Law and Licensing Division, to conduct a review of alcohol licensing fees. The objectives of the study were to:

- establish the current fees collected and costs incurred by Local Authorities;
- evaluate the current fees regime as well as potential alternative options; and
- consider stakeholder views on the current fee structures and other possible options

with the overall aim of informing policy decisions over whether and how to reform the alcohol licensing fee regime.

- 4.3 The report was published by the Scottish Government in the summer of 2013 <http://www.scotland.gov.uk/Publications/2014/02/3714> The methodology of the research involved legislative and document review, a survey of numerical and financial data collection from Licensing Boards, stakeholder consultation, and case study visits. Responses to the survey were received from all 32 Licensing Boards, but in four cases only very minimal information was provided. The factual baseline was created using the data received:

Factual Baseline

There were 13,609 Premises Licences reported to be held as at 31st March 2012 in the areas of the 28 Boards that provided responses – this figure comprised 5,536 Off Sales Premises Licences; 6,571 On Sales Premises Licences and 1,502 Members' Clubs Premises Licences. A total of 31,812 Personal Licences were reported as having been issued by the 28 responding Boards up to 31 March 2010. A financial data collection spread sheet was issued in conjunction with the online survey. 18 respondents completed the income spreadsheet but only 15 completed the expenditure spread sheet, and the financial information supplied appeared in some cases to be unreliable.

- 4.4 Falkirk Council Licensing Board responded to the consultation in full and submitted both the required income spreadsheet and expenditure spreadsheet.
- 4.5 The report states that the majority of Boards that submitted financial data were not covering their costs with fee income, and based on their data, which excludes some large Boards, the total deficit across the whole of Scotland was estimated to be in the order of £2.6m, in the context of an estimated total spend of £9.5m. This represents recovery through fee income of about 72% of costs.
- 4.6 Members will recall instructing officers to write to the Scottish Government in 2010 to raise its concerns regarding the prescribed fee of £10 for an occasional licence not accurately reflecting the resource required to process such an application. The analysis has shown that the activity most frequently cited as the most resource intensive was applications for occasional licences, which had the lowest fee attached. 30 out of 31 of Licensing Board respondents thought that the occasional licence fee was too low and did not reflect costs incurred.

5. CONCLUSIONS

- 5.1 It is recommended that the annual fees in relation to premises licences are retained at the existing level for 2014/15 as detailed in appendix 1 to this report. The basis for the recommendation is twofold. Firstly, to maintain and support the necessary resources and staffing levels to ensure that all the issues and requirements which have been highlighted by the Board as requiring to be addressed continue for the coming year, and secondly, to await action by the Scottish Government in relation to the research findings detailed in paragraph 4.
- 5.2 The Regulations allow scope for the annual fee to be paid by instalments. This would be at the discretion of the Board. The instalments may be paid in 4 or 12 equal payments over the course of the year following the date on which the fee would otherwise be due. In 2013, a very small number of licenceholders opted to pay by instalment.
- 5.3 A report on the annual review of premises licence annual fees for 2015/16 will be presented to the Board no later than June 2015, for consideration and determination. This report will be based on a full appraisal of future service requirements following a sustained period of settled operations and an analysis of resource implications following the realignment of the service.

6. RECOMMENDATION

- 6.1 **It is recommended that the Board agrees to adopt the Premises Licences – Annual Fee levels proposed in Appendix 1, with effect from 1 October 2014.**

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Clerk to the Licensing Board
Date: 23 May 2014
Contact Officer: Alison Barr, Consumer Protection Manager ext. 1265

1. Appendix 1 – Fee Table

LIST OF BACKGROUND PAPERS

Appendix 1

LICENSING (SCOTLAND) ACT 2005
The Licensing (Fees) Scotland Regulations 2007
PREMISES LICENCES – FEE TABLE

Category	Rateable Value	New Application Fees	*Annual Renewal Fees 1 October 2014
1	Not entered on the valuation roll or a nil value is shown	£200	£180
2	£1 and £11,500	£800	£220
3	£11,501 and £35,000	£1,100	£280
4	£35,001 and £140,000	£1,300	£500
5	£70,001 and £140,000	£1,700	£700
6	Over £140,000	£2,000	£900

***Please Note:** The figures in **Bold** print are the proposed Premises Licences Annual Fees from 1 October 2014, referred to in the Members consideration.