

**FALKIRK COUNCIL LICENSING BOARD**

Subject: Licensing (Scotland) Act 2005  
The Licensing (Fees) (Scotland) Regulations 2007  
Premises Licences - Annual Fees  
Meeting: Licensing Board  
Date: 14 June 2016  
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 2016/17 is due on 1 October 2016 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 2015 being added to 50% of the retention fee income from October 2014. The remaining 50% of the October 2015 retention income is carried forward at the end of March 2016 into the 2016/17 budget.

2.2 Following the successful pilot scheme in 2012, the gathering of annual retention fees continued to be undertaken by Falkirk Council's Sundry Accounts Team in 2015. 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. The premises licences for the Greyrigg Inn in California and the Spice Garden in Falkirk were surrendered before a Section 14 Notice was served for non payment of fees.

### 3. 2015/16 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 2015/16.

<b>Licensing (Scotland) Act 2005 Application Type</b>	<b>Income (£)</b>
Personal Licence	8150
New Premises Licence	4500
Provisional Premises Licence	1360
Confirmation of Provisional Premises	3000
Non minor Variation	5440
Minor Variation	4208
Transfer	840
Extended Hours	1280
Occasional Licence	3470
<i>Sub Total:</i>	<i>32,248</i>
<b>Gambling Act 2005 Application Type</b>	
Small Lottery	480
Club Gaming Permit	175
Club Machine Permit	0
Notification of Gaming Machine	750
Unlicensed FEC	600
<i>Sub Total:</i>	<i>2,005</i>
<b>TOTAL:</b>	<b>34,253</b>

- 3.2 Licensing Board income from the annual retention fees and application fees during the 2015/16 financial year amounted to £179,914, made up of £158,604 for liquor and £21,310 for gambling. This is a slight decrease on the previous year's income of £181, 508. The fee income over the last four financial years has remained consistent with an average of £180,150.50 per annum. The income in 2015/16 was £236.50 below this average:

	2012/13	2013/14	2014/15	2015/16
<b>Alcohol Fees</b>	157,338	154,742	159,593	158,604
<b>Gambling Fees</b>	23,430	23,670	21,915	21,310
<b>Total Income</b>	<b>180,768</b>	<b>178,412</b>	<b>181,508</b>	<b>179,914</b>

- 3.3 Income generated by the Board contributed to the gross budget for administering it, but Falkirk Council still subsidises the licensing function. The level of subsidy has reduced following management actions taken over recent years, but the cost of administering the service still substantially exceeds the income generated from fees.
- 3.4 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 Members will recall from previous reports concerning fees that The Scottish Government's Justice Analytical Services, on behalf of the Criminal Law and Licensing Division, conducted a review of alcohol licensing fees. The review, which was published in early 2014, did not come to a firm conclusion. The researchers were not able to obtain sufficient material from Licensing Boards to strongly evidence changes to the fees regime.

- 4.3 That said, the report contained a number of relevant recommendations, one of which was that Boards should be placed under a duty to report on their income and expenditure. This recommendation was included in the Air Weapons and Licensing (Scotland) Act 2015 which received royal assent in June 2015. The 2015 Act amends section 9 of the Licensing (Scotland) Act 2005 to provide that the Board must prepare and publish an annual financial report not later than 3 months after the end of the financial year. This report must include a statement of relevant income received by the Board during the financial year and the amount of relevant expenditure incurred in the year. An explanation of how the amounts were calculated must be included. Relevant income and relevant expenditure include fees brought in and costs incurred under the 2005 Act and also income received and costs incurred in relation to the social responsibility levy from premises licenceholders and occasional licenceholders. However, no regulations have as yet been made under section 14 of the Alcohol etc (Scotland) Act 2010 bringing the social responsibility levy into play. Scottish Ministers may make regulations detailing the form and content of the report and the publication thereof. The reports considered by members in relation to the setting of the fees have, since 2013, provided details of the annual fee income and expenditure. It is likely that the first such report would require to be prepared and published in relation to the 2016/17 financial year although no regulations have as yet been made as to the form and content. A Scottish Government representative has advised that these reports will ultimately inform a further review of the overall fees regime for alcohol licensing.
- 4.4 The review also recommended that there be an increase to the fee for an occasional licence; this is set within secondary legislation so it would be possible for this to be increased at any time. The Scottish Government representative has advised that there is an intention to look at the occasional licence fee, recognising that the current fee level is inappropriate. It is possible that a consultation on a revised occasional fee could be undertaken later this year. Members will recall instructing officers to write to the Scottish Government in 2010 to raise the Board's concerns regarding the prescribed fee of £10 for an occasional licence not accurately reflecting the resources required to process such an application.

## **5. CONCLUSIONS**

- 5.1 It is recommended that the annual fees in relation to premises licences are retained at the existing level for 2016/17 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 the consultation by the Scottish Government in relation to the prescribed fee for occasional licences 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 2014 and 2015, a very small number of licenceholders opted to pay by instalment.

**6. RECOMMENDATION**

- 6.1 It is recommended that the Board agrees to adopt the Premises Licences Annual Fee levels proposed in the Appendix with effect from 1 October 2016.

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pp Clerk to the Licensing Board

Date: 8 June 2016

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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 2015
1	Not entered on the valuation roll or a nil value is shown	£200	<b>£180</b>
2	£1 and £11,500	£800	<b>£220</b>
3	£11,501 and £35,000	£1,100	<b>£28</b>
4	£35,001 and £140,000	£1,300	<b>£50</b>
5	£70,001 and £140,000	£1,700	<b>£70</b>
6	Over £140,000	£2,000	<b>£90</b>

\*Please Note: The figures in Bold print are the proposed Premises Licences Annual Fees from 1 October 2016, referred to in the Members consideration