

**FALKIRK COUNCIL LICENSING BOARD**

Subject: Licensing (Scotland) Act 2005  
The Licensing (Fees) (Scotland) Regulations  
2007 Premises Licences - Annual Fees  
Meeting: Licensing Board  
Date: 15 June 2015  
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 2015/16 is due on 1 October 2015 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 2014 being added to 50% of the retention fee income from October 2013. The remaining 50% of the October 2014 retention income is carried forward at the end of March 2015 into the 2015/16 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 2014. 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. One Section 14 Notice was served by the Licensing Standards Officers. The licenceholder of Day to Day in Stenhousemuir failed to comply with the notice and, following a hearing at the May meeting of the Licensing Board, the licence was revoked. The premises licence for M&A Newsagents in Polmont was surrendered before a Section 14 Notice was served.

### 3. 2014/15 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 2014/15.

<b>Licensing (Scotland) Act 2005 Application Type</b>	<b>Income (£)</b>
Personal Licence	8200
New Premises Licence	1900
Provisional Premises Licence	200
Confirmation of Provisional Premises	2400
Non minor Variation	3680
Minor Variation	3466
Transfer	825
Extended Hours	1130
Occasional Licence	2890
<i>Sub Total:</i>	<i>24,691</i>
<b>Gambling Act 2005 Application Type</b>	
Small Lottery	480
Club Gaming Permit	200
Club Machine Permit	600
Notification of Gaming Machine	1150
<i>Sub Total:</i>	<i>2,430</i>
<b>TOTAL:</b>	<b>27,121</b>

- 3.2 Licensing Board income from the annual retention fees and application fees during the 2014/15 financial year amounted to £179,508, made up of £157,593 for liquor and £21,915 for gambling. This is a slight increase on the previous year's income of £178,412.
- 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 the last two years (enabling us to underspend our actual budget this year), 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 last years' report 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 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 and this was added to the Air Weapons and Licensing (Scotland) Bill which is currently before the Scottish Parliament. It is expected that with better information on income and expenditure it will be possible for a proper review of fee levels.
- 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. A Scottish Government representative has advised that there is an intention to review and increase the fee for an occasional licence once the work on the current Bill has been concluded. 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 accurate 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 2015/16 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 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, 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 2015.

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Pp Clerk to the Licensing Board

Date: 1 June 2015  
Contact Officer: Alison Barr, Consumer Protection Manager ext. 1265

Appendix - 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 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 2015, referred to in the Members consideration