

## **EAST AYRSHIRE LICENSING FORUM**

**16 JUNE 2009**

### **LICENSING (SCOTLAND) ACT 2005 - FEES**

#### **Report by the Clerk to the Licensing Board**

## **1. PURPOSE OF REPORT**

To consult with the Forum in relation to the Board's intention to:-

- 1.1 Reconsider application fees, which were previously set at 80% of the maximum permissible fees for the various categories during the transitional period of the Licensing (Scotland) Act, 2005;
- 1.2 Set the annual fees which will be payable by licensees in terms of the Licensing (Scotland) Act 2005; and
- 1.3 Further to seek the Forum's views in respect of the permissible payment methods of the annual fee (i.e. 4 or 12 equal instalments over the course of the year following the date on which the fee would otherwise be due).

## **2. BACKGROUND**

- 2.1 At the outset of the process to reform licensing law in Scotland, the recommendations on fees included in The Nicholson Committee Report on Liquor Licensing Law in Scotland (August 2003) included a recommendation that:-

- The fees payable in respect of liquor licences should continue to be fixed centrally by means of statutory instrument or other order.
- The fees determined as above should, so far as is practicable, be of an amount which will make the licensing system self-financing.

Following the issue of the Nicholson Report, a period of consultation took place on the recommendations with respondents (in respect of the fees recommendations) being equally split on the concept of fees being fixed centrally with those opposed expressing the view that fees should be set locally to take account of the differing ratios of fee income to costs. There was however more support expressed for the concept of the new system being self financing although there were concerns about the long term feasibility of this, particularly given the then unknown costs of the introduction of the new posts of Licensing Standards Officers.

- 2.2 The Scottish Government thereafter commissioned an independent analysis of proposed fees for the new system. The researchers were asked to define a system that (1) allowed full cost recovery, (2) had the same scale of charges across Scotland and (3) would not be unfair to small/medium enterprises and clubs. One of the conclusions arrived at in terms of this analysis was that on a national basis Licensing Boards were only recovering around 63% of their total running costs from fees under the Licensing (Scotland) Act 1976. In East Ayrshire, the figure has been calculated to have been approximately 73%.

2.3 In June 2007 the Scottish Government issued draft fee regulations and carried out a further consultation exercise thereon which lasted until September 2007. The draft fee regulations proposed that the Scottish Government would set fee levels for premises licences with annual fees being determined by individual licensing boards. It was intended that both premises licences and annual fees would be determined based on the rateable value of the premises concerned.

2.4 The finalised statutory position in relation to fees was formalised in terms of The Licensing (Fees) (Scotland) Regulations 2007 which, following a protracted parliamentary committee process, came into force on 1 February 2008. In terms of these regulations Licensing Boards were required to set fees both in relation to premises licence applications as well as annual fees and to consider whether a licensee should be allowed to pay an annual fee in 4 or 12 equal instalments over the course of the year following the date on which the fee would otherwise be due. Licensing Boards were provided with maximum fee levels in both categories and required to have regard to the desirability of ensuring that the total fees payable in respect of any period was likely to be broadly equivalent to the expenses incurred by the Board, and the Council in administering the Act. The maximum permissible fees for the various categories for premises applications and annual fees are:-

2.5

<b>Rateable Value Categories</b>						
	<b>Cat 1</b>	<b>Cat 2</b>	<b>Cat 3</b>	<b>Cat 4</b>	<b>Cat 5</b>	<b>Cat 6</b>
<b>Premises Applications</b>	£200	£800	£1100	£1300	£1700	£2000
<b>Annual Fees</b>	£180	£220	£280	£500	£700	£900

2.6 Taking account of the above, at a meeting on 5 February 2008, after a full discussion on the financial analysis provided, the Board agreed to fix the premises licence application fees at 80% of the maximum permissible fees for the various categories. The Board also agreed to review the premises licence application fees after the transitional period when the income levels during the transitional period would be known.

2.7 As annual fees would not become payable until October 2009 the Board agreed to delay fixing annual fee levels until that time when detailed information as to income levels during the transitional period would be available.

### **3. THE FINANCIAL ANALYSIS**

3.1 A detailed financial analysis of the Licensing Board and Council's anticipated running costs over the financial years 2009/10 has been carried in contrast to the Board's anticipated income in respect of annual fees over the same period. The results thereof are enclosed in the accompanying spreadsheet.

3.2 The Board will note that even if the Board were to set premises licence application fees and annual fees at the maximum permissible level there is likely to be a deficit in expenditure over income.

#### **4. RECOMMENDATION**

4.1 In all of these circumstances it is respectfully requested that the Forum:-

- (i) consider the terms of this report, and if deemed appropriate, submit the Forum's views on the issues to the East Ayrshire Licensing Board for its consideration when determining the above at its meeting on 23 June 2009, and
- (ii) otherwise note the contents of this report.

David Mitchell  
**Clerk to the Licensing Board**

3 June 2009

For further information on any matter contained within this Report please contact Stuart McCall, Depute Clerk to the Licensing Board, Tel (01563) 576085.