

**Application for the review of a premises licence or club
premises certificate under the Licensing Act 2003**

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

I Stuart Jones

(Insert name of applicant)

apply for the review of a premises licence under section 51 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description POLSKIE SMAKI 57 Beckett Road Wheatley	
Post town DONCASTER	Post code (if known) DN2 4AD
Name of premises licence holder or club holding club premises certificate (if known) Mr Hoshmand AMINISHOKRI	
Number of premises licence or club premises certificate (if known) LN/201500117	

Part 2 - Applicant details

I am

- | | Please tick yes |
|---|-------------------------------------|
| 1) an interested party (please complete (A) or (B) below) | |
| a) a person living in the vicinity of the premises | <input type="checkbox"/> |
| b) a body representing persons living in the vicinity of the premises | <input type="checkbox"/> |
| c) a person involved in business in the vicinity of the premises | <input type="checkbox"/> |
| d) a body representing persons involved in business in the vicinity of the premises | <input type="checkbox"/> |
| 2) a responsible authority (please complete (C) below) | <input checked="" type="checkbox"/> |

3) a member of the club to which this application relates (please complete (A) below)

(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)

Please tick

Mr Mrs Miss Ms Other title
(for example, Rev)

Surname

First names

I am 18 years old or over

Please tick yes

Current postal address if different from premises address

Post town

Post Code

Daytime contact telephone number

E-mail address (optional)

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address TRADING STANDARDS SERVICE Regulation and Enforcement Doncaster Council PO Box 257 Civic Office Waterdale Doncaster DN1 3BU
Telephone number (if any) (01302) 862404
E-mail address (optional) stuart.jones@doncaster.gov.uk

This application to review relates to the following licensing objective(s)

Please tick one or more boxes

- 1) the prevention of crime and disorder
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

<input checked="" type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

Please state the ground(s) for review (please read guidance note 1)

This review is brought on the grounds of prevention of crime and disorder.

Sale of illicit tobacco is a criminal offence, under s92 of the Trade Marks Act 1994 for counterfeit tobacco products, and under Reg.15 of the Standardised Packaging of Tobacco Products Regulations 2015 for smuggled and illicit tobacco products.

Across the UK there is an issue with counterfeit and illicit tobacco sales. This is particularly prevalent in Doncaster town centre.

The trade in illicit tobacco can be defined as the production, import, export, possession or sale of tobacco products which fail to comply with legal requirements.

There are three main sources of illicit tobacco.

1 - Smuggled products - These are legitimately manufactured products that are diverted through the supply chain in their original country of manufacture and smuggled into the UK, often by large organised crime gangs. No tax/duty is paid on these products.

2 - Bootlegged products, sometimes called 'Cheap Whites' - These are again legitimate products purchased in foreign countries with low levels of taxation, generally Eastern European/Russian areas, and smuggled on a small scale by individuals or lower level organised gangs. No duty is paid on these products when they are imported this way.

3 - Counterfeit products - These are illegally manufactured products, made without the consent of the trademark owner. The products are generally made from inferior quality materials and packaged to look like the original products.

Illicit tobacco products are sold for less than legitimate tobacco products, e.g. a packet of Polish Marlboro Gold retails for around £5.50 compared with around £9 for its UK equivalent. The lower cost distorts the market and undermines legitimate and compliant businesses, reducing not only sales of legitimate tobacco at these businesses but also reducing footfall. Legitimate businesses situated near to illicit tobacco sellers frequently complain that their business is suffering as a result.

The trade in illicit tobacco can be a gateway for young people to start smoking as the low cost of product makes the habit more affordable, those trading in illicit tobacco are also more likely to sell to those under 18 as they disregard the restrictions placed on legitimate traders.

The illicit trade also undermines the work done by Stop Smoking Services and health agencies to help people stop smoking.

No tax is paid on these products which means central government loses revenue. It could also be argued that use of these products places an extra strain on Health Services and associated agencies which incurs further costs to both central and local government.

The illicit trade funds organised crime and is increasingly linked to modern slavery.

Illicit products can also contravene safety legislation as the majority of product does not comply with the 'reduced ignition propensity' requirements of the safety standard introduced in 2010.

In practice this means that an illicit cigarette will continue to burn if left unattended. Compliant products will extinguish themselves and therefore pose less fire risk. Smoking causes approximately 3,000 house fires each year, a number of fires can be linked directly to illicit tobacco causing house fires.

One of the many methods Trading Standards use to combat this illicit trade is test purchasing. An operative acts as a normal consumer and visits the shop and asks for some cheap cigarettes.

Polskie Smaki has sold illicit tobacco during two of these test purchase operations.

Please provide as much information as possible to support the application
(please read guidance note 2)

On 30th May 2017 a pack of Marlboro was sold for £5.00 by two women behind the counter. The cigarettes had Polish text on them and were not in plain packaging and therefore did not comply with Reg. 3 of the Standardised Packaging of Tobacco Products Regulations 2015. The sale of such items is a criminal offence under the same regulations.

On the 24th July 2017 Mr Aminishokri signed for a letter hand delivered by an officer from the Trading Standards Service. The officer discussed the failure and advised what may happen should future illicit product be purchased from the premises. The letter formally advised of the test purchase failure and also had accompanying guidance on what Tobacco Products could be sold.

Despite the guidance given, on 1st December 2017, Hoshmand Aminishokri sold a pack of 'Richmond' Cigarettes for £3.50 These cigarettes were not in plain packaging and therefore did not comply with Reg. 3 of the Standardised Packaging of Tobacco Products Regulations 2015. The sale of such items is a criminal offence under Reg. 15 of the same regulations.

Richmond is a brand that has significant history of being produced illegally without the consent of the trademark owner, given the price of this product it is reasonable to assume that these are a counterfeit product.

The premises has a gantry stocked with genuine tobacco products. The fact that the products sold were not off the main tobacco gantry is another indicator that the staff knew that the stock was illicit and could not legally be sold.

The price is also indicative that there has been no UK duty paid on these products - the minimum excise duty on one pack of 20 cigarettes should be £5.37 as of 20 May 2017 (www.gov.uk/government/publications/rates-and-allowances-excise-duty-tobacco-duty/excise-duty-tobacco-duty-rates).

Guidance issued under Section 182 of the Licensing Act 2003 highlights how illegal/smuggled tobacco is viewed by the licensing regime in paragraph 11.27 :-

"There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of licensed premises:

.....

- for the sale and storage of smuggled tobacco and alcohol."

Paragraph 11.28 gives some direction to the licensing authorities and supports using the review procedure when such activities are undertaken.

Hoshmand Aminishokri has been the Licence Holder for the premises and the Designated Premises Supervisor since May 2015.

It appears that he has no regard for his legal responsibilities as both a business owner and a premises licence holder.

Mr Aminishokri trades to make illegal profit at a cost to the government and the local economy. Such actions are detrimental to legitimate traders who lose trade as a result of his ongoing criminality.

Please tick yes

Have you made an application for review relating to this premises before

If yes please state the date of that application

Day Month Year

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If you have made representations before relating to this premises please state what they were and when you made them

Please tick yes

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

Part 3 – Signatures (please read guidance note 3)

Signature of applicant or applicant’s solicitor or other duly authorised agent (See guidance note 4). **If signing on behalf of the applicant please state in what capacity.**

Signature 

Date 19th December 2017

Capacity Senior Trading Standards Officer

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 5) Stuart Jones Trading Standards Service Regulation and Enforcement PO Box 257 Civic Office Waterdale	
Post town Doncaster	Post Code DN1 3BU
Telephone number (if any) (01302) 862404	
If you would prefer us to correspond with you using an e-mail address your e-mail address (optional) stuart.jones@doncaster.gov.uk	

Notes for Guidance

1. The ground(s) for review must be based on one of the licensing objectives.
2. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
3. The application form must be signed.
4. An applicant’s agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
5. This is the address which we shall use to correspond with you about this application.