

The Highland Licensing Board

Meeting - 4 February 2014

Agenda Item	8
Report No	HLB/006/14

The Licensing (Scotland) Act 2005 Premises Licence Review Hearings - Non Payment of Annual Premises Licence Fees Report by the Clerk to the Licensing Board

Summary

The Board made premises licence review proposals on 17 December 2013 in respect of those premises for which the annual premises licence fee for the year 2013/14 remained unpaid in breach of the mandatory condition of licence. The Board must hold review hearings to consider and determine their review proposals in respect of the following premises for which annual licence fees remain unpaid. Hearings were adjourned on 8 January 2014 to the 4 February 2014 meeting.

1	HC/INBS/234	City Bar, 21 Queensgate, Inverness
2	HC/INBS/469	Poachers Inn Lewiston, Drumnadrochit
3	HC/CSER/1628	Bridgend Stores, 5 Novar Road, AIness
4	HC/CSER/0790	Red Chilli, 11 St Duthus Street, Tain
5	HC/RSL/1644	Ardgour Stores, Ardgour
6	HC/RSL/1399	Everest Indian Restaurant, High Street, Fort William

1. In terms of the Licensing (Scotland) Act 2005 an annual fee is payable for each premises licence. The fee becomes due on 1 October in each year.
2. The fees in respect of the licences for each of the premises listed above were due on 1 October 2013.
3. The Board has complied with its legal obligation to send a reminder no later than 30 days before the date on which the fees were due.
4. The six licence holders listed above have accordingly received these reminders and have been advised of the possible consequences of failure to pay.
5. Payment of the annual fee is a mandatory condition of holding a licence and the Act clearly specifies that the fee must be paid as required.

The annual fees represent approximately 66% of the income required by the Board to meet the expenses incurred by the Board in administering the Act.

6. Further to the Board's decision on 17 December 2013 to make the review proposals, hearings were commenced on 8 January 2014 and adjourned to the 4 February 2014 meeting. The six licence holders listed above and the Licensing Standards Officer for the area in which the six premises concerned are situated have been given notice of the review proposals and of the review hearings.
7. The Licensing Standards Officers' Reports on the review proposals are attached at Appendix 1 and the Board must take the relevant report into account at each review hearing.
8. In terms of Section 39 of the Act, if at a review hearing the Board is satisfied that the ground for review is established, the Board may take such of the following steps as the Board considers necessary or appropriate for the purposes of any of the licensing objectives:-
 1. Issue a written warning
 2. Make a variation of the licence
 3. Suspend the licence for such period as the Board may determine
 4. Revoke the licence

7. Recommendation:

The Board is invited to hear the six licence holders and then to consider and determine the premises licence review proposal for each of the ten premises.

Author: Depute Clerk to the Licensing Board

Date: 22 January 2014

Appendices: Licensing Standards Officer's Reports

Report by the Licensing Standards Officer

Review Hearing in terms of the Licensing (Scotland) Act, 2005 Section 38 (1)

Premises: City Bar, 21 Queensgate, Inverness IV1 1DF

1.0 Licensing History:

- 1.1 A Premises Licence for the City Bar was converted under transition in September 2009 by the Highland Licensing Board to Sutherland Bars Limited, Arisaig Hotel, Arisaig, PH39 4NH.
- 1.2 The premises licence is subject to Mandatory Conditions in accordance with Schedule 3 of the Licensing (Scotland) Act, 2005.
- 1.3 The annual fee for the sum of £238 was due on 1st October, 2013 and to date remains unpaid.

2.0 Legislation:

- 2.1 In terms of the Mandatory Conditions in accordance with Schedule 3 of the Licensing (Scotland) Act, 2005 introduced by Section 27(1), an annual fee must be paid by virtue of the regulations under section 136(1).
- 2.2 On 17 December 2013, I received notice in terms of section 38(b)(ii) of the Licensing (Scotland) Act 2005 of the Highland Licensing Board's intention to hold a review hearing in respect of the above premises following the Premises Licence Holder's failure to pay the prescribed annual fee in breach of Mandatory Condition 10.
- 2.3 This Report is submitted in terms of section 38(4) (a) of the Licensing (Scotland) Act, 2005.

3.0 Background information

- 3.1 I can confirm that the Licensing Board's correspondence dated 19 December 2013 informing the Premises Licence Holder of the proposed review hearing was sent by First Class post and Recorded Delivery. To date correspondence has been returned 'address inaccessible'. The Licence Holder has provided the Board with no update in respect of the Premises. The Premises have not traded for over a year.

Licensing Standards Officer

Reference: HC/INBS/234

Date: 8 January 2014

Author: Ian Cox

Background Papers: The Licensing (Scotland) Act 2005

Report by the Licensing Standards Officer

Review Hearing in terms of the Licensing (Scotland) Act, 2005 Section 38 (1)

Premises: Poachers Inn, Lewiston, Drumnadrochit IV63 6UN

1.0 Licensing History:

- 1.1 A Premises Licence for the Poachers Inn, Lewiston, Drumnadrochit, was granted by the Highland Licensing Board on 1 September 2009 to Poachers Drumnadrochit Limited, 3 Beaufort Road, Inverness, IV2 3NP.
- 1.2 The premises licence is subject to Mandatory Conditions in accordance with Schedule 3 of the Licensing (Scotland) Act, 2005.
- 1.3 The annual fee for the sum of £ 245 was due on 1st October, 2013 and to date remains unpaid.

2.0 Legislation:

- 2.1 In terms of the Mandatory Conditions in accordance with Schedule 3 of the Licensing (Scotland) Act, 2005 introduced by Section 27(1), an annual fee must be paid by virtue of the regulations under section 136(1).
- 2.2 On 17 December 2013, I received notice in terms of section 38(b)(ii) of the Licensing (Scotland) Act 2005 of the Highland Licensing Board's intention to hold a review hearing in respect of the above premises following the Premises Licence Holder's failure to pay the prescribed annual fee in breach of Mandatory Condition 10.
- 2.3 This Report is submitted in terms of section 38(4) (a) of the Licensing (Scotland) Act, 2005.

3.0 Background information

- 3.1 I can confirm that the Licensing Board's correspondence dated 19 December 2013 informing the Premises Licence Holder of the proposed review hearing was sent by First Class post and Recorded Delivery. The Licence Holder has provided the Board with no update in respect of the Premises and correspondence has been returned 'addressee gone away'. The LSO is aware from local information that the Licence Holder has ceased trading and the Premises are no longer being used for the sale of alcohol.

Designation: Licensing Standards Officer

Reference: HC/INBS/469

Date: 8 January 2014

Author: Ian Cox

Background Papers: The Licensing (Scotland) Act 2005

Report by the Licensing Standards Officer

Review Hearing in terms of the Licensing (Scotland) Act 2005, Section 38(1)

Premises: Bridgend Stores, 5 Novar Road, Alness IV170QG

Licensing History:

Mohammed Iqbal is the holder of the premises licence HC/CSER/1628 for the premises known as Bridgend Stores, 5 Novar Road, Alness. The premises are described as a single storey shop operating and the licence was granted on 10th August 2012.

The premises licence is subject to Mandatory Conditions in accordance with Schedule 3 of the Licensing (Scotland) Act, 2005.

To date, the annual fee of £192 due on 1st October 2013 has not been paid.

Legislation:

In terms of the Mandatory Conditions in accordance with Schedule 3 of the Licensing (Scotland) Act, 2005 introduced by Section 27(1), an annual fee must be paid by virtue of the regulations under section 136(1).

On 17 December 2013, I received notice in terms of section 38(b)(ii) of the Licensing (Scotland) Act 2005 of the Highland Licensing Board's intention to hold a review hearing in respect of the above premises following the Premises Licence Holder's failure to pay the prescribed annual fee in breach of Mandatory Condition 10.

This Report is submitted in terms of section 38(4) (a) of the Licensing (Scotland) Act, 2005.

Background Information:

I can confirm that the Licensing Board's correspondence dated 19 December 2013 informing the Premises Licence Holder of the proposed review hearing was sent by First Class post and Recorded Delivery on 20th December 2013 and has been returned by Royal Mail marked "not called for".

In October 2013 I noted that the premises were now occupied by a carpet retailer and I made several attempts to contact the licence holder but without success. The current occupier advised that he was now the sole tenant and that sales of alcohol were not a part of his business.

Recorded correspondence sent by me on 7th November 2013 inviting Mr Iqbal to consider surrender of the licence has been returned marked as uncollected. Mr Cox, LSO, Inverness made personal contact with him on my behalf but he has failed to respond.

Designation: Licensing Standards Officer

Reference: HC/CSER/0790

Date: 20th January 2014

Author: David Inglis

Background Papers: The Licensing (Scotland) Act 2005

Report by the Licensing Standards Officer

Review Hearing in terms of the Licensing (Scotland) Act 2005, Section 38(1)

Premises: Kanisha Indian Restaurant now known as Red Chilli, 11 St Duthus Street, Tain

1. Licensing History:

- 1.1 Ruhul Islam is the holder of the premises licence HC/CSER/0790 for the premises formally known as Kanisha Indian Restaurant, now named as Red Chilli, 11 St Duthus Street, Tain. The premises are described as a 24 cover restaurant and the licence was granted on conversion on 1st September 2009
- 1.2 The premises licence is subject to Mandatory Conditions in accordance with Schedule 3 of the Licensing (Scotland) Act, 2005.
- 1.2 To date, the annual fee of £192 due on 1st October 2013 has not been paid.

2 Legislation:

- 2.1 In terms of the Mandatory Conditions in accordance with Schedule 3 of the Licensing (Scotland) Act, 2005 introduced by Section 27(1), an annual fee must be paid by virtue of the regulations under section 136(1).
- 2.2 On 17 December 2013, I received notice in terms of section 38(b)(ii) of the Licensing (Scotland) Act 2005 of the Highland Licensing Board's intention to hold a review hearing in respect of the above premises following the Premises Licence Holder's failure to pay the prescribed annual fee in breach of Mandatory Condition 10.
- 2.3 This Report is submitted in terms of section 38(4) (a) of the Licensing (Scotland) Act, 2005.

3 Background Information:

- 3.1 I can confirm that the Licensing Board's correspondence dated 19 December 2013 informing the Premises Licence Holder of the proposed review hearing was sent by First Class post and Recorded Delivery. The correspondence has been returned by Royal Mail marked "Not Called for".
- 3.2 In November 2013 I visited the premises which appear to be no longer trading and have been emptied of furniture and fittings. I have, for some considerable time, been attempting to make formal contact with the licence holder but without success and his present whereabouts are, to me, unknown.

Designation: Licensing Standards Officer

Reference: HC/CSER/0790

Date: 7th January 2014

Author: David Inglis

Background Papers: The Licensing (Scotland) Act 2005

Report by the Licensing Standards Officer

Review Hearing in terms of the Licensing (Scotland) Act 2005, Section 38(1)

Premises: Ardgour Stores, Clovullin, Fort William

1. Licensing History:

- 1.1 John MacKay is the holder of the premises licence HC/RSL/1382 for the premises known as Ardgour Stores, Clovullin, Ardgour. The premises are described as a rural village shop and the licence was granted on conversion on 1st September 2009.
- 1.2 The premises licence is subject to Mandatory Conditions in accordance with Schedule 3 of the Licensing (Scotland) Act, 2005.
- 1.3 To date, the annual fee of £192 due on 1st October 2013 has not been paid.

2. Legislation:

- 2.1 In terms of the Mandatory Conditions in accordance with Schedule 3 of the Licensing (Scotland) Act, 2005 introduced by Section 27(1), an annual fee must be paid by virtue of the regulations under section 136(1).
- 2.2 On 17 December 2013, I received notice in terms of section 38(b)(ii) of the Licensing (Scotland) Act 2005 of the Highland Licensing Board's intention to hold a review hearing in respect of the above premises following the Premises Licence Holder's failure to pay the prescribed annual fee in breach of Mandatory Condition 10.
- 2.3 This Report is submitted in terms of section 38(4) (a) of the Licensing (Scotland) Act, 2005.

3 Background Information:

- 3.1 I can confirm that the Licensing Board's correspondence dated 23 December 2013 informing the Premises Licence Holder of the proposed review hearing was sent by First Class post and Recorded Delivery. Royal Mail have been unable to confirm delivery of the Recorded Delivery correspondence.
- 3.2 The Premises are currently open and trading and the Licence Holder has indicated to the Board that he shall endeavour to make payment of the annual fee prior to the Hearing on 4 February 2014. A verbal updated will be provided by the Clerk.

Designation: Licensing Standards Officer
Reference: HC/RSL/1382
Date: 22th January 2014
Author: Elizabeth Treasurer
Background Papers: The Licensing (Scotland) Act 2005

Report by the Licensing Standards Officer

Review Hearing in terms of the Licensing (Scotland) Act 2005, Section 38(1)

Premises: Everest Indian Restaurant, High Street, Fort William

1. Licensing History:

- 1.1 Aktarul Haque is the holder of premises licence RSL/L/1399 for the premises known as Everest Indian Restaurant, High Street, Fort William. The premises are described as a 46 cover restaurant situated in a terraced building in Fort William High Street and the licence was granted on conversion on 1st September 2009.
- 1.2 The premises licence is subject to Mandatory Conditions in accordance with Schedule 3 of the Licensing (Scotland) Act, 2005.
- 1.3 To date, the annual fee of £192 due on 1st October 2013 has not been paid.

2. Legislation:

- 2.1 In terms of the Mandatory Conditions in accordance with Schedule 3 of the Licensing (Scotland) Act, 2005 introduced by Section 27(1), an annual fee must be paid by virtue of the regulations under section 136(1).
- 2.2 On 17 December 2013, I received notice in terms of section 38(b)(ii) of the Licensing (Scotland) Act 2005 of the Highland Licensing Board's intention to hold a review hearing in respect of the above premises following the Premises Licence Holder's failure to pay the prescribed annual fee in breach of Mandatory Condition 10.
- 2.3 This Report is submitted in terms of section 38(4) (a) of the Licensing (Scotland) Act, 2005.

3 Background Information:

- 3.1 I can confirm that the Licensing Board's correspondence dated 23 December 2013 informing the Premises Licence Holder of the proposed review hearing was sent by First Class post and Recorded Delivery. The Royal Mail Website confirms that the recorded delivery correspondence was delivered to the Premises Licence Holder on 31 December 2013.
- 3.2 The Premises have not traded for some considerable time and the Licence Holder has not made contact with the Licensing Board in relation to the non-payment of the annual fee.

Designation: Licensing Standards Officer
Reference: HC/RSL/1399
Date: 22nd January 2014
Author: Elizabeth Treasurer
Background Papers: The Licensing (Scotland) Act 2005