

The Highland Licensing Board

Meeting – 8 December 2015

Agenda Item	10.1
Report No	HLB/127/15

Application for review of premises licence – Curry King, 15 Bridge Street, Wick

Report by the Clerk to the Licensing Board

Summary

A premises licence review application in terms of Section 36 of the Licensing (Scotland) Act 2005 has been received from a Licensing Standards Officer and the Board must hold a hearing to determine the application.

1. Background

In terms of section 36(1) of the Licensing (Scotland) Act 2005 any person may apply to the Board in respect of any licensed premises in relation to which a premises licence has effect for a review on any of the grounds for review.

The grounds for review are:

- (a) That one or more of the conditions to which the premises licence is subject has been breached, or
- (b) Any other ground relevant to one or more of the licensing objectives.

2. Premises Licence Review Application

A premises licence review application dated 16 November 2015 has been submitted to the Board by a Licensing Standards Officer and is attached to this report at Appendix 1.

The application alleges that there was a breach of a licensing condition namely Mandatory Condition 10 – Payment of annual or recurring fees.

3. Review Hearing

Section 38 (1) of the Act provides that where the Board receives a premises licence review application it must hold a Hearing for the purposes of considering and determining the application.

A copy of this report and the premises licence review application have been sent to the Premises Licence Holder, Mohamed Sajed Ahmed, who has been invited to attend the Hearing.

The Licensing Standards Officer has also been invited to attend the Hearing.

4. Board's powers on review

In terms of section 39 of the Act the Board may, if satisfied that a ground for review is established (whether or not on the basis of any circumstances alleged in the premises licence review application considered at the hearing) take the following steps:

- (a) issue a written warning to the Licence Holder,
- (b) make a variation of the licence,
- (c) suspend the licence for such period as the Board may determine,
- (d) revoke the licence.

In terms of section 84 of the Act where, in the course of a review hearing in respect of a premises licence, the Board makes a finding in relation to a personal licence holder who was working in the licensed premises that the licence holder concerned acted in a manner which was inconsistent with any of the licensing objectives then the Board must hold a further Hearing.

5. Recommendation

The Board is invited to determine the premises licence review application by the Licensing Standards Officer by way of a review hearing.

Reference: HC/CSER/0909
Date: 16 November 2015
Author: G Sutherland

Background Papers: The Licensing (Scotland) Act 2005

Appendix 1: Premises Licence Review Application dated 16 November 2015

Appendix 1

The Licensing (Scotland) Act 2005, Sections 14(2)(a)(ii) and 36(4)(a) and (b)

Premises licence review application – breach of mandatory condition

Application by Licensing Standards Officer

Summary

This application for a premises licence review relates to a breach of a mandatory condition of premises licence HC/CSER/0909 held by Mohammed Sajed Ahmed for Curry King, 15 Bridge Street, Wick, Caithness.

1.0 Circumstances of Application

- 1.1 Mohammed Sajed Ahmed, 15 Bridge Street, Wick is the holder of premises licence HC/CSER/0909 for the premises known as Curry King, 15 Bridge Street, Wick. He was granted the licence, on transfer, on 14 December 2009.
- 1.2 On 29 October 2015 I was informed that Mohamed Sajed Ahmed, had ceased to occupy the premises which were now back in the possession of the landlord.
- 1.3 I was able to confirm that Ahmed had vacated the premises prior to 29 October 2015 without notice and returned the keys to the premises. No forwarding address was given and I have been advised that the landlord has no knowledge of his current whereabouts. The Licensing Board has not been advised of any change of address of the licence holder.
- 1.4 A prospective new tenant for the premises advised me that she had made attempts to contact Ahmed by telephone with a view to arranging the transfer of the premises licence but without success.
- 1.5 On 30 October 2015 I confirmed that the annual fee to maintain the premises licence, due by 1 October 2015, had not been paid by the licence holder. I confirmed that an invoice in respect of this fee was issued to the premises licence holder by the Licensing Board in accordance with the Regulations. In addition, two reminders had been sent to the licence holder by Highland Council Finance Department.
- 1.6 Failure to pay the fee is a breach of mandatory condition 10 – Payment of annual or recurring fees - introduced in terms of section 27(1) of the Licensing (Scotland) Act 2005 requiring that the fee must be paid as required by the regulations.

2. **Grounds for the Application**

- 2.1 In terms of section 14 of the Act, believing that a condition of the premises licence had been breached, I issued a notice by recorded delivery post to the holder of the licence, Mohammed Sajed Ahmed, 15 Bridge Street, Wick requiring that, to remedy the breach of a condition, the fee be paid by no later than 14 November 2015.
- 2.2 On 12 November 2015 the unopened envelope was returned to me from Royal Mail marked "Refused". I established that the current tenant of the premises had declined to accept delivery having no personal knowledge of the addressee and no knowledge of his whereabouts.
- 2.3 On 16 November 2015 I confirmed that the fee remained unpaid and consequently, as the notice had not been complied with to my satisfaction, I make this application for a premises licence review in accordance with the power granted by section 14(2) (a) (ii) of the Act.

Recommendation

That the Board considers if grounds for a premises licence review have been established.

Signed David Inglis
 Licensing Standards Officer
Date: 16 November 2015