

The Highland Licensing Board

Meeting – 2 February 2016

Agenda Item	11.1
Report No	HLB/016/16

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 5 January 2016 in respect of those premises for which the annual premises licence fee for the year 2015/16 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.

	Ref	Premises	Licence holder
1	HC/RSL/1544	Sonachan Hotel, Kilchoan	Helen Ferguson
2	HC/INBS/207	Glen Affric Bar, Cannich, By Beauly	Robert J Munro
3	HC/INBS/543	Highland Bottle Shop, 45 King Street, Inverness	Highland Bottle Shop Limited
4	HC/INBS/557	Macveans, Canal Side, Fort Augustus	Audrey Corbett Scott
5	HC/INBS/26	The Silverfjord, Ruthven Road, Kingussie	Silverfjord Kingussie Ltd
6	HC/RSL/1576	M.V. Cromarty Queen, Cromarty Harbour, Cromarty	Thomas James Henderson
7	HC/CSER/1445	Castle Hotel, Castle Street, Portmahomack	Elizabeth A Morris
8	HC/CSER/0908	Dornoch Bridge Inn, Meikleferry South, By Tain	Dornoch Bridge Inn

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 2015.
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 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. The Premises Licence Holders listed above and the Licensing Standards Officer for the area in which each 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 above licence holders and then to consider and determine the premises licence review proposal for each of the premises detailed above.

Author: Clerk to the Licensing Board

Date: 19 January 2016

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: Sonachan Hotel, Kilchoan

1.0 Licensing History:

- 1.1 Helen Ferguson is the holder of the premises licence HC/RSL/1544 for the premises known as Sonachan Hotel, Kilchoan. The premises are a detached Hotel situated on the Ardnamurchan Peninsula. The premises licence was granted on 25 February 2011 to Helen Ferguson.
- 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 1 October 2015 has not been paid.

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 6 January 2016, 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 13 January 2016 informing the premises licence holder of the proposed review hearing was sent by first class post and by recorded delivery.
- 3.2 To my knowledge, the premises are currently open and trading.

Designation: Licensing Standards Officer

Reference: HC/RSL/1544

Date: 14 January 2016

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: Glen Affric Bar, Cannich by Beauly IV4 7LW

1.0 Licensing History:

- 1.1 Robert J Munro is the holder of the premises licence HC/INBS/207 for the premises known as the Glen Affric Bar, Cannich, By Beauly. The premises are a bar/restaurant occupying part of the ground floor of the Glen Affric Hotel which is set in its own grounds. The premises licence was converted under the Licensing (Scotland) Act 2005.
- 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 1 October 2015 has not been paid.

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 6 January 2016, 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 06 January 2016 informing the premises licence holder of the proposed review hearing was sent by first class post and by recorded delivery. All correspondence has been returned 'undelivered' to the Highland Council.
- 3.2 To my knowledge, the premises have been shut throughout the majority of 2015 and remain closed for business.

Designation: Licensing Standards Officer

Reference: HC/INBS/207

Date: 14 January 2016

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: Highland Bottle Shop, 45 King Street, Inverness IV3 5DG

1.0 Licensing History:

- 1.1 Highland Bottle Shop Limited and Nicholas Lyon is the holder of the premises licence HC/INBS/543 for the premises known as the Highland Bottle Shop, 45 King Street, Inverness IV3 5DG. The premises are a small ground floor shop selling off sales of craft beers and other spirits. The premises licence was granted on 18 December 2012.
- 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 1 October 2015 has not been paid.

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 6 January 2016, 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 06 January 2016 informing the Premises Licence Holder of the proposed review hearing was sent by first class post and by recorded delivery. All correspondence has been returned 'undelivered' to the Highland Council.
- 3.2 To my knowledge, the premises have been shut throughout the majority of 2015 and remain closed for business.

Designation: Licensing Standards Officer

Reference: HC/INBS/543

Date: 14 January 2016

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: MacVeans, Canalside, Fort Augustus PH32 4BA

1.0 Licensing History:

- 1.1 Audrey Corbett Scott is the holder of the premises licence HC/INBS/557 for the premises known as MacVeans, Fort Augustus. The premises are described as a supermarket offering a wide range of groceries, newspapers and off sales; a gift shop and a restaurant with 80 covers.
- 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 £157 due on 1 October 2015 has not been paid.

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 6 January, 2016, 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 06 January 2016 informing the premises licence holder of the proposed review hearing was sent by first class post and by recorded delivery. All correspondence has been returned 'undelivered' to the Highland Council.
- 3.2 To my knowledge the premises are no longer trading.

Designation: Licensing Standards Officer
Reference: HC/INBS/557
Date: 14 January, 2016
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: Silverfjord Hotel, Ruthven Road, Kingussie PH21 1ES

1.0 Licensing History:

- 1.1 The partnership of the Silverfjord Hotel per Joseph Storm and Claire Kay is the holder of the premises licence HC/INBS/26 for the premises known as the The Silverfjord Hotel, Ruthven Road, Kingussie PH21 1ES. The premises are a detached hotel with 6 guest bedrooms close to the railway station in Kingussie. The premises licence was converted under the Licensing (Scotland) Act 2005.
- 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 1 October 2015 has not been paid.

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 6 January 2016, 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 6 January 2016 informing the premises licence holder of the proposed review hearing was sent by first class post and by recorded delivery. All correspondence has been returned undelivered to the Highland Council.
- 3.2 To my knowledge, the premises have been shut throughout the majority of 2015 and remain closed for business. A S33 transfer application was received from the applicant's agent on 24 February 2015 but was subsequently withdrawn.

Designation: Licensing Standards Officer

Reference: HC/INBS/26

Date: 14 January 2016

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: M V Cromarty Queen, Cromarty Harbour, Cromarty, Ross Shire.

1.0 Licensing History:

- 1.1 Thomas James Henderson is the holder of the premises licence HC/RSL/1576 for the premises known as the MV Cromarty Queen berthed at Cromarty Harbour, Cromarty, Ross Shire. The premises are a small two vehicle passenger ferry operating between Cromarty and Nigg. This ferry service at the current time is not operating.
- 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 £157.00 due on 1 October 2015 has not been paid.

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 6 January 2016, 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 06 January 2016 informing the premises licence holder of the proposed review hearing was sent by first class post and by recorded delivery.
- 3.2 To my knowledge, the premises have been not been operational for the majority of 2015 and remain closed for business.

Designation: Licensing Standards Officer

Reference: HC/RSL/1576

Date: 14 January 2016

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: Castle Hotel, Portmahomack, IV20 1YE

1. Licensing History:

- 1.1 Elizabeth Anne Morris is the holder of the premises licence HC/CSER/1445 for the premises known as the Castle Hotel, Portmahomack. The premises operate as a small hotel with public house and restaurant facilities.
- 1.2 The premises licence is subject to mandatory conditions in accordance with Schedule 3 to the Licensing (Scotland) Act 2005. (The Act)
- 1.3 To date, the annual fee of £245, due on 1 October 2015, has not been paid.

2 Legislation:

- 2.1 In terms of the mandatory conditions in accordance with Schedule 3 of the Act introduced by section 27 (1) an annual fee must be paid by virtue of the regulations under section 136(1).
- 2.2 On 5 January 2016 I received notice in terms of section 38(b)(ii) of the Act 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 Act.

3. Background Information:

- 3.1 I can confirm that the Board has complied with their obligations in respect of notifying the premises licence holder of the fee due, of the holding of a premises licence review proposal and that notification of the proposed review hearing was sent to her by first class post.
- 3.2 On 2nd July 2015 I had become aware that the premises had ceased trading and were being marketed for sale.
- 3.3 I have made attempts, by letter, telephone and visiting the premises, to contact the licence holder and also through the agent dealing with the sale of the premises but, to date, she has not responded.

Designation: Licensing Standards Officer

Reference : HC/CSER/1445

Date : 12 January 2016

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: Dornoch Bridge Inn, Meikleferry South, by Tain IV19 1JX

1. Licensing History:

- 1.1 Andrew Lyttle is the holder of the premises licence HC/CSER/0908 for the premises known as the Dornoch Bridge Inn, Meikleferry South, by Tain. The premises are described as a small hotel with a bar, function suite and restaurant.
- 1.2 The premises licence is subject to mandatory conditions in accordance with Schedule 3 to the Licensing (Scotland) Act 2005. (The Act)
- 1.3 To date, the annual fee of £192, due on 1 October 2015, has not been paid.

2 Legislation:

- 2.1 In terms of the mandatory conditions in accordance with Schedule 3 of the Act introduced by section 27 (1) an annual fee must be paid by virtue of the regulations under section 136(1).
- 2.2 On 5 January 2016 I received notice in terms of section 38(b) (ii) of the Act 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 Act.

3. Background Information:

- 3.1 I can confirm that the Board has complied with their obligations in respect of notifying the premises licence holder of the fee due, of the holding of a premises licence review proposal and that notification of the proposed review hearing was sent to her by first class post.
- 3.2 On or about 11 November 2015 I became aware that the premises were no longer trading and understand that the premises have been vacated by the licence holder. His present whereabouts are, to me, unknown.
- 3.3 I understand that a third party has an interest as the occupier of the premises but there has not, as yet, been any application to transfer the licence.

Designation: Licensing Standards Officer

Reference : HC/CSER/0908

Date : 12 January 2016

Author : David Inglis

Background Papers: The Licensing (Scotland) Act 2005