

The Highland Licensing Board

Meeting – 27 February 2017

Agenda Item	9
Report No	HLB/018/17

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 6 January 2017 in respect of those premises for which the annual premises licence fee for the year 2016/17 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/INBS/176	Loch Ness Caravan Park	Robert McBeth Girvan
2	HC/INBS/157	Maple Court Hotel	LRM Inverness Hotels Ltd
3	HC/RSL/0960	Picture House, High Street, Dingwall	Julie A Sweeney
4	HC/CSER/0371	The Forsinard Hotel, Forsinard	John V Leonard

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 2016.
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: 25 January 2017

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: Loch Ness Caravan Park, Easter Port Clair, Invermoriston, IV63 7YE

1.0 Licensing History:

- 1.1 Robert McBeth Girvan is the holder of the premises licence HC/INBS/176 for the premises known as Loch Ness Caravan Park. The premises are described as a family run Caravan Park on the shores of Loch Ness.
- 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 2016 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 2017, 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 2017 informing the Premises Licence Holder of the proposed review hearing was sent by First Class post and Recorded Delivery.
- 3.2 The Premises ceased trading on 9 January 2015 as they have no designated Premises Manager.
- 3.3 Several attempts by licensing administrative staff and the LSO have been made to contact the Premises Licence Holder without success.

Designation: Licensing Standards Officer

Reference: HC/INBS/176

Date: 13 January 2017

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: Maple Court Hotel, 12 Ness Walk, Inverness, IV3 5SQ

1.0 Licensing History:

- 1.1 LRM Inverness Hotels Ltd is the holder of the premises licence HC/INBS/157 for the premises known as Maple Court Hotel. The premises are described as A single storey villa with extensive garden and two bars overlooking the river Ness.
- 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 £245 due on 1 October 2016 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 2017, 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 2017 informing the Premises Licence Holder of the proposed review hearing was sent by First Class post and Recorded Delivery.
- 3.2 The Premises are currently undergoing refurbishment and not open to the public.
- 3.3 Several attempts by licensing administrative staff and the LSO have been made to contact the Premises Licence Holder without success.

Designation: Licensing Standards Officer

Reference: HC/INBS/157

Date: 13 January 2017

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: The Picture House, High Street, Dingwall

1. Licensing History:

- 1.1** Julie Ann Sweeney is the holder of premises licence HC/RSL/960 for the Picture House, High Street, Dingwall. The original licence was granted on transition in 2009 and was transferred to Ms Sweeney on 24th August 2015. The premises operate as, primarily, “a late evening venue offering substantial entertainment”.
- 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 1st October 2016, 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 9th 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 them by first class post.
- 3.2** I have spoken with a representative of the licence holder who advises me that the licence holder no longer occupies the building which is now in the hands of a heritable creditor. I understand from that company that arrangements are in hand for the invoice to be paid as soon as possible and before the date set aside for the hearing but, as of the date of this report, the fee remains unpaid

Designation: Licensing Standards Officer

Reference : HC/RSL/0966

Date : 24 January 2017

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: The Forsinard Hotel, Forsinard HC/CSR/0371

1. Licensing History:

1.1 John Vincent Leonard is the holder of premises licence HC/CSER/0371 for The Forsinard Hotel, Forsinard, Sutherland. The licence was granted on transition in 2009. The premises operate as a hotel.

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 2016, 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 9 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 them by first class post.

3.2 I have attempted, without success, to make contact with the licence holder. I am aware that Mr Leonard is no longer the holder of a personal licence and ceased to be premises manager on 1 December 2014. The premises licence was then varied to show no premises manager. I understand that the premises are unoccupied, have not traded for some years and had been advertised for sale although I have been unable to find any current listing.

Designation: Licensing Standards Officer

Reference : HC/CSR/0371

Date : 19 January 2016

Author : David Inglis

Background Papers: The Licensing (Scotland) Act 2005