

## The Highland Licensing Board

Meeting – 6 February 2018

Agenda Item	6
Report No	HLB/008/18

### 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 12 January 2018 in respect of those premises for which the annual premises licence fee for the year 2017/18 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/1709	Ben View Hotel, Strontian	Graham McMenemy
2	HC/RSL/0158	Mackinnon Country House Hotel	Navidale Estates Ltd
3	HC/INBS/76	Dragon Peal Restaurant, Nairn	Tan Brothers Ltd
4	HC/INBS/576	The Deli at Kingussie	The Deli at Kingussie
5	HC/INBS/108	Victoria Hotel, Nairn	Hawthorn Leisure Scotco Ltd
6	HC/RSL/1031	Balloan House, Marybank	Heather Sutherland
7	HC/RSL/1447	Highland Groceries, Great North Road, Muir of Ord	Mohammed Islam Chaudry
8	HC/CSER/1337	Jaipur Restaurant, High Street, Invergordon	Mohammed Mutalib
9	HC/RSL/0960	Picture House, High Street, Dingwall	Julie A Sweeney
10	HC/RSL/0594	The Anderson, Union Street, Fortrose	The Peterson Group

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 2017.
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 Appendices 1 to 10 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 2018

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: Ben View Hotel, Strontian, PH36 4HY**

**1.0 Licensing History:**

- 1.1 Graham McMenemy is the holder of the premises licence HC/RSL/1709 for the premises known as the Ben View Hotel. The premises are described as a detached country hotel in a rural location.
- 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 2017 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 16 January 2018, 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 16 January 2018 informing the Premises Licence Holder of the proposed review hearing was sent by First Class post and Recorded Delivery.
- 3.2 The premises licence holder previously contacted the Licensing Board to advise that he was unsure whether he would continue to operate the hotel with an alcohol licence.

Designation: Licensing Standards Officer

Reference: HC/RSL/1709

Date: 16 January 2018

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: Mackinnon Country House Hotel, Kyleakin, Isle of Skye**

**1.0 Licensing History:**

- 1.1 Navidale Estates T/A Mackinnon Country House Hotel is the holder of the premises licence HC/RSL/0158 for the premises known as \* Mackinnon Country House Hotel. The premises are described as a detached country house hotel.
- 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 2017 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 15 January 2018, 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 17 January 2018 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 trading. I have made contact with the licence holder by email and telephone answering service several times but have had no response. I am advised that the licence holder has made contact with the Portree office indicating that a cheque payment is to be made but as of the date of this report, no such payment has been received. I will give a verbal update at the review hearing.

Designation: Licensing Standards Officer

Reference: HC/RSL/0158

Date: 23 January 2018

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: Dragon Pearl Restaurant, 72 High Street, Nairn, IV12 4TW**

**1.0 Licensing History:**

- 1.1 Tan Brothers Ltd is the holder of the premises licence HC/INBS/76 for the premises known as Dragon Pearl Restaurant. The premises are described as a ground floor restaurant accommodated within a mixed commercial and residential building in a central location of Nairn with an independent access from High Street.
- 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<sup>st</sup> October 2017 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 12 January 2018, 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 18 January 2018 informing the Premises Licence Holder of the proposed review hearing was sent by First Class post and Recorded Delivery.
- 3.2 Dragon Pearl continues to be in business situated on Nairn High Street. It opens sporadically and most business is discharged by a takeaway shop adjoining the premises.
- 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: 18 January 2018

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 Deli at Kingussie, 2 High Street, Kingussie, Ph21 1HR**

**1.0 Licensing History:**

- 1.1 The Deli at Kingussie is the holder of the premises licence HC/INBS/576 for the premises known as The Deli at Kingussie. The premises are described as a retail shop is on the corner of the High Street and Gynack Street in Kingussie. The shop has a front door and large triple window facing on to the High Street and two smaller windows facing on to Gynack Street. The shop has previously been run as a licensed grocers for approximately 45 years.
- 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<sup>st</sup> October 2017 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 12 January 2018, 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 18 January 2018 informing the Premises Licence Holder of the proposed review hearing was sent by First Class post and Recorded Delivery.
- 3.2 The premises have ceased to trade for over a year and currently the premises remain unoccupied.
- 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/576

Date: 18 January 2018

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: Victoria Hotel, 57 High Street, Nairn, IV12 4BW**

**1.0 Licensing History:**

- 1.1 Hawthorn Leisure Scotco Ltd is the holder of the premises licence HC/INBS/108 for the premises known as Victoria Hotel. The premises are described as a three storey hotel, with bar and accommodation facilities.
- 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<sup>st</sup> October 2017 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 12 January 2018, 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 18 January 2018 informing the Premises Licence Holder of the proposed review hearing was sent by First Class post and Recorded Delivery.
- 3.2 The Victoria Hotel has ceased to trade as a licensed premises for nearly two years. Currently another business not associated with alcohol occupies the premises.
- 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/108

Date: 18 January 2018

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: Balloan House, Marybank, Ross-Shire**

**1.0 Licensing History:**

- 1.1 Heather Sutherland is the holder of the premises licence HC/RSL/1031 for the premises known as Balloan House, Marybank. The premises are described as a small hotel with lounge / public bar and restaurant.
- 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 2017 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 15<sup>th</sup> January 2018, 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 17 January 2018 informing the Premises Licence Holder of the proposed review hearing was sent by First Class post and Recorded Delivery.
- 3.2 I have been in recent contact with the licence holder who has advised me that she intends to surrender the licence but, to date and despite reminders, she has not formally done so.

Designation: Licensing Standards Officer

Reference: HC/RSL/1031

Date: 17 January 2018

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: Highland Groceries, Great North Road, Muir of Ord**

**1.0 Licensing History:**

- 1.1 Adile Islam Chaudhry, is the holder of the premises licence HC/RSL/1447 for the premises known as Highland Groceries, Great North Road, Muir of Ord. The premises are described as a privately-owned general village store.
- 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 2017 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 15 January 2018, 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 16 January 2018 informing the Premises Licence Holder of the proposed review hearing was sent by First Class post and Recorded Delivery.
- 3.2 I made direct contact with Mr Chaudhry in December 2017 and he requested permission to pay the fee by instalments. Following from the Clerk's agreement I contacted Mr Chaudhry by email and supplied him with contact details for the Council's Income and Recovery team to arrange a suitable repayment plan. To date no such arrangements have been made.
- 3.3 The premises continue to trade and a small amount of alcohol is displayed for sale within the single area in respect of which a capacity of 20.75m<sup>2</sup> is available.

Designation: Licensing Standards Officer

Reference: HC/RSL/1447

Date: 19 January 2018

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 Jaipur Restaurant, High Street, Invergordon**

**1.0 Licensing History:**

- 1.1 Mohammed Mutalib, 1 Mid Street, Beauly is the holder of the premises licence HC/CSER/1337 for the premises known as The Jaipur Restaurant, High Street, Invergordon. The premises are described as a Chinese Restaurant and takeaway.
- 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 2017 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 15 January 2018, 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 16 January 2018 informing the Premises Licence Holder of the proposed review hearing was sent by First Class post and Recorded Delivery.
- 3.2 The premises are not currently trading and appear to have been abandoned for some time. Earlier correspondence addressed to Mr Mutalib has been returned marked "whereabouts unknown". I have no knowledge of his current whereabouts.
- 3.3 On Monday 15<sup>th</sup> January 2018 I visited Invergordon and, by chance, met with an individual who informed me that he was considering taking over the premises. I have made him aware of the impending review hearing and I understand that he will endeavour to trace Mr Mutalib with a view to ensuring payment of the annual fee and arranging the transfer of the premises licence.

I will give a verbal update at the review hearing.

Designation: Licensing Standards Officer

Reference: HC/CSER/1337

Date: 18 January 2018

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: Picture House, Dingwall**

**1.0 Licensing History:**

- 1.1 Julie Ann Sweeney is the holder of the premises licence HC/RSL/960 for the premises known as Picture House, Dingwall. The premises are described as a late evening venue offering substantial entertainment.
- 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 2017 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 15 January 2018 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 16 January 2018 informing the Premises Licence Holder of the proposed review hearing was sent by First Class post and Recorded Delivery.
- 3.2 The premises licence holder no longer operates a business from the premises which are now vacant and controlled by a heritable creditor. The creditor has been made aware that a fee remains outstanding and I note that the premises are currently being marketed for sale.

Designation: Licensing Standards Officer

Reference: HC/RSL/960

Date: 17 January 2018

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 Anderson, Union Street, Fortrose**

**1.0 Licensing History:**

- 1.1 The Peterson Group is the holder of the premises licence HC/RSL/0594 for the premises known as The Anderson, Union Street, Fortrose. The premises are described as a hotel with restaurant, whisky bar and public bar.
- 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 2017 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 15 January 2018, 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 16 January 2018 informing the Premises Licence Holder of the proposed review hearing was sent by First Class post and Recorded Delivery.
- 3.2 Since 28 November 2017 I have made several attempts by telephone and email to contact James Anderson, a connected person, to discuss the matter but, to date, he has not responded. Although the premises have not been open on occasions when I have attempted to contact Mr Anderson directly I believe that the premises are still trading.

Designation: Licensing Standards Officer

Reference: HC/RSL/0594

Date: 17 January 2018

Author: David Inglis

Background Papers: The Licensing (Scotland) Act 2005