

The Highland Licensing Board

Meeting – 19 February 2019

Agenda Item	6
Report No	HLB/013/19

The Licensing (Scotland) Act 2005

Premises licence review hearings – non-payment of annual premises licence fees

Report by the Depute Clerk to the Licensing Board

Summary

The Board made premises licence review proposals on 18 January 2019 in respect of those premises for which the annual premises licence fee for the year 2018/19 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/0208	Stables Restaurant, Dudley Road, Fort William	Andrew Turnbull
2	HC/INBS/56	The Monarch Hotel and Church Ruin, Laggan, Newtonmore.	Whitmann Enterprises Ltd
3	HC/INBS/394	Highland Crossroads, Gollanfield Crossroads, Ardersier.	Angela Tasasiz
4	HC/CSR/0521	Drumbeg House t/a Blar na Leisg, Drumbeg	David and Anne Strachan
5	HC/CSR/1642	Taj Mahal, Bridge Street, Wick	Aileen Miah
6	HC/CSR/1250	Brunstane Lodge Hotel, Golf Course Road, Strathpeffer	Brunstane Investments Limited

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 2018.
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 6 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: 7 February 2019

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: Stables Restaurant, Dudley Road, Fort William, PH33 6AY

1.0 Licensing History:

- 1.1 Andrew Turnbull is the holder of the premises licence HC/RSL/0208 for the premises known as the Stables Restaurant. The premises are described as a restaurant situated within the ground floor of a larger building known as Bank Street Lodge.
- 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 2018 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 4 February 2019, I received notice in terms of section 38(3)(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 4 February 2019 informing the premises licence holder of the proposed review hearing was sent by First Class post and Recorded Delivery.

Designation: Licensing Standards Officer

Reference: HC/RSL/0208

Date: 4 February 2019

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: Monarch Hotel and Church Ruin, Laggan Bridge, Newtonmore,
PH20 1BT**

1.0 Licensing History:

- 1.1 Whitmann Enterprises Limited is the holder of the premises licence HC/INBS/556 for the premises known as Highland Crossroads. The premises are described as hotel set in rural location surrounded by 3 acres of gardens.
- 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 2018 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 18 January 2019, I received notice in terms of section 38(3)(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 7 January 2019 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 closed and not trading.

Designation: Licensing Standards Officer

Reference: HC/INBS/56

Date: 5 February 2019

Author: Marjory Bain

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 Crossroads, Gollanfield Crossroads, Ardersier, IV2 7QT

1.0 Licensing History:

- 1.1 Angela Tasasiz is the holder of the premises licence HC/INBS/394 for the premises known as Highland Crossroads. The premises are described as a family restaurant and take-away set in its own grounds on the outskirts of Inverness.
- 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 1st October 2018 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 18 January 2019, I received notice in terms of section 38(3)(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 7 January 2019 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 closed and not trading.

Designation: Licensing Standards Officer

Reference: HC/INBS/394

Date: 5 February 2019

Author: Marjory Bain

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: Drumbeg House

1.0 Licensing History:

- 1.1 David Edward Campbell Strachan and Anne Dorward Clark Strachan are the holders of the premises licence HC/CSER/0521 for the premises known as Drumbeg House, Drumbeg, Sutherland. The premises operate as a guest house.
- 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 2018 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 22 January 2019, I received notice in terms of section 38(3)(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 informing the premises licence holder of the proposed review hearing was sent by First Class post and Recorded Delivery.
- 3.2 I have previously made contact with the licence holder regarding the unpaid fee and was advised that the premises were no longer trading and that the premises licence was to be surrendered. The licence holder was advised of the procedure to be followed but, to date, no formal notification of surrender of the licence has been received.

Designation: Licensing Standards Officer

Reference: HC/CSER/0521

Date: 26 January 2019

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: Taj Mahal, Bridge Street, Halkirk

1.0 Licensing History:

- 1.1 Aileen Miah is the holder of the premises licence HC/CSER/1642 for the premises known as Taj Mahal, Bridge Street, Halkirk. The premises operate as a 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 2018 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 22 January 2019, I received notice in terms of section 38(3)(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 informing the premises licence holder of the proposed review hearing was sent by First Class post and Recorded Delivery.
- 3.2 The licence holder no longer operates a business from the premises which were leased to another operator who has now ceased trading. In early 2018 I had discussions with that operator regarding the transfer of the premises licence but no application was received. I understand that the premises are now vacant. I have not been able to contact Aileen Miah.

Designation: Licensing Standards Officer

Reference: HC/CSER/1642

Date: 26 January 2019

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: Brunstane Lodge Hotel, Golf Course Road, Strathpeffer

1.0 Licensing History:

- 1.1 Brunstane Investments Ltd is the holder of the premises licence HC/RSL/1250 for the premises known as Brunstane Lodge Hotel, Golf Course Road, Strathpeffer. The premises operate as a 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 £192 due on 1 October 2018 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 22 January 2019, I received notice in terms of section 38(3)(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 informing the premises licence holder of the proposed review hearing was sent by First Class post and Recorded Delivery.
- 3.2 On 1 December 2014 the Board was notified that the premises manager ceased to work on the premises and, as no replacement was appointed, the licence was varied to show no premises manager and consequently sales of alcohol were not permitted. The annual fee continued to be paid until 2017 and the licence was maintained.
- 3.3 I have attempted, without success, to contact the licence holder and any connected person. To the best of my knowledge the premises no longer operate as a hotel and I have noted that the premises are advertised for short term let on an accommodation provider website.

Designation: Licensing Standards Officer

Reference: HC/RSL/1250

Date: 26 January 2019

Author: David Inglis

Background Papers: The Licensing (Scotland) Act 2005