

The Highland Licensing Board

Meeting – 18 February 2020

Agenda Item	6
Report No	HLB/009/20

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 14 January 2020 in respect of those premises for which the annual premises licence fee for the year 2019/20 remained unpaid in breach of the mandatory condition of their 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/32	Indian Ocean Restaurant, 64-68 Academy Street, Inverness	Mohammed Zahidul Karim
2	HC/RSL/0149	Pier House, Knoydart	Partnership of A Carden & G Barrell
3	HC/CSR/1200	Aultbea Hotel, Aultbea	View Hotels Limited
4	HC/CSR/1797	Caberfeidh Hotel Ltd, Main Street, Golspie	Queens and Lord Treasurer's Remembrancer (QLTR)
5	HC/CSR/0223	Conon Bridge Hotel, High Street, Conon Bridge	Evelyn Proudfoot

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 2019.
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 5 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: 5 February 2020

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: Indian Ocean Restaurant, 64-66 Academy Street, Inverness, IV1 1LP

1.0 Licensing history:

- 1.1 Mohammed Zahidul Karim is the holder of the premises licence HC/INBS/32 for the premises known as Indian Ocean Restaurant. The premises are described as a city centre restaurant comprising ground and basement floors.
- 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 2019 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 14 January 2020, 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 17 January 2020 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 for refurbishment.

Designation: Licensing Standards Officer

Reference: HC/INBS/32

Date: 22 January 2020

Author: Ian Cox

Background Papers: Licensing (Scotland) Act 2005

Report by the Licensing Standards Officer

Review hearing in terms of the Licensing (Scotland) Act 2005 - section 38(1)

Premises: Pier House, Inverie, Knoydart, By Mallaig, PH41 4PL

1.0 Licensing history:

- 1.1 Partnership of A Carden & G Barrell are the premises licence holder for the premises known as the Pier House (HC/RSL/0149). The premises are described as a guest house and restaurant located in the rural village of Inverie, Knoydart.
- 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 2019 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 14 January 2020, 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 30 January 2020 informing the premises licence holder of the proposed review hearing was sent by First Class post, Recorded Delivery and E-mail.

Designation: Licensing Standards Officer

Reference: HC/RSL/0149

Date: 31 January 2020

Author: Ian Cox

Background Papers: Licensing (Scotland) Act 2005

Report by the Licensing Standards Officer

Review hearing in terms of the Licensing (Scotland) Act 2005 - section 38(1)

Premises: Aultbea Hotel, Aultbea, Achnasheen

1.0 Licensing history:

- 1.1 View Hotels Limited is the holder of the premises licence HC/CSR/1200 for the premises known as Aultbea Hotel, Aultbea, Achnasheen. The premises operated as a hotel. Since September 2019 the hotel has been closed to the public.
- 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 2019 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 the regulations under section 136(1).
- 2.2 On 14 January 2020, 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 for this property is currently held by View Hotels Ltd, Clava House, Cradlehall Business Park, Inverness. I have attended at the premises and found them to be closed and have ceased trading. I have been unable to contact anyone directly involved in the hotel but have spoken to a representative of Barclays Bank who have an ongoing interest in the property.

Designation: Licensing Standards Officer

Reference: HC/CSR/1200

Date: 22 January 2020

Author: Garry Cameron

Background Papers: Licensing (Scotland) Act 2005

Report by the Licensing Standards Officer

Review hearing in terms of the Licensing (Scotland) Act 2005 - section 38(1)

Premises: Caberfeidh Hotel, Main Street, Golspie

1.0 Licensing history:

- 1.1 Caberfeidh Hotel Ltd (now dissolved) was until September of 2018 the holder of the premises licence HC/CSR/1797 for the premises known as Caberfeidh Hotel, Main Street, Golspie. The premises operated as a hotel. In September 2018 the company was dissolved via compulsory strike off and, as a result, it is deemed that the licence vests with the Crown i.e. Queens and Lord Treasurers' Remembrancer (QLTR). Discussions in relation to the licence, between QLTR, the leaseholders and owners of the property are ongoing.
- 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 2019 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 the regulations under section 136(1).
- 2.2 On 14 January 2020, 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 for this property is currently deemed held by QLTR, the previous leaseholders of the property Caberfeidh Hotel Ltd having been dissolved. Correspondence from QLTR has indicated they would not be intending to renew the licence.

Designation: Licensing Standards Officer

Reference: HC/CSR/1797

Date: 22 January 2020

Author: Garry Cameron

Background Papers: Licensing (Scotland) Act 2005

Report by the Licensing Standards Officer

Review hearing in terms of the Licensing (Scotland) Act 2005- section 38(1)

Premises: Conon Bridge Hotel, High Street, Conon Bridge

1.0 Licensing history:

- 1.1 Mrs Evelyn Proudfoot is the holder of the premises licence HC/CSR/0223 for the premises known as Conon Bridge Hotel, High Street, Conon Bridge. The premises operated as a hotel. The hotel has now been closed since 2018 and the current licence holder has not been contactable.
- 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 2019 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 the regulations under section 136(1).
- 2.2 On 14 January 2020, 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 for this property is currently held by Evelyn Proudfoot. I have attended at the premises and found them to be closed and have ceased trading. I have been unable to contact anyone directly involved in the hotel but have spoken to a representative of Christie and Co who are acting as Selling Agents and who have an ongoing interest in the property. They intimated they would be in touch with the licence holder and inform them of my interest in talking to them. There has been no contact to date.

Designation: Licensing Standards Officer

Reference: HC/CSR/0223p

Date: 27 January 2020

Author: Garry Cameron

Background Papers: Licensing (Scotland) Act 2005