

The Highland Licensing Board

Meeting – 7 May 2024

Agenda Item	6
Report No	HLB/37/24

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 26 March 2024 in respect of those premises for which the annual premises licence fee for the year 2023/24 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/0452	The Ice Factor, Leven Road, Kinlochleven, PH50 4SF	The Ice Factor Limited
2	HC/INBS/562	Sams Bar and Grill Ltd 19 Leopold Street Nairn IV12 4BE	Harleys Cocktail and Grill Bar
3	HC/INBS/267	Baron Taylor Close Baron Taylor Close 39 High Street Inverness IV1 1HT	Corrdon Limited
4	HC/CSR/0722	The Commercial Inn, Main Street, Baltinore	George Skinner
5	HC/CSR/1784	The Bear's Den, Memorial Square, Brora	Margaret M Sutherland

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 2023.
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: 24 April 2024

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: The Ice Factor, Leven Road, Kinlochleven, PH50 4SF

1.0 Licensing History:

1.1 Ice Factor Limited is the holder of the premises licence HC/RSL/0452.

The Ice Factor was a family adventure centre located on an industrial estate set back from the main village of Kinlochleven but the premises is now closed and is no longer operating as licensed premises.

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 2023 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 10 April 2024, 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 11 April 2024 informing the premises licence holder of the proposed review hearing was sent by Recorded Delivery.

3.2 Several attempts by licensing administrative staff have been made to contact the premises licence holder without success. The correspondence letters sent to the address of the premises licence holder have been returned by Royal Mail stating "not known at this address". Correspondence concerning the hearing has therefore been sent directly to the premises.

Designation: Licensing Standards Officer

Reference: HC/RSL/0452

Date: 11 April 2024

Author: Christopher MacKinnon/Julie Traynor

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: Sams Bar and Grill Ltd, 19 Leopold Street, Nairn, IV12 4BE

1.0 Licensing History:

- 1.1 Harley's Cocktail and Grill Bar, Elgin, is the holder of the premises licence HC/INBS/562 which relates to Sams Bar and Grill Ltd, which is located in a semi-detached building in the town centre of Nairn, comprising of a lounge bar, a public bar, a fully fitted kitchen, cellar area, dry store and an office.
- 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 2023 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 10 April 2024, 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 18 April 2024 informing the premises licence holder of the proposed review hearing was sent by Recorded Delivery.
- 3.2 Several attempts by licensing administrative staff have been made to contact the premises licence holder without success.

Designation: Licensing Standards Officer

Reference: HC/INBS/562

Date: 18 April 2024

Author: Ian Cox / Shonnie Campbell / Julie Traynor

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: Baron Taylor Close, 39 High Street, Inverness IV1 1HT

1.0 Licensing History:

1.1 Corrdon Limited is the holder of the premises licence HC/INBS/267.

Baron Taylor Close is located on the High Street, Inverness with an entrance from Baron Taylor Close, and is in a mixed domestic and commercial area. The premises, in addition to serving food, comprise of a dance club, bar areas, and provides various types of 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 £438 due on 1 October 2023 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 10 April 2024, 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 18 April 2024 informing the premises licence holder of the proposed review hearing was sent by Recorded Delivery.

3.2 Several attempts by licensing administrative staff have been made to contact the premises licence holder without success.

Designation: Licensing Standards Officer

Reference: HC/INBS/267

Date: 18 April 2024

Author: Ian Cox / Shonnie Campbell / Julie Traynor

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: Commercial Inn, Balintore

1.0 Licensing History:

- 1.1 Mr George Skinner is the holder of the premises licence HC/CSR/0722 for the premises known as The Commercial Inn Balintore. The premises operates as a 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 £245 due on 1st October 2023 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 26 March 2024, 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 Despite numerous conversations with the Premises Licence Holder and visits to the premises the annual fee has not been paid.

I have been unable to confirm the current trading status of the premises.

Designation: Licensing Standards Officer

Reference: HC/CSR/0722

Date: 15 April 2024

Author: Garry Cameron

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 Bears Den, Brora

1.0 Licensing History:

- 1.1 Mrs Margaret Sutherland is the holder of the premises licence HC/CSR/1784 for the premises known as The Bears Den, Brora, Sutherland. The premises operates as a small 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 1st October 2023 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 29 March 2022, 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 All attempts to contact the licence holder by means of telephone, mobile as well as email have been unsuccessful all coming back as unobtainable.

I have been unable to confirm the current trading status of the premises.

Designation: Licensing Standards Officer

Reference: HC/CSR/1784

Date: 15 April 2024

Author: Garry Cameron

Background Papers: The Licensing (Scotland) Act 2005