



REPORT TO: MORAY LICENSING BOARD ON 7 SEPTEMBER 2022

SUBJECT: LICENSING (SCOTLAND) ACT 2005 – REVIEW OF PREMISES LICENCES

BY: CLERK TO THE BOARD

1. REASON FOR REPORT

- 1.1 To ask the Board to conduct a hearing to further consider and determine the premises licence review proposal in respect of each of the remaining premises previously listed on a schedule circulated to members separately at the February meeting.

2. RECOMMENDATION

- 2.1 **It is recommended that the Board consider and determine the premises licence review proposal having regard to the powers available to the Board under s.39(2) of the Licensing (Scotland) Act 2005.**

3. BACKGROUND

- 3.1 On 22 July 2010 (paragraph 4 of the minute refers) the Board delegated authority to the Clerk and his staff to make a premises licence review proposal in terms of s.37(1) of the Act for any premises where the annual fee remained outstanding for a period of six weeks after the due date.
- 3.2 Annual fees are due each year on the 1 October. Fees are payable in advance for the period 1 October to the 30 September the following year. Invoices are issued on the 27 August each year, in advance of the 1 October, to serve as written reminder to licence holders, as is required by Regulations.
- 3.3 By the delegated authority detailed in paragraph 3.1 a premises licence review proposal was made in respect the premises known as the Taste of Speyside in Dufftown. A review proposal must state the grounds for review. Section 36(3) of the Act states the grounds for review, which are (a) that one or more of the conditions to which the premises licence is subject has been breached, or (b) any other ground relevant to one or more of the licensing objectives.
- 3.4 A review proposal having been made, the Board was obliged to hold a hearing, in terms of s.38(1), to consider and determine the proposal. On the 9 February 2022 a hearing took place. The Board determined (paragraph 5 of the minute refers) that grounds for review were made out both in terms of

ss.36(3)(a) and (b) of the Act. The Board therefore resolved to make the following interim order:

That the licence would be suspended with immediate effect unless and until the fee is paid and the suspension would automatically be revoked upon payment of the fee failing which the suspension would be reviewed at a further meeting of the Board to take place after 6 months.

- 3.5 The current hearing is therefore the review of the suspension of the licence and, if the Board chooses, final determination of the premises licence review.
- 3.6 The fee remains unpaid and there has been no contact from the licence holder despite all efforts to make contact.
- 3.7 The Board has already established that grounds for review exist on which basis section 39 confers the power on the Board to. On review the Board has the power to:
- (a) to issue a written warning to the licence holder,
 - (b) to make a variation of the licence,
 - (c) to suspend the licence for such period as the Board may determine,
 - (d) to revoke the licence.
- 3.8 The Board is therefore invited to make a final determination of the premises licence review in this case.

4. SUMMARY OF IMPLICATIONS

(a) Moray 2023 A Plan for the Future/Service Plan

The provisions of alcohol licensing directly relate to the priorities within the 10 Year Plan (Moray 2023) in relation to healthier citizens, a growing and diverse economy and safer communities. Alcohol and alcohol dependency influence the health of the population. The alcohol industry in terms of production, retail and the positive effects on tourism all aid a growing economy. Regulation of the sale of alcohol contributes to a safer community.

(b) Policy and Legal

The Legal implications have been explained above.

(c) Financial Implications

Loss of unpaid fees.

(d) Risk Implications

None.

(e) Staffing Implications

Additional administration is required in pursuing unpaid annual fees.

(f) Property

None

(g) Equalities/Socio Economic Impact

In considering this matter the Board should have regard to the subject's rights under the European Convention on Human Rights (and the Human Rights Act 1998).

(h) Climate Change and Biodiversity Impacts

None

(i) Consultations

None required.

5. CONCLUSION

5.1 The Board should consider and determine the premises licence review proposals in respect of the remaining premises previously listed in a schedule circulated separately to members at the February meeting having regard to the powers available to the Board under s.39(2) of the Licensing (Scotland) Act 2005.

Author of Report: Sean Hoath, Senior Solicitor, Depute Clerk to the Licensing Board

Background Papers:

Ref: SAH