



THE MORAY LICENSING BOARD

THURSDAY 2 FEBRUARY 2017

YOUR ATTENDANCE IS REQUESTED at the Meeting of **THE MORAY LICENSING BOARD** to be held within the The Moray Council, Council Chambers, High Street, Elgin on Thursday 2 February 2017 at 10.00am.

Alasdair McEachan
CLERK

26 January 2017

BUSINESS

1. Prior Minutes
 - (i) Minutes of the Meeting held on 1 December 2016

The Licencing (Scotland) Act 2005

2. Review for non payment of Annual Fees

CLERK:	Alasdair McEachan
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THE MORAY LICENSING BOARD**SEDERUNT****COUNCILLOR J ALLAN****COUNCILLOR G COWIE****COUNCILLOR J DIVERS****COUNCILLOR M HOWE****COUNCILLOR G LEADBITTER****COUNCILLOR A MCLEAN****COUNCILLOR R H SHEPHERD****COUNCILLOR D SLATER****COUNCILLOR C TUKE****COUNCILLOR S WARREN****CLERK TO THE BOARD: Mr A McEachan**

THE MORAY LICENSING BOARD
MINUTE OF THE MEETING OF THE MORAY LICENSING BOARD

The Moray Council Chambers, Council Headquarters, High Street, Elgin on Thursday 6 October 2016

PRESENT

Councillors: J Allan
G Cowie
J Divers
M Howe
G Leadbitter
R Shepherd
D Slater
C Tuke

APOLOGIES

Apologies were intimated on behalf of Councillors A McLean and S Warren.

IN ATTENDANCE

Sean Hoath, Depute Clerk to the Licensing Board

1. PRIOR MINUTES

- (i) The Minutes of the Meeting held on 6 October 2016 were submitted and approved.
- (ii) The Minutes of the Special Meeting held on 24 November 2016 were submitted and approved.

2. LIST OF DECISIONS FOR APPLICATIONS FOR PREMISES LICENCES

(i) Application for a Variation to Premises Licence Knockando Distillery, Knockando

The Depute Clerk introduced the application. The applicant's manager represented the applicant. After consideration the Board agreed to grant the variation.

(ii) Application for a Variation to Premises Licence Cardhu Distillery, Aberlour

The Depute Clerk introduced the application. The applicant's manager represented the applicant. After consideration the Board agreed to grant the variation.

(iii) Application for a new Premises Licence Speyside Craft Brewery, 2 Greshop Road, Forres

The Depute Clerk introduced the application and advised the applicant had requested that consideration be deferred to a later meeting to allow time for the applicant to secure the section 50 certificate for planning. The Board agreed to defer.

3. Calendar of Meetings

The Depute Clerk introduced the report. The Board agreed to proposed schedule of meetings but noted that the hearings post the election may be subject to change by the incoming Licensing Board.

4. Immigration Act 2016 Update

The Depute Clerk introduced the report. The Board agreed to note the report and the developments.

5. Air weapons and Licensing (Scotland) Act 2015 Update

The Depute Clerk introduced the report. The Board agreed to note the report and the developments.



REPORT TO: THE MORAY LICENSING BOARD 2 FEBRUARY 2017

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

BY: CLERK TO THE BOARD

1. REASON FOR REPORT

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

2. RECOMMENDATION

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

3. BACKGROUND

3.1 On 22nd July 2010 (para 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 1st October. Fees are payable in advance for the period 1st October to the 30th September the following year. Invoices are issued on the 27th August each year, in advance of the 1st October, to serve as written reminder as required by Regulations.

3.3 By the delegated authority detailed in para 3.1 a premises licence review proposal in respect of each of the premises listed in the schedule has been made. Notice was sent by first class post to all licence holders concerned on the 19th January 2017. The Clerk will notify the Board and withdraw the proposal in respect of any licence fee that is paid prior to the date of the hearing.

3.4 The 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.

3.5 A review proposal having been made, the Board is obliged to hold a hearing, in terms of s.38(1), to consider and determine the proposal.

- 3.6 In the present case, grounds for review are made out both in terms of ss.36(3) (a) and (b) of the Act.
- 3.7 By the failure to pay the annual licence fees which became due on 1st October 2016, the licence holders concerned are breaching a mandatory condition of the premises licence, which condition is imposed by paragraph 10(2) of Schedule 3 of the Act.
- 3.8 In addition, by the failure to pay the annual licence fees, the licence holders concerned have deprived the Board of revenue and this reduces the Board's ability to promote the licensing objectives.
- 3.9 At the review hearing section 39(2) confers on the Board the power to:
- 3.9.1 Issue a written warning;
 - 3.9.2 Vary the licence;
 - 3.9.3 Suspend the licence for such period as the Board may determine including suspending the licence unless and until the fee is paid; or
 - 3.9.4 Revoke the licence.

4. SUMMARY OF IMPLICATIONS

- (a) **Moray 2026: A Plan for the Future and Moray Corporate Plan 2015 - 2017**
The provisions of alcohol licensing directly relate to the priorities within the 10 Year Plan (Moray 2026) 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**
None

- (h) **Consultations**
None required.

5. CONCLUSION

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

Author of Report: Sean Hoath
Background Papers: There are no background papers
Ref: SAH

Signature: _____

Date : 26 January 2016

Designation: Clerk to the Board

Name: Alasdair McEachan