

THE MORAY LICENSING BOARD

THURSDAY 19 JUNE 2014

NOTICE IS HEREBY GIVEN that the Meeting of **THE MORAY LICENSING BOARD** is to be held within the The Moray Council, Council Chambers, High Street, Elgin on Thursday 19 June 2014 at 10.00am.

Rhona Gunn
CLERK

11 June 2014

BUSINESS

1. Prior Minutes
 - (i) Minutes of the Meeting held on 1 May 2014 (copy attached)
 - (ii) Minutes of the Special Meeting held on 12 June 2014 (to be tabled)

The Licencing (Scotland) Act 2005

2. Applications Section– Appendix 1
3. Update on the Air Weapons and Licensing (Scotland) Bill – Report by the Clerk (copy attached)

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Room No:	102

THE MORAY LICENSING BOARD**SEDERUNT****COUNCILLOR J ALLAN****COUNCILLOR G COWIE****COUNCILLOR S CREE****COUNCILLOR M HOWE****COUNCILLOR B JARVIS****COUNCILLOR A MCLEAN****COUNCILLOR M McCONACHIE****COUNCILLOR R H SHEPHERD****COUNCILLOR C TUKE****CLERK TO THE BOARD: Mrs R Gunn****Telephone No: 01343 543451 Ext 3152 - Direct Line: 563152****Room No: 102**

APPENDIX 1

Key to Colour Coding of Applications within Appendices to the Agenda of Business for the Moray Licensing Board

All matters are to be heard by the Moray Licensing Board and the Moray Licensing Board has the final decision. However, in accordance with Government Guidance and locally agreed procedure, applications may be submitted to the Board with a general recommendation.

Please note that colour coding may be subject to change given the nature of the licensing procedure. Documents may be received and/or negotiations resolved following publication of the agenda.

RED

Indicates that the application will normally require to be heard, whether by virtue of general procedural rules or as a result of problems arising. There may be ongoing negotiations to resolve problems.

YELLOW

Indicates changing circumstances with the application. It is not ready to be granted at the time of publication but there are not normally major problems e.g. procedural issues or ongoing negotiations. Applications will normally be submitted with recommendation for grant or deferral.

GREEN

Indicates that all is in order with the application. All documents have been received and checked. All procedures have been followed. There are unlikely to be any representations, objections or problems or the same have been resolved. It is being submitted with a recommendation for grant but members are free to make enquiries as they see fit.

MORAY LICENSING BOARD LICENSING BOARD

MEETING, 19 JUNE 2014 at 10:00am in Council Chambers, Council Headquarters, High Street, Elgin, IV30 1BX

Licensing (Scotland) Act 2005

Variation (Major)(s)

Premises	Applicant	Date Received	Comments
1 CO-OPERATIVE GROUP LIMITED 18 FIFE STREET DUFFTOWN AB55 4AL	CO-OPERATIVE GROUP FOOD LIMITED	23 May 2014	Change of layout to premises and increase of capacity to 18.4m ³ . Include the playing of background music to activities. No objs/refs Paperwork in order
2 THE BOTHY 16 GRANT STREET BURGHEAD ELGIN IV30 5UE	BOTHY BISTRO BURGHEAD LTD	22 May 2014	Variation to add off sales to the licence No objs/refs Paperwork in order
3 GRAND CENTRAL 3 WEST CHURCH STREET BUCKIE AB56 1BN	JAMES JOHN CAMERON	29 April 2014	Access for 0-18 year olds, to change core hours to allow opening during the day, and change the terminal time to 3am on Saturday nights (currently 6pm-11pm Mon-Wed, 6pm-11.45pm Thu, 2pm-1am Fri, 11am-1am Sat, 12.30pm-11.45pm Sun). Add off sales, allow live music, add gaming Objs/refs received Paperwork in order Applicant cited to attend

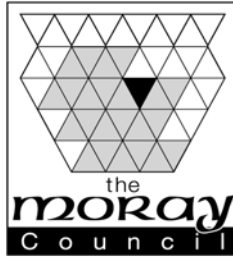
MORAY LICENSING BOARD LICENSING BOARD

MEETING, 19 JUNE 2014 at 10:00am in Council Chambers, Council Headquarters, High Street, Elgin, IV30 1BX

Licensing (Scotland) Act 2005

Variation (Major) on Transfer(s)

Premises	Applicant	Date Received	Comments
4 SPRINGFIELD BAR GLENMORAY DRIVE ELGIN IV30 6YA	SPRINGFIELD BAR (NEW ELGIN) LIMITED	24 March 2014	Variation to extend hours on Sun to Thu until 12.30am & Fri & Sat until 1.30am (currently 11pm Mon, Wed, Thu; 1.45pm Tue & Sun and 12.45am Fri & Sat). Representation received. Applicant cited to attend.



REPORT TO: THE MORAY LICENSING BOARD ON 19 JUNE 2014

SUBJECT: UPDATE ON THE AIR WEAPONS AND LICENSING (SCOTLAND) BILL

BY: CLERK TO THE BOARD

1. Reason for Report

- 1.1 This report is to update the Board on the progress and proposed provisions of the Air weapons and Licensing (Scotland) Bill.

2. Recommendations

It is recommended that the Board note the proposals within the Bill.

3. Report

- 3.1. The Bill was introduced to Parliament by Kenny MacAskill MSP on 14 May 2014. The Bill is currently being considered at Stage 1, and has been referred to the Local Government and Regeneration Committee as lead committee.
- 3.2. The purposes of the Bill are to:
- 3.2.1 Introduce a system of licensing for air weapons in Scotland. The Bill creates a number of new offences related to possession, use and acquisition of air weapons by persons who do not hold a licence or do not act in accordance with the licensing regime. The Bill also sets out the framework through which the Police Service of Scotland may grant an air weapon licence to appropriate individuals.
 - 3.2.2 Give local communities the power to regulate sexual entertainment venues in their areas through the Civic Government (Scotland) Act 1982 ("the 1982 Act").
 - 3.2.3 Amend the licensing regimes in relation to alcohol licensing, taxis and private hire cars, metal dealers, as well as making systematic changes across the civic licensing regimes contained within the 1982 Act.
- 3.3. A summary of the measures proposed is attached at **Appendix 1** for noting. In particular the Board should have regard to the section regarding licensing the sale of alcohol.
- 3.4. The content of the Bill is predicated on the results of five separate public consultations conducted between November 2012 and September 2013. The Scottish Government consulted on Further Options for Alcohol Licensing between 19 December 2012 and 21 March 2013, with the summary of responses being published on 11 October 2013. The Board previously

commented on further proposals for Alcohol Licensing (paragraph 9 of the minute of the meeting of the 7th March 2013 refers).

- 3.5. Timescales for the introduction of the proposed measures are not yet known. Further information may be available at the time of the meeting and if so, a verbal update will be provided.
- 3.6. The Clerk will endeavour to keep the Board advised of the Bill's progress and in particular advise the Board if and when the Scottish Government invites any comments.

4. 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

Legal implications have been explained above.

(c) Financial Implications

Increased staff time will be required to publicise the provisions and to advise and assist licence holders. Additional time may also be required in respect of monitoring and enforcement. This may necessitate a further review of fee levels in so far as they are not prescribed nationally.

(d) Risk Implications

None.

(e) Staffing Implications

. As above under financial implications.

(f) Property

None.

(g) Equalities

There are no issues.

(h) Consultations

None. .

5. **Conclusion**

It is proposed that the Board note the proposals with the Bill.

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

Background Papers: There are no background papers

Ref: SAH/TT

Signature ____ ____ Date 11 June 2014

Designation Head of Legal and Democratic Services, Clerk to the Board

Name Rhona Gunn

Air Weapons and Licensing (Scotland) Bill

Summary of Changes

Summary of Change		Section(s) of the Bill
New Licence Type		
1	Introduction of the licensing of air weapons by the Chief Constable through an Air Weapon Certificate or Police / Visitor Event Permit or Air Weapon Club Approval	1 to 40

Alcohol Licensing		
1	Amend the Licensing Objectives to include the protection of Young Persons as well as children	41
2	Changing the period of effect for a licensing policy statement. A statement must be produced within 18 months of local government elections and last to the next relevant date i.e. 18 months after the next election (5 years instead of the current 3). Following election the new Board may also choose to apply a new statement of policy sooner.	42
3	Introduce a ground for refusal of a premises licence that the applicant is not a fit and proper person to hold a premises licence	43
4	On a transfer of a premises licence the police may provide any information considered relevant in respect of the transferee or a connected person. Also provides for a ground for refusal of the transfer that the transferee is not a fit and proper person	44
5	Add a ground for review of a premises licence that the licence holder is not a fit and proper person	45
6	On an application for a personal licence the police may provide any information considered relevant in respect of the applicant. The Board will also be required to provide notice of a personal licence application to the LSO who can also provide any information considered relevant in respect of the applicant. Introduce a ground for refusal of a personal licence that the applicant is not a fit and proper person to hold a personal licence	46
7	Introduce a ground for revocation of a personal licence that the applicant is not a fit and proper person to hold a personal licence whether following conviction or following report of conduct inconsistent with the licensing objectives	47 & 48
8	Introduce a procedure for dealing with reports of relevant (including foreign) offences in respect of premises licences. The Board can choose to make a premises licence review proposal or take no action. NB This formalises Moray's current procedure that was formulated on the basis of practicality.	49
9	Introduce a procedure for dealing with reports of relevant (including foreign) offences in respect of personal licences. The Board can choose to hold a review hearing or take no action.	50
10	Revoke the provision that disregards spent convictions for the purpose of	

	the Licensing (S) Act 2005. Therefore spent convictions will become admissible in the same way as 'Civic' licensing.	51
11	Introduce a new offence of an adult buying (or attempting to buy) alcohol for or supplying alcohol to a child or young person in a public place. Public place includes licensed premises, anywhere to which the public have access (on payment or not) or anywhere where the child/YP has gained unlawful entry. There is exemption for religious purposes. There is also exemption to buy beer / wine / cider etc on licensed premises for young persons consuming a meal.	52
12	Amend the definition of "alcohol" to include Angostura Bitters	53
13	Make additional provision for the assessment of overprovision by allowing Boards to define the whole of their area as a "locality" rather than specifying particular areas. Also extend the definition of overprovision to allow for licensed hours as well as capacity.	54
14	Introduce a requirement for Boards to prepare and publish an annual financial statement showing income and expenditure and the calculation of the same. This to be done within 3 months of the end of each financial year. The Act also provides that further Regulations may be made in this regard for example to define income and expenditure further	55
15	Removal of the requirement for a premises licence holder to notify the Board of a change in interested parties and amendment of the definition of an "interested party" to remove premises managers	56
16	Removes the 5 year period during which an applicant for a personal licence can reapply if the reason for revocation was failure to undertake refresher training. Changes the notice period for Boards to notify personal licence holders before expiry of their licence from no later than 3 months to not later than 9 months before expiry. Also changes the period in which a PLH can apply for renewal of a personal licence to the period of 9 months beginning 12 months before the expiry date of the licence. This gives PLHs 9 months to apply and then Boards have 3 months to process and issue	57
17	<p>Changing processing requirements for all application types.</p> <p>If the application is complete - the Board must send the application confirmation that:</p> <ul style="list-style-type: none"> (a) they are satisfied that the application meets the prescribed requirements, (b) listing any documents received in support of the application and the date or dates on which the documents were received by them, and (c) informing the applicant about the period for determining the application <p>If the application is incomplete the Board must send notice indicating that they are treating the application as incomplete and not having been made, and stating their reasons for treating the application in that way.</p> <p>Sets the time limit for the Board to decide applications as 9 months from the date of receipt of a properly constituted application. The Sheriff can extend this period on application.</p> <p>Sets a deemed grant date for the date when the 9 month period expires if the Board has failed to decide the application within that time.</p>	58

18	Provides that the Scottish Government may make further Regulations about the form of any notice or communication.	59
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Taxi / PH Licensing		
1	Introduces overprovision as a potential ground for refusal in respect of a private hire vehicle in a similar way to alcohol licensing. A locality or localities may be overprovided for and the Committee can consider the whole area as a locality	60
2	Introduces the possibility of a licensing authority requiring the applicant for a private hire driver's licence to undertake a knowledge test. The power already exists in respect of taxi drivers	61
3	Removes the exemption from the requirement to hold a taxi/PH licence where the vehicle is used for exclusive hire for not less than 24 hours. This brings contract hire vehicles into the licensing regime. Also provides that ministers may make further exemptions from taxi licensing in Regulations	62

Civic Government Licensing		
1	Removal of metal dealer's exemption warrants	63
2	Removal of requirement for metal dealers to hold metal for 48 hours	64
3	Specifies how a metal dealer or itinerant metal dealer can pay for metal – only by prescribed methods of cheque or electronic bank transfer and provides for offences for making payments other than by prescribed means	65
4	Provides for enhanced record keeping by metal dealers specifying information and documents to be kept for purchases and sales and states that further provision can be made by Regulation	66
5	Abolishes theatre licences as currently required under the Theatres Act 1968 and instead regulate theatres through the existing public entertainment licensing regime provided for in the 1982 Act NB This is already the practise in Moray and so formalises the position	67
6	Provides for the separate licensing of Sexual Entertainment Venues in a regime administered by local authorities. Specific provisions include: (a) The definition of sexual entertainment venues; (b) The power for local authorities to license sexual entertainment venues according to the existing structure set out in Schedule 2 of the 1982 Act; (c) The power for local authorities to determine the number of sexual entertainment venues in their area The regime must be introduced by resolution with a 12 month lead-in time. Ministers may provide for further procedures by Regulations.	68 (and 70)
7	Where it has not already been provided for, the deemed grant of a licence where the Local Authority has failed to determine an application within the required period. That is initial consideration must be within 3 months of application and a final decision must be within 6 months of the end of the 3 month period, failing which there will be a deemed grant. Deemed grant licences last one year. The period may be extended by a Sheriff	69
8	Provision that ministers may set out rules for hearing of the Committee in Regulations	70

9	Provision that ministers may set out conditions for various licence types as mandatory in Regulations and that authorities may publish standard conditions as well	71
10	Creates a role of a Civic Licensing Standards Officer in a similar role to the alcohol LSOs i.e. one of advice, guidance, mediation and compliance. Each authority must appoint one or more Civic LSOs	72
11	Provides that the authority can accept communication by electronic means rather than requiring applications, objections etc to be in writing and signed. The authority can also choose to give notices e.g. notice of determination by electronic means. The authority must publish a determination to receive and send electronic communication	73