

Cunninghame House,
Irvine.

16 August 2012

North Ayrshire Licensing Board

You are requested to attend a meeting of the North Ayrshire Licensing Board to be held in the Council Chambers, 3rd Floor, Cunninghame House, Irvine on **WEDNESDAY 22 AUGUST 2012** at **10.00 am** to consider the undernoted business.

Yours faithfully

Clerk to the Licensing Board

1. Minutes

Confirm the Minutes of the Board Meeting held on 26 June 2012

2. Licences and Applications under the Licensing (Scotland) Act 2005

Submit report by the Clerk to the Licensing Board on Applications under the Licensing (Scotland) Act 2005 (copy enclosed)

3. Gambling Act 2005 - Consultation on Casinos

That the Board consider a response to questions asked by the National Casino Industry Forum, and instruct the Clerk to issue an appropriate reply (copy enclosed)

Licensing Board

Sederunt: Ronnie McNicol (Chair)
 Tom Marshall (Vice-Chair)
 Robert Barr
 John Bruce
 Ian Clarkson
 Ruth Maguire
 Alex McLean
 Alan Munro
 Donald Reid
 Robert Steel

Chair:

Attending:

Apologies:

Meeting Ended:

Agenda Item 2

22 August 2012

North Ayrshire Licensing Board

Subject: Licences and Applications under the Licensing (Scotland) Act 2005

Purpose: To inform the Licensing Board on the background to applications received under the Licensing (Scotland) Act 2005.

Recommendation: That the Licensing Board determines the applications.

1. Introduction

- 1.1 The Licensing Board is responsible for determining applications made under the Licensing (Scotland) Act 2005, and for determining questions under that Act.
- 1.2 The Board has previously approved a Scheme of Delegation whereby certain matters can be delegated.

2. Current Position

- 2.1 The applications before the Board are set out in the attached appendices. Each appendix contains reports prepared by licensing staff for each individual case before the Board.
- 2.2 Appropriate consultation has taken place with Strathclyde Police and with the Council's Building Standards and Planning Sections. Where relevant the reports have been copied to the applicants and any persons making objections or representations. Any objections or representations have been copied to the applicants, so that a response might be made at the Board Hearing.

Clerk to the Licensing Board

Reference : WO'B/MC

For further information please contact William O'Brien, Senior Solicitor to the Licensing Board , on 01294 324305

APPENDIX A

Premises Licence Applications or any other Applications requiring a Hearing

Case No.	Licence No.	Applicant/Licence Holder	Premises	Comments
1	0346	Sant Limited 8 Loach Avenue IRVINE KA12 0EX	Irvine Snooker Club 53 East Road IRVINE KA12 0BT	Review Application - Section 36 Continued from 26/06/12
2	NA1115	Mr Ravinder Singh 8 Loach Avenue IRVINE KA12 0EX		Personal Licence Review Application - Section 84A Continued from 26/06/12
3	0007	Bar One (Saltcoats) Ltd Radleigh House 1 Golf Road Clarkston GLASGOW G76 7HU	Bar One 55 Vernon Street SALTCOATS KA21 5HN	Review Application - Section 36 Continued from 18/08/11
4	0241	Revels Sports Bar and Diner Ltd 53 Main Street KILWINNING KA13 6AN	Revels 53-59 Main Street KILWINNING KA13 6AN	Review Application - Section 36
5	0364	Kenny Salmon 63 Hawthorn Court KILWINNING KA13 6AQ	The Buffs Tavern 26 Main Street KILWINNING KA13 6DN	Review Application - Section 36
6	0315	North Ayrshire Staff Association Perceton House Courtyard IRVINE KA11 2AL	North Ayrshire Staff Association Perceton House Courtyard IRVINE KA11 2AL	Review Application - Section 36
7	0080	Greene King Retailing Ltd c/o Belhaven Pubs Atrium House 6 Back Walk STIRLING FK8 2QA	The Waterside 14 Bath Street LARGS KA30 8BL	Review Application - Section 36

8	0088 & 0117	Martin McColl Limited Martin McColl House Ashwells Road Brentwood ESSEX CM15 9ST	Various Premises	Review Proposal - Section 37
9	0087	P/Ship of Alastair Bilsland and Alison Bilsland West Winds Brodict ISLE OF ARRAN KA27 8AZ	Bilslands Shore Road Brodict ISLE OF ARRAN KA27 8AJ	Application for Transfer and Variation of Premises Licence - Sections 34 & 35
10	0246	Gurpreet Singh Batth 1a Stanecastle Road IRVINE KA11 1AE	The Burns Tavern 34-36 High Street IRVINE KA12 0AY	Application for Variation of Premises Licence - Section 29 Continued from 20/06/12
11	0243	Irvine Leisure Limited 18 Bank Street IRVINE KA12 0AD	Pitchers 18 Bank Street IRVINE KA12 0AD	Application for Variation of Premises Licence - Section 29
12	0167	Summel & Summel Ltd Registered Office 46 Milgarholm Avenue IRVINE KA12 0EJ	Gulab Brasserie 2a Stanecastle Road IRVINE KA11 1AE	Application for Variation of Premises Licence - Section 29
13	0186	H F Holidays Limited Catalyst House 720 Centennial Court Elstree HERTFORDSHIRE WD6 3SY	Altachorvie Shore Road Lamlash ISLE OF ARRAN KA27 8LQ	Application for Variation of Premises Licence - Section 29
14	0414	Brodict Golf Club Brodict ISLE OF ARRAN KA27 8DL	Brodict Golf Club Brodict ISLE OF ARRAN KA27 8DL	Application for Variation of Premises Licence - Section 29
15	0280	Dreghorn Bowling Club 88 Main Street Dreghorn IRVINE KA11 4AA	Dreghorn Bowling Club 88 Main Street Dreghorn IRVINE KA11 4AA	Application for Variation of Premises Licence - Section 29
16	0122	Walcal Property Development Limited 51A Townfoot Dreghorn IRVINE KA11 4EH	The Crown Inn 38/40 Main Street Dreghorn IRVINE KA11 4AH	Application for Variation of Premises Licence - Section 29

Review Application - Licensing (Scotland) Act 2005, Section 36

Premises	"Irvine Snooker Club", 53 East Road, Irvine, KA12 0BT
Premises Licence Holder	Sant Ltd
Ref.	0346

CONTINUED FROM 26/06/12

1. Background

By letter of 18 April 2012 the Chief Constable made a Review Application under Section 36 informing the Board of certain circumstances relating to these Premises. Copies of the letter will be distributed to Members at the Meeting.

2. Basis of Review

The 'Grounds for Review' are that the operation of the Premises was inconsistent with the following Licensing Objectives:

"(a) preventing crime and disorder"

"(e) protecting children from harm."

3. Licensed Hours

The Premises are Licensed for on-sales only. The operating hours are:

Mon	11.00	24.00
Tue	11.00	24.00
Wed	11.00	24.00
Thur	11.00	1.00
Fri	11.00	1.00
Sat	10.00	1.00
Sun	11.00	24.00

4. Capacity etc.

The Premises are subject to the appropriate parts of NALB's Standard Conditions (A,C & F), but with some conditions (as to the position of pool tables) disapplied.

The Premises have a capacity of 150 customers.

Activities other than the sale of alcohol:

- (a) Generally: None
- (b) Entertainment: Gaming, Indoor/outdoor Sports and Televised Sport.

(c) The Premises do not have Outdoor Drinking Facilities.

(d) The Premises do not allow Children under 5.

Under-18s only allowed at the bar to buy soft drinks and snacks, and may not sit at the bar.

Access conditions:

(i) Children (5-9 years)

if accompanied by adult, until 22.00.

(ii) Children and Young People (10-17 years)

No need to be accompanied by adult.

If not accompanied, until 22.00. If accompanied, for whole Core Hours.

5. Procedure

Having received an Application, the Board must hold a Review Hearing (Section 38).

The Licensing Standards Officer must, before the Review Hearing, prepare and submit to the Licensing Board a Report on the Application.

The Hearing, and the supporting papers:

- (a) this Report,
- (b) the letter from the Police, and
- (c) the LSO's Report,

have been intimated to the Premises Licence Holder, and to any Personal Licence Holder named in this Report, with the date, time and place of the Hearing.

6. Additional Powers of inquiry

The Board may (but does not require to) take any one or more of these actions under Section 38(5) and (6):

- (a) it may obtain further information as it thinks fit;
- (b) it may request the attendance at the Review Hearing of any person for the purpose of providing information;
- (c) it may request the production of documents;

- (d) it may consider any possible Ground for Review even though it is not relevant to any circumstances alleged in the original Review Application. If the Board proposes to do this then it should inform the Licence Holder of its intention and consider whether an adjournment is appropriate.

7. Board's Powers on Review

The Board must take account:

- (a) the information contained in the Review Application,
- (b) any Report from the LSO,
- (c) any additional information obtained by the Board,
- (d) the comments by the Licence Holder.

If the Board is satisfied that a Ground for Review is established, the Board may take any one or more of the following steps if it considers necessary or appropriate for the purposes of any of the Licensing Objectives:

- (a) issue a Written Warning to the Licence Holder;
- (b) make a Variation of the Licence - either indefinitely or for a specific time. The Variation may relate to any part of the Licence, for example:
 - (i) the operating hours for the Premises (or any part);
 - (ii) the Premises Manager (if any) can be removed;
 - (iii) the activities which may be carried on on the Premises (or any part);
 - (iv) the terms for access by persons under 18 to the Premises (or any part);
 - (v) the Licence Conditions (the Variation cannot alter the statutory Mandatory Conditions);
- (c) Suspend the Licence for a specific time;
- (d) Revoke the Licence.

The Board is not obliged to take any of these steps, and it may decide that although a Ground for Review is established, no action is required.

The Board may take these steps either on the basis of the original Review Procedure, or on the basis of information obtained in the course of the Review Procedure (Section 38(5) & (6)).

8. Implications

Both the Premises Licence Holder and the Applicant can appeal to the Sheriff Principal against any decision taken at a Review Hearing. If there is also a decision about a Personal Licence, the holder can appeal to the Sheriff.

Any Board decision takes effect immediately, but in the case of Suspension and Revocation of a Premises Licence (not Variation, Written Warning or any decision about a Personal Licence) the Court can be asked to recall the Board's decision pending appeal.

Personal Licence Review Hearing - Section 84A

Applicant	Ravinder Singh, 8 Loach Ave, Irvine, KA12 0EX (DOB 17/5/80)
Ref.	NA1115

CONTINUED FROM 26/06/12

1. Background

By letter of 18 April 2012 the Chief Constable reported certain circumstances relating to 10 March 2012. The Personal Licence Holder was then the Premises Manager of Irvine Snooker Club, 53 East Road, Irvine (NALB ref. 346). On 23 March 2012 a Variation application was lodged seeking the substitution of Baldev Singh (Personal Licence NA 0554, same home address) as Premises Manager with immediate effect. This was granted under delegated powers.

Section 84A entitles the Chief Constable to report to the Board where he considers that any Personal Licence Holder has acted in a manner which is inconsistent with any of the Licensing Objectives.

Copies of the letter will be distributed to Members at the Meeting.

2. Procedure

Under Section 84A(2) the Board must, on receipt of that Report, hold a Hearing and give the Personal Licence Holder and the Chief Constable an opportunity to be heard.

At the Hearing, the Board must have regard to

- (a) the Report
- (b) any comments made by the Personal Licence Holder,
- (c) any comments made by the Chief Constable.

3. Board's Powers on Review

If the Board it considers it is necessary for any of the Licensing Objectives, the Board may:

- (a) Revoke the Personal Licence,
- (b) Suspend the Personal Licence for up to 6 months,
- (c) Endorse the Personal Licence. An Endorsement lasts 5 years. If a holder gets 3 Endorsements in a 5 year period, then there is a further Hearing, at which the Licence might be Suspended (for up to 6 months) or Revoked.

CASE 2

The Board is not obliged to take any of these steps, and may decide to take no further action. The Personal Licence Holder can appeal to the Sheriff against any decision taken at a Hearing.

Report

to

North Ayrshire Licensing
Board

by

Senior Solicitor (Licensing)

Subject:	<p>Review Application - Licensing (Scotland) Act 2005, Section 36:</p> <p>Premises - "Bar One", 55 Vernon Street, Saltcoats</p> <p>Premises Licence Holder: Bar One (Saltcoats) Ltd.</p> <p>Board ref.: 0007</p> <p>Premises Manager: Ryan Murray</p> <p>Personal Licence No.: GC 02264</p>
Purpose:	To advise the Board of the background and the legal issues.
Recommendation:	<p>That the Board consider and decide:</p> <ol style="list-style-type: none"> 1. the Review Application; 2. whether a further Hearing should be held in relation to any Personal Licence; 3. if appropriate, determine a Review of that Personal Licence.

CONTINUED FROM 18/08/2011

1. Background

By letter of 21 June 2011 the Chief Constable made a Review Application under Section 36 informing the Board of certain circumstances relating to these Premises which have a Premises Licence under the 2005 Act. Copies of the letter will be distributed to Members at the Meeting.

On 15 June 2010 the Board upheld a Review Application submitted by the Chief Constable in relation to the 'preventing crime and disorder' Licensing Objective, and issued a Written Warning. The Board did not then take any action concerning the

Personal Licences of Premises Manager Ryan Murray or of anyone else. Copies of that earlier Application will be distributed to Members at the Meeting.

2. Basis of Review

The 'Grounds for Review' are that the 'preventing crime and disorder' Licensing Objective has been engaged.

3. Licensed Hours

The Premises are Licensed for both on-sales and off-sales. The operating hours are:

On-sales:

Mon	9.00	1.00
Tue	9.00	24.00
Wed	9.00	24.00
Thur	9.00	1.00
Fri	9.00	1.00
Sat	9.00	1.00
Sun	11.00	24.00

Off-Sales:

Mon	10.00	22.00
Tue	10.00	22.00
Wed	10.00	22.00
Thur	10.00	22.00
Fri	10.00	22.00
Sat	10.00	22.00
Sun	12.30	22.00

4. Capacity etc.

The Premises have a capacity of 234 customers, and an off-sales display capacity of 15 square metres.

Activities other than the sale of alcohol:

- (a) Generally: Bar Meals, Receptions.
- (b) Entertainment: Recorded Music, Live Performances, Dance Facilities, Gaming, Indoor/outdoor Sports, Televised Sport, quiz nights, dominoes, poker, cribbage, backgammon and other social activities.
- (c) The Premises have Outdoor Drinking Facilities.
- (d) The Premises do not allow Children under 5.

5. Procedure

Having received an Application, the Board must hold a Review Hearing (Section 38).

The Licensing Standards Officer must, before the Review Hearing, prepare and submit to the Licensing Board a Report on the Application.

The Hearing, and the supporting papers:

- (a) this Report,
- (b) the letter from the Police, and
- (c) the LSO's Report,

have been intimated to the Premises Licence Holder, with the date, time and place of the Hearing.

6. Additional Powers of inquiry

The Board may (but does not require to) do any one or more of these:

- (a) it may obtain further information as it thinks fit;
- (b) it may request the attendance at the Review Hearing of any person for the purpose of providing information;
- (c) it may request the production of documents;
- (d) it may consider any possible Ground for Review even though it is not relevant to any circumstances alleged in the original Review Application. If the Board proposes to do this then it should inform the Licence Holder of its intention and consider whether an adjournment is appropriate.

7. Board's Powers on Review

The Board must take account:

- (a) the information contained in the Review Application,
- (b) any Report from the LSO,
- (c) any additional information obtained by the Board,
- (d) the comments by the Licence Holder.

If the Board is satisfied that a Ground for Review is established, the Board may take any one or more of the following steps if it considers necessary or appropriate for the purposes of any of the Licensing Objectives:

- (a) issue a Written Warning to the Licence Holder;
- (b) make a Variation of the Licence - either indefinitely or for a specific time. The Variation may relate to any part of the Licence, for example:
 - (i) the operating hours for the Premises (or any part);
 - (ii) the Premises Manager can be removed;
 - (iii) the activities which may be carried on on the Premises (or any part);
 - (iv) the terms for access by persons under 18 to the Premises (or any part);
 - (v) the Licence Conditions (the Variation cannot alter the statutory Mandatory Conditions);
- (c) Suspend the Licence for a specific time;
- (d) Revoke the Licence.

The Board is not obliged to take any of these steps, and it may decide that although a Ground for Review is established, no action is required.

The Board may take these steps either on the basis of the original Review Procedure, or on the basis of information obtained in the course of the Review Procedure (Section 38(5) & (6)).

8. Personal Licence

Whether or not the Board takes any action in relation to a Premises Licence, the Board may consider that any Personal Licence Holder who is or was working in the Licensed Premises concerned (for example, a Premises Manager) acted in a manner which was inconsistent with any of the Licensing Objectives.

If the Board makes such a finding, it must either:

- (a) hold a further hearing, if the Personal Licence Holder concerned is working in Licensed Premises in North Ayrshire (it does not matter whether or not NALB granted the Licence); or
- (b) If (a) does not apply:
 - (i) notify the appropriate Licensing Board where he works (or, where this is not known, the Board which granted the Licence), and
 - (ii) make a recommendation to that Board as to whether the Personal Licence should be Revoked, Suspended or Endorsed.

If the Licence Holder concerned is working in Licensed Premises in North Ayrshire, and has had the opportunity to be heard, the Board Meeting which considers the present Premises Licence Review can hold that further Hearing at the same time as the Hearing relating to the Premises Licence.

Otherwise, the Board should either continue the case to a later date to allow notice to be given to the Personal Licence Holder, or notify the appropriate Licensing Board.

At the further Hearing, the Board may, if it considers it necessary for any of the Licensing Objectives:

- (a) Revoke the Personal Licence,
- (b) Suspend the Personal Licence for up to 6 months,
- (c) Endorse the Personal Licence. An endorsement lasts 5 years. If a holder gets 3 Endorsements in a 5 year period, then the Licence might be Suspended (for up to 6 months) or Revoked.

The Board is not obliged to take any of these steps, and may decide to take no further action.

9. Implications

Both the Premises Licence Holder and the Applicant can appeal to the Sheriff Principal against any decision taken at a Review Hearing. If there is also a decision about a Personal Licence, the holder can appeal to the Sheriff.

Any Board decision takes effect immediately, but in the case of Suspension and Revocation (not Variation, Written Warning or any decision about a Personal Licence) the Court can be asked to recall the Board's decision pending appeal.

10. Conclusion

It is recommended that the Board should:

1. decide whether any Ground of Review is established, and if so
2. whether any action should be taken in relation to the Premises Licence; the Board may do one or more of:
 - (a) issue a Written Warning to the Licence Holder;
 - (b) make a Variation of the Licence - either indefinitely or for a specific time;
 - (c) Suspend the Licence for a specific time;
 - (d) Revoke the Licence;

3. If the Board decides to Vary or Suspend the Premises Licence, it should specify how long the order is to operate, either by stating a period of time or referring to a date;
4. Whether or not the Board takes any action in relation to the Premises Licence, the Board should decide whether a further Hearing should be held in relation to any Personal Licence of the Premises Manager, and if so:
 - (i) the Board should hear him and
 - (ii) determine what action should be taken; Revoking, Suspending or Endorsing, or no further action.

	Patrick Boyle Clerk to the Board
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For further information please contact William O'Brien, Senior Solicitor (Licensing) on 01294-311998.

Review Application - Licensing (Scotland) Act 2005, Section 36

Premises	"Revels", 53-59 Main Street, Kilwinning, KA13 6AN
Premises Licence Holder	Revels Sports Bar and Diner Ltd.
Ref.	241

1. Background

By letter of 31 July 2012 the Chief Constable made a Review Application under Section 36 informing the Board of certain circumstances relating to these Premises. Copies of the letter will be distributed to Members at the Meeting.

On 4 October 2011 the Board upheld a Review Application submitted by the Chief Constable in relation to the 'preventing crime and disorder' Licensing Objective.

Since then the Licence has been transferred to another Company, where one of the two Connected Persons is the Premises Manager, Steven Boyce. He was the P.M. before the Transfer, and continues to be P.M..

On 4 October 2011 the Board:

- (1) Varied the Premises Licence so that for 2 calendar months the Terminal Hour should be reduced to 24.00 (Saturday) and 23.30 (6 days);
- (2) Suspended the Personal Licence of P.M. Steven Boyce (NA 0782) for a period of 3 calendar months.

Copies of that earlier Application will be distributed to Members at the Meeting.

2. Basis of Review

The 'Grounds for Review' are that the operation of the Premises was inconsistent with the following Licensing Objectives:

"(a) preventing crime and disorder"

"(b) securing public safety"

3. Licensed Hours

The Premises are Licensed for both on-sales and off-sales. The operating hours are:

On-sales:

Mon	10.00	24.00
Tue	10.00	24.00
Wed	10.00	24.00
Thur	10.00	24.00
Fri	10.00	24.00
Sat	10.00	1.00

Sun	12.30	24.00
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Off-Sales:

Mon	10.00	22.00
Tue	10.00	22.00
Wed	10.00	22.00
Thur	10.00	22.00
Fri	10.00	22.00
Sat	10.00	22.00
Sun	12.30	22.00

4. Capacity etc.

The Premises have a capacity of 105 customers, and an off-sales display capacity of 11.22 square metres.

Activities other than the sale of alcohol:

- (a) Generally: Conference facilities, Restaurant facilities, Bar Meals, Receptions, Club or other group meetings.
- (b) Entertainment: Recorded Music, Live Performances, Dance Facilities, Gaming, Indoor/outdoor Sports, Televised Sport, Quiz nights, Charity events, Race nights, Barbeques.
- (c) The Premises have Outdoor Drinking Facilities.
- (d) The Premises allow under-18s of all ages.

The Premises consist of a Public Bar and Beer Garden on the ground floor and a Restaurant on the first floor. Access conditions:

- (i) Public Bar - all under-18s are allowed until 20.00 for having a meal or attending a function, if accompanied by an adult (but are not allowed in bar area).
- (ii) Beer Garden - all under-18s are allowed during all Core Hours for having a meal or attending a function, if accompanied by an adult
- (iii) Restaurant - as for (ii).

5. Procedure

The Licensing Standards Officer will prepare and submit a Report on the Application.

The Hearing, and the supporting papers:

- (a) this Report,

- (b) the letter from the Police, and
- (c) the LSO's Report,

have been intimated to the Premises Licence Holder, and to any Personal Licence Holder named in this Report, with the date, time and place of the Hearing.

6. Additional Powers of inquiry

The Board may (but does not require to) do any one or more of these:

- (a) it may obtain further information as it thinks fit;
- (b) it may request the attendance at the Review Hearing of any person for the purpose of providing information;
- (c) it may request the production of documents;
- (d) it may consider any possible Ground for Review even though it is not relevant to any circumstances alleged in the original Review Application. If the Board proposes to do this then it should inform the Licence Holder of its intention and consider whether an adjournment is appropriate.

7. Board's Powers on Review

The Board must take account:

- (a) the information contained in the Review Application,
- (b) any Report from the LSO,
- (c) any additional information obtained by the Board,
- (d) the comments by the Licence Holder.

If the Board is satisfied that a Ground for Review is established, the Board may take any one or more of the following steps if it considers necessary or appropriate for the purposes of any of the Licensing Objectives:

- (a) issue a Written Warning to the Licence Holder;
- (b) make a Variation of the Licence - either indefinitely or for a specific time. The Variation may relate to any part of the Licence, for example:
 - (i) the operating hours for the Premises (or any part);
 - (ii) the Premises Manager (if any) can be removed;
 - (iii) the activities which may be carried on on the Premises (or any part);

(iv) the terms for access by persons under 18 to the Premises (or any part);

(v) the Licence Conditions (the Variation cannot alter the statutory Mandatory Conditions);

(c) Suspend the Licence for a specific time;

(d) Revoke the Licence.

The Board is not obliged to take any of these steps, and it may decide that although a Ground for Review is established, no action is required.

The Board may take these steps either on the basis of the original Review Procedure, or on the basis of information obtained in the course of the Review Procedure (Section 38(5) & (6)).

8. Personal Licence

Whether or not the Board takes any action in relation to a Premises Licence, the Board may consider that any Personal Licence Holder who is or was working in the Licensed Premises concerned acted in a manner which was inconsistent with any of the Licensing Objectives.

If so, then under Section 84 the Board may review that Personal Licence

If the Licence Holder has had the opportunity to be heard, the Board Meeting which considers the present Premises Licence Review can consider that further Review at the same time as the Hearing relating to the Premises Licence.

The Board may, if it considers it necessary for any of the Licensing Objectives:

(a) Revoke the Personal Licence,

(b) Suspend the Personal Licence for up to 6 months,

(c) Endorse the Personal Licence. An endorsement lasts 5 years. If the Licence Holder gets 3 Endorsements in a 5 year period, then the Board would have to consider whether the Licence should be Suspended (for up to 6 months) or Revoked (these are not automatic).

The Board is not obliged to take any of these steps, and may decide to take no action.

9. Implications

Both the Premises Licence Holder and the Applicant can appeal to the Sheriff Principal against any decision taken at a Review Hearing. If there is also a decision about a Personal Licence, the holder can appeal to the Sheriff.

Any Board decision takes effect immediately.

Review Application - Licensing (Scotland) Act 2005, Section 36

Premises	"The Buff's Tavern", 26 Main St, Kilwinning
Premises Licence Holder	Kenny Salmon
Ref.	0364

1. Background

By letter of 18 July 2012 the Chief Constable made a Review Application under Section 36 informing the Board of certain circumstances relating to these Premises. Copies of the letter will be distributed to Members at the Meeting.

The Premises Manager Kenny Salmon holds Personal Licence NA0257 issued by NALB.

2. Basis of Review

The 'Grounds for Review' are that the operation of the Premises was inconsistent with the 'preventing crime and disorder' Licensing Objective.

3. Licensed Hours

The Premises are Licensed for on-sales only. The operating hours are:

Mon	11.00	24.00
Tue	11.00	24.00
Wed	11.00	24.00
Thur	11.00	1.00
Fri	11.00	1.00
Sat	11.00	1.00
Sun	12.30	24.00

4. Capacity etc.

The Premises have a capacity of 100 customers.

Activities other than the sale of alcohol:

- (a) Generally: Receptions, Club or other group meetings.
- (b) Entertainment: Recorded Music, Live Performances, Gaming, Indoor/outdoor Sports, Televised Sport, Karaoke, Quizzes, Dominoes, Pool and Darts.
- (c) The Premises do not have Outdoor Drinking Facilities.
- (d) The Premises do not allow persons under 18.

5. Procedure

Having received an Application, the Board must hold a Review Hearing (Section 38).

The Licensing Standards Officer must, before the Review Hearing, prepare and submit to the Licensing Board a Report on the Application.

The Hearing, and the supporting papers:

- (a) this Report,
- (b) the letter from the Police, and
- (c) the LSO's Report,

have been intimated to the Premises Licence Holder, and to any Personal Licence Holder named in this Report, with the date, time and place of the Hearing.

6. Additional Powers of inquiry

The Board may (but does not require to) take any one or more of these actions under Section 38(5) and (6):

- (a) it may obtain further information as it thinks fit;
- (b) it may request the attendance at the Review Hearing of any person for the purpose of providing information;
- (c) it may request the production of documents;
- (d) it may consider any possible Ground for Review even though it is not relevant to any circumstances alleged in the original Review Application. If the Board proposes to do this then it should inform the Licence Holder of its intention and consider whether an adjournment is appropriate.

7. Board's Powers on Review

The Board must take account:

- (a) the information contained in the Review Application,
- (b) any Report from the LSO,
- (c) any additional information obtained by the Board,
- (d) the comments by the Licence Holder.

If the Board is satisfied that a Ground for Review is established, the Board may take any one or more of the following steps if it considers necessary or appropriate for the purposes of any of the Licensing Objectives:

- (a) issue a Written Warning to the Licence Holder;
- (b) make a Variation of the Licence - either indefinitely or for a specific time. The Variation may relate to any part of the Licence, for example:
 - (i) the operating hours for the Premises (or any part);
 - (ii) the Premises Manager (if any) can be removed;
 - (iii) the activities which may be carried on on the Premises (or any part);
 - (iv) the terms for access by persons under 18 to the Premises (or any part);
 - (v) the Licence Conditions (the Variation cannot alter the statutory Mandatory Conditions);
- (c) Suspend the Licence for a specific time;
- (d) Revoke the Licence.

The Board is not obliged to take any of these steps, and it may decide that although a Ground for Review is established, no action is required.

The Board may take these steps either on the basis of the original Review Procedure, or on the basis of information obtained in the course of the Review Procedure (Section 38(5) & (6)).

If the Board is satisfied that necessary modifications to the Premises have been made, the Board should take no further action. In that case, the Premises Licence previously granted remains in force.

If the Board is not so satisfied, the Board has no alternative but to revoke the Licence. Although it is common to continue cases in other situations, it would not be appropriate to continue a case which has already been continued under the Transitional Order for two years.

8. Personal Licence

Whether or not the Board takes any action in relation to a Premises Licence, the Board may consider that any Personal Licence Holder who is or was working in the Licensed Premises concerned (for example, a Premises Manager or a member of staff) acted in a manner which was inconsistent with any of the Licensing Objectives.

If so, then under Section 84 the Board may review that Personal Licence.

If the Licence Holder has had the opportunity to be heard, the Board Meeting which considers the present Premises Licence Review can consider that further Review at the same time as the Hearing relating to the Premises Licence.

Otherwise, the Board should either continue the case to a later date to allow notice to be given to the Personal Licence Holder, or notify the appropriate Licensing Board.

At the further Hearing, the Board may, if it considers it necessary for any of the Licensing Objectives:

- (a) Revoke the Personal Licence,
- (b) Suspend the Personal Licence for up to 6 months,
- (c) Endorse the Personal Licence. An endorsement lasts 5 years. If the Licence Holder gets 3 Endorsements in a 5 year period, then the Board would have to consider whether the Licence should be Suspended (for up to 6 months) or Revoked (these are not automatic).

The Board is not obliged to take any of these steps, and may decide to take no action.

9. Implications

Both the Premises Licence Holder and the Applicant can appeal to the Sheriff Principal against any decision taken at a Review Hearing. If there is also a decision about a Personal Licence, the holder can appeal to the Sheriff.

Any Board decision takes effect immediately, but in the case of Suspension and Revocation of a Premises Licence (not Variation, Written Warning or any decision about a Personal Licence) the Court can be asked to recall the Board's decision pending appeal.

Review Application - Licensing (Scotland) Act 2005, Section 36

Premises	North Ayrshire Staff Association, Perceton House Courtyard, Irvine
Premises Licence Holder	N.A.S.A.
Ref.	0315

1. Background

By letter of 18 July 2012 the Chief Constable made a Review Application under Section 36 informing the Board of certain circumstances relating to these Premises. Copies of the letter will be distributed to Members at the Meeting.

The Premises are a Social Club for NAC employees, as a Club they do not require to have a Premises Manager.

The letter refers to an alleged incident on 9 June 2012. Since before the 2005 Act Licence was granted until soon after that date, the Board's contact with the Club was through Maureen Irish, formerly the Bar Convenor. She holds a Personal Licence (NA 0809). On 12 June 2012 the Board received letters from the Club stating that Maureen Irish had resigned, that the Committee of office-bearers had changed, and requesting that the Board direct further correspondence to Mark Wilson, the Chairperson.

2. Basis of Review

The 'Grounds for Review' are that the operation of the Premises was inconsistent with the 'preventing crime and disorder' Licensing Objective.

3. Licensed Hours

The Premises are Licensed for on-sales only. The operating hours are:

Mon	11.00	1.00
Tue	"	"
Wed	"	"
Thur	"	"
Fri	"	"
Sat	"	"
Sun	12.30	"

4. Capacity etc.

The Premises have a capacity of 150 customers.

Activities other than the sale of alcohol:

- (a) Generally: Receptions, Club or other group meetings.

- (b) Entertainment: Recorded Music, Live Performances, Dance Facilities, Gaming, Indoor/outdoor Sports, Televised Sport, Raffles, Quizzes, Karaoke.
- (c) The Premises have Outdoor Drinking Facilities.
- (d) The Premises do not allow Children under 5. Under-18s are allowed if accompanied by adult. Children (under 16) are allowed only until 21.00. Young People (aged 16 - 17) are allowed until 1.00.

5. Procedure

Having received an Application, the Board must hold a Review Hearing (Section 38).

The Licensing Standards Officer must, before the Review Hearing, prepare and submit to the Licensing Board a Report on the Application.

The Hearing, and the supporting papers:

- (a) this Report,
- (b) the letter from the Police, and
- (c) the LSO's Report,

have been intimated to the Premises Licence Holder, and to any Personal Licence Holder named in this Report, with the date, time and place of the Hearing.

6. Additional Powers of inquiry

The Board may (but does not require to) take any one or more of these actions under Section 38(5) and (6):

- (a) it may obtain further information as it thinks fit;
- (b) it may request the attendance at the Review Hearing of any person for the purpose of providing information;
- (c) it may request the production of documents;
- (d) it may consider any possible Ground for Review even though it is not relevant to any circumstances alleged in the original Review Application. If the Board proposes to do this then it should inform the Licence Holder of its intention and consider whether an adjournment is appropriate.

7. Board's Powers on Review

The Board must take account:

- (a) the information contained in the Review Application,
- (b) any Report from the LSO,
- (c) any additional information obtained by the Board,
- (d) the comments by the Licence Holder.

If the Board is satisfied that a Ground for Review is established, the Board may take any one or more of the following steps if it considers necessary or appropriate for the purposes of any of the Licensing Objectives:

- (a) issue a Written Warning to the Licence Holder;
- (b) make a Variation of the Licence - either indefinitely or for a specific time. The Variation may relate to any part of the Licence;
- (c) Suspend the Licence for a specific time;
- (d) Revoke the Licence.

The Board is not obliged to take any of these steps, and it may decide that although a Ground for Review is established, no action is required.

The Board may take these steps either on the basis of the original Review Procedure, or on the basis of information obtained in the course of the Review Procedure (Section 38(5) & (6)).

8. Personal Licence

Whether or not the Board takes any action in relation to a Premises Licence, the Board may consider that any Personal Licence Holder who is or was working in the Licensed Premises concerned acted in a manner which was inconsistent with any of the Licensing Objectives.

If so, then under Section 84 the Board may review that Personal Licence

If the Licence Holder has had the opportunity to be heard, the Board Meeting which considers the present Premises Licence Review can consider that further Review at the same time as the Hearing relating to the Premises Licence.

The Board may, if it considers it necessary for any of the Licensing Objectives:

- (a) Revoke the Personal Licence,
- (b) Suspend the Personal Licence for up to 6 months,

(c) Endorse the Personal Licence. An endorsement lasts 5 years. If the Licence Holder gets 3 Endorsements in a 5 year period, then the Board would have to consider whether the Licence should be Suspended (for up to 6 months) or Revoked (these are not automatic).

The Board is not obliged to take any of these steps, and may decide to take no action.

9. Implications

Both the Premises Licence Holder and the Applicant can appeal to the Sheriff Principal against any decision taken at a Review Hearing. If there is also a decision about a Personal Licence, the holder can appeal to the Sheriff.

Any Board decision takes effect immediately, but in the case of Suspension and Revocation of a Premises Licence (not Variation, Written Warning or any decision about a Personal Licence) the Court can be asked to recall the Board's decision pending appeal.

Review Application - Licensing (Scotland) Act 2005, Section 36

Premises	"The Waterside", 14 Bath Street, Largs
Premises Licence Holder	Greene King Retailing Ltd. (t/a Belhaven Pubs)
Ref.	080

1. Background

By letter of 7 August 2012 Paul Brennan, NAC Specialist Environmental Health Officer (Noise) made a Review Application under Section 36 informing the Board of certain circumstances relating to these Premises. Copies of the letter will be distributed to Members at the Meeting.

On 26 June 2012 the Board considered and upheld a Review Application made by Paul Castelvechi, Flat H, The Moorings, 18 Main St., Largs. This was based on noise complaints. The Board then Varied the Licence by directing that the playing of amplified music should cease at 00.30 on Friday and Saturday, and at 23.30 on Sunday.

The Board did not then take any action in relation to Personal Licence of the Premises Manager Brian Purdie (NA 1190).

2. Basis of Review

The 'Grounds for Review' are:

1. the operation of the Premises is inconsistent with the "preventing public nuisance" and "protecting and improving public health" Licensing Objectives; and
2. conditions of the Premises Licence have been breached (specified in the Application).

3. Licensed Hours

The Premises are Licensed for both on-sales and off-sales. The operating hours are:

On-sales:

Mon	8.00	24.00
Tue	"	24.00
Wed	"	24.00
Thur	"	1.00
Fri	"	1.00
Sat	"	1.00
Sun	11.00	24.00

Off-Sales:

Mon	10.00	22.00
Tue	"	"
Wed	"	"
Thur	«	«
Fri	«	«
Sat	«	«
Sun	11.00	22.00

4. Capacity etc.

The Premises have a capacity of 96 customers, and an off-sales display capacity of 11 square metres.

Activities other than the sale of alcohol:

- (a) Generally: Bar Meals, Receptions, Club or other group meetings.
- (b) Entertainment: Recorded Music, Live Performances, Gaming, Indoor/outdoor Sports, Televised Sport, and quiz nights, dominoes and charity nights.
- (c) The Premises do not have Outdoor Drinking Facilities.
- (d) The Premises allow under-18s of all ages if accompanied by adult either:
 - (i) until 21.30, or
 - (ii) until the end of a meal or function.

5. Procedure

Under Sections 36(6)-(8), the Board may reject a Review Application if the Board considers the Application—

- (a) is vexatious or frivolous, or
- (b) does not disclose any matter relevant to any of the statutory "Grounds for Review".

If the Board rejects the Application it must give notice of the decision, and the reasons for it, to the Applicant.

The Board is entitled (but not obliged) to order that the Applicant should pay the Board's expenses. If it does so, it should specify the sum due.

Having received an Application and not rejected it, the Board must hold a Review Hearing (Section 38).

The Licensing Standards Officer must, before the Review Hearing, prepare and submit to the Licensing Board a Report on the Application.

The Hearing, and the supporting papers:

- (a) this Report,
- (b) the communication from the Applicant, and
- (c) the LSO's Report,

have been intimated to the Premises Licence Holder, with the date, time and place of the Hearing.

6. Additional Powers of Inquiry

The Board may (but does not require to) take any one or more of these actions under Section 38(5)-(6):

- (a) it may obtain further information as it thinks fit;
- (b) it may request the attendance at the Review Hearing of any person for the purpose of providing information;
- (c) it may request the production of documents;
- (d) it may consider any possible Ground for Review even though it is not relevant to any circumstances alleged in the original Review Application. If the Board proposes to do this then it should inform the Licence Holder of its intention and consider whether an adjournment is appropriate.

7. Board's Powers on Review

The Board must take account:

- (a) the information contained in the Review,
- (b) any Report from the LSO,
- (c) any additional information obtained by the Board,
- (d) the comments by the Licence Holder.

If the Board is satisfied that a Ground for Review is established, the Board may take any one or more of the following steps if it considers necessary or appropriate for the purposes of any of the Licensing Objectives:

- (a) issue a Written Warning to the Licence Holder;
- (b) make a Variation of the Licence - either indefinitely or for a specific time. The Variation may relate to any part of the Licence, for example:
 - (i) the operating hours for the Premises (or any part);

- (ii) the Premises Manager (if any) can be removed;
 - (iii) the activities which may be carried on on the Premises (or any part);
 - (iv) the terms for access by persons under 18 to the Premises (or any part);
 - (v) the Licence Conditions (the Variation cannot alter the statutory Mandatory Conditions);
- (c) Suspend the Licence for a specific time;
- (d) Revoke the Licence.

The Board is not obliged to take any of these steps, and it may decide that although a Ground for Review is established, no action is required.

The Board may take these steps either on the basis of the original Review Procedure, or on the basis of information obtained in the course of the Review Procedure (Section 38(5) & (6)).

8. Personal Licence

Whether or not the Board takes any action in relation to a Premises Licence, the Board may consider that any Personal Licence Holder who is or was working in the Licensed Premises concerned acted in a manner which was inconsistent with any of the Licensing Objectives.

If so, then under Section 84 the Board may review that Personal Licence

If the Licence Holder has had the opportunity to be heard, the Board Meeting which considers the present Premises Licence Review can consider that further Review at the same time as the Hearing relating to the Premises Licence.

The Board may, if it considers it necessary for any of the Licensing Objectives:

- (a) Revoke the Personal Licence,
- (b) Suspend the Personal Licence for up to 6 months,
- (c) Endorse the Personal Licence. An endorsement lasts 5 years. If the Licence Holder gets 3 Endorsements in a 5 year period, then the Board would have to consider whether the Licence should be Suspended (for up to 6 months) or Revoked (these are not automatic).

The Board is not obliged to take any of these steps, and may decide to take no action.

9. Human Rights

The Board requires to balance competing rights:

(a) Regularly exposing neighbours to noise and other nuisances may breach neighbours' human rights to respect for private life, family life and home under ECHR Article 8. If the Board was being asked to permit nuisance (by granting or varying a Licence), its decision might be the basis of a claim for compensation by them against the Board (such a claim has been recognised by the European Court of Human Rights - Gomez v Spain [2004] ECHR 633).

(b) The Licence Holder has a right to free enjoyment of his possessions (the Licensed Premises): ECHR, Protocol 1, Article 1.

Neither right is absolute. There is no precedent for a Board having liability for failing to prevent a nuisance. The Board is obliged to have regard to Licensing Objective (d): 'protecting & improving public health', but the duty is solely to 'have regard' to it. It is not conclusive, and does not oblige the Board to close the Premises or to impose such a substantial variation that the Premises become uneconomic.

Where the Board takes a Review action (e.g. suspension), that decision may be appealed against on the grounds that it is 'disproportionate in all the circumstances', but this appeal ground does not exist if the Board fails to take such action (Section 131(3)(b)).

10. Implications

Both the Premises Licence Holder and the Applicant can appeal to the Sheriff Principal against any decision taken at a Review Hearing.

Any Board decision takes effect immediately, but in the case of Suspension and Revocation of a Premises Licence (not Variation, Written Warning or any decision about a Personal Licence) the Court can be asked to recall the Board's decision pending appeal.

Review Proposal - Licensing (Scotland) Act 2005, Section 37:

Premises	"McColls", 45-47 Moorburn Rd, Largs (Board ref.: 088) "R.S. McColl", 23 West Doura Ct, Kilwinning (117)
Premises Licence Holder	Martin McColl Ltd

1. Background

The Board has received confirmation from the Chief Constable that the Premises Licence Holder has been convicted of a 'relevant or foreign offence' (as prescribed by Regulation):

Date:	1 May 2012
Court:	Bodmin Magistrates Court
Offence:	Health and Safety at Work Act 1974
Disposal:	Fine £25,000

Under Section 44 the Board must, on receipt of that confirmation, make a Review Proposal under Section 37 (Review of Premises Licence on Licensing Board's initiative).

The information given by the Police is limited to that given above, and does not contain details of the charge, e.g. place, date, circumstances. However, the 1974 Act is the basis of many Regulations about things like the safety of customers and employees. These Regulations have little or nothing to do with the sale of alcohol.

2. Action

Given

- (a) that the conviction relates to Premises outside North Ayrshire and is unlikely to have a bearing on Premises within the Board's area, and
- (b) the likelihood that the conviction relates to the operation of a food shop as opposed to the selling of alcohol,

the Board may wish to conclude the Review by taking no action. If the Board considers that Revocation or the other steps otherwise available may be appropriate, and wishes to be addressed by the Licence Holder, the case should be continued to a later meeting.

Report

to

North Ayrshire Licensing Board

by

Senior Solicitor (Licensing)

Subject:	<p>Applications for Transfer and Variation of Premises Licence - Licensing (Scotland) Act 2005, Sections 34 and 35:</p> <p>Premises - "Bilsland's", Shore Road, Brodick, Isle of Arran</p> <p>Applicant - Partnership of Alastair Bilsland and Mrs. Alison Bilsland</p> <p>Board ref.: 087</p>
Purpose:	To advise the Board of the background and the legal issues.
Recommendation:	That the Board consider whether or not the statutory Dispensing Power should be exercised to excuse the late lodging of the Applications.

1. Background

1.1. This is an Application to Transfer a Premises Licence (with a consequent Variation to nominate a new Premises Manager). Such Applications are usually granted by the Clerk under Delegated Powers, and are rarely referred to the Board, but the Clerk considers that the present Application is incompetent and has declined to exercise Delegated Powers.

1.2. It is the Clerk's view that:

- (a) the Licence had terminated before the Application was submitted;
- (b) the Transfer Application came too late;
- (c) the Board has no discretion to allow a late Application; and
- (d) even if the Board had a discretion in general, there are no grounds to exercise that discretion in the particular case here.

Therefore it is the Clerk's advice to the Board that the Board should refuse the Application as incompetent.

1.3. The Clerk advised the Applicant's Solicitor accordingly, but at the Applicant's request this Application is being placed before the Board. The Premises have ceased selling alcohol pending the Board's decision and the Police have been told that the Premises are unlicensed. The Applicant has not applied for a new Licence although the Clerk suggested on 5 July that this was the only remedy. If a new Licence is applied for, the earliest scheduled Board available is on 3 October.

1.4. If the Board accepts that the Dispensing Power should be exercised, the Board should:

- (a) continue consideration of the Applications sine die;
- (b) authorise the Clerk to proceed with the usual statutory procedure (e.g. consult with the Police), and
- (c) if there are no adverse comments from the Police, to grant the Applications under Delegated Powers.

2. The Law

2.1. There are two procedures for Transfer of a Premises Licence under the Act:

- (a) Section 33 - where the Transfer is requested by the Licence Holder
- (b) Section 34 - where the Transfer is requested by someone else.

2.2. This is a Section 34 Application. Section 34 provides for Transfers following various events:

- (a) such as the death or insolvency of the Premises Licence Holder (where the Applicant is the Executor or Insolvency Practitioner) and
- (b) the Transfer of a business. (the transferee - often the buyer - seeks Transfer of the Licence to himself).

In all cases the Application must be made within 28 days of the occurrence of the event.

3. The present case

3.1. The present Transfer Application is brought in a 'business transfer' situation. The Premises Licence was held by the Partnership of Jonathan G. Hill and Zoe C. Hill. The Premises Manager was Mr. Hill. The Premises were occupied by that Partnership under a Lease, where the Landlord was Alastair Bilsland.

3.2. The business transfer occurred when the Tenants (the Hills), surrendered the Lease. They did this by renouncing it in favour of the Landlord. The Applicant is a partnership consisting of the Landlord and his wife. The Applicant's Solicitors submitted a copy of a Renunciation which was signed by the Tenants on 16 May 2012 stating that it operated "with effect from 3 May 2012 notwithstanding the date or dates hereof".

3.3. The Application was sent by letter of 25 June 2012, received at NALB on 26 June. The sending was 53 days after the operative date of the Renunciation and 40 days after the actual date of signature. Whichever date is appropriate, the Application was sent outside the 28 day time period stipulated by Section 34, so it was incompetent.

3.4. When the Clerk raised this with the Applicant's Solicitors, they asserted "notwithstanding the Renunciation the business was not effectively transferred until 21st May 2012." Even if this third date is the appropriate starting-point, the Application was sent 35 days later, so was still late and incompetent.

3.5. It is not possible for the Application to be treated as being made by the former Tenant under Section 33. His entitlement to seek a Transfer terminated when he ceased to be entitled to occupy the Premises, so after that he could not himself apply for a Transfer. On 15 May the Tenant informed the Board that he had ceased being the Premises Manager, and that a Transfer Application would be made later. It is not possible to interpret that letter as a Section 33 Transfer Application:

- (a) To the Applicant's knowledge, the Board did not treat it as such and the Applicant never suggested that this was wrong;
- (b) The Applicant submitted his own Section 34 Application.

4. Discretion

4.1. By letter of 7 August 2012 the Applicant's Solicitors advised that they would be inviting the Board to use the Dispensing Power under Section 135.

It is the Clerk's view that the Dispensing Power is not available here:

- (a) Section 135(1) provides the Board with a limited Dispensing Power to overlook irregularities in 'procedural provisions'. It is not all failures which may be excused, but only failures under the provisions listed in Section 135(3). These relate to procedural rules, e.g. about forms;
- (b) The Dispensing Power relates to failures to comply with secondary legislation, such as regulations and the Board's own internal rules. They do not apply to primary legislation (i.e. the Act itself), e.g. to Section 34;

The Dispensing Power does not entitle the Board to overlook a fundamental nullity, which the absence of a Licence is. The Board has no power to overrule Statute. The Licence 'died' 28 days after the business transfer. After that there was nothing to Transfer or Vary.

4.2. In any case, even if the Dispensing Power would otherwise be available, there do not appear to be any grounds for using it here. Section 135(1) is:

"A Licensing Board may relieve any Applicant or other party to proceedings before the Board of any failure to comply with any procedural provision if—

- (a) the failure is due to mistake, oversight or other excusable cause, and
- (b) the Board considers it appropriate in all the circumstances to relieve the failure."

4.3. Both (a) and (b) must be satisfied before the dispensing power may be used.

(a) the Applicant has never suggested that there is any 'excusable cause' for the late submission of the Application;

(b) the Board might doubt whether it is 'appropriate in all the circumstances' to excuse wilful non-compliance with a statutory requirement.

4.4. The Applicant was told by Board staff of the significance of the 28 day period and advised to take legal advice. The Applicant had at least 10 days in which to make a competent Application.

(a) A member of staff sent the Applicant the appropriate 'Variation and Transfer Form' on 9 May 2012.

(b) that staff member sent the Applicant an email on 11 May 2012:

"If things are becoming a bit acrimonious it would be advisable to obtain independent legal advice as soon as possible. The bottom line is that from the date that Mr Hill lost his right to occupy the premises, and therefore the right to operate the licence, a transfer has to be applied for within 28 days. In such circumstances, it is common for the landlord to instruct an agent to ensure that this is done, to prevent the licence from ending."

(c) on 15 May Mr. Hill wrote to the Board stating that he no longer wished to be Premises Manager. He continued "I will be conducting the transfer of premises license and nomination of new premises manager as soon as possible after this date."

(d) On 21 May the same staff member emailed the Applicant:

"... I can confirm that we did receive the letter from Mr Hill. It was received on Tuesday of last week. We would now encourage yourself and Mr Hill to make

application for the transfer of the licence before the expiry of 28 days from the date that Mr Hill lost the right to occupy the premises."

(e) On the same day the staff member emailed the Applicant suggesting he take legal advice, and concluding:

"It is critical that the application is made promptly and in accordance with the times as set out in the legislation, to prevent the licence from ceasing to exist".

Assuming the Transfer occurred on the operative date of the Renunciation (3 May 2012), there were still 10 days left in which to make a Transfer Application.

5. Variation

The Applicant also seeks to vary the Licence, so as to amend the nomination of Premises Manager from the former Tenant to a named person.

The Board should treat this Application as indicated in Paragraph 1.4.

	Patrick Boyle Clerk to the Board
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For further information please contact William O'Brien, Senior Solicitor (Licensing) on 01294-324305

Application for Variation of Premises Licence - Section 29

Applicant	Gurpreet Singh Batth
Premises Name	The Burns Tavern
Premises Address	34-36 High Street, Irvine
Ref.	0246

CONTINUED FROM 16/04/12 & 26/06/2012

Documents:

Police	No objection
Community Council	No objection
Fire	No objection
Health Board	No objection
Other Objections or Representations?	None

Summary of Variation request

The proposal is to extend the hours of the second floor function suite, so that on Fridays and Saturdays the premises can be used as a nightclub between 21.00 and 2.30. Otherwise the second-floor would continue to be used as a function suite (already Licensed).

There are already three similar 'nightclub' premises in the locality:

- (a) "King's Arms", 115 High Street (NALB 214): The premises are divided into a nightclub part ("Viva") and a bar/restaurant. The Operating Plan gives different hours for both. The Capacity is 470 for the whole premises.
- (b) "Pitcher's", 18 Bank Street (NALB 243): The premises are divided into a nightclub part (ground floor & mezzanine) and a public bar (first floor). The Operating Plan gives different hours for both. The Capacity is 498 for the whole premises.
- (c) "Descent", 10A Rivergate Centre Sub-basement (NALB 394): "Descent" is the nightclub linked to the "Old Argyle" public house (basement) (NALB 393). The Licences are held by Punch Taverns (Inns) Ltd.. Both are currently closed, but since the Licences remain in force they could re-open at any time. "Descent" has a capacity of 430, in addition to "Old Argyle" which has 216.

Issues

The Board has a discretion to grant the Variation requested, grant it with modifications, or refuse it.

1. The Board should note that the Applicant also proposes activities (Recorded music; Live performances; Dancing) outside Licensed Hours. The Applicant should clarify this, e.g. is it proposed to have music and dancing after 2.30 a.m.?

2. The Board requires to consider whether or not the proposed Variation is consistent with the following Licensing Objectives (Section 30(5)(b)):
 - (a) 'preventing crime and disorder': The Applicant should address the Board on the level of stewarding and CCTV coverage. The proposed closing time (2.30 a.m.) is the same as that for the existing Premises nearby, so there may be an increase in the number of customers in the Town Centre in the early hours, or waiting for taxis at the stance outside "Pitcher's" in Bank Street.

 - (b) 'securing public safety': The capacity of the area is not stated. The whole premises have a capacity of 666. The Board is not obliged to set a maximum capacity on the 'nightclub' during the extended hours, but it is entitled to do so. If the Board proposes to do so, it may wish a report from the Chief Building Standards Officer before determining the Application, or the Applicant may undertake to ask the CBSO to set a figure and to keep to it.

 - (c) 'protecting & improving public health': The Board should consider this L.O. whether or not the Health Board or any other party raises it. The statute expressly states 'improving'. An increase in the ability to sell or consume alcohol cannot be said to improve public health. Opinions may differ as to whether it damages public health, or makes no difference, but it is unlikely to improve it.

3. The Board requires to consider whether or not the proposed Variation would make the Premises unsuitable for the sale of Alcohol. Section 30(5)(c) is

"that, having regard to—

 - (i) the nature of the activities carried on or proposed to be carried on in the Subject Premises,

 - (ii) the location, character and condition of the Premises, and

 - (iii) the persons likely to frequent the Premises,

the Board considers that the Premises are unsuitable for use for the sale of Alcohol in accordance with the proposed Variation"

The Board is not obliged to inspect the Premises before determining the Application, but is entitled to do so (Section 137).

4. The Board requires to consider whether or not the Application should be refused due to Overprovision. Section 30(5)(d)) is:

"that, having regard to the number and capacity of—

(i) Licensed Premises, or

(ii) Licensed Premises of the same or similar description as the Subject Premises (taking account of the proposed Variation),

in the locality in which the Subject Premises are situated, the Board considers that, if the Application were to be granted, there would, as a result, be Overprovision of Licensed Premises, or Licensed Premises of that description, in the locality."

Comparison with other 'nightclub' Premises in the locality

- (a) Nightclub capacity:

Burns	Viva	Pitchers	Descent
666	470	498	430

- (b) Nightclub hours:

	Burns Request	Viva	Pitchers	Descent
Mon	-	10.00 - 24.00	-	11.00 - 1.00
Tue	-	"	"	"
Wed	-	"	-	"
Thu	-	10.00 - 2.30	11.00 - 2.30	11.00 - 2.00
Fri	10.00 - 2.30	10.00 - 2.30	11.00 - 2.30	11.00 - 2.00
Sat	10.00 - 2.30	10.00 - 2.30	11.00 - 2.30	11.00 - 2.00
Sun	-	10.00 - 2.00	11.00 - 2.00	12.30 - 1.00

- (c) Non-nightclub Hours:

	Burns	Kings	Pitchers	Old Argyle
Mon	10.00 - 24.00	10.00 - 24.00	12.00 - 24.00	10.00 - 24.00
Tue	"	"	11.00 - 24.00	"
Wed	"	"	"	"
Thu	10.00 - 1.00	10.00 - 1.00	11.00 - 1.00	10.00 - 1.00
Fri	"	"	"	"
Sat	"	"	"	"
Sun	10.00 - 24.00	"	12.30 - 24.00	12.30 - 24.00

Licence Conditions etc.

If the Variation is granted:

- (a) the Licence Conditions should be amended to include the relevant parts of the NALB Standard Conditions: Parts D, E and X.1 (CCTV), which already apply to the existing 'nightclubs' in the locality: (Section 30(6)).
- (b) the licence documentation will be amended to distinguish the hours (and capacity, if the Board so directs) for the nightclub part (second floor) from the remainder of the building.

Application for Variation of Premises Licence - Section 29

Applicant	Irvine Leisure Ltd
Premises	"Pitcher's", 18 Bank Street, Irvine
Ref.	0243

Preliminary

This Report has been prepared provisionally before the Applicant has lodged the Certificate confirming public display of a Site Notice. Until the Board has a Certificate of Display, it cannot determine the Application.

1. Objections and Representations

Police	No objection
Community Council	No response yet
Fire	No objection
Health Board	No response yet
Other Objections or Representations?	None

2. Summary of Variation Request(s)

No.	Variation
1	<i>Extend nightclub opening to 1.00 a.m. Mon-Wed in Festive Period</i>
2	<i>Extend first floor bar hours to 1.00 on all Sundays in year</i>
3	<i>Allow boxing</i>

3. Issues

This gives the position for each of the numbered 'Variation Requests' summarised above. Where the legislation makes a decision mandatory, this is stated. Otherwise, the Board has a discretion whether to grant or refuse the request. Possible issues with L.O.s or Board Policy are highlighted.

Variation 1: Extend nightclub opening to 1.00 a.m. Mon-Wed in Festive Period

Discretionary refusal

Notes:

The Board may consider that the Application is not consistent with Licensing Objective (a): 'preventing crime and disorder', in that it prevents the Police from commenting on what would otherwise be a specific Extended Hours Application.

This proposal is contrary to Board practice. The 2005 Act, Section 67 already permits a Board to grant a general extension to all Premises in its area "in connection with a special event of local or national significance", without the individual Premises requiring to apply for a specific grant of Extended Hours as and when they wish them. Section 67 has never been used in North Ayrshire, and the Board has always received specific Applications under Section 68. Those Applications are copied, at the time, to the Police and LSO. who can comment before the Applications are determined. The proposal, like a Section 67 determination, bypasses such consultation.

No other Premises in North Ayrshire have such a permanent grant of 'festive hours', and it would disadvantage competitors who would continue to have to pay for Extended Hours.

Variation 2: Extend first floor bar hours to 1.00 on all Sundays in year

Discretionary refusal

Notes:

The Application is not consistent with Licensing Objectives (a) and (c): 'preventing crime and disorder' and 'preventing public nuisance', or with the Board's Policy.

The Policy was adopted many years ago and takes into account representations from the Police. It operates throughout North Ayrshire. In general, the 'public bar' part of Premises only opens till 24.00 midnight (Sun-Wed). The Subject Premises are in the centre of Irvine. There are several Premises nearby which have policy hours. If the Board was to depart from its Policy here, it might receive similar requests from those Premises, if not all over NA.

By limiting opening hours it is more likely that the patrons will disperse, particularly if all Premises locally have the same hours. If the Subject Premises open to 1.00 a.m. and the rest close at 24.00, then inebriated patrons may leave other Premises at midnight and try to enter.

If the Variation is granted, Board should consider whether or not to apply the 00.30 curfew condition, under Section 30(6):

"No customer shall be permitted entry (on payment or not) after 00.30 a.m.."

Variation 3: Allow boxing
Discretionary refusal
<p>Notes:</p> <p><u>Details of Proposal</u></p> <p>The proposal is to conduct what are described as 'charity boxing matches' in the ground-floor nightclub part of the Premises. The individual events are to be on dates covered by Extended Hours Applications. The events will be held on these conditions:</p> <ol style="list-style-type: none"> 1. the maximum number of spectators will be 200 (the original proposal was 400, but the Applicant has since discussed this with Building Standards and capacity has been reduced), 2. there will be a charge for admission to the event, 3. no more than 3 events a year will be held, 4. 7 appropriately qualified security staff will be in attendance, 5. The minimum age of the spectators will be 18, 6. The first-floor public bar will be closed during the event. <p><u>Procedure</u></p> <p>The Board would have to be satisfied that the proposals were not inconsistent with any of the Licensing Objectives.</p> <p>The Board may wish to inspect the Premises or have a LSO report before determining this Application.</p> <p>The Applicant should advise the Board:</p> <ul style="list-style-type: none"> - what provision is to be made for medical checks and treatment of participants before, during, and after the bouts - whether the bouts would be conducted according to the rules and standards set by an established sporting association - what arrangements are proposed to ensure that spectators are not injured (e.g. will the bouts be held in a traditional roped-off ring) - will the spectators be seated or standing - what form of boxing is intended - who would organise these events - who the participants would be

- whether they would be under 18
- what charity would benefit
- whether the entire admission charges would be paid to the charity or whether any proceeds would be retained by the Premises Licence Holder or bout organiser

Licensing Objectives

It may be thought that these L.O.s are engaged:

L.O. (b): 'securing public safety'

The Board is entitled to enquire as to the arrangements for medically checking and treating participants and as to the arrangements for the boxing ring to avoid spectators being injured.

L.O. (d): 'protecting & improving public health'

The L.O. expressly states 'improving'. Allowing boxing on Licensed Premises cannot be said to improve public health. Opinions may differ as to whether it damages public health, or makes no difference, but it is unlikely to improve it.

L.O. (e): 'protecting Children from harm'

This L.O. relates to Children aged 0-15 years, and not to older 'Young Persons' (aged 16-17). If neither participants nor spectators will be under 16, the Board may disregard this L.O..

Policy

The Board does not have a Policy on boxing in Licensed Premises.

This is the first time that a Board Meeting has required to consider such a proposal, but in the past other parties have obtained Occasional Licences (for venues such as Community Centres) for 'charity nights' where boxing was involved.

The Board may wish to set a Policy and indicate whether boxing on Licensed Premises is something which should influence whether or not Delegated Powers should be used on future Applications for Occasional Licences or Extended Hours, or whether such Applications should be referred to a Board Meeting.

Licence Conditions

Since the Board has not previously been asked to Vary a Premises Licence to allow boxing, it has not had occasion to review its Standard Licence Conditions. It is suggested that, if the Variation proposed is granted, the Conditions should be

amended under Section 30(6) so as to include the draft conditions set out at the end of this Report - Part L of the S.L.C.s (which would also apply to Occasional Licences).

Information for Applicant

The Premises may require other Consents or Permissions, and Variation of the Premises Licence would not remove the need for these. These are not issues for the Licensing Board and should not be taken into account in making a decision about the proposal. They are only mentioned here for the Applicant's information:

1. The boxing ring will need a 'Raised Structure Consent' under Section 89 of the Civic Government (Scotland) Act 1982. The Applicant should contact the NAC Chief Building Standards Officer.
2. The Development Management Section advise that the present proposal, of no more than 3 boxing matches a year, would not require Planning Permission, but that an increased frequency might do so.

4. Licence Conditions

If Variation 2 is granted, the curfew Condition described above should be added

If Variation 3 is granted, the Conditions attached below should be added
--

Part L - Contact Sports

L.11.1. Where Premises subject to a Premises Licence or Occasional Licence are to be used for a contact sport (such as boxing or other martial arts), the Conditions in Part L of the Board's Standard Conditions apply.

L.11.2. No Child (a person aged under 16) shall participate in a contact sport without the written consent of someone holding Parental Rights over him.

L.11.3. Except where the whole proceeds of the event are paid to a charity, the Licence-Holder shall hold an insurance policy or bond indemnifying him against any claims which might be made by the public or any third party arising from the death of or injury to any person, to the extent of £500,000 per claim.

L.11.4. Either

- (a) a Medical Practitioner, or
- (b) a person trained to the satisfaction of the Licensing Board in administering first aid,

must

- (a) ascertain by checks before, during and after bouts that all participants are medically fit to participate; and
- (b) be present on the Premises throughout the period from the start of the first bout until the end of the period of Licensed Hours.

L.11.5. The Licence-Holder shall follow the instructions of any officer of the Board or North Ayrshire Council as to any of the arrangements for the event or the location of any structure, furniture or seating in connection with—

- (a) the sale of Alcohol on the Premises, or
- (b) any other activity carried on in such Premises.

Those instructions may be given at any time or times, before and during the period that the Licence has effect.

Use by the public of the Premises shall not take place until such instructions are complied with (and if that use has begun, it shall cease if the officer determines that this is necessary to safeguard the public).

L.11.6. Where contact sports are conducted on Premises which are subject to a Premises Licence, the Licence-Holder shall produce:

- (a) the written consent as to a Child's participation (required by L.11.2);
- (b) if claiming exemption from the Indemnity, documentary evidence of the proceeds and their payment to the charity (required by L.11.3);
- (c) either a statement of the name and address of the Medical Practitioner, or the First Aider's Qualification Certificate (required by L.11.4),

if requested by an officer of the Board within 48 hours of the request.

L.11.7. Where contact sports are conducted on Premises which are subject to an Occasional Licence, the Licence-Holder shall deliver the documents described in L.11.6 (a) and (c) to the Clerk at least 72 hours before the Occasional Licence has effect. Notwithstanding signature and delivery of the Licence, it shall be of no effect until the Clerk has confirmed both:

- (a) that this Condition has been fully complied with, and
- (b) that he is satisfied both with the extent of any indemnity and the qualifications of the First Aider.

Application for Variation of Premises Licence - Section 29

Applicant	Summel & Summel Ltd
Premises	"Gulab Brasserie", 2a Stanecastle Rd, Irvine
Ref.	0432

Preliminary

This Report has been prepared provisionally before the Applicant has lodged the Certificate confirming public display of a Site Notice. Until the Board has a Certificate of Display, it cannot determine the Application.

1. Summary of Variation Request(s)

No.	Variation
1	Include Bar Area
2	Permit 'Games Nights' such as Playstation and Wii games
3	Amend arrangements for under-18 access

2. Objections and Representations

Police	No objection
Community Council	No response yet
Fire	No response yet
Health Board	No response yet
Other Objections or Representations?	None

3. Issues

This gives the position for each of the numbered 'Variation Requests' summarised above. Where the legislation makes a decision mandatory, this is stated. Otherwise, the Board has a discretion whether to grant or refuse the request. Possible issues with L.O.s or Board Policy are highlighted.

Variation 1: Include Bar Area

Discretionary refusal

Notes:

These Premises were granted a Licence at the Board on 26 June 2012. The Licence then applied only to the restaurant and takeaway.

The Premises had been licensed for many years but that Licence lapsed due to the Sequestration of the previous Licence Holder (Jagjit Singh). Therefore the buyers of the Premises (Summels) required to apply for a new Licence, and this was granted on 26 June 2012. At that time, the Licence could only relate to the restaurant and takeaway, as only these parts had Planning Permission. Several years ago a public bar was added, without PP.

The Public Bar has since acquired PP, and in the period until 22 August the Clerk has issued Occasional Licences to enable the Public Bar to operate temporarily.

The proposal now is to add a Public Bar to the 'full' Licence. No change is proposed to the Licensed Hours (which are currently Policy Hours), and the proposal is to exclude under-18s from the Public Bar.

There are two possible reasons for refusal:

1. The Board may consider that the Application is not consistent with Licensing Objective (d): 'protecting & improving public health':

The L.O. expressly states 'improving'. An increase in the ability to sell and consume alcohol cannot be said to improve public health. Opinions may differ as to whether it damages public health, or makes no difference, but it is unlikely to improve it.

2. The Board may consider that the Variation creates Overprovision:

There is a presumption of refusal due to Scottish Government guidance and the Board's own Licensing Policy Statement. If the Board is minded to refuse for this reason, it should continue consideration of the Application to a later Meeting, when a detailed statement of the Board's policy, with information as to the population and capacity of similar Premises in the locality, will be prepared.

Variation 2: Permit 'Games Nights' such as Playstation and Wii games

Grant (no statutory reason to refuse, and no breach of Board policy)

Variation 3: Amend arrangements for under-18 access

Discretionary refusal

Notes:

Under-18s are not to be permitted in the Public Bar.

Under-18s are permitted in the Restaurant and Takeaway.

The proposal is to extend the hours when Children under 12 are to be allowed. They are already allowed to 24.00. The proposal would extend this to 1.00 (The Premises have NALB Policy hours, and therefore open to 1.00 a.m. Thur-Sat, and to 24.00 Sun-Wed).

This is not consistent with Board practice with other Premises, where the Board has expected Children to leave no later than 10.00 p.m..

Under the existing Licence unaccompanied access is allowed above the age of 9, and adult supervision is required only where younger Children are present after 21.00.

The current and proposed arrangements are summarised in the tables below. The position is complicated as the Premises distinguish under-18s in three groups:

1. Children aged 0-11 [the current O.P. also takes age 9 as the division]
2. Children aged 12-15
3. Young Persons aged 16-17

The Applicant should confirm whether the summary correctly shows the proposal.

Licensing Objectives

The Board would have to be satisfied that the proposal was not inconsistent with any of the L.O.s. Two L.O.s appear to apply:

L.O. (a): 'preventing crime and disorder'

The Board may consider that the limits on adult supervision of under-18s are not appropriate and increase the risk of under-age drinking, particularly since the takeaway will serve food and beverages to unaccompanied people of 12.

L.O. (e): 'protecting Children from harm'

This L.O. relates to Children aged 0-15 years, and not to older 'Young Persons' (aged 16-17).

The Board may consider that the proposal to allow Children (aged 0-15) on the Premises for the whole Core Hours is not consistent with this L.O..

Summary of Access for under-18s

Variations from the current Licence are shown in **BOLD**.

Variation of Access terms for 'Children' (aged 0-11)

	<i>Current</i>	<i>Proposed</i>
Terms (OP 6(b))	Restaurant: Children 0 - 9 [sic] allowed if with adult Children 10-15 : no supervision requirement Takeaway: no supervision requirement before 21.00, but required after.	Children 0 - 11 allowed if with adult
Times (OP 6(d))	Restaurant: until 24.00 (after 21.00, only with adult) Takeaway: All Core Hours: 11.00 - 24.00 (Sun-Wed) 11.00 - 1.00 (Thur-Sat)	Restaurant: All Core Hours. Takeaway: n/c
Parts (OP 6(e))	Restaurant & takeaway (not Public Bar)	n/c

Variation of Access terms for 'Children' (aged 12-15)

	<i>Current</i>	<i>Proposed</i>
Terms (OP 6(b))	Children 12 - 15 allowed (after 21.00, only with adult)	n/c
Times (OP 6(d))	until 24.00	All Core Hours: 11.00 - 24.00 (Sun-Wed) 11.00 - 1.00 (Thur-Sat)
Parts (OP 6(e))	Restaurant & takeaway (not Public Bar)	n/c

Variation of Access terms for 'Young Persons' (16-17)

	<i>Current</i>	<i>Proposed</i>
Terms (OP 6(b))	No requirement for adult.	n/c
Times (OP 6(d))	All Core Hours	n/c
Parts (OP 6(e))	Restaurant & takeaway (not Public Bar)	n/c

4. Licence Conditions

No variation of the Conditions is appropriate.

Application for Variation of Premises Licence - Section 29

Applicant	H.F. Holidays Ltd.
Premises	"Altachorvie", Shore Road, Lamlash, Isle of Arran
Ref.	0186

Preliminary

This Report has been prepared provisionally before the end of the Site Notice display period, which ends on 10 August 2012. Until the Board has a Certificate of Display, it cannot determine the Application.

1. Objections and Representations

Police	No response yet
Community Council	No response yet
Fire	No response yet
Health Board	No response yet
Other Objections or Representations?	No response yet

2. Summary of Variation Request(s)

No.	Variation
1	Add Outdoor Drinking Area
2	Amend Licence Condition to allow outdoor drinking before 11 am and after 10 pm
3	Extend entertainment
4	Appoint a new Premises Manager

3. Issues

This gives the position for each of the numbered 'Variation Requests' summarised above. Where the legislation makes a decision mandatory, this is stated. Otherwise, the Board has a discretion whether to grant or refuse the request. Possible issues with L.O.s or Board Policy are highlighted.

Variation 1: Add Outdoor Drinking Area

Discretionary refusal

Notes:

The Board may consider that the Application is not consistent with Licensing Objective (c): 'preventing public nuisance'.

The Premises are a hotel supplying alcohol to residents only. The proposal is to use the garden in front of the building for drinking. The garden is close to several dwelling-houses.

The Board is entitled to ask the Applicant to vary the proposal, e.g. to alter the times or locations of activities which might lead to noise or other nuisance.

In general, such outdoor areas are subject to two of the Board's Standard Conditions, but the Applicant is requesting that one of these, limiting the time of use, should not apply.

The usual conditions are:

"C.5.1 No loudspeakers, televisions, radios or other devices for amplifying sound shall be positioned at any time in Outdoor Drinking Areas.

C.5.2 No drinks (alcoholic or not) shall be taken into or consumed in such areas earlier than 11.00 a.m. and later than 10.00 pm.."

Variation 2: Amend Licence Condition to allow outdoor drinking before 11 am and after 10 pm

Discretionary refusal

Notes:

The Applicant requests the Board to remove Condition C.5.2. As a hotel, the Premises can sell alcohol 24 hours a day, and are not limited to Licensed Hours.

The Board may consider that the Application is not consistent with Licensing Objective (c): 'preventing public nuisance'.

Rather than delete the Condition altogether, the Board may vary it, for example:

"C.5.2 No drinks (alcoholic or not) shall be taken into or consumed in such areas earlier than 11.00 a.m. and later than 10.00 pm., except that tea, coffee and soft drinks may be taken into or consumed at the front of the building after 9.00 a.m.."

In other cases the Board has allowed such an early morning variation to allow hotels to serve breakfasts outdoors.

The Applicant should tell the Board whether or not this variation is acceptable.

Variation 3: *Extend entertainment*

Discretionary refusal

Notes:

The Applicant wishes to add to the O.P.:Live performances, Dance facilities, Films, Indoor/Outdoor sports, and Televised sport.

The Board would have to be satisfied that the proposals were not inconsistent with any of the Licensing Objectives.

The statutory form has a single category 'indoor/outdoor sports', so Applicant should state what is intended, where and when it will happen, and whether any outdoor activities are intended.

Variation 4: *Appoint a new Premises Manager*

Mandatory Grant : The request is for a 'Minor Variation'

4. Licence Conditions

Condition C.5.2 will be deleted or varied depending on the Board's decision on Variation 2.

Application for Variation of Premises Licence - Section 29

Applicant	Brodick Golf Club
Premises	Clubhouse
Ref.	0414

1. Summary of Variation Request(s)

No.	Variation
1	<i>Allow weddings, funerals, birthdays etc.</i>
2	<i>Allow Live Performances</i>
3	<i>Allow Children in 'Casual Bar' and 'Games Room' to play pool</i>
4	<i>Allow soft drinks, tea and coffee to be served on patio from 9.00 a.m.</i>

2. Objections and Representations

Police	Letter will be handed to Members
Community Council	None yet
Fire	No objection
Health Board	No response yet
Other Objections or Representations?	None

3. Issues

This gives the position for each of the numbered 'Variation Requests' summarised above. Where the legislation makes a decision mandatory, this is stated. Otherwise, the Board has a discretion whether to grant or refuse the request. Possible issues with L.O.s or Board Policy are highlighted.

Variation 1: <i>Allow weddings, funerals, birthdays etc.</i>
Grant (no statutory reason to refuse, and no breach of Board policy)

Variation 2: <i>Allow Live Performances</i>
Discretionary refusal
Notes: The Board should consider whether the proposal is inconsistent with Licensing Objective (c): 'preventing public nuisance', e.g. in relation to any nearby dwelling-houses that might be affected by noise from the Premises.

Variation 3: Allow Children in 'Casual Bar' and 'Games Room' to play pool**Discretionary refusal****Notes:**

The Police representation relates to this proposal.

The places where alcohol may be consumed are shown on the Layout Plan:

1. 'Family Area'
2. 'Members Bar'
3. 'Casual Bar'
4. 'Games Room'
5. 'Terrace'

All areas except the 'Games Room' are designated as 'dining areas'. The toilets are accessed from the 'Casual Bar' (gents), the 'Family Area' (ladies) and the 'Games Room' (disabled).

The present access arrangements for under-18s are that they must be with an adult (there is no requirement that they should be taking meals) and are only allowed in the 'Family Area', so the gents and disabled toilets are only accessed by breaching the Licence.

The proposal to allow Children in the 'Casual Bar' and 'Games Room' would address this, but

1. would allow them to enter the 'Members Bar', and
2. would involve breach of NALB Standard Conditions:

"C.10.3 In the area(s) of the Premises to which Children are admitted:
...

(d) The playing of darts, pool, snooker or any other game is prohibited;

(e) There shall be no dartboard, pool table or other facilities for such activities in those area(s);"

These Conditions are justified by L.O. (e): 'protecting Children from harm' (this L.O. relates to 'Children' aged 0-15 years, and not to older 'Young Persons' (aged 16-17).

The Board should decide whether to remove those Conditions altogether.

Further matter

Neither the current O.P. nor the proposed O.P. states that under-18s are allowed on the Terrace. The Applicant may wish the Board to adopt the following wording for O.P. 6(b):

"Children (aged under 16) and Young Persons (aged 16-17) are permitted in

the areas noted on the Layout Plan:

1. 'Family area'
2. 'Casual Bar'
3. 'Games Room'

and, the toilets, and the Terrace, and are also allowed to enter the 'Members Bar' for the sole reason of passing from one place where they are entitled to be to another such place."

Limiting the time that unsupervised under-18s may be in the Members Bar is consistent with L.O. (a): 'preventing crime and disorder'.

Variation 4: Allow soft drinks, tea and coffee to be served on patio from 9.00 a.m.

Discretionary refusal

Notes:

The Licence is currently subject to a NALB Standard Condition about 'outdoor drinking areas' -

"C.5.2 No drinks (alcoholic or not) shall be taken into or consumed in such areas earlier than 11.00 a.m. and later than 10.00 pm.."

This condition is based on the 'preventing public nuisance' L.O.. The Board should consider whether the proposal is inconsistent with that L.O..

Rather than delete the Condition altogether, the Board may vary it, for example:

"C.5.2 No drinks (alcoholic or not) shall be taken into or consumed in such areas earlier than 11.00 a.m. and later than 10.00 pm., except that tea, coffee and soft drinks may be taken into or consumed on the terrace shown on the Layout Plan after 9.00 a.m.."

In other cases the Board has allowed such an early morning variation to allow service of breakfasts outdoors.

The Applicant should tell the Board whether or not this variation is acceptable.

4. Licence Conditions

The Licence was granted subject to Edition 4 of the Board's Standard Conditions - before the most recent revision. The existing Conditions should be replaced by the current Edition 5.

Conditions C.10.4(d) and (e) will be deleted or varied depending on the Board's decision on Variation 3.

Condition C.5.2 will be deleted or varied depending on the Board's decision on Variation 4.

Application for Variation of Premises Licence - Section 29

Applicant	Dreghorn Bowling Club
Premises	Club, 88 Main St, Dreghorn, Irvine
Ref.	0280

1. Summary of Variation Request(s)

No.	Variation
1	<i>Surrender Club 'Special Status'</i>
2	<i>Appoint a Premises Manager</i>
3	<i>Increase capacity from 150 to 200</i>

2. Objections and Representations

Police	No objection
Community Council	No response yet
Fire	No objection
Health Board	No response yet
Other Objections or Representations?	None

3. Issues

This gives the position for each of the numbered 'Variation Requests' summarised above. Where the legislation makes a decision mandatory, this is stated. Otherwise, the Board has a discretion whether to grant or refuse the request. Possible issues with L.O.s or Board Policy are highlighted.

Variation 1: <i>Surrender Club 'Special Status'</i>
Discretionary refusal - Possible reason: The Variation may create Overprovision
Notes: Variation 2 follows from Variation 1: if Variation 1 is refused, Variation 2 will be unnecessary, but if Variation 1 is granted, Variation 2 is essential. At present, the Club has the Special Status given to Clubs by Section 125 of the Act. This Special Status means that the Club has lower Licensing fees, does not require to have either a Premises Manager or Baby-Changing Facilities, and the Club is not taken into account in any consideration of Overprovision. A consequence of having the Special Status is that the Club can have no more than 12 Occasional Licences per year.

The purpose of the present Variation is to surrender the Special Status. This will mean that the Club will be licensed like any commercial Premises (such as a Public House or a Restaurant) although, by applying special Licence Conditions known as 'Part K of the Board's Standard Conditions', the character of the Club will be preserved, e.g. it will continue to restrict the use of its facilities to Members and their guests. As 'ordinary' Premises, the Club will no longer have to be concerned with getting Occasional Licences, as catering for functions will be dealt with as part of its Operating Plan.

The Club will have to pay higher licensing fees. If the Special Status is removed, the Annual Fee will be higher, and based on Rateable Value (as fees for commercial Premises are).

The Board requires to decide whether the proposed Variation is desirable, in that it introduces into the locality another Licensed Premises which are subject to any Overprovision Assessment.

Children

The Premises permit children aged 10 and over. No change to the Operating Plan is now proposed, but if the Premises later wish to permit Children under 5 then Club will have to have Baby Changing Facilities accessible by persons of either gender. At present, as a 'Section 125 Club', the Premises do not need to fulfil the relevant mandatory condition, but if the variation is permitted, they would.

Overprovision

There is a presumption of refusal due to Scottish Government guidance and the Board's own Licensing Policy Statement. If the Board is minded to refuse for this reason, it should continue consideration of the Application to a later Meeting, when a detailed statement of the Board's policy, with information as to the population and capacity of similar Premises in the locality, will be prepared.

Variation 2: Appoint a Premises Manager

Mandatory Grant : The request is for a 'Minor Variation'

Notes: the proposed Premises Manager holds a Personal Licence: Elizabeth Spence (NA 0232)

Variation 3: Increase capacity from 150 to 200

Grant (no statutory reason to refuse, and no breach of Board policy)

Notes: The NAC Building Standards Surveyor has surveyed the Premises and reports:

1. the Premises are satisfactory in terms of public safety, and
2. he is satisfied with the proposed occupant capacity.

4. Licence Conditions

If Variation 1 is granted, 'Section 125' Conditions (Part I) should be deleted, and 'Non-Section 125' Conditions (Part K) should be added.

Application for Variation of Premises Licence - Section 29

Applicant	Walcal Property Development Ltd
Premises	"The Crown Inn", 38-40 Main St, Dreghorn
Ref.	0122

Preliminary

This Report has been prepared provisionally before the end of the Site Notice display period, which ends on 10 August 2012. Until the Board has a Certificate of Display, it cannot determine the Application.

1. Summary of Variation Request

No.	Variation
1	Add Outdoor Drinking Area

2. Objections and Representations

Police	No objection
Community Council	No response yet
Fire	No response yet
Environmental Health	Memo will be given to Members
Health Board	No response yet
Other Objections or Representations?	No response yet

3. Issues

This gives the position for each of the numbered 'Variation Requests' summarised above. Where the legislation makes a decision mandatory, this is stated. Otherwise, the Board has a discretion whether to grant or refuse the request. Possible issues with L.O.s or Board Policy are highlighted.

Variation 1: Add Outdoor Drinking Area

Discretionary refusal

Notes:

The Premises are in a terrace of buildings with dwelling-houses nearby. The proposal is to use the whole rear garden.

The Board would have to be satisfied that the proposals were not inconsistent with Licensing Objective (c): 'preventing public nuisance'.

Board may consider that its Standard Conditions are sufficient:

"C.5.1 No loudspeakers, televisions, radios or other devices for amplifying sound shall be positioned at any time in Outdoor Drinking Areas.

C.5.2 No drinks (alcoholic or not) shall be taken into or consumed in such areas earlier than 11.00 a.m. and later than 10.00 pm.."

4. Licence Conditions

The Licence was granted subject to Edition 1 of the Board's Standard Conditions - before the most recent revision. The existing Conditions should be replaced by the current Edition 5.

Report

to

North Ayrshire Licensing Board

by

Senior Solicitor (Licensing)

Subject:	Gambling Act 2005 - Consultation on Casinos.
Recommendation:	That the Board consider a response to questions asked by the National Casino Industry Forum, and instruct the Clerk to issue an appropriate reply.

1. The Board is the Licensing Authority for the purposes of the Gambling Act 2005.

2. The National Casino Industry Forum (N.C.I.F.), Carlyle House, 235-237 Vauxhall Bridge Road, London, SW1V 1EJ has sent all Licensing Authorities in the U.K. a letter requesting the Authorities to give their views on questions. This request was received by the Board on 15 August 2012 and a response is requested by 31st August 2012. A copy of the letter will be given to Members.

3. The number of Casino Premises Licences is fixed in law. The law is divided between the 2005 Act and the Gaming Act 1968. The Casino Licences granted under the 1968 Act were limited to 53 'Permitted Areas', mainly London, other cities and towns with a population over 125,000. In Scotland, the 1968 Act limited Casinos to Edinburgh, Glasgow, Dundee and Aberdeen. The Transitional Provisions for the 2005 Act provide for the conversion of 1968 Act Licences.

4. N.C.I.F contends that the 1968 Act's allocation is 40 years old and has been superseded by population and demographic shifts. Therefore they are raising the possibility of 1968 Licences being 'portable', in that they would no longer be restricted to 'Permitted Areas', but could instead be granted wherever the local Board agreed to one.

5. The N.C.I.F.'s questions are:

(a) Would the Board like the regulatory power to decide for itself whether it should be permitted to license a Casino development (as opposed to it being a decision for central government)?

(b) Would the Board support the 'portability' of converted Casino licences under the Gaming Act 1968?

(c) Would the Board actively seek to host a Casino?

6. These questions are being directed to Licensing Authorities throughout the U.K., and are not directed particularly at NALB. There is no proposal to grant a Casino Licence in NA. If there ever is an Application, then (if the law remains as it is) it would be determined by the Board. At present the Board is entitled to make a

ADDITIONAL AGENDA ITEM 3

Resolution not to issue Casino Premises Licences (Section 166). Such a Resolution lasts 3 years but can be renewed.