

SHETLAND ISLANDS AREA LICENSING BOARD

Clerk: Jan-Robert Riise
Depute Clerk: Susan Brunton

Governance and Law
Corporate Services Department
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If calling please ask for
Leisel Malcolmson
Direct Dial: 01595 744599

Dear Sir/Madam

Date: 11 December 2018

You are invited to attend the following meeting:

**Shetland Islands Area Licensing Board
Council Chamber, Town Hall, Lerwick
Tuesday 18 December 2018 at 10am**

Apologies for absence should be notified to Leisel Malcolmson at the above number.

Yours faithfully

Depute Clerk to the Board

Clerk to the Board: Jan R Riise

AGENDA

- (a) Hold circular calling the meeting as read.
- (b) Apologies for absence, if any.
- (c) Declarations of Interest.
- 1. **Licensing Scotland Act 2005**
Applications for Premises Licence, Variation other than a Minor Variation of Premises Licence. Extension of Licensed Hours, Application for Occasional Licence
- 2. Premises Licence Review Hearing – Spiggie Hotel
- 3. Premises Licence Review Hearing – Linkhouse Stores

SHETLAND ISLANDS AREA LICENSING BOARD – MEETING 18 DECEMBER 2018

1. Application for Premises Licence

<u>Applicant</u>	<u>Premises</u>	<u>On-Sales/Off Sales/Both</u>
(a) Balta Light Limited	Balta Light Limited Hagdale Baltasound Unst Shetland ZE2 9DS	Both on and off sales

• Core Times

On Sales

	Opening	Terminal
Mon	11am	1am
Tue	11am	1am
Wed	11am	1am
Thurs	11am	1am
Fri	11am	1am
Sat	11am	1am
Sun	11am	1am

Off Sales

	Opening	Terminal
Mon	11am	10pm
Tue	11am	10pm
Wed	11am	10pm
Thurs	11am	10pm
Fri	11am	10pm
Sat	11am	10pm
Sun	11am	10pm

- Seasonal Variation – None
- Other Activities – None
- Children or Young Persons admitted – Children and young persons allowed entry to the premises between 11am and 9pm.
All ages of children must be accompanied by a responsible adult while on the premises.
- Capacity in bar area – 200 persons
- Premises Manager – Desley Stickle

LSO comments: No objections

Police comments: No objections

Building Standards comments: Section 50 Certificate previously used on 26 September 2018.

Occupation Capacity of areas as follows:

Public Bar Area – 92
Bar - 6
Function Room - 55

Total Capacity: 153 people

Display Area: 7.9m²

No adverse comments to make.

Community Council comments: See attached letter from Unst Community Council

Health Board Comments: None received

Fire Board Comments: None received

Occupiers: Thulecraft Limited – We have no objection, but indeed welcome the application.

2. Application for Variation other than a Minor Variation of Premises Licence

<u>Applicant</u>	<u>Premises</u>	<u>Proposed Variation</u>
(a) Brae Community Hall SCIO	Brae Community Hall Brae Shetland ZE2 9QJ	To allow films and televised sport to be shown during the core licensing hours:- Monday 11am – 11pm Tuesday 11am – 11pm Wednesday 11am – 11pm Thursday 11am – 11pm Friday 11am – 1am Saturday 11am – 1am Sunday 11am – 11pm
LSO comments:	No objections	
Police comments:	No objections	
Building Standards comment:	None received	
Community Council comments:	None received	
Health Board Comments:	None received	
Fire Board Comments:	None received	

3. Application for Extension of Licensed Hours

	<u>Applicant</u>	<u>Premises</u>	<u>Extended Hours Applied For</u>	<u>Event or Occasion</u>
(a)	Alistair J Williamson	Hillswick Public Hall Hillswick Shetland	1.15am-2am Sunday 17 February 2019 (extension of drinking up time only to facilitate an orderly dispersal of patrons)	Northmavine Up-Helly-Aa Hop

LSO comments: The application is to allow additional drinking up time at this event but this is outwith the legislative period of 15 minutes permitted. I fully agree with the intention of the applicant – therefore request the Board to make the final decision.

Police comments: No objections

4. Application for Occasional Licence

	<u>Applicant</u>	<u>Premises</u>	<u>Hours Applied For</u>	<u>Event or Occasion</u>
(a)	Royal British Legion, Lerwick Branch	Royal British Legion 72 Commercial Road Lerwick Shetland ZE1 0NL	11am – 1am Friday 21 December 2018 – Wednesday 2 January 2019	Live bands and music events

LSO comments: I have no objection to this application however would note that the time period applied for is out with that set out in Shetland Islands Area Licensing Board's Scheme of Delegation.

Police comments: No objections

	<u>Applicant</u>	<u>Premises</u>	<u>Hours Applied For</u>	<u>Event or Occasion</u>
(b)	Royal British Legion, Scalloway Branch	Royal British Legion Berry Road Scalloway Shetland	6pm Friday 11 January 2019 – 3.30am Saturday 12 January 2019 1pm on Saturday 12 January 2019 – 12.45am Sunday 13 January 2019	Local Fire Festival
	LSO comments:	No comments received		
	Police comments:	No objections		

Unst Community Council

Chairman

Gordon Thomson
Hamar
Baltasound
Unst
Shetland

Tel: 01957 711695

Clerk

Josie McMillan
Rockfield
Haroldswick
Unst
Shetland

Tel: 01957 711554
E-mail: clerk@unstcc.shetland.co.uk

Balti Light Ltd
Desley Ritch
Newpark
Baltasound
Unst
Shetland

3 October 2018

Dear Desley

Unst Community Council is in support of the proposed new licensed premises Balti Light Ltd at Hagdale, Baltasound, Unst. At present, there is only one public bar on the island, at the Saxa Vord resort in the north of Unst, quite far from the main centre of population in Baltasound. Although the three local Halls have occasional licences, they are not open very often. The small Lounge Bar at the Hotel is open to diners and residents only.

We believe this new business venture would have the support of the community, particularly in the busy tourist season but also in the winter months. It is near the main road and within walking distance of the Baltasound Pier for visiting yachts.

The facility plans to open with reduced hours through the winter, November to April, opening Wednesday, Thursday, Friday evenings and all day Saturday and Sunday. They will then gauge interest and adapt opening hours to suit when folk are visiting. Through the summer months they will open every evening and again all day at weekends, the hours they have applied for are 11.00am to 1.00am Monday to Sunday but this is so they have the option of opening if there is a requirement.

They hope to refurbish the kitchen through the winter months and have it ready to open and serve bar meals for the summer of 2019.

Balti Light Ltd has a function room as well as the bar area and they are happy for individuals to use the venue for birthday parties, retirement doo's, clubs meetings and anything else they might suggest

We hope the Licensing Board will look favourably on this new venture for Unst.

Yours sincerely

Gordon Thomson

Gordon Thomson, Chairperson

SHETLAND ISLANDS AREA LICENSING BOARD

18 December 2018

Premises Licence Review Hearing – Spiggie Hotel

1. Introduction

- 1.1 It is a condition of a premises licence granted under the Licensing (Scotland) Act 2005 that alcohol is not to be sold on the premises when there is no premises manager in respect thereof. The selling of alcohol on premises without there being a premises manager is a breach of the conditions under which the licence is granted.
- 1.2 Regulations made under the Licensing (Scotland) Act 2005 provide that the holder of a premises licence must make payment of an annual fee. The annual fee, which may be paid by instalments, is due on 1 October every year. Failure to pay the annual fee is a breach of the conditions under which the premises licence is granted. It appeared to the Depute Clerk that the annual fee in respect of the premises licence for the Spiggie Hotel for the year 2017/18 had not been paid in full.
- 1.3 The above apparent breaches of the conditions were drawn to the attention of the Board when it met on 7 November 2018. On that date the Board proposed to review the premises licence for the Spiggie Hotel on the basis that one or more of the licensing conditions have been breached in that –
 - a) The Licence Holder had failed to pay the whole licensing fee for 2017/18; and
 - b) The premises did not have a premises manager but have continued to sell alcohol.

2. Detail — Statutory Provision

- 2.1 Section 37(1) of the Licensing (Scotland) Act 2005 (the "Act") states that the appropriate Licensing Board in respect of any licensed premises in relation to which a premises licence has effect may, on their own initiative, propose to review the licence on any of the grounds for review.

A proposal under section 37(1) is referred to as a "premises licence review proposal".
- 2.2 Section 38(1) of the Act requires that where a licensing board makes a premises license review proposal, the Board must hold a hearing (known as a "review hearing") for the purposes of considering and determining the proposal.
- 2.3 The powers of the Board at a licence review are set out in Section 39. If the Board is satisfied that a ground for review is established the Board may take such of the following steps as 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.
 - (c) Suspend the Licence.
 - (d) Revoke the Licence.
- 2.4 The grounds for review under section 37(1) are:

- (a) that one or more of the conditions to which the premises licence is subject has been breached, or
 - (b) any other ground relevant to one or more of the licensing objectives.
- 2.5 A premises licence review proposal must specify the alleged ground for review, including in particular — (a) where the ground is that specified in subsection 36(3)(a), the condition or conditions alleged to have been breached.
- 2.6 It is a mandatory condition of any premises licence that alcohol is not to be sold on the premises at any time when there is no premises manager in respect of the premises.
- 2.7 It is a mandatory condition of any premises licence that the annual or other recurring fee to be paid by virtue of the regulations made under section 136(1) of the Licensing (Scotland) Act 2005 must be paid as required by the regulations. Annual fees are due on 1 October each year. Regulation 7 of the Licensing (Fees)(Scotland) Regulations 2007 states that the holder of a premises licence which is in effect or is suspended must make payment of an annual fee in respect of the performance in relation to that licence of functions by the relevant Board, the council within the area of which the premises are situated and that council's Licensing Standards Officers. The fees can be paid in one lump sum, however the Regulations permit the Board to allow the annual fee to be paid in 4 or 12 equal instalments over the course of the year.

3. Detail – Facts

3.1 Premises manager

On 30 November 2017 the Board transferred the premises licence in respect of Spiggie Hotel, Shetland to Enjoy the Fruit Limited. The licence was in accordance with the Licensing (Scotland) Act 2005, and was subject to the mandatory conditions set out in Schedule 3 to the Act. At the time of the transfer Enjoy the Fruit Limited made no application to vary the licence by specifying a new premises manager; the premises manager remained the former owner, whose address was recorded on the licence as the Spiggie Hotel. The former owner had indicated that he had sold the premises on 25 November 2017 and had understood that all relevant changes to the licence were to be made by the solicitors dealing with the transaction. The former owner no longer resides in Shetland and what he had said indicated that he is no longer worked on the premises. It appeared to the Depute Clerk that there was no premises manager in respect of the premises.

- 3.2 By application dated 19 November 2018 Enjoy the Fruit Limited sought to vary the premises licence in respect of Spiggie Hotel by naming Mr Christopher Lee as the premises manager. This application was in due course granted by the Clerk to the Board within the authority delegated by the Board to the Clerk.

3.3 Annual Fee

The total annual fee for the Spiggie Hotel is £280. The former licence holder had opted to pay the annual fee by four instalments and, prior to the transfer, had paid the first instalment of £70. Three further instalments were due on 1 January, 1 April and 1 July 2018.

- 3.4 Enjoy the Fruit Limited paid the instalment due on 1 January 2018 timeously. There were delays in paying the instalment due on 1 April 2018. Although it is not the Board's practice to issue reminders for late instalment payments, the Depute Clerk sent reminders to Mr Lee on 19 April and 8 June 2018 before payment was

received in June 2018.

- 3.5 The final instalment of £70 was due on 1 July 2018. Reminder letters were sent on 11 July and 14 August 2018 seeking payment but no response or payment was received. The sum due remained outstanding. Although on 19 October 2018 Enjoy the Fruit Limited's representative paid the 2018/19 annual fee in full, and was reminded of the outstanding instalment from the previous year, he at that time declined to pay it.
- 3.6 The outstanding instalment of the 2017/18 annual fee was paid by Enjoy the Fruit Limited on 8 November 2018. The 2017/18 annual fee is now fully paid.
- 3.7 On 7 November 2018 the Clerk reported the non-payment to the Board (Appendix) and the Board made a premises licence review proposal in respect of Spiggie Hotel. The premises licence review proposal relates to breaches of the conditions of the licence by –
 - (a) selling of alcohol on the premises of Spiggie Hotel without there being a premises manager in respect thereof; and
 - (b) failing to pay the annual fee.
- 3.8 In selling alcohol without a premises manager Spiggie Hotel was in breach of the conditions of its premises licence. The subsequent variation of its licence has resulted in there now being a premises manager.
- 3.9 The failure to pay the annual fee due was in breach of the conditions of the premises licence; this failure has now been remedied.
- 3.10 The Board must hold a review hearing for the purpose of considering and determining the premises licence review proposal. Notice is being given the Premises Licence holder that a review hearing will be held on 18 December 2018 and that his attendance has been requested.

4. Decisions Required

- 4.1 The Board is asked to consider and determine the premises licence review proposal and, if satisfied that the ground for review is established, whether or not on the basis of any circumstance alleged in the premises licence review proposal, to consider taking such, if any, of the following steps as the Board considers necessary or appropriate for the purposes of any of the licensing objectives, namely:-
 - (a) Issue a written warning to the licence holder.
 - (b) Make a variation of the Licence.
 - (c) Suspend the Licence.
 - (d) Revoke the Licence.

Depute Clerk to the Licensing Board

11 December 2018

SHETLAND ISLANDS AREA LICENSING BOARD

7 November 2018 Breach of Licensing Conditions

1. Introduction

- 1.1 Premises Licences issued under the Licensing (Scotland) Act 2005 are due for renewal annually on 1 October. Each licence is subject to an annual fee specified in the Act. Failure to pay the fee is a breach of the conditions under which the premises licence is granted. When a premises licence holder is in breach of the terms of their licence Shetland Islands Area Licensing Board may consider whether they wish to review the licence.

2. Detail – Statutory Provision

- 2.1 Section 37(1) of the Licensing (Scotland) Act 2005 states that the appropriate Licensing Board in respect of any licensed premises in relation to which a premises licence has effect may, on their own initiative, propose to review the licence on any of the grounds for review.
- 2.2 A proposal under section 37(1) is referred to as a “premises licence review proposal”.
- 2.3 The powers of the Board at a licence review are specified in Section 39. If the Board are satisfied that the grounds of review are established the Board can, in order to promote the licensing objectives, take the following steps:
- (a) Issue a written warning to the licence holder.
 - (b) Make a variation of the Licence.
 - (c) Suspend the Licence.
 - (d) Revoke the Licence.
- 2.4 The grounds for review under section 37(1) are:
- (a) that one or more of the conditions to which the premises licence is subject has been breached, or
 - (b) any other ground relevant to one or more of the licensing objectives.
- 2.5 A premises licence review proposal must specify the alleged ground for review, including in particular – (a) where the ground is that specified in subsection 36(3)(a), the condition or conditions alleged to have been breached.
- 2.6 It is a mandatory condition of any premises licence that the annual or other recurring fee to be paid by virtue of the regulations made under section 136(1) of the Licensing (Scotland) Act 2005 must be paid as required by the regulations. Regulation 7 of the Licensing (Fees)(Scotland) Regulations 2007 states that the holder of a premises licence which is in effect or is suspended must make payment of an annual fee in respect of the performance in relation to that licence

of functions by the relevant Board, the council within the area of which the premises are situated and that council's Licensing Standards Officers.

- 2.7 It is also a mandatory condition of any premises licence that alcohol is not to be sold on the premises when there is no premises manager in respect of the premises.

3. Detail - Facts

- 3.1 Enjoy the Fruit Limited has been the holder of the premises licence for the Spiggie Hotel since 30 November 2017. The total annual fee for these premises is £280. The previous licence holder had opted to pay the annual fee by instalments and had paid the first instalment of £70. Three further instalments were due on 1 January 2018, 1 April 2018 and 1 July 2018.
- 3.2 Enjoy the Fruit Limited paid the second instalment on time. However there were delays in paying the third instalment and repeated reminders were issued before payment was received in June 2018. It is not the Board's usual practice to issue reminders for instalment payments.
- 3.3 The final instalment of £70 was due on 1 July 2018. Two letters have been sent seeking payment (11 July and 14 August) but no response received. The sum due remains outstanding.
- 3.4 Enjoy the Fruit Limited's representative paid the annual fee for 2018/19 in full on 19 October 2018. He was reminded of the outstanding instalment from the previous year but declined to pay it.
- 3.5 The premises manager for the Spiggie Hotel remains the previous owner, Mr Keith Massey. Mr Massey's address is given on the licence as the Spiggie Hotel. Mr Massey indicated he sold the premises on 25 November 2017 and had understood that all relevant changes to the licence were to be made by the solicitors dealing with the transaction. He no longer resides at the Spiggie Hotel and what he has said indicates that he is no longer works on the premises. I await formal confirmation from Mr Massey that he is no longer the premises manager.
- 3.6 In terms of Section 54(2) the Licence Holder must advise the Board within seven days when the Premises Manager ceases working at the premises and make an application for a change of manager within six weeks.
- 3.7 I wrote to the Licence Holder on 17 October 2018 by recorded delivery letter reminding him of the outstanding instalment of licensing fee and seeking clarification of the position with respect to the premises manager.
- 3.8 Whilst the position with respect to the premises manager still requires clarification there does seem to be evidence to suggest that there is a breach of the licensing conditions in respect of the need to have a premises manager.
- 3.9 The Board is therefore entitled to consider whether a premises licence review proposal should be carried out.

4. Decisions Required

4.1 The Board is asked to consider the information provided and decide whether:-

1. The Board wishes to propose to review the premises licence for the Spiggie Hotel on the basis that one or more of the licensing conditions have been breached in that:
 - a) The Licence Holder has failed to pay the whole licensing fee for 2017/18
 - b) The premises do not have a premises manager but have continued to sell alcohol.
2. If the Board wishes to hold a review, the Board are asked to consider whether they wish to request the attendance of any specified person at the review hearing.

Depute Clerk to the Licensing Board

23 October 2015

SHETLAND ISLANDS AREA LICENSING BOARD

18 December 2018

Premises Licence Review Hearing – Linkhouse Stores

1. Introduction

- 1.1 Regulations made under the Licensing (Scotland) Act 2005 provide that the holder of a premises licence must make payment of an annual fee. The annual fee, which may be paid by instalments, is due on 1 October every year. Failure to pay the annual fee is a breach of the conditions under which the premises licence is granted. It appeared to the Depute Clerk that the annual fee in respect of the premises licence for the Linkhouse Stores for the year 2017/18 had not been paid.
- 1.2 The above apparent breach of the conditions were drawn to the attention of the Board when it met on 3 September 2018. On that date the Board proposed to review the premises licence for Linkhouse Stores on the basis that the licensing conditions that the Licence Holder had failed to pay the licence fee for 2017/18.

2. Detail — Statutory Provision

- 2.1 Section 37(1) of the Licensing (Scotland) Act 2005 (the "Act") states that the appropriate Licensing Board in respect of any licensed premises in relation to which a premises licence has effect may, on their own initiative, propose to review the licence on any of the grounds for review.

A proposal under section 37(1) is referred to as a "premises licence review proposal".

- 2.2 Section 38(1) of the Act requires that where a licensing board makes a premises license review proposal, the Board must hold a hearing (known as a "review hearing") for the purposes of considering and determining the proposal.
- 2.3 The powers of the Board at a licence review are set out in Section 39. If the Board is satisfied that a ground for review is established the Board may take such of the following steps as 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.
 - (c) Suspend the Licence.
 - (d) Revoke the Licence.
- 2.4 The grounds for review under section 37(1) are:
 - (a) that one or more of the conditions to which the premises licence is subject has been breached, or
 - (b) any other ground relevant to one or more of the licensing objectives.
- 2.5 A premises licence review proposal must specify the alleged ground for review, including in particular — (a) where the ground is that specified in subsection 36(3)(a), the condition or conditions alleged to have been breached.

- 2.6 It is a mandatory condition of any premises licence that the annual or other recurring fee to be paid by virtue of the regulations made under section 136(1) of the Licensing (Scotland) Act 2005 must be paid as required by the regulations. Annual fees are due on 1 October each year. Regulation 7 of the Licensing (Fees)(Scotland) Regulations 2007 states that the holder of a premises licence which is in effect or is suspended must make payment of an annual fee in respect of the performance in relation to that licence of functions by the relevant Board, the council within the area of which the premises are situated and that council's Licensing Standards Officers.

3. Detail – Facts

- 3.1 The premises licence in respect of Linkhouse Stores was transferred to McCollard of Shetland Limited on 12 February 2016 and was subject to the mandatory condition set out at paragraph 2.6 above.
- 3.2 The annual fee for Linkhouse Stores is £280. On 11 August 2017 the Board's Clerk wrote to McCollard of Shetland Limited informing the premises licence holder that the annual premises licence fee of £220 for 2017/18 was due for payment not later than 2 October 2017. The annual fee remains unpaid.
- 3.3 *The Edinburgh Gazette* (Appendix 1) has published notices to the effect that McCollard of Shetland Limited had resolved on 16 May 2017 that the Company could not, by reason of its liabilities, continue its business and that it was advisable to wind it up, and the Company proceeded to appoint a Liquidator for that purpose.
- 3.4 On 3 September 2018 the Clerk reported the non-payment to the Board and the Board made a premises licence review proposal (Appendix 2) in respect of Linkhouse Stores. The premises licence review proposal relates to a breach of the conditions of the licence by failing to pay the annual fee.
- 3.5 The Board must hold a review hearing for the purpose of considering and determining the premises licence review proposal. Notice is being given the Premises Licence holder that a review hearing will be held on 18 December 2018 and that his attendance has been requested.

4. Decisions Required

- 4.1 The Board is asked to consider and determine the premises licence review proposal and, if satisfied that the ground for review is established, whether or not on the basis of any circumstance alleged in the premises licence review proposal, to consider taking such, if any, of the following steps as the Board considers necessary or appropriate for the purposes of any of the licensing objectives, namely:-
- (a) Issue a written warning to the licence holder.
 - (b) Make a variation of the Licence.
 - (c) Suspend the Licence.
 - (d) Revoke the Licence.

Assistant Clerk to the Licensing Board

11 December 2018

Appendix 1

THE EDINBURGH GAZETTE

Meetings of Creditors

[The Edinburgh Gazette, Issue number 27867; Publication Date 5 May 2017]

MCCOLLARD OF SHETLAND LIMITED

Company Number: SC508458

Registered office: 9 Ainslie Place, Edinburgh, EH3 6AT

Principal trading address: Linkshouse Stores, Mid Yell, Shetland, ZE2 9BT

Notice is hereby given, pursuant to Section 98 of the Insolvency Act 1986, that a Meeting of the Creditors of the above named Company will be held within the offices of mlm Solutions, 7th Floor, 90 St Vincent Street, Glasgow G2 5UB, on 16 May 2017, at 11.30 am for the purposes mentioned in Section 99 to 101 of the said Act. A list of the names and addresses of the Company's creditors will be available for inspection, free of charge, at the offices of mlm Solutions, 7th Floor, 90 St Vincent Street, Glasgow G2 5UB, on the two business days immediately preceding the meeting between the hours of 10.00 am and 4.00 pm.

Further details contact: Maureen Elizabeth Leslie (IP No. 8852), Tel: 0141 228 1327.

Jeremy Collard, Director

28 April 2017

Resolutions for Winding-up

[The Edinburgh Gazette, Issue number 27876; Publication Date 26 May 2017]

MCCOLLARD OF SHETLAND LIMITED

Company Number: SC508458

Registered office: 9 Ainslie Place, Edinburgh, EH3 6AT

Principal trading address: N/A

At a General Meeting of the above named Company duly convened and held at 7th Floor, 90 St Vincent Street, Glasgow, G2 5UB, on 16 May 2017 the following Resolutions were duly passed as a Special and Ordinary Resolution respectively:

"That it has been proved to the satisfaction of this Meeting that the Company cannot, by reason of its liabilities, continue its business and that it is advisable to wind up the same and, accordingly, that the Company be wound up voluntarily and that Maureen Elizabeth Leslie, of mlm Solutions, 7th Floor, 90 St Vincent Street, Glasgow, G2 5UB, (IP No. 8852) is hereby appointed Liquidator of the Company for the purposes of the winding-up."

Further details contact: Tel: 0845 051 0210.

Jeremy Collard, Director

Appointment of Liquidators

[*The Edinburgh Gazette*, Issue Number 27876; Publication Date 26 May 2017]

Company Number: SC508458

Name of Company: **MCCOLLARD OF SHETLAND LIMITED**

Nature of Business: Convenience Store

Type of Liquidation: Creditors

Registered office: 9 Ainslie Place, Edinburgh, EH3 6AT

Principal trading address: N/A

Liquidator's name and address: Malcolm Elizabeth Leslie, of mlm Solutions, 7th Floor, 90 St Vincent Street, Glasgow, G2 5UB.

Office Holder Number: 8852.

Further details contact: Tel: 0845 051 0210.

Date of Appointment: 16 May 2017

By whom Appointed: Members and Creditors

SHETLAND ISLANDS AREA LICENSING BOARD

3 September 2018

Linkhouse Stores – Premises Licence Review Proposal

1. Introduction

- 1.1 Premises Licences are subject to an annual fee. Most premises licence holders timeously pay the annual fee. Some do not. This report asks Shetland Islands Area Licensing Board to consider whether they wish to propose to review the licence held by Linkhouse Stores Limited whose holder has failed to pay the annual fee due 2 October 2017.

2. Detail – Statutory Provision

- 2.1 Section 37(1) of the Licensing (Scotland) Act 2005 states that the appropriate Licensing Board in respect of any licensed premises in relation to which a premises licence has effect may, on their own initiative, propose to review the licence on any of the grounds for review.

A proposal under section 37(1) is referred to as a “premises licence review proposal”.

- 2.2 The powers of the Board at a licence review are specified in Section 39. If the Board are satisfied that the grounds of review are established the Board can, in order to promote the licensing objectives, take the following steps:

- (a) Issue a written warning to the licence holder.
- (b) Make a variation to the licence.
- (c) Suspend the licence.
- (d) Revoke the licence.

- 2.3 The grounds for review referred to in section 37(1) are those specified in section 36(3) and are:

(za) that, having regard to the licensing objectives, the licence holder is not a fit and proper person to be the holder of a premises licence,

(a) that one or more of the conditions to which the premises licence is subject has been breached, or

(b) any other ground relevant to one or more of the licensing objectives.

- 2.3 A premises licence review proposal must specify the alleged ground for review including in particular, where the ground is that specified in subsection 36(3)(a), the condition or conditions alleged to have been breached.

- 2.4 It is a mandatory condition of any premises licence that the annual or other recurring fee to be paid by virtue of the regulations made under section 136(1) of the Licensing (Scotland) Act 2005 must be paid as required by the regulations. Regulation 7 of the Licensing (Fees)(Scotland) Regulations 2007 states that the holder of a premises licence which is in effect or is suspended must make payment of an annual fee in respect of the performance in relation to that licence of functions by the relevant Board, the council within the area of which the premises are situated and that council's Licensing Standards Officers.
- 2.5 Annual fees are due on 1 October each year or, where that date falls on a Saturday or Sunday, on the immediately following Monday.

3. Detail - Facts

- 3.1 Most premises licence holders in Shetland Islands Area ensure that the annual fee for the premises to which the licence relates is paid timeously either in full or in instalments. All licensees received notification from the Board of the due date and the fee level prior to the due date. The notification was sent on 11 August 2017. In addition the licensee of Linkshouse Stores Ltd received a second reminder dated 1 November 2017.
- 3.2 The holder of the Linkshouse Stores Ltd premises licence has failed to pay and is in breach of the conditions of the premises licence.
- 3.3 The Board is therefore entitled to consider whether a premises licence review proposal should be carried out for the premises.

4. Decisions Required

- 4.1 The Board is asked to consider the information provided and decide whether:-
1. The Board wishes to propose to review the Linkshouse Stores Ltd licence on the ground that it has breached a condition of the licence by failing to pay the annual fee.
 2. If the Board wishes to hold a review the Board are asked to consider whether they wish to request the attendance of any specified person at the review hearing.

Assistant Clerk to the Licensing Board

3 September 2018