

**Shetland Area Licensing Board
3 November 2015
Christmas and New Year Licensing Hours 2015/16**

1. Introduction

1.1 Section 67 of the Licensing (Scotland) Act 2005 allows Shetland Islands Area Licensing Board, if it consider it appropriate to do so, to grant a general extension to licensed hours for a special event of local or national significance.

1.2 In terms of the Board's current Statement of Licensing Policy the Board has indicated that it will consider annually whether to grant a general extension covering the Christmas and New Year period. It further provides that during the period of such a general extension the Board will consider permitting –

- (a) all licensed premises to remain open until 02:00, and
- (b) nightclub premises already permitted to remain open until 03:00 to remain open until 03:00

for every day during the period of the general extension, provided such premises meet conditions required to ensure the promotion of the licensing objectives.

2. Discussion

2.1 The benefit of a general extension to licensed hours is, *inter alia*, the avoidance of potential inconsistency resulting from the Board's being asked to consider individual applications for extensions. It also addresses the tendency that developed under the previous licensing regime for licence holders to seek increasingly longer extensions to licensed hours during the festive period. The majority of on-sales premises licences formerly included a reference to the festive period in their seasonal variations in their operating plan but these tended not to be specific in the dates and times.

2.2 In light of the above, in 2009/10 the Board granted a general extension to licensed hours. In 2010/11, 2011/12 and 2012/13 the Board decided against any general extensions.

2.3 In 2013 the Board again granted a general extension for the period on that occasion from 21 December 2013 to 6 January 2014. During this general extension all licensed on-sales premises were permitted to remain open until 02:00 and nightclubs that were already permitted to stay open at weekends until 03:00 were additionally permitted to remain open until 03:00 on any night during the extension period. This general permission was repeated for the period from Saturday, 20 December 2014 to Sunday, 4 January 2015 inclusive, covering the weekend before Christmas until the weekend after the New Year.

- 2.4 There have been no approaches made by the Licensed Trade Association for a general extension for the Christmas and New Year period of 2015/16. The Board may also note that the Clerk has not received any application for an occasional extensions to cover hours from 01:00 to 02:00 for any date over the Christmas and New Year period 2015/16.
- 2.5 The Board is therefore invited to consider whether it wishes to issue a general extension for the Christmas and New Year period in 2015/16, to permit –
- (a) all licensed on-sales premises to remain open daily until 02:00;
 - and
 - (b) all licensed nightclub premises that are already permitted to remain open for any part of the week until 03:00, to remain open daily until 03:00.
- Some premises already specify as normal licensing hours in their operating plans that they will be able to open to 02:00 on Saturdays and Sundays during the festive period.
- 2.6 Alternatively the Board may apply the same approach as 2010, 2011 and 2012, where no general extension was granted.
- 2.7 If the Board grants such an extension, the Board will, at its own expense, require to intimate such extension to holders of premises licences.

3. Recommendation

- 3.1 I recommend that the Board considers whether it wishes to grant a general extension to licensing hours covering the Christmas and New Year period in 2015/16.
- 3.2 If the Board determines in terms of 3.1 to grant a general extension, to resolve to permit –
- (a) all licensed on-sales premises to remain open daily until 02:00 during the period from Saturday, 19 December 2015 until Sunday, 3 January 2016, both dates inclusive, and
 - (b) all licensed nightclub premises that are already permitted to remain open on a specified day or days of the week until 03:00, to remain open daily until 03:00 during the same period,
- or to permit such extensions during such other period and to such other hours as to the Board seems appropriate.

Depute Clerk to the Board

**Shetland Area Licensing Board
03 November 2015**

Alcohol Licensing for Halls at Up Helly Aa and Fire Festivals

1. Introduction

- 1.1 The Licensing Board has been proactive since the introduction of the Licensing (Scotland) Act 2005, in finding a way to regulate the Fire Festival and Up Helly Aa events to ensure that the alcohol was being consumed lawfully at the events. This report is seeking confirmation from the Licensing Board whether they wish to grant a general extension for Up Helly Aa Halls and Fire Festival Halls in 2016.

2. Discussion

- 2.1 It is an offence under the Licensing (Scotland) Act 2005 if a person sells alcohol, or allows alcohol to be sold, or allows the consumption of alcohol on licensed premises outwith licensed hours (and after the 15 minute drinking up time).
- 2.2 In December 2009 the Chair and Vice Chair of the Shetland Islands Area Licensing Board met with the organisers of the Up Helly Aas and Fire Festivals to find a solution to ensure alcohol consumption on the licensed premises during these events was in compliance with the Licensing (Scotland) Act 2005. Following this meeting a number of options were considered by the Licensing Board and they determined that an extension under Section 67 of the Act would be issued as they were special events of national and local significance. An extension was granted to licensed halls to permit the consumption of alcohol lawfully for the duration of the event, and to permit the sale of alcohol until 3.30am. This approach was also applied in 2011, 2012, 2013, 2014 and 2015.
- 2.3 In these previous five years general extensions to licensed hours have been granted for:
- the period of the Jarl's Breakfast;
 - the Lerwick Up Helly Aa Licensed Halls were granted a licence until event close at 9am although the bars will close at 3.30am
 - The other Up Helly Aa and Fire Festival Licensed Halls have been granted extension until the event close at 4am although the bars close at 3.30am.
- 2.4 The Licensing Standards Officer has contacted the Committees or Premises Managers to establish which halls will be used and to confirm the dates of the Up Helly Aas and Fire Festivals.

3. Recommendation

3.1 I propose that the Shetland Islands Area Licensing Board may wish consider whether to declare the Up Helly Aa's and Fire Festivals special events of local and national significance, and if so minded determine, under section 67 of the Licensing (Scotland) Act 2005 that licensed hours shall be extended for:

- the period of the Jarl's Breakfast (for each event where appropriate);
- the Lerwick Up Helly Aa Licensed Halls will be granted a licence until event close at 9am although the bars closed at 3.30am
- The other Up Helly Aa and Fire Festival Licensed Halls will be granted an extension until the event close at 4am although the bars close at 3.30am.

Licensing Standards Officer

The Shetland Area Licensing Board may wish to declare the Up Helly Aa's and Fire Festivals special events of local and national significance, and determine, under section 67 of the Licensing (Scotland) Act 2005 that licensed hours shall be extended as follows for the specified licensed premises:

Scalloway Fire Festival: 8th January 2016

Scalloway Boating Club to be granted an extension from 8am until 9am.
Burra Hall, Bridge End Hall, Scalloway Hall, Tingwall Hall, Scalloway British Legion and Scalloway Boating Club to be granted an extension until the event close at 4am on 9th January 2016, although the bar will close at 3.30am.

Lerwick Up Helly Aa: 26th January 2016

Lerwick British Legion to be granted an extension from 9:15am.
Sound Hall, Clickimin Leisure Complex and Lerwick British Legion to be granted an extension until event close at 9am on 27th January 2016 although the bar will close at 3.30am.

Nesting & Grista Up Helly Aa: 5th February 2016

South Nesting Hall to be licensed from 8am.
Whiteness and Weisdale Public Hall, South Nesting Hall and North Nesting Hall to be granted an extension until event close at 4am on 6th February 2016 although the bar will close at 3.30am.

Uyeasound Up Helly Aa: 12th February 2016

Uyeasound Public Hall to be granted an extension until event close at 4am on 13th February 2016 although the bar will close at 3.30am.

Northmavine Up Helly Aa: 19th February 2016

Hillswick Hall, Sullom and Gunnister Hall, Ollaberry Hall, North Roe and Lochend Hall to be granted an extension until event close at 4am on 20th February 2016 although the bar will close at 3.30am.

Norwick Up Helly Aa: 27th February 2016

North Unst Public Hall to be granted an extension until event close at 4am on 28th February 2016 although the bar will close at 3.30am.

Bressay Up Helly Aa: 26th February 2016

Bressay Hall to be granted an extension until event close at 4am on 27th February 2016 although the bar will close at 3.30am.

Cullivoe Up Helly Aa : 26th February 2016

Cullivoe Hall to be granted an extension from 7am until event close at 4am on 27th February 2016 although the bar will close at 3.30am.

South Mainland Up Helly Aa: 11th March 2016

Ness Boating Club to be granted an extension from 8am.

Gulberwick Hall, Cunningsburgh Hall, Sandwick Social Club, Bigton Hall and the Ness Boating Club to be granted an extension until event close at 4am on 12th March 2016 although the bar will close at 3.30am.

Delting Up-Helly-Aa: 18th March 2016

Northern Lights (Brae Hotel) to be granted an extension from 8am.

Brae Hall, Brae Hotel, Mossbank Hall, Voe Hall, Vidlin Hall, Delting Boating Club to be granted an extension until event close at 4am on 19st March 2016 although the bar will close at 3.30am

SHETLAND ISLANDS AREA LICENSING BOARD

3 November 2015

Late Payment of Fees

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. Although most premises licence holders pay the annual fee on time, some fail to do so. This report asks Shetland Islands Area Licensing Board to consider whether they wish to propose to review those licences whose holders have failed to pay their annual fee due 1 October 2015.

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 of the Licence.
- (c) Suspend the Licence.
- (d) Revoke the Licence.

- 2.3 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.

- 2.4 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.

- 2.5 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.

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 by instalments. All licensees received notification from the Board of the due date and the fee level prior to the due date. In addition those licensees listed who have not paid have received a second reminder.
- 3.2 The premises licences in Appendix 1 have failed to pay and are in breach of the conditions of their premises licence. All have failed to pay the annual fee due on 1 October 2015; one has failed to pay the balance of the fee due for the year 2014/15.
- 3.3 The Board is therefore entitled to consider whether a premises licence review proposal should be carried out for each of the premises listed in Appendix 1.

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 any or all of the licences noted in Appendix 1 on the ground that each 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.

Depute Clerk to the Licensing Board

23 October 2015

Appendix

	Licensed Premises	Premises Licence Holder	Annual Fee (£)	Comments
1	Bibby Stockholm Accommodation Barge Morrison Dock Lerwick Shetland ZE1 0PW	Sodexo 5 th Floor The Exchange No. 2 62 Market Street Aberdeen AB11 5PJ	180.00	Annual fee 2015/16. The premises remain at Morrison Dock
2	Chevalier Kalmar Accommodation Barge Quay 4 Homsgarth Lerwick Shetland	Sodexo 5 th Floor The Exchange No. 2 62 Market Street Aberdeen AB11 5PJ	180.00	Annual fee 2015/16. This vessel departed on 12 October 2015
3	Gemini Cruise Liner South Commercial Quay Blacksness Salloway Shetland ZE2 0XB	Sodexo 5 th Floor The Exchange No. 2 62 Market Street Aberdeen AB11 5PJ	44.16	Unpaid balance of fee from 2014/15
			180.00	Annual fee 2015/16. The premises remain at South Commercial Quay.
4	Sans Vitesse Accommodation Barge Victoria Pier Lerwick Shetland ZE1 0LL	Sodexo 5 th Floor The Exchange No. 2 62 Market Street Aberdeen AB11 5PJ	180.00	Annual fee 2015/16. The premises remain at Victoria Quay.