

SHETLAND ISLANDS AREA LICENSING BOARD

Clerk: Jan-Robert Riise
Depute Clerk: Kristen Johnston

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If calling please ask for
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Dear Sir/Madam

Date: 14 September 2020

You are invited to attend the following meeting:

**Special Shetland Islands Area Licensing Board
By Remote Link
Monday 21 September 2020 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.

Item 1 contains an EXEMPT Appendix

- 1. Application for Transfer of Premises Licence - SI/PREM/033 Scalloway Meat Company Ltd. Enclosed
- 2. Christmas and New Year Licensing Hours 2020/21. Enclosed

SHETLAND ISLANDS AREA LICENSING BOARD**Application for Transfer of Premises Licence****21 September 2020****SI/PREM/033 Scalloway Meat Company Ltd****1. Introduction**

- 1.1 An application for transfer of premises licence under section 33(1) of the Licensing (Scotland) Act 2005 (“the Act”) was received by Shetland Islands Area Licensing Board (the “Board”) on 20 February 2020. The premises is Scalloway Meat Company Ltd. The premises licence holder is Neil Watt. The transferee is Scalloway Meat Company Ltd Ltd.
- 1.2 Notice of the application was given by the Board to the chief constable on 21 February 2020. The chief constable notified the Board on 22 February 2020 that a person connected to the transferee, Mr Neil Watt, had been convicted of relevant offences. The chief constable did not make a recommendation for refusal of the application or provide any other information relevant to the consideration of the application by the Board.
- 1.3 Where no recommendation for refusal is made by the chief constable to the Board, the Board must grant the application.
- 1.4 Although the Board has no option in such circumstances but to grant the application, authority is not delegated to the Clerk to grant it. Delegation (e) of the Licensing Scheme of Delegations provides for the Clerk and such Deputies or Assistants as may be appointed by the Clerk to grant “transfer of premises licence – where the transferee has not be convicted of any relevant or foreign offence (reference to sections 33 to 35)”.
- 1.5 Accordingly, the Board is asked to grant the application.

2. Detail — Statutory Provision

- 2.1 Section 33(1) of the Act states that a premises licence holder may apply to the appropriate Licensing Board for the transfer of the licence to such person as is specified in the application, to be referred to as the “transferee”.
- 2.2 Section 33(4) of the Act requires the Licensing Board to give notice of the application, together with a copy of it, to the chief constable. The chief constable must respond to the notice within 21 days of the date of the notice by giving the Licensing Board one or other of the notices mentioned in subsection (6). These are: (a) a notice stating that neither (i) the transferee, nor (ii) where the transferee is neither an individual nor a council, any connected person, has been convicted of any relevant offence or foreign offence, or, (b) a notice specifying any convictions of – (i) the transferee, and (ii) where the transferee

is neither an individual nor a council, any connected person, for a relevant offence or a foreign offence.

- 2.3 Section 33(7) of the Act says that on giving notice under subsection 6(a) or (b), if the chief constable considers that it is necessary for the purposes of any of the licensing objectives that the application for the transfer of the licence to the transferee be refused, the chief constable may include in the notice a recommendation to that effect. On giving notice under subsection 6(a) or (b) the chief constable may also provide any information in relation to the transferee, connected person or interested party that the chief constable considers may be relevant to the consideration of the application by the Board.
- 2.4 Section 33(8) of the Act says that where, the Licensing Board receives a notice under subsection 6(a) and the notice does not include a recommendation under subsection 7, the Board must grant the application.

3. Detail - Facts

- 3.1 The Board received an application for transfer of premises licence, together with the appropriate fee of £165, from the premises licence holder Mr Neil Watt on 20 February 2020. The transferee noted on the application form is Scalloway Meat Company Ltd
- 3.2 The application was notified to the chief constable on 21 February 2020 together with a copy of the application.
- 3.3 The chief constable notified the Board on 22 February 2020 that a person connected to the transferee had been convicted of relevant offences. See Exempt Appendix.
- 3.4 The chief constable's notice contains no recommendation to refuse or any information for consideration by the Board.
- 3.5 As the Board has received notice of relevant offences committed by a connected person, the Clerk cannot grant the application. Notice was given to the transferee, the chief constable and the Licensing Standards Officer that the matter would be considered by the Board at a hearing to be held on 31 March 2020. The Covid pandemic interrupted licensing business and the matter is only now being considered.

4. Decisions Required

- 4.1 The Board is asked to consider the application for transfer and, there being no chief constable recommendation to refuse or any information given to the Board for its consideration of the application, to grant the application.

Assistant Clerk to the Licensing Board

02 September 2020

**Shetland Islands Area Licensing Board
21 September 2020
Christmas and New Year Licensing Hours 2020/21**

1. Introduction

- 1.1 Section 67 of the Licensing (Scotland) Act 2005 permits Shetland Islands Area Licensing Board, if it considers it appropriate, to grant a general extension to licensed hours for a special event of local or national significance.
- 1.2 In its Statement of Licensing Policy the Board has stated that it will consider annually whether to grant a general extension covering the Christmas and New Year period (the “holiday 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 at weekends to remain open until 03:00for 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 A benefit of a general extension to licensed hours is 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 holiday 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, since 2009 the Board has, except for three years 2010-2012, granted a general extension to licensed hours of all premises in Shetland for the holiday periods.
- 2.3 The duration of every general extension has been a fortnight, usually commencing on the Saturday immediately before Christmas Day and ending on the Sunday next following New Year’s Day.
- 2.4 During the general extensions referred to above all premises licensed for on-sales were permitted to remain open until 02:00. Nightclubs already permitted trade at weekends until 03:00 were additionally permitted to remain open until 03:00 on any night during the period of the general extension.
- 2.5 The Board has not received any application from individual premises licence holders for extensions during the 2020/21 holiday period.

- 2.6 In respect of the current year, coronavirus and the public interest in the prevention of its spread present additional factors for consideration. All licensed premises in Scotland were during the period 26 March until 6 July 2020, forbidden by law to trade. On 6 July outdoor hospitality was again permitted and the restriction on the opening of bars, including those in hotels or members' clubs, was revoked with effect from 15 July 2020. Notwithstanding that relaxation, the prohibition imposed in March by the Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020 on the operation of nightclub premises remains in force.
- 2.7 The Scottish Government, whilst not wanting to inhibit economic recovery by not allowing premises to trade to the fullest extent possible, has an interest in the prevention of the further spread of coronavirus. Statutory guidance issued by the Scottish Government to Licensing Boards under Section 142 of the Licensing (Scotland) Act 2005 (attached as Appendix 1), whilst relating to applications (as distinct from the grant of a general extension) makes it clear that Boards will wish to satisfy themselves that applicants can meet the terms of the sector guidance and legal provisions on Coronavirus transmission prevention.

The Scottish Government has published -

- (a) *Coronavirus (COVID-19): tourism and hospitality sector guidance*,
 - (b) *Sector guidance for tourism and hospitality*
- which draw attention also to the UK Hospitality guidance –
- (c) *COVID-19 advice and risk assessments for hospitality businesses*.

Links to these sources are provided below. Amongst the matters highlighted by them for consideration by the licensed trade are the conduct of a full risk assessment covering matters including –

Physical Distancing in relation to –

- *Signage and Marking*
- *Capacity*
- *Staff and Customer*
- *Queue management*
- *Adapting Services*

as well as –

- *Hygiene*
- *Cleaning and*
- *Other methods of reducing transmission*

In response to the changing public health situation legislation and Scottish Government guidance can be made or amended at short notice; it is not possible to predict whether at the end of December 2020 the current law and guidance will remain as it is.

- 2.8 The Board is invited to consider whether it wishes to issue a general extension for the holiday period in 2020/21, to permit –

(a) all licensed on-sales premises to remain open daily until 02:00;
and

(b) all licensed nightclub premises already permitted by the Board to remain open for any part of the week until 03:00, to remain open daily until 03:00, if not otherwise prohibited by law from operating as nightclubs.

and if so minded, to consider whether it wishes to impose conditions additional to the law and statutory guidance already in place.

2.9 Alternatively, it is open to the Board to adopt the same approach as in 2010, 2011 and 2012, when no general extensions were granted (paragraph 2.2 above).

2.10 In the event that 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 consider whether it wishes to grant a general extension to licensing hours covering the Christmas and New Year period in 2020/21.

3.2 In the event that 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 2019 until Sunday 3 January 2021 both dates inclusive, and

(b) all licensed nightclub premises already permitted by the Board 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, if not otherwise prohibited by law,

or to permit such extensions during such other period and to such other hours and subject to such conditions in respect of the prevention of the spread of coronavirus as to the Board seem appropriate.

Depute Clerk to the Board

Background papers

a. Legislation

[Health Protection \(Coronavirus\) \(Restrictions\) \(Scotland\) Regulations 2020](#)

b. Scottish Government –

[Coronavirus \(COVID-19\): tourism and hospitality sector guidance](#)

[Sector guidance for tourism and hospitality etc. - Operational guide for tourism and hospitality etc. businesses \(COVID-19\)](#)

c. UK Hospitality –

[COVID-19 advice and risk assessments for hospitality businesses](#)