




NOVA SCOTIA UTILITY AND REVIEW BOARD

IN THE MATTER OF THE LIQUOR CONTROL ACT

- and -

IN THE MATTER OF THE BOARD'S INTERPRETATION of s. 29(3) of the *Liquor Licensing Regulations* to determine whether the requirement for Board approval to provide entertainment applies to all categories of liquor license

BEFORE:  Margaret A.M. Shears, Q.C., Vice chair
 David J. Almon, LL.B., Member
 Roland A. Deveau, Q.C., Member

DECISION AND ORDER

WHEREAS the *Liquor Licensing Regulations* (the "Regulations") were amended on August 17, 2007 and, among a number of other changes, the authority to approve requests for the provision of entertainment in licensed establishments was assigned to the Board;

AND WHEREAS s. 29 of the *Regulations* provides:

- 29(1)** A permanent licensee may change the entertainment they present in their licensed premises from that indicated in their application for a license only if the Review Board approves the change.
- (2)** A permanent licensee that holds a license and an entertainment permit issued by the Review Board on the date these regulations come into force may change the entertainment they present in their licensed establishment only if the Review Board approves the change.
- (3)** A permanent licensee that holds a license but that does not hold an entertainment permit issued by the Review Board on the date these regulations come into force may present entertainment in their licensed premises only if the Review Board approves the entertainment.

AND WHEREAS on April 7, 2010, the Manager of Licensing, Alcohol and Gaming Division, Department of Labour and Workforce Development (“AGD”), sought direction from the Board with respect to approval of entertainment privileges for Club license holders under the above-noted *Regulations*;

AND WHEREAS the Board has reviewed the *Regulations* which were in effect prior to August 17, 2007 and notes that pursuant to former *Regulation* 18(1), as set out below, certain types of licenses were exempt from the requirement to obtain a permit to provide entertainment in the licensed premises:

- 18(1)** All entertainment offered to the general public by a licensee, which includes recorded music used to facilitate patron dancing as well as the showing of any performances by means of video cassettes or the like, requires an entertainment permit to be issued by the Board. This requirement does not apply to licensees who are non-profit organizations or societies.

AND WHEREAS the Board considers it expedient and efficient to determine whether Club licenses and certain Special Premises licenses, held by non-profit organizations or societies, now fall under the provisions of s. 29(3);

AND WHEREAS following a review of the *Regulations*, the Board finds that s. 29(2) only applies to the holder of an entertainment permit issued prior to August 17, 2007 and, therefore, liquor licenses held by non-profit organizations or societies remain exempt from the requirement of s. 29(3);

IT IS HEREBY ORDERED that license holders meeting the criteria under the former *Regulation* 18(1) may continue to offer entertainment, subject to compliance with conditions, restrictions or other forms of limitation (including municipal restrictions

regarding entertainment) which have been imposed by the Board or its predecessors and, in such instances, no approval is required under s. 29(3).

IT IS FURTHER ORDERED that s. 28 of the *Regulations*, as set out below, continues to apply to all licensees, whether or not they are included under the specific requirements for entertainment approval by the Board under s. 29(3).

- 28** The Review Board may impose conditions on a permanent licensee to ensure that operating the licensed premises will not interfere with the quiet enjoyment of neighbouring properties, including conditions on the entertainment to be presented in the licensed premises.

DATED at Halifax, Nova Scotia, this 14th day of April, 2010.



Clerk of the Board