

POLICY NOTE

THE AIR WEAPONS AND LICENSING (SCOTLAND) ACT 2015 (COMMENCEMENT No. 1) ORDER 2015

SSI 2015/382 (C. 48)

1. The above instrument is made in exercise of the power conferred by section 88(2) of the Air Weapons and Licensing (Scotland) Act 2015 (“the 2015 Act”). It is not subject to any parliamentary procedure.

Policy Objectives

2. This Order brings certain provisions of the 2015 Act into force on 1 December 2015.

3. The Bill for the 2015 Act received Royal Assent on 4 August 2015. Sections 60(1) and (2), 84, 85, 86, 88 and 89 of the 2015 Act came into force on the following day. The policy objectives relating to the 2015 Act are fully set out in the Policy Memorandum which accompanied the Bill. The link below shows the passage of the Bill through Parliament and includes the Policy Memorandum:

<http://www.scottish.parliament.uk/parliamentarybusiness/Bills/76383.aspx>

4. This Order forms part of an implementation package for the 2015 Act. The provisions of the 2015 Act are being commenced in several stages. This is the first commencement order, which is limited to bringing into force certain interpretation provisions, guidance-issuing powers and subordinate legislation-making powers. Specifically, it brings into force on 1 December 2015 the following provisions of the 2015 Act:

Air weapons

- **Sections 1 and 40** – these sections make interpretation provisions for the purposes of Part 1 of the 2015 Act. (The general interpretation provision in section 84 of the 2015 Act came into force on 5 August 2015.)
- **Section 2(4)** – section 2 makes it an offence to use, possess, purchase or acquire an air weapon without holding an air weapon certificate, subject to certain exemptions that are set out in schedule 1. Section 2(4) will enable the Scottish Ministers to make regulations to amend schedule 1 so as to add to (or modify) the list of exemptions, if necessary, before section 2 is fully commenced.
- **Sections 35(1), (2) and (4) and 36** – these provisions will enable the Scottish Ministers to make regulations for the purposes of Part 1 (in relation to fees, forms and procedure, etc.), in preparation for the new licensing regime coming into force.
- **Section 39(2) and (3)** – these provisions will enable the Scottish Ministers to issue guidance for the purposes of Part 1, and to revise it as necessary, in preparation for the new licensing regime coming into force.

Alcohol licensing

- **Section 56** – this section is commenced, but only to enable the Scottish Ministers to make regulations for the further provision (e.g. form, content or publication) in respect of the annual and financial reports which Licensing Boards will be obliged to produce under sections 9A and 9B of the Licensing (Scotland) Act 2005.

Civic licensing

- **Section 65(1), (2), (4) and (5)** – these provisions will enable the Scottish Ministers to make regulations to specify further exemptions from the taxi and private hire car licensing regime in the Civic Government (Scotland) Act 1982 (“the 1982 Act”). Section 65(3) is not being commenced in this Order; the repeal of the contract exemption in section 22(c) of the 1982 Act will be commenced at a later date.
- **Section 70(1) and (3)** – these provisions will enable the Scottish Ministers to make regulations to specify the means by which a person’s name and address may be verified for the purposes of metal dealers and itinerant metal dealers record keeping requirements, as will be included in the 1982 Act.
- **Section 73** – this section will enable the Scottish Ministers to make regulations to specify exemptions from the metal dealer and itinerant metal dealer licensing regime in the 1982 Act.
- **Section 76(1) and (3)** – these provisions will permit the Scottish Ministers to make orders specifying premises which are not sexual entertainment venues and provide for descriptions of performances and displays of nudity which are not to be treated as sexual entertainment, for the purposes of section 45A of the 1982 Act.
- **Section 79** – this section will allow the Scottish Ministers to make regulations as to the procedure to be followed for civic government licensing hearings under Schedule 1 to the 1982 Act.
- **Section 80(1) and (2)** – these provisions will allow the Scottish Ministers to make an order prescribing conditions to which Part 3 licences under the 1982 Act are to be subject.

Consultation

5. No formal consultation was carried out in relation to this Order. However, formal consultation took place before the Bill for the 2015 Act was introduced. Informal consultation with stakeholders took place during the Bill’s parliamentary passage, and will continue during the implementation process. The links below show the relevant consultation documentation:

Air weapons:

<http://www.scotland.gov.uk/Topics/Justice/crimes/Firearms/governmentaction/airweaponlicensing>

Alcohol licensing:

<http://www.scotland.gov.uk/Publications/2012/12/8130>.

Civic licensing:

<http://www.scotland.gov.uk/Publications/2013/06/3607>.

<http://www.scotland.gov.uk/Publications/2013/04/5185>

<http://www.scotland.gov.uk/Publications/2012/11/2484>

Impact Assessments and Financial Effects

6. Both an Equality Impact Assessment and a Business and Regulatory Impact Assessment were carried out in relation to the Bill for the 2015 Act. The links below show the relevant documentation:

Equality Impact Assessment:

<http://www.gov.scot/Publications/2014/05/3617>

Business and Regulatory Impact Assessment:

<http://www.gov.scot/Publications/2014/05/7168>

Criminal and Justice Division
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