

POLICY NOTE

THE AIR WEAPONS AND LICENSING (SCOTLAND) ACT 2015 (COMMENCEMENT No. 5 AND SAVING PROVISIONS) ORDER 2016

SSI 2016/307 (C. 29)

1. The above instrument is made in exercise of the power conferred by section 88(2) and (3) 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 1st November 2016 and 1st May 2017.

3. The Bill for the 2015 Act received Royal Assent on 4th 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 records 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 fifth commencement order. Specifically, it brings into force on 1st November 2016 the following provisions of the 2015 Act:

- **Section 64** – this section is commenced, and enables (at their own discretion) a licensing authority to require testing of applicants for a private hire car driver licence, as per the current ability to do so for a taxi driver’s licence.
- **Section 71** – this section is commenced, and creates a new section 35A in the Civic Government (Scotland) Act 1982 (“the 1982 Act”) allowing Scottish Ministers to make regulations establishing a register of metal dealers and itinerant metal dealers and make provision about its ongoing maintenance.
- **Section 75** – this section is commenced, and restricts the exemption from public entertainment licensing requirements contained in section 41(2)(f) of the 1982 Act, to specify that the exemption is only applicable to premises in possession of a premises licence within the meaning of section 17 of the Licensing (Scotland) Act 2005. This will result in those in possession of an occasional licence under section 56 of the Licensing (Scotland) Act 2005 no longer being exempt from public entertainment licensing requirements. Article 3 of the Order makes a savings provision that has the effect that the commencement of section 75 of the 2015 Act, the amendment to the exemption from holding a public entertainment licence for those in possession of an occasional licence, under section 56 of the Licensing (Scotland) Act 2005, has no effect where an application for an occasional licence is made or such a licence is

granted prior to 1st November 2016. This saving provision will only apply for the duration of the occasional licence.

- **Section 78** – this section is commenced, and gives a licensing authority the ability to revoke a Part 2 licence, in addition to the current ability to suspend such licences. Article 5 of the Order makes a savings provision that has the effect that despite the commencement of section 78 of the 2015 Act, the amendments made to give a licensing authority the ability to revoke a Part 2 licence, have no effect in any case where the date of notification of the hearing as per Schedule 1, para 11(8) of the 1982 Act, is prior to 1st November 2016.
- **Section 81** – this section is commenced, and for Part 3 licences (Control of Sex Shops) expands the definition of conditions that may be imposed to include displays or advertisements “in connection” with the premises.
- **Section 83** – this section is commenced, and amends Schedule 1 to the 1982 Act to permit a licensing authority to determine to receive electronic communications for a variety of matters.

5. Further, this Order brings into force on 1st May 2017 the following provisions of the 2015 Act:

- **Section 63** – this section is commenced, and enables (at their own discretion) the licensing authority to refuse a private hire car licence application on the grounds of overprovision of private hire car services in a given locality or localities.
- **Section 77** – this section is commenced, and modernises and expands the requirement for licensing authorities to deal with matters expeditiously. If a licensing authority does not deal with an application within a certain time period, then the application will be deemed to have been granted. Article 4 of the Order makes a savings provision that has the effect that despite the commencement of section 77 of the 2015 Act, the amendments have no effect where an application is made prior to 1st May 2017.
- **Section 82** – this section is commenced, and introduces a statutory requirement for a local authority or licensing authority to appoint an individual or individuals in a new role referred to as a ‘Civic Licensing Standards Officer’.

Consultation

6. 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

7. 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 Justice Division
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