

POLICY NOTE

THE AIR WEAPONS AND LICENSING (SCOTLAND) ACT 2015 (COMMENCEMENT No. 2 AND TRANSITIONAL PROVISIONS) ORDER 2016

SSI 2016/85 (C. 10)

1. The above instrument is made in exercise of the powers 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 the majority of the metal dealer provisions in the 2015 Act (sections 66, 67, 68, 69 and 70 (for all remaining purposes) and 72 (partially on 16th March and then fully) into force on 1st September 2016 (article 2). It also makes transitional provisions (articles 3 – 6).
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 second commencement order. The first commencement order brought into force certain interpretation provisions, guidance-issuing powers and subordinate legislation-making powers on 1st December 2015
5. Sections 66 to 73 of the 2015 Act contains provisions for the reform of the licensing arrangements for metal dealers. These are primarily intended to reduce levels of metal theft by tightening the existing licensing regime for metal dealers and itinerant metal dealers that operate under the Civic Government (Scotland) Act 1982 (“the 1982 Act”).
6. A summary of the various provisions of the 2015 Act being commenced by this Order is provided below.
 - **Section 66** – amends the penalty levels for failure to have the appropriate licence or failure to comply with conditions of a licence.
 - **Section 67** – removes the exemption warrant provisions that allow some larger dealers to avoid licensing requirements.
 - **Section 68** - abolishes the current requirement for metal dealers to retain metal for 48 hours before processing it.
 - **Section 69** – provides acceptable forms of payment for metal dealers and itinerant metal dealers. This will prevent a dealer from paying for metal in cash – thereby removing the incentive of ready cash for a potential metal thief.
 - **Section 70** – amends the record keeping requirements for metal dealers and itinerant metal dealers.

- **Section 72** amends the interpretation provisions in the 1982 Act in relation to the definition of metal dealers and itinerant metal dealers.
7. Whilst the Order brings these provisions fully into force on 1st September 2016, it also partly commences section 72 on 16th March 2016, to allow licensing applications to be made and processed before 1st September 2016.
 8. Articles 3 to 6 contain transitional provisions.
 9. Article 3 of the Order provides that the increase in the penalty levels provided by section 66 of the 2015, for failure to have the appropriate licence or failure to comply with conditions of a licence, will only have effect in respect of offences that have been committed on or after 1st September 2016.
 10. Article 4 of the Order provides that where any licences are required following the commencement of section 67 or 72 of the 2015 Act, those licences that are issued before 1st September 2016 will not take effect until that day.
 11. The Order recognises that it is possible that licensing authorities will not have determined all applications by 1st September 2016. As such, articles 5 and 6 provide that those who have an exemption warrant that remains in force on 1st September 2016; or those were not required to have a licence but for the commencement of section 72 of the 2015 Act, will not be guilty of an offence under section 7(1) of the 1982 Act by dealing in metal without a licence even if their application has not been fully determined, as long as they have applied for a metal dealers or itinerant metal dealers licence before 1st June 2016.

Consultation

12. 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. This is a link to that consultation paper <http://www.scotland.gov.uk/Publications/2013/04/5185>.
13. Informal consultation with stakeholders took place during the Bill's parliamentary passage as well as in the preparation of this order and will continue during the implementation process.

Impact Assessments and Financial Effects

14. Both an Equality Impact Assessment and a Business and Regulatory Impact Assessment were carried out in relation to the Bill as a whole including specific consideration of the metal dealer provisions. The links below will take you to 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>

Scottish Government
Justice Directorate

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