

POLICY NOTE

THE AIR WEAPONS AND LICENSING (SCOTLAND) ACT 2015 (COMMENCEMENT No. 6 AND SAVING PROVISIONS) ORDER 2017

SSI 2017/119 (C. 9)

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 15th 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.parliament.scot/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 sixth commencement order. It brings into force, on 15th May 2017, provisions of the 2015 Act that either relate to the licensing of alcohol or are general to the 2015 Act, and amend the Licensing (Scotland) Act 2005 (“the 2005 Act”):

- **Section 41** – this section is commenced, and amends the licensing objective ‘protecting children from harm’ of the 2005 Act to also now include young persons (aged 16 or 17).
- **Section 43, 44, 45, 46, 47 and 48** – these sections are commenced, introducing a ‘fit and proper person test’ into the processes for obtaining, reviewing, transferring and potentially revoking licences under the 2005 Act.

Article 3 makes a saving provision which provides that the changes made will not have effect to certain applications, proposals or hearings that are received, initiated or scheduled before 15th May 2017. This includes an application for a premises or a personal licence, an application for the transfer of premises licence, a premises licence review application, a premises licence review proposal, an application for a renewal of a personal licence and a hearing under sections 83 or 84 of the 2005 Act.

Article 4 makes a saving provision which provides that where certain decisions of a Licensing Board are made prior to 15th May 2017; the changes made will not have effect in relation to an appeal against that decision. This includes decisions to refuse a premises licence application, to refuse an application for the transfer of a premises licence, to revoke a premises licence upon review, to refuse a personal licence application and to revoke a personal licence.

- **Section 50 and 51** – these sections are commenced, providing that when a Licensing Board receives a notice of conviction in relation to a premises or a personal licence holder, they will only need to initiate a review of the premises or personal licence where the chief constable has made a recommendation under section 44(5) or 83(5) of the 2005 Act. Where no such recommendation is made, any review is held at the discretion of the Licensing Board.

Article 5 makes a saving provision which provides that the amendments made to the 2005 Act have no effect in relation to a notice received by the Licensing Board from the chief constable, under section 44 or 85 of the 2005 Act, prior to 15th May 2017.

- **Section 53** – this section is commenced, making it a criminal offence for an adult to buy, attempt to buy, give or otherwise make alcohol available, to a child or young person.
- **Section 56** – this section is commenced for limited purposes, so as to require Licensing Boards to produce an annual financial report on their alcohol licensing activities.
- **Section 57** – this section is commenced, and clarifies that Licensing Standards Officers have a new general function of being able to provide information to Licensing Boards about the conduct of personal licence holders or applicants for a personal licence which is inconsistent with the licensing objectives.
- **Section 58** – this section is commenced, providing Licensing Standards Officers with a specific power to report to the relevant Licensing Board conduct of a personal licence holder, who is or was working in licensed premises in their area, which is inconsistent with the licensing objectives.
- **Section 60** – this section is commenced for all remaining purposes, and amends section 77, 78 and 84 of the 2005 Act concerning the period of effect and renewal of a personal licence and the power of the chief constable to report conduct inconsistent with the licensing objectives.

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 link below shows the relevant consultation paper:

Alcohol licensing:

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

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 Justice Division

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