
Report to the Licensing Board

Date of Meeting: 15 September 2015

Subject: Air Weapons & Licensing (Sc) Act 2015 Briefing

Report by: Depute Clerk of the Licensing Board

1.0 Purpose

1.1 The purpose of this report is to brief the Licensing Board on the current and proposed changes to the Licensing (Sc) Act 2005 ("the 2005 Act") brought about by the Air Weapons and Licensing (Sc) Act 2015 ("the 2015 Act").

2.0 Background

2.1 The Air Weapons and Licensing (Sc) Act 2015 received Royal Assent on 4 August 2015. The main purpose of this Act is to introduce a licensing regime in respect of air weapons, which does not form part of this report. The Act however includes various amendments to the existing alcohol licensing regime contained in the Licensing (Sc) Act 2005. This followed suggested changes from councillors, trade representatives, Police and lawyers to make the processes more effective and practical.

2.2 There are further provisions relating to civic licensing which again do not form part of this report.

3.0 Recommendation

3.1 That the Board note the current and proposed changes to the Alcohol Licensing regime brought about through the Air Weapons and Licensing (Sc) Act 2015.

4.0 Consideration

4.1 Sections 41 to 62 of the 2015 Act contain the relevant provisions to the 2005 Act.

4.2 The only amendment from the 2015 Act currently in force is in respect of section 74(3) of the 2005 Act. Section 74(3) provides conditions which must be met before an application for personal licence can be granted. Section 60(2) of the 2015 Act amends section 74(3)(c) which stated a personal licence cannot be granted if one has been revoked in the last five years.

4.3 Members will recall that the terms of section 87 of the 2005 Act require a personal licence holder to undertake refresher training no later than 3 months after the period of 5 years beginning on the date the licence was issued. Each

personal licence holder is required to produce evidence of this training to the Licensing Board. Failure to do so requires the Licensing Board to revoke the personal licence. A number of such instances have been brought before the Board at previous meetings.

- 4.4 Section 74(3)(c) is now amended to provide that the prohibition on reapplying for a personal licence for a period of 5 years is not applicable to persons who have had a personal licence revoked under section 87(3) of the 2005 Act. Accordingly, if a personal licence is revoked under section 87(3) the person will no longer have to wait for five years to elapse before applying for a new personal licence. The five year ban remains where the personal licence has been revoked on other grounds.
- 4.5 An individual who has had a personal licence revoked through failure to comply with the refresher training regulations can reapply immediately and will have to satisfy all the existing conditions for the grant of a personal licence, including possessing an accredited qualification. There is no discretion to "resurrect" the old licence.
- 4.6 **Future amendments** - the 2015 Act also includes other amendments to the 2005 Act. These, however, have not been implemented as yet. It is anticipated that they will come into force in the Spring of 2016. A further report will be brought to the Board at that time. For information a brief summary of the amendments are:
 - 4.6.1 change to the licensing objectives to include protecting young persons from harm;
 - 4.6.2 changes to the statement of licensing policy period;
 - 4.6.3 changes to the what the Board must take into account when considering an application for a premises licence, including the introduction of a fit and proper test as a ground for refusal in accordance with the licensing objectives;
 - 4.6.4 changes to the transfer of premises licence procedure;
 - 4.6.5 introduction of a new "fit and proper" ground for review of a premises licence;
 - 4.6.6 introduction of a new "fit and proper" ground for refusal for, and revocation of, a personal licence;
 - 4.6.7 changes to the considerations of relevant and foreign offences;
 - 4.6.8 introduction of a criminal offence for a person to supply alcohol to a child or young person (there are exceptions);
 - 4.6.9 changes to the overprovision considerations;
 - 4.6.10 introduction of the duty on Licensing Boards to produce and publish an annual functions report and financial report;
 - 4.6.11 clarifying the power of the Licensing Standards Officer to provide information to the Board in respect of the conduct of personal licence holders or applicants;

4.6.12 changes to the timing of notification requirements the Board must give to personal licence holders concerning the expiry/renewal of their licences;

4.6.13 changes to the processing, and deemed grant, of relevant applications;

5.0 Sustainability Implications

5.1. None

6.0 Resource Implications

6.1. *Financial Details*

6.2. None

6.3. *Staffing*

None at this stage.

7.0 Equalities Impact

7.1 Have you undertaken the required equalities impact assessment to ensure that no groups are adversely affected by the recommendations? Yes No

8.0 Legality

8.1 It has been confirmed that in adopting the recommendations contained in this report, the Council is acting within its legal powers. Yes

9.0 Appendices

9.1 None

10.0 Background Papers

10.1 Air Weapons and Licensing (Sc) Act 2015

10.2 Scottish Government Press Release (<http://news.scotland.gov.uk/News/Alcohol-licence-ban-removed-1bcb.aspx>)

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