Air Weapons and Licensing (Scotland) Act 2015

2015 asp 10

PART 1

AIR WEAPONS

Meaning of air weapon

1 Meaning of "air weapon"

(1) This section defines the expression "air weapon" for the purposes of this Part.

(2) The expression generally has the same meaning as that given in section 1(3)(b) of the Firearms Act 1968 ("the 1968 Act").

(3) In addition, the expression includes—

(a) the component parts of an air weapon (within the meaning of section 1(3)(b) of the 1968 Act), and

(b) any accessory to such a weapon designed or adapted to diminish the noise caused by discharging the weapon.

(4) But the expression does not include—

(a) an air weapon which is not a firearm (within the meaning of section 57(1) of the 1968 Act),

(b) an air weapon (within the meaning of section 1(3)(b) of the 1968 Act)—

(i) which is not capable of discharging a missile with kinetic energy of more than one joule as measured at the muzzle of the weapon, or

(ii) that is designed to be used only when submerged in water, or

(c) the component parts of an air weapon described in paragraph (a) or (b)(i) or (ii).

(5) Other words and expressions used in this Part are defined in section 40.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Air Weapons and Licensing (Scotland) Act 2015. (See end of Document for details)*

Commencement Information
I1 S. 1 in force at 1.12.2015 by S.S.I. 2015/382, art. 2, **Sch.**

Air weapon certificates

2 Requirement for air weapon certificate

(1) It is an offence for a person to use, possess, purchase or acquire an air weapon without holding an air weapon certificate.

(2) A person who commits an offence under subsection (1) is liable—
(a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both),
(b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine (or both).

(3) Schedule 1 contains exemptions from—
(a) the offence under subsection (1), and
(b) certain other offences under this Part.

(4) The Scottish Ministers may by regulations amend schedule 1 so as to—
(a) add further exemptions,
(b) remove or modify exemptions.

Commencement Information
I2 S. 2(1)-(3) in force at 31.12.2016 by S.S.I. 2016/130, **art. 3(a)** (with art. 4)
I3 S. 2(4) in force at 1.12.2015 by S.S.I. 2015/382, art. 2, **Sch.**

3 Application for grant or renewal of air weapon certificate

(1) An individual aged 14 years or more may apply to the chief constable for—
(a) the grant of an air weapon certificate, or
(b) the renewal of an air weapon certificate.

(2) An application is valid only if it complies with the requirements of—
(a) section 4 (verification of applications),
(b) if applicable, section 7 (special requirements and conditions for young persons), and
(c) any regulations under section 36 which apply to the application.

(3) The chief constable must maintain a register containing the details of each application made under this section (whether or not the application results in an air weapon certificate being granted or renewed).

Commencement Information
I4 S. 3 in force at 1.7.2016 for specified purposes by S.S.I. 2016/130, art. 2, **sch.** (with arts. 5, 6)

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Air Weapons and Licensing (Scotland) Act 2015. (See end of Document for details)*

I5 S. 3 in force at 31.12.2016 in so far as not already in force by S.S.I. 2016/130, **art. 3(a)** (with art. 4)

4 Verification of applications

(1) An application for the grant or renewal of an air weapon certificate must be verified in the prescribed form and manner by an individual who meets the requirements of subsection (2) ("a verifier").

(2) The requirements are that a verifier must—

(a) have known the applicant for at least 2 years,

(b) in the opinion of the chief constable, be of good standing in the community,

(c) not be—

(i) a relative of the applicant,

(ii) a registered firearms dealer,

(iii) a constable or a member of police staff,

(iv) a member of, or a member of staff of, the Scottish Police Authority, or

(v) ordinarily resident outwith the United Kingdom.

(3) In verifying the application, a verifier must confirm that, to the best of the verifier's knowledge and belief, the information supplied in the application is correct.

Commencement Information

I6 S. 4 in force at 1.7.2016 for specified purposes by S.S.I. 2016/130, art. 2, **sch.** (with arts. 5, 6)

I7 S. 4 in force at 31.12.2016 in so far as not already in force by S.S.I. 2016/130, **art. 3(a)** (with art. 4)

5 Grant or renewal of air weapon certificate

(1) The chief constable may only grant or renew an air weapon certificate if satisfied that the applicant—

(a) is fit to be entrusted with an air weapon,

(b) is not prohibited from possessing an air weapon or other firearm under section 21 of the 1968 Act,

(c) has a good reason for using, possessing, purchasing or acquiring an air weapon, and

(d) in all the circumstances, can be permitted to possess an air weapon without danger to the public safety or to the peace.

(2) The chief constable may, when considering an application made under section 3 by an applicant who holds a firearm or shot gun certificate, treat paragraphs (a) and (b) of subsection (1) as being satisfied in relation to the applicant.

(3) The chief constable may, before determining an application made under section 3, require that the applicant permit a constable or member of police staff—

(a) to visit the applicant at the applicant's usual place of residence,

(b) to inspect any place where the applicant intends to store or use an air weapon.

Commencement Information

I8 S. 5 in force at 1.7.2016 for specified purposes by S.S.I. 2016/130, art. 2, **sch.** (with arts. 5, 6)

Status: *This version of this Act contains provisions that are prospective.*
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I9 S. 5 in force at 31.12.2016 in so far as not already in force by S.S.I. 2016/130, **art. 3(a)** (with art. 4)

6 Air weapon certificate: conditions

(1) Every air weapon certificate is subject to any prescribed mandatory conditions.

(2) The chief constable may, when granting or renewing an air weapon certificate, attach conditions to the certificate (and, in the case of a renewal, may attach different conditions from those attached to the certificate prior to its renewal).

(3) The chief constable may not attach to an air weapon certificate a condition which is inconsistent with—

(a) a prescribed mandatory condition which applies to air weapon certificates, or

(b) a condition which must be attached to the certificate under this Part.

(4) It is an offence for a holder of an air weapon certificate to fail to comply with a condition attached to the holder's certificate.

(5) An individual who commits an offence under subsection (4) is liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

Commencement Information

I10 S. 6(1)-(3) in force at 1.7.2016 for specified purposes by S.S.I. 2016/130, art. 2, **sch.** (with arts. 5, 6)

I11 S. 6(1)-(3) in force at 31.12.2016 in so far as not already in force by S.S.I. 2016/130, **art. 3(a)** (with art. 4)

I12 S. 6(4)(5) in force at 31.12.2016 by S.S.I. 2016/130, **art. 3(a)** (with art. 4)

7 Special requirements and conditions for young persons

(1) This section applies where an applicant for an air weapon certificate is under the age of 18.

(2) A parent or guardian of the applicant must consent in the prescribed form and manner to the applicant making the application.

(3) Where the chief constable grants an air weapon certificate to an individual under the age of 18, the chief constable must attach to the certificate—

(a) the condition described in subsection (4), and

(b) one or more of the conditions described in subsection (5).

(4) The condition is that the holder may not purchase, hire, accept a gift of or own, an air weapon.

(5) The conditions are that—

(a) the holder may use and possess an air weapon only for sporting purposes (including shooting live quarry) on private land,

(b) the holder may use and possess an air weapon only for the purposes of target shooting on private land,

(c) the holder may use and possess an air weapon only for the purposes of participating in events or competitions,

(d) the holder may use and possess an air weapon only for the purposes of the holder's membership of an approved air weapon club,

(e) the holder may use and possess an air weapon only for the purposes of protecting livestock, crops or produce on land used for or in connection with agriculture,

(f) the holder may use and possess an air weapon only for the purposes of pest control.

(6) It is sufficient, for the purposes of section 5(1)(c), for the chief constable to be satisfied that the applicant has a good reason for using or possessing an air weapon.

(7) For the purposes of this section, "agriculture" is to be construed in accordance with section 85 of the Agricultural Holdings (Scotland) Act 1991.

Commencement Information

I13 S. 7 in force at 1.7.2016 for specified purposes by S.S.I. 2016/130, art. 2, **sch.** (with arts. 5, 6)

I14 S. 7 in force at 31.12.2016 in so far as not already in force by S.S.I. 2016/130, **art. 3(a)** (with art. 4)

8 Duration of air weapon certificate

(1) An air weapon certificate expires (unless earlier revoked or cancelled)—

(a) in the case of a certificate granted to an individual under the age of 18, when the individual attains the age of 18,

(b) in any other case, at the end of the period of 5 years beginning with the date on which the certificate is granted or renewed.

(2) Where an individual has applied for the renewal of an air weapon certificate before its expiry but the chief constable has not, as at the date of its expiry, determined whether or not to grant the renewal, the certificate is to continue to have effect until the application is determined.

(3) The Scottish Ministers may by regulations amend subsection (1)(b) to specify a different period.

Commencement Information

I15 S. 8(1) in force at 1.7.2016 for specified purposes by S.S.I. 2016/130, art. 2, **sch.** (with arts. 5, 6)

I16 S. 8(1) in force at 31.12.2016 in so far as not already in force by S.S.I. 2016/130, **art. 3(a)** (with art. 4)

I17 S. 8(2)(3) in force at 31.12.2016 by S.S.I. 2016/130, **art. 3(a)** (with art. 4)

9 Alignment of different types of certificate

(1) Subsection (2) applies where an individual—

(a) holds a firearm or shot gun certificate, and

(b) makes an application for the grant or renewal of an air weapon certificate under section 3.

(2) Where this subsection applies, the applicant may request that the chief constable grant or renew an air weapon certificate for such shorter period than is provided for in section 8 as is appropriate to secure that it expires on the same day as the applicant's

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firearm or shot gun certificate (or, if the applicant holds both a firearm and shot gun certificate, either of them).

(3) Subsection (4) applies where an individual—

(a) holds an air weapon certificate, and

(b) makes an application for the grant or renewal of a firearm or shot gun certificate under the 1968 Act.

(4) Where this subsection applies, the applicant may make an application under section 3 of this Act for the air weapon certificate to be renewed as from the same day as that on which the firearm or shot gun certificate is granted or renewed.

Commencement Information

I18 S. 9(1)(2) in force at 1.7.2016 for specified purposes by S.S.I. 2016/130, art. 2, **sch.** (with arts. 5, 6)

I19 S. 9(1)(2) in force at 31.12.2016 in so far as not already in force by S.S.I. 2016/130, **art. 3(a)** (with art. 4)

I20 S. 9(3)(4) in force at 31.12.2016 by S.S.I. 2016/130, **art. 3(a)** (with art. 4)

10 Variation of air weapon certificate

(1) The chief constable may, by giving notice to the holder of an air weapon certificate—

(a) vary the holder's certificate,

(b) attach conditions to the certificate, or

(c) vary or revoke a condition attached to the certificate other than—

(i) a prescribed mandatory condition which applies to air weapon certificates, or

(ii) a condition which must be attached to the certificate under this Part.

(2) The chief constable may give a notice under subsection (1)—

(a) on the application of the holder of an air weapon certificate, or

(b) of the chief constable's own accord (at any time).

(3) The chief constable may not attach to an air weapon certificate a condition which is inconsistent with—

(a) a prescribed mandatory condition which applies to air weapon certificates, or

(b) a condition which must be attached to the certificate under this Part.

(4) For the purposes of this section, the chief constable may by notice given to the holder of an air weapon certificate require the holder to produce the certificate within the period of 21 days beginning with the date on which the notice is given.

Commencement Information

I21 S. 10 in force at 1.7.2016 for specified purposes by S.S.I. 2016/130, art. 2, **sch.** (with arts. 5, 6)

I22 S. 10 in force at 31.12.2016 in so far as not already in force by S.S.I. 2016/130, **art. 3(a)** (with art. 4)

11 Revocation of air weapon certificate

(1) The chief constable must revoke an air weapon certificate if—

(a) the chief constable is satisfied that the holder of the certificate can no longer be permitted to possess an air weapon without danger to the public safety or to the peace, or

(b) the holder is prohibited from possessing an air weapon or other firearm under section 21 of the 1968 Act.

(2) The chief constable may revoke an air weapon certificate if—

(a) the chief constable has reason to believe that the holder—

(i) is no longer a fit person to be entrusted with an air weapon, or

(ii) no longer has a good reason to use, possess, purchase or acquire an air weapon,

(b) the chief constable is satisfied that the holder of the certificate has failed to comply with a condition attached to the certificate, or

(c) the holder fails to produce the certificate when required to do so under section 10(4).

(3) An air weapon certificate is revoked by the chief constable giving notice to the holder of the certificate to that effect.

(4) A notice under subsection (3) must—

(a) be given at least 7 days before the date on which the revocation is to take effect, and

(b) require the holder to surrender the certificate and any air weapons that the holder possesses by such date as the chief constable may specify in the notice.

(5) It is an offence for a person, without reasonable excuse, to fail to comply with the requirements of a notice given under subsection (3).

(6) A person who commits an offence under subsection (5) is liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

(7) In the event that the holder of an air weapon certificate makes an appeal under section 34 against a decision to revoke the holder's certificate—

(a) the revocation does not take effect, but

(b) the holder must still surrender the certificate and any air weapons that the holder possesses in accordance with the requirements of the notice given under subsection (3),

pending the determination or withdrawal of the appeal.

Commencement Information

I23 S. 11(1)-(4)(7) in force at 1.7.2016 for specified purposes by S.S.I. 2016/130, art. 2, **sch.** (with arts. 5, 6)

I24 S. 11(1)-(4)(7) in force at 31.12.2016 in so far as not already in force by S.S.I. 2016/130, **art. 3(a)** (with art. 4)

I25 S. 11(5)(6) in force at 31.12.2016 by S.S.I. 2016/130, **art. 3(a)** (with art. 4)

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Permits

12 Police permits

(1) The chief constable may, on the application of an individual, grant a permit ("a police permit") authorising the individual—

(a) to possess or acquire an air weapon without holding an air weapon certificate, or

(b) to sell (or expose for sale) an air weapon in the course of that individual's business.

(2) A police permit must not be granted to an individual who is prohibited from possessing an air weapon or other firearm under section 21 of the 1968 Act.

(3) A police permit expires (unless earlier revoked or cancelled) on the expiry date specified in the permit.

(4) An application for a police permit is valid only if it complies with the requirements of any regulations under section 36 which apply to the application.

Commencement Information

I26 S. 12 in force at 1.7.2016 for specified purposes by S.S.I. 2016/130, art. 2, **sch.** (with arts. 5, 6)

I27 S. 12 in force at 31.12.2016 in so far as not already in force by S.S.I. 2016/130, **art. 3(a)** (with art. 4)

13 Visitor permits

(1) The chief constable may, on the application of a qualifying visitor, grant a permit ("a visitor permit") authorising the visitor to use, possess, purchase or acquire an air weapon without holding an air weapon certificate for the period (or a part of it) that the qualifying visitor is in Scotland.

(2) A person may, on behalf of a group of 2 to 20 qualifying visitors, make an application to the chief constable for each member of the group to be granted a visitor permit.

(3) The chief constable may grant a visitor permit to some or all of the members of the group.

(4) The chief constable may grant a visitor permit only if satisfied—

(a) in the case of an individual application, that the qualifying visitor has a good reason for using, possessing, purchasing or acquiring an air weapon while visiting Scotland,

(b) in the case of a group application, that each qualifying visitor is to use and possess an air weapon while visiting Scotland only—

(i) for sporting purposes (including shooting live quarry) on private land,

(ii) for the purposes of target shooting on private land, or

(iii) for the purposes of participating in an event or competition,

(c) in every case—

(i) that the qualifying visitor can be permitted to possess an air weapon without danger to the public safety or to the peace, and

(ii) that the qualifying visitor is not prohibited from possessing an air weapon or other firearm under section 21 of the 1968 Act.

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(5) For the purposes of subsection (4)(b)(i) and (ii) the chief constable may require the applicant to produce evidence that the owner or occupier of the land consents to the visitors' intended use or possession of air weapons on the land.

(6) Except where section 14 applies, the chief constable must, on granting a visitor permit in respect of a group application, attach to the permit as a condition that the holder of the permit may use and possess an air weapon only for such of the purposes described in subsection (4)(b) as the chief constable may specify in the condition.

(7) A visitor permit expires (unless earlier revoked or cancelled) on the expiry date specified in the permit.

(8) No visitor permit is to be granted for a period of longer than 12 months.

(9) An application for a visitor permit is valid only if it complies with the requirements of any regulations under section 36 which apply to the application.

(10) For the purposes of this section and section 14—

"group application" means an application under subsection (2) for visitor permits made by a person on behalf of qualifying visitors in a group,

"individual application" means an application under subsection (1) for a visitor permit made by the qualifying visitor,

"qualifying visitor" means an individual who is—

(a) aged 14 years or more,

(b) not ordinarily resident in Scotland, and

(c) visiting (or intending to visit) Scotland.

Commencement Information

I28 S. 13 in force at 1.7.2016 for specified purposes by S.S.I. 2016/130, art. 2, **sch.** (with arts. 5, 6)

I29 S. 13 in force at 31.12.2016 in so far as not already in force by S.S.I. 2016/130, **art. 3(a)** (with art. 4)

14 Visitor permits: young persons

(1) This section applies—

(a) where an individual applicant for a visitor permit is under the age of 18,

(b) in respect of any individual who is—

(i) under the age of 18, and

(ii) on whose behalf a visitor permit is applied for as part of a group application.

(2) A parent or guardian of the applicant or individual under the age of 18 must consent in the prescribed form and manner to the making of the application.

(3) The chief constable must, on granting a visitor permit in respect of an individual application, attach to the permit—

(a) the condition described in section 7(4), and

(b) one or more of the conditions described in subsection (5) of that section.

(4) The chief constable must, on granting a visitor permit in respect of a group application, attach to the permit—

(a) the condition described in section 7(4), and

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(b) one or more of the conditions described in paragraphs (a) to (c) of subsection (5) of that section.

(5) It is sufficient, for the purposes of section 13(4)(a), for the chief constable to be satisfied that the applicant has a good reason for using or possessing an air weapon.

Commencement Information

I30 S. 14 in force at 1.7.2016 for specified purposes by S.S.I. 2016/130, art. 2, **sch.** (with arts. 5, 6)

I31 S. 14 in force at 31.12.2016 in so far as not already in force by S.S.I. 2016/130, **art. 3(a)** (with art. 4)

15 Police and visitor permits: conditions

(1) Every police permit and visitor permit is subject to any prescribed mandatory conditions.

(2) The chief constable may, when granting a police permit or a visitor permit, attach conditions to the permit.

(3) The chief constable may not attach to a police permit or a visitor permit a condition which is inconsistent with—

(a) a prescribed mandatory condition which applies to police permits or, as the case may be, visitor permits, or

(b) a condition which must be attached to the permit under this Part.

(4) It is an offence for the holder of a police permit or a visitor permit to fail to comply with a condition attached to the permit.

(5) An individual who commits an offence under subsection (4) is liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

Commencement Information

I32 S. 15(1)-(3) in force at 1.7.2016 for specified purposes by S.S.I. 2016/130, art. 2, **sch.** (with arts. 5, 6)

I33 S. 15(1)-(3) in force at 31.12.2016 in so far as not already in force by S.S.I. 2016/130, **art. 3(a)** (with art. 4)

I34 S. 15(4)(5) in force at 31.12.2016 by S.S.I. 2016/130, **art. 3(a)** (with art. 4)

16 Police and visitor permits: variation and revocation

(1) The chief constable may, by giving notice to the holder of a police permit or a visitor permit—

(a) vary the permit,

(b) attach conditions to the permit,

(c) vary or revoke a condition attached to the permit other than—

(i) a prescribed mandatory condition which applies to the permit, or

(ii) a condition which must be attached to a permit under this Part, or

(d) revoke the permit.

(2) The chief constable may give a notice under subsection (1)—

(a) on the application of the holder of a police permit or visitor permit, or

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(b) of the chief constable's own accord (at any time).

(3) The chief constable may not attach to a police permit or a visitor permit a condition which is inconsistent with—

(a) a prescribed mandatory condition which applies to police permits or, as the case may be, visitor permits, or

(b) a condition which must be attached to the permit under this Part.

(4) For the purposes of paragraphs (a) to (c) of subsection (1), the chief constable may by giving notice to the holder of a police permit or a visitor permit require the holder to produce the permit within the period of 21 days beginning with the date on which the notice is given.

(5) A notice given under subsection (1) which revokes a police permit or a visitor permit must—

(a) be given at least 7 days before the date on which the revocation is to take effect, and

(b) require the holder of the permit to surrender the permit and any air weapons that the holder possesses by such date as the chief constable may specify in the notice.

(6) It is an offence for the holder of a police permit or a visitor permit, without reasonable excuse, to fail to comply with a requirement contained in a notice under subsection (1).

(7) An individual who commits an offence under subsection (6) is liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

(8) In the event that the holder of a police permit or a visitor permit makes an appeal under section 34 against a decision to revoke the holder's permit—

(a) the revocation does not take effect, but

(b) the holder must still surrender the permit and any air weapons that the holder possesses in accordance with the requirements of the notice given under subsection (1),

pending the determination or withdrawal of the appeal.

Commencement Information

I35 S. 16(1)-(5)(8) in force at 1.7.2016 for specified purposes by S.S.I. 2016/130, art. 2, **sch.** (with arts. 5, 6)

I36 S. 16(1)-(5)(8) in force at 31.12.2016 in so far as not already in force by S.S.I. 2016/130, **art. 3(a)** (with art. 4)

I37 S. 16(6)(7) in force at 31.12.2016 by S.S.I. 2016/130, **art. 3(a)** (with art. 4)

17 Event permits

(1) The chief constable may, on the application of a person ("the organiser") who is organising or otherwise responsible for an event, grant a permit authorising individuals at the event to borrow, hire, use and possess air weapons while engaging in an event activity without holding an air weapon certificate ("an event permit").

(2) The chief constable may, when granting an event permit, attach conditions to it.

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(3) The organiser must ensure that the event permit (or a copy of it) is prominently displayed at the event so as to be capable of being read by any person attending the event.

(4) It is an offence for the organiser—

(a) to fail to comply with a condition attached to the event permit, or

(b) without reasonable excuse, to fail to comply with subsection (3).

(5) A person who commits an offence under subsection (4) is liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

(6) An application for an event permit is valid only if it complies with the requirements of any regulations under section 36 which apply to the application.

(7) For the purposes of this section, an "event activity" is an activity—

(a) involving the use and possession of air weapons by individuals, and

(b) which has been planned by (or on behalf of) the organiser as part of the event.

Commencement Information

I38 S. 17(1)(2)(6)(7) in force at 1.7.2016 for specified purposes by S.S.I. 2016/130, art. 2, **sch.** (with arts. 5, 6)

I39 S. 17(1)(2)(6)(7) in force at 31.12.2016 in so far as not already in force by S.S.I. 2016/130, **art. 3(a)** (with art. 4)

I40 S. 17(3)-(5) in force at 31.12.2016 by S.S.I. 2016/130, **art. 3(a)** (with art. 4)

Air weapon clubs and recreational shooting facilities

18 Approval of air weapon clubs

(1) The chief constable may, on the application of an air weapon club, grant or renew an approval of the club.

(2) An application for the grant or renewal of an approval of an air weapon club is valid only if it complies with the requirements of any regulations under section 36 which apply to the application.

(3) The chief constable may, at any time by giving notice to an approved air weapon club, withdraw the club's approval.

(4) Every approval of an air weapon club is subject to any prescribed mandatory conditions.

(5) The chief constable may, when granting or renewing an approval, attach conditions to the approval (and in the case of a renewal, may attach different conditions from those attached to the approval prior to its renewal).

(6) The chief constable may not attach to an approval a condition which is inconsistent with a prescribed mandatory condition which applies to approvals.

Commencement Information
I41 S. 18 in force at 1.7.2016 by S.S.I. 2016/130, art. 2, **sch.** (with arts. 5, 6)

19 Variation of approval

(1) The chief constable may, by giving notice in writing to an approved air weapon club—
(a) vary the club's approval,
(b) attach conditions to the club's approval, or
(c) vary or revoke a condition attached to the club's approval other than a prescribed mandatory condition which applies to approvals.

(2) The chief constable may give a notice under subsection (1)—
(a) on the application of the approved air weapon club, or
(b) of the chief constable's own accord (at any time).

(3) The chief constable may not attach to an approval a condition which is inconsistent with a prescribed mandatory condition which applies to approvals.

Commencement Information
I42 S. 19 in force at 1.7.2016 by S.S.I. 2016/130, art. 2, **sch.** (with arts. 5, 6)

20 Duration of approval

(1) An approval of an air weapon club expires (unless earlier withdrawn) at the end of the period of 6 years beginning with the date on which the approval is granted or renewed.

(2) Where an approved air weapon club has applied for the renewal of its approval before its expiry but the chief constable has not, as at the date of its expiry, determined whether or not to grant the renewal, the approval is to continue to have effect until the application is determined.

(3) The Scottish Ministers may by regulations amend subsection (1) to specify a different period.

Commencement Information
I43 S. 20 in force at 1.7.2016 by S.S.I. 2016/130, art. 2, **sch.** (with arts. 5, 6)

21 Alignment of club approvals

(1) Subsection (2) applies where an air weapon club—
(a) is approved as a rifle club under section 15 of the Firearms (Amendment) Act 1988 ("the 1988 Act"), and
(b) makes an application for the grant or renewal of an approval under section 18(1) of this Act.

(2) Where this subsection applies, the club may request that the chief constable grant or renew its approval under section 18(1) of this Act for such shorter period than is

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Changes to legislation: *There are currently no known outstanding effects for the Air Weapons and Licensing (Scotland) Act 2015. (See end of Document for details)*

provided for in section 20(1) of this Act as is appropriate to secure that it expires on the same day as the club's approval under section 15 of the 1988 Act.

(3) Subsection (4) applies where a club—

(a) is an approved air weapon club, and

(b) makes an application for the grant or renewal of an approval as a rifle club under section 15 of the 1988 Act.

(4) Where this subsection applies, the club may make an application under section 18(1) of this Act for the club's approval to be renewed as from the same day as that on which the club's application for approval under section 15 of the 1988 Act is granted or renewed.

Commencement Information

I44 S. 21 in force at 1.7.2016 by S.S.I. 2016/130, art. 2, **sch.** (with arts. 5, 6)

22 Power to enter and inspect club premises

(1) The chief constable may, for the purposes of ascertaining whether the provisions of this Part or any conditions attached to an approved air weapon club's approval are being complied with, authorise a constable or a member of police staff—

(a) to enter any club premises of an approved air weapon club, and

(b) to inspect those premises and anything on them which is relevant to the purposes for which the authorisation was granted.

(2) The power of a constable or a member of police staff under subsection (1)(b) to inspect anything on club premises includes power to require any information which is stored in electronic form and accessible from the premises to be produced in a form which is visible and legible.

(3) A constable or a member of police staff may exercise the powers of entry conferred by this section only at a reasonable time, unless it appears to the constable or member of police staff that the purposes of entering the club premises may be frustrated if the constable or member of police staff seeks to enter at a reasonable time.

(4) A constable or a member of police staff must, if asked, produce the authorisation before entering any premises under this section.

(5) The chief constable may delegate the power to grant an authorisation under subsection (1) only to a constable who holds the rank of inspector or above.

(6) It is an offence for a person to obstruct intentionally a constable or a member of police staff in the exercise of the constable's or member of police staff's powers under an authorisation granted under this section.

(7) A person who commits an offence under subsection (6) is liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

(8) In this section, "club premises", in relation to an approved air weapon club, means any premises, other than a dwelling, occupied or used by the club.

Commencement Information
I45 S. 22 in force at 1.7.2016 by S.S.I. 2016/130, art. 2, **sch.** (with arts. 5, 6)

23 Requirements for recreational shooting facilities

(1) A person who operates a recreational shooting facility must—

(a) hold or (if not an individual) ensure that an individual responsible for the management and operation of the facility holds, an air weapon certificate, and

(b) at all times that the facility is in use, display the certificate (or a copy of it) prominently on the facility so as to be capable of being read by anyone considering whether to use the facility.

(2) It is an offence for a person who operates a recreational shooting facility—

(a) to fail to comply with subsection (1)(a), or

(b) without reasonable excuse, to fail to comply with subsection (1)(b).

(3) A person who commits an offence under subsection (2) is liable, on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale (or both).

(4) In this section, "recreational shooting facility" means—

(a) a miniature rifle range or a shooting gallery at which air weapons are used, or

(b) a facility for combat games which involve using an air weapon,

which is operated with a view to making a profit.

(5) This section does not apply to an approved air weapon club.

Commencement Information
I46 S. 23 in force at 31.12.2016 by S.S.I. 2016/130, **art. 3(a)** (with art. 4)

Transactions involving air weapons and commercial matters

24 Restrictions on transactions involving air weapons

(1) It is an offence for a person other than a registered firearms dealer, by way of trade or business, to—

(a) manufacture, sell, transfer, repair or test an air weapon,

(b) expose an air weapon for sale or transfer, or

(c) possess an air weapon for the purposes of its sale, transfer, repair or testing.

(2) It is an offence for a person ("A") to sell or transfer an air weapon to another person ("B") unless—

(a) B is a registered firearms dealer,

(b) B holds an air weapon certificate (without a condition attached to it preventing B from purchasing or acquiring an air weapon) and shows it to A,

(c) A is a registered firearms dealer and is satisfied that—

(i) in a case where B is an individual, B is aged 18 years or more, and

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Changes to legislation: *There are currently no known outstanding effects for the Air Weapons and Licensing (Scotland) Act 2015. (See end of Document for details)*

(ii) the air weapon is to be delivered to a place outwith Great Britain, or to a registered firearms dealer in England or Wales, without first coming into B's possession, or

(d) B provides evidence to A that B is otherwise entitled to purchase or acquire an air weapon without holding an air weapon certificate by virtue of the provisions of this Part.

(3) It is an offence for a person ("A") to manufacture, repair or test an air weapon for another person ("B") unless—

(a) B is a registered firearms dealer,

(b) B holds an air weapon certificate and shows it to A, or

(c) B provides evidence to A that B is otherwise entitled to possess an air weapon without holding an air weapon certificate by virtue of the provisions of this Part.

(4) A person who commits an offence under this section is liable—

(a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both),

(b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine (or both).

Commencement Information

I47 S. 24 in force at 31.12.2016 by S.S.I. 2016/130, **art. 3(a)** (with art. 4)

25 Requirement for commercial sales of air weapons to be in person

(1) This section applies where a person ("the seller") sells an air weapon by way of trade or business to an individual in Great Britain who is not a registered firearms dealer.

(2) It is an offence for the seller, for the purposes of the sale, to transfer possession of the weapon to the purchaser otherwise than at a time when both the purchaser and the seller (or a representative of the seller) are present in person.

(3) The reference in subsection (2) to a representative of the seller is a reference to—

(a) a person who is employed by the seller in the seller's business as a registered firearms dealer,

(b) a registered firearms dealer ("A") who has been authorised by the seller to act on the seller's behalf in relation to the sale, or

(c) a person who is employed by A in A's business as a registered firearms dealer.

(4) A person who commits an offence under this section is liable, on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding level 5 on the standard scale (or both).

Commencement Information

I48 S. 25 in force at 31.12.2016 by S.S.I. 2016/130, **art. 3(a)** (with art. 4)

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Air Weapons and Licensing (Scotland) Act 2015. (See end of Document for details)*

Enforcement

26 Power of search with warrant

(1) A sheriff may, on the application of a constable or a member of police staff, grant a warrant to the applicant under this section if satisfied, by evidence on oath, that there is a reasonable ground for suspecting—

(a) that an air weapon offence has been, is being, or is about to be committed, or

(b) that, in connection with an air weapon, there is a danger to the public safety or to the peace.

(2) A warrant under this section may authorise a constable or a member of police staff—

(a) to enter at any time any place named in the warrant, if necessary by force, and to search the place and every person found there,

(b) to seize and detain anything that the constable or member of police staff may find at the place, or on any such person, in respect of which or in connection with which the constable or member of police staff has a reasonable ground for suspecting—

(i) that an air weapon offence has been, is being or is about to be committed, or

(ii) that in connection with an air weapon there is a danger to the public safety or to the peace.

(3) The power of a constable or a member of police staff under subsection (2)(b) to seize and detain anything found at any place, or on any person found there, includes power to require any information which is stored in any electronic form and is accessible from the place or by the person to be produced in a form—

(a) which is visible and legible and can be taken away, or

(b) from which it can be readily produced in a visible and legible form and can be taken away.

(4) It is an offence for an individual to obstruct intentionally a constable or member of police staff in the exercise of the constable's or member of police staff's powers under a warrant granted under this section.

(5) An individual who commits an offence under subsection (4) is liable, on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding level 5 on the standard scale (or both).

Commencement Information
I49 S. 26 in force at 31.12.2016 by S.S.I. 2016/130, **art. 3(a)** (with art. 4)

27 Production of air weapon certificate

(1) A constable may require a person whom the constable believes to be in possession of an air weapon to produce—

(a) the person's air weapon certificate, or

(b) evidence that the person is entitled to possess an air weapon without holding an air weapon certificate by virtue of the provisions of this Act.

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(2) Where a person fails to produce the air weapon certificate or evidence required under subsection (1), the constable may—

(a) seize and detain the air weapon, and

(b) require the person to provide (immediately) the person's name and address.

(3) It is an offence for a person—

(a) to fail to comply with a requirement under subsection (2)(b), or

(b) to provide a false name or address.

(4) A person who commits an offence under subsection (3) is liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

Commencement Information

I50 S. 27 in force at 31.12.2016 by S.S.I. 2016/130, **art. 3(a)** (with art. 4)

28 Cancellation of air weapon certificate

(1) Subsection (2) applies where an individual ("A") holding an air weapon certificate—

(a) is convicted of—

(i) an air weapon offence,

(ii) an offence under the 1968 Act, or

(iii) an offence for which A is sentenced to imprisonment or to detention in a young offenders' institution,

(b) has been ordered to keep the peace or to be of good behaviour and, as a condition of that, is not to possess, carry or use an air weapon or other firearm,

(c) is subject to a community payback order under section 227A of the Criminal Procedure (Scotland) Act 1995 which contains a requirement not to possess, carry or use an air weapon or other firearm, or

(d) has been ordained to find caution and as a condition of that, is not to possess, carry or use an air weapon or other firearm.

(2) Where this subsection applies, the court by or before which A is convicted, or which imposes the condition or requirement, may cancel the air weapon certificate held by A.

(3) Where the court cancels an air weapon certificate under this section—

(a) the court must notify the chief constable of the cancellation, and

(b) the chief constable must, by notice given to A, require A to surrender A's air weapon certificate within the period of 21 days beginning with the date the notice is given.

(4) It is an offence for an individual, without reasonable excuse, to fail to comply with the requirements of a notice under subsection (3)(b).

(5) An individual who commits an offence under subsection (4) is liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

Commencement Information

I51 S. 28 in force at 1.7.2016 by S.S.I. 2016/130, art. 2, **sch.** (with arts. 5, 6)

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Air Weapons and Licensing (Scotland) Act 2015. (See end of Document for details)*

29 Forfeiture and disposal of air weapons

(1) Subsection (2) applies where a person ("A") is convicted of an air weapon offence.

(2) Where this subsection applies, the court by or before which A is convicted may make such order as to the forfeiture or disposal of any air weapon found in A's possession as the court thinks fit.

(3) A constable may seize and detain an air weapon which may be the subject of an order for forfeiture under this section or which, but for subsection (5), could be the subject of such an order.

(4) A sheriff may, on an application of the chief constable, order the disposal (by any means the chief constable thinks fit) of any air weapon seized and detained by a constable under this Part.

(5) No order is to be made under subsection (2) or (4) for the forfeiture or disposal of an air weapon which is possessed for the purposes of a museum.

(6) Subsection (7) applies where—

(a) an air weapon is surrendered in pursuance of—

(i) a notice given under section 11(3) which revokes an individual's air weapon certificate, or

(ii) a notice given under section 16(1) which revokes an individual's police permit or visitor permit, and

(b) the individual appeals against the decision to revoke the individual's air weapon certificate, police permit or, as the case may be, visitor permit (and does not withdraw that appeal prior to its determination).

(7) Where this subsection applies—

(a) if the appeal is successful, the air weapon must be returned,

(b) if the appeal is dismissed, the sheriff may make such order for the disposal of the air weapon as the sheriff considers appropriate.

(8) Subsection (9) applies where—

(a) an air weapon is surrendered in pursuance of—

(i) a notice given under section 11(3) which revokes an individual's air weapon certificate, or

(ii) a notice given under section 16(1) which revokes an individual's police permit or visitor permit, and

(b) the individual—

(i) does not appeal against the decision to revoke the individual's air weapon certificate, police permit or, as the case may be, visitor permit, or

(ii) makes and subsequently withdraws an appeal against such a decision.

(9) Where this subsection applies, the air weapon is to be disposed of—

(a) in such manner as the chief constable and the owner of the weapon may agree, or

(b) in default of such agreement, in such manner as the chief constable may decide.

(10) Where the chief constable decides to dispose of an air weapon under subsection (9)(b), the chief constable must give the owner notice of the decision.

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Commencement Information
I52 S. 29 in force at 31.12.2016 by S.S.I. 2016/130, **art. 3(a)** (with art. 4)

Offences

30 Failure to keep air weapons secure or to report loss to police

(1) It is an offence for a person—
(a) to fail to take reasonable precautions for the safe custody of an air weapon possessed by the person, or
(b) to fail to report as soon as reasonably practicable to the chief constable the loss or theft of an air weapon possessed by the person.

(2) A person who commits an offence under subsection (1) is liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

Commencement Information
I53 S. 30 in force at 31.12.2016 by S.S.I. 2016/130, **art. 3(a)** (with art. 4)

31 False statements, certificates and permits

(1) It is an offence for an individual to knowingly or recklessly make any statement which is false in any material particular for the purposes of procuring (either personally or for another person)—
(a) the grant, renewal or variation of an air weapon certificate,
(b) the grant or variation of a police or visitor permit,
(c) the grant of an event permit, or
(d) the grant, renewal or variation of an approval of an air weapon club.

(2) It is an offence for an individual, with a view to purchasing, acquiring or procuring the repair or testing of an air weapon—
(a) to produce a false air weapon certificate, police permit or visitor permit,
(b) to produce an air weapon certificate, police permit or visitor permit which has been improperly altered, or
(c) to knowingly or recklessly make a statement which is false in a material particular.

(3) An individual who commits an offence under this section is liable, on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding level 5 on the standard scale (or both).

Commencement Information
I54 S. 31(1)(3) in force at 1.7.2016 by S.S.I. 2016/130, art. 2, **sch.** (with arts. 5, 6)
I55 S. 31(2) in force at 31.12.2016 by S.S.I. 2016/130, **art. 3(a)** (with art. 4)

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Air Weapons and Licensing (Scotland) Act 2015. (See end of Document for details)*

32 Time limit for offences

Section 136 of the Criminal Procedure (Scotland) Act 1995 (time limit for certain offences) applies to an air weapon offence which is triable only summarily as if the references in subsection (1) of that section to 6 months were to 36 months (and subsection (2) of that section were omitted).

Commencement Information
I56 S. 32 in force at 1.7.2016 by S.S.I. 2016/130, art. 2, **sch.** (with arts. 5, 6)

33 Offences by bodies corporate etc.

(1) Subsection (2) applies where—

(a) an offence under this Part has been committed by—

(i) a body corporate,

(ii) a Scottish partnership, or

(iii) an unincorporated association other than a Scottish partnership, and

(b) it is proved that the offence was committed with the consent or connivance of, or was attributable to neglect on the part of—

(i) a relevant individual, or

(ii) an individual purporting to act in the capacity of a relevant individual.

(2) The individual (as well as the body corporate, partnership or (as the case may be) association) commits the offence and is liable to be proceeded against and punished accordingly.

(3) In subsection (1), "relevant individual" means—

(a) in relation to a body corporate (other than a limited liability partnership)—

(i) a director, manager, secretary or similar officer of the body,

(ii) where the affairs of the body are managed by its members, a member,

(b) in relation to a limited liability partnership, a member,

(c) in relation to a Scottish partnership, a partner,

(d) in relation to an unincorporated association other than a Scottish partnership, an individual who is concerned in the management or control of the association.

Commencement Information
I57 S. 33 in force at 1.7.2016 by S.S.I. 2016/130, art. 2, **sch.** (with arts. 5, 6)

General

34 Appeals

(1) A person aggrieved by a decision of the chief constable under a section listed in subsection (2) may appeal against the decision to the appropriate sheriff.

(2) The sections are—

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(a) section 5(1) (grant or renewal of air weapon certificate),
(b) section 6(2) (air weapon certificate: conditions),
(c) section 7(3)(b) (special requirements and conditions for young person's air weapon certificate),
(d) section 10(1) (variation of air weapon certificate),
(e) section 11(1)(a) or (2) (revocation of air weapon certificate),
(f) section 12(1) (police permits),
(g) section 13(1) or (6) (visitor permits),
(h) section 14(3)(b) or (4)(b) (visitor permits: young persons),
(i) section 15(2) (police and visitor permits: conditions),
(j) section 16(1) (police and visitor permits: variation and revocation),
(k) section 17(1) or (2) (event permits),
(l) section 18(1), (3) or (5) (approval of air weapon clubs),
(m) section 19(1) (variation of approval for air weapon clubs),
(n) section 29(9)(b) (forfeiture and disposal of air weapons).

(3) An appeal must be made within the period of 21 days beginning with the date on which the decision appealed against was made.

(4) An appeal under this section is to be determined on the merits (and not by way of review).

(5) The sheriff hearing the appeal may consider any evidence or other matter, whether or not it was available at the time the chief constable made the decision appealed against.

(6) On determining the appeal, the sheriff may—
(a) dismiss the appeal,
(b) give the chief constable such direction as the sheriff considers appropriate as respects the matter which is the subject of the appeal.

(7) The decision of the sheriff may be appealed against only on a point of law.

(8) In this section, "the appropriate sheriff" means—
(a) in a case where the appellant resides in Scotland, a sheriff of the sheriffdom in which the appellant resides, or
(b) in a case where the appellant resides outwith Scotland, a sheriff of the sheriffdom of Lothian and Borders, sitting at Edinburgh.

Commencement Information
I58 S. 34(1)(2)(a)-(m)(3)-(8) in force at 1.7.2016 by S.S.I. 2016/130, art. 2, **sch.** (with arts. 5, 6)
I59 S. 34(2)(n) in force at 31.12.2016 by S.S.I. 2016/130, **art. 3(a)** (with art. 4)

35 Fees

(1) The Scottish Ministers may by regulations make provision for the charging of fees by the chief constable—
(a) in respect of applications under this Part, and
(b) otherwise in respect of the performance of functions by the chief constable under this Part.

(2) Regulations under subsection (1) may—

(a) specify different fees for different circumstances,

(b) specify circumstances in which no fee is payable,

(c) provide for fees to be determined by reference to such factors (including the value of money) as may be specified in the regulations.

(3) Where regulations under subsection (1) provide for a fee to be charged in respect of an application under this Part, the application is valid only when the fee is paid.

(4) Nothing in this section limits the generality of section 85.

Commencement Information

I60 S. 35(1)(2)(4) in force at 1.12.2015 by S.S.I. 2015/382, art. 2, **Sch.**

I61 S. 35(3) in force at 1.7.2016 by S.S.I. 2016/130, art. 2, **sch.** (with arts. 5, 6)

36 Power to make further provision

(1) The Scottish Ministers may by regulations make further provision for the purposes of this Part.

(2) Without limiting that generality (or the generality of section 85), regulations under subsection (1) may—

(a) make provision about the application processes under this Part (for example, prescribing the form and content of applications, any required supporting documentation or making further provision about the verification of applications),

(b) make provision in relation to air weapon certificates, police permits, visitor permits, event permits and approvals of air weapon clubs (for example, prescribing their form and content or the conditions which may or must be attached to them).

Commencement Information

I62 S. 36 in force at 1.12.2015 by S.S.I. 2015/382, art. 2, **Sch.**

37 Crown application

(1) No contravention of any provision made by or under this Part makes the Crown criminally liable.

(2) But the Court of Session may, on the application of the Scottish Ministers, the chief constable or any other public body or office-holder having responsibility for enforcing the provision, declare unlawful any act or omission of the Crown which constitutes such a contravention.

(3) Despite subsection (1), any provision made by or under this Part applies to a person in the public service of the Crown as it applies to other persons.

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Commencement Information

I63 S. 37 in force at 1.7.2016 by S.S.I. 2016/130, art. 2, **sch.** (with arts. 5, 6)

38 Transitional arrangements for existing certificate holders

(1) This section applies where, on the day on which section 2(1) comes into force, a person aged 14 years or more holds a firearm certificate or a shot gun certificate ("the existing certificate").

(2) It is not an offence under section 2(1) for the person to use and possess an air weapon without holding an air weapon certificate for the duration of the transitional period.

(3) The person must, in relation to such use or possession, comply with—

(a) any prescribed mandatory conditions which apply to the use and possession of air weapons, and

(b) if the person is under the age of 18, the conditions mentioned in section 7(5).

(4) A person who fails to comply with a condition mentioned in subsection (3) commits an offence.

(5) But it is not an offence under subsection (4) for a person to fail to comply with a condition mentioned in subsection (3) if—

(a) the person is entitled to use or possess an air weapon by virtue of an exemption under schedule 1, and

(b) the failure relates to the use or possession of an air weapon in accordance with the exemption.

(6) A person who commits an offence under subsection (4) is liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

(7) In this section, the "transitional period" means, in relation to an existing certificate, the period—

(a) beginning with the day on which section 2(1) comes into force, and

(b) ending with (the earlier of)—

(i) the day on which the existing certificate is, or falls to be, renewed, or

(ii) the day on which the existing certificate is surrendered, cancelled or revoked.

(8) For the purposes of subsection (7)(b)(i), where a person holds both a firearm certificate and a shot gun certificate, the existing certificate is the certificate which is, or which falls to be, renewed later.

(9) For the purposes of subsection (7)(b)(ii), where a person holds both a firearm certificate and a shot gun certificate—

(a) the surrender of one of the certificates does not end the transitional period, but

(b) the cancellation or revocation of either certificate ends the transitional period.

(10) For the purposes of paragraph 16 of schedule 1, this section is to be treated as if it were an exemption under that schedule.

Commencement Information

I64 S. 38 in force at 31.12.2016 by S.S.I. 2016/130, **art. 3(a)** (with art. 4)

39 Guidance

(1) The chief constable must, in exercising any function under this Part, have regard to any guidance issued by the Scottish Ministers.

(2) The Scottish Ministers must publish any guidance they issue for the purposes of this Part.

(3) The Scottish Ministers may revise and revoke such guidance.

Commencement Information

I65 S. 39(1) in force at 1.7.2016 by S.S.I. 2016/130, art. 2, **sch.** (with arts. 5, 6)

I66 S. 39(2)(3) in force at 1.12.2015 by S.S.I. 2015/382, art. 2, **Sch.**

40 Interpretation of Part 1

(1) In this Part, unless the context otherwise requires—

"the 1968 Act" means the Firearms Act 1968,

"acquire" means hire, accept as a gift or borrow and "acquisition" is to be construed accordingly,

"air weapon" is to be construed in accordance with section 1,

"air weapon certificate" means an air weapon certificate granted under section 5(1),

"air weapon club" means an association of individuals which has as a purpose the activity of target shooting with air weapons,

"air weapon offence" means any offence under this Part,

"approval", in relation to an air weapon club, means an approval granted to the club under section 18(1),

"approved air weapon club" means an air weapon club which has been granted an approval by the chief constable under section 18(1),

"chief constable" means the chief constable of the Police Service of Scotland,

"condition" includes requirement and restriction,

"constable" has the meaning given in section 99(1) of the Police and Fire Reform (Scotland) Act 2012,

"event permit" means a permit granted under section 17(1),

"firearm certificate" is to be construed in accordance with section 57(4) of the 1968 Act,

"guardian", in relation to an individual, means a person appointed by deed or will or by a court of competent jurisdiction to be the guardian of the individual,

"member of police staff" means an individual appointed under section 26 of the Police and Fire Reform (Scotland) Act 2012,

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"member of staff of the Scottish Police Authority" means an individual appointed under paragraph 6(1) of schedule 1 to the Police and Fire Reform (Scotland) Act 2012,

"miniature rifle range" is to be construed in accordance with section 11 of the 1968 Act,

"museum" means a museum or similar institution which has as its purpose, or one of its purposes, the preservation for the public benefit of a collection of historical, artistic or scientific interest which is maintained wholly or mainly out of money provided by Parliament, a Minister of the Crown, the Scottish Ministers or a local authority,

"police permit" means a permit granted under section 12(1),

"premises" means any place and includes a vehicle, vessel or moveable structure,

"prescribed" means prescribed in regulations made under section 36,

"registered firearms dealer" means a person registered as a firearms dealer under section 33 of the 1968 Act,

"relative", in relation to an individual, means—

(a) the spouse, civil partner, parent, stepparent, child, stepchild, grandparent or grandchild of the individual or of the individual's spouse, former spouse, civil partner or former civil partner, or

(b) the sibling, uncle, aunt, nephew or niece (whether of the full blood or of the half blood or by affinity) of the individual or the individual's spouse, former spouse, civil partner or former civil partner,

and includes, in relation to an individual who is living or has lived with another individual as if they were spouses or civil partners, any individual who would fall within paragraph (a) or (b) if the parties were married or civilly partnered to each other,

"shot gun certificate" is to be construed in accordance with section 57(4) of the 1968 Act,

"transfer" includes let on hire, give, lend and part with possession,

"visitor permit" means a permit granted under section 13(1).

(2) In this Part, a reference to an individual holding an air weapon certificate, a police permit or a visitor permit is a reference to an individual holding an air weapon certificate, police permit or, as the case may be, visitor permit—

(a) granted to the individual under section 5, 12 or, as the case may be, 13, and

(b) which has not expired or been revoked or cancelled.

(3) In this Part, a reference to a condition attached to an air weapon certificate, police permit, visitor permit, event permit or approval of an air weapon club includes a reference to any condition to which the certificate, permit or as the case may be, approval is subject by virtue of this Act.

(4) Any expression used in this Part which is also used in an Act listed in subsection (5) is, unless the context otherwise requires, to be construed in accordance with any decisions or opinions of a court interpreting the expression for the purposes of the Act.

(5) The Acts are—

(a) the 1968 Act,

(b) the Firearms (Amendment) Act 1988, and

(c) the Firearms (Amendment) Act 1997.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Air Weapons and Licensing (Scotland) Act 2015. (See end of Document for details)*

Commencement Information
I67 S. 40 in force at 1.12.2015 by S.S.I. 2015/382, art. 2, **Sch.**

PART 2

ALCOHOL LICENSING

Licensing objectives

41 Licensing objectives: protecting young persons from harm

In section 4 of the Licensing (Scotland) Act 2005 ("the 2005 Act") (the licensing objectives), in subsection (1)(e), after "children" insert " and young persons ".

Commencement Information
I68 S. 41 in force at 15.5.2017 by S.S.I. 2017/119, art. 2, **sch.**

Statements of licensing policy

42 Statements of licensing policy: licensing policy periods

In section 6 of the 2005 Act (statements of licensing policy)—

(a) in subsection (1), for "3 year period" substitute " licensing policy period ",

(b) in subsection (2), for "3 year period" substitute " licensing policy period ",

(c) after subsection (3) insert—

"(3ZA) A Licensing Board may, in preparing a licensing policy statement, decide that the licensing policy period to which the statement relates is to begin on a date earlier than it otherwise would under subsection (7).

(3ZB) Where a Licensing Board make a decision under subsection (3ZA) they must, when publishing the licensing policy statement under subsection (6), publicise the date on which they have decided the licensing policy period is to begin.",

(d) in subsection (4), for "3 year period" substitute " licensing policy period ",

(e) for subsection (7) substitute—

"(7) Subject to subsection (3ZA), in this section, "licensing policy period" means the period between each relevant date.

(8) For the purposes of subsection (7), "relevant date" means the date occurring 18 months after an ordinary election of councillors for local government areas takes place under section 5 of the Local Government etc. (Scotland) Act 1994.".

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Air Weapons and Licensing (Scotland) Act 2015. (See end of Document for details)*

Commencement Information
I69 S. 42 in force at 30.9.2016 by S.S.I. 2016/132, **art. 2(a)** (with art. 3)

Fit and proper person test

43 Premises licence application: ground for refusal

(1) The 2005 Act is amended as follows.

(2) In section 22 (objections and representations)—

(a) after subsection (1) insert—

"(1A) A person giving a notice under subsection (1) may include in the notice any information that the person considers may be relevant to consideration by the Board of any ground for refusal including, in particular, information in relation to—

(a) the applicant,

(b) where the applicant is neither an individual nor a council, a connected person in relation to the applicant, or

(c) any person who would be an interested party in relation to the subject premises if the application were to be granted.",

(b) in subsection (3)(b), after "representation" insert " (including any information included under subsection (1A)) ".

(3) In section 23 (determination of premises licence application)—

(a) in subsection (5)—

(i) after paragraph (b) insert—

"(ba) that the Licensing Board consider, having regard to the licensing objectives, that the applicant is not a fit and proper person to be the holder of a premises licence,",

(ii) in paragraph (c), after "would" insert " otherwise ",

(b) in subsection (6), for the words "the granting of the application would be inconsistent with one or more of the licensing objectives," substitute " either of the grounds for refusal specified in subsection (5)(ba) and (c) applies, ",

(c) in subsection (8)(b), for "(5)(c)" substitute " (5)(ba) or (c) ".

Commencement Information
I70 S. 43 in force at 15.5.2017 by S.S.I. 2017/119, art. 2, **sch.** (with arts. 3, 4)

44 Application to transfer premises licence: ground for refusal

(1) The 2005 Act is amended as follows.

(2) In section 33 (transfer on application of licence holder)—

(a) after subsection (7) insert—

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Air Weapons and Licensing (Scotland) Act 2015. (See end of Document for details)*

"(7A) On giving a notice under subsection (6)(a) or (b), the chief constable may also provide to the Licensing Board any information in relation to—

(a) the transferee,

(b) where the transferee is neither an individual nor a council, a connected person, or

(c) any person who would be an interested party in relation to the licensed premises if the application for the transfer of the licence to the transferee were to be granted,

that the chief constable considers may be relevant to consideration by the Board of the application.",

(b) in subsection (8)—

(i) the word "and" immediately following paragraph (a) is repealed,

(ii) after paragraph (b) insert ", and

(c) no information has been provided under subsection (7A),",

(c) in subsection (10)—

(i) after "notice" insert " and any information provided under subsection (7A) ",

(ii) in paragraph (a), for the words from "it" to "objectives" substitute " a ground for refusal applies ",

(d) after subsection (10) insert—

"(11) The grounds for refusal are—

(a) that, having regard to the licensing objectives, the transferee is not a fit and proper person to be the holder of a premises licence,

(b) that it is otherwise necessary to refuse the application for the purposes of any of the licensing objectives.".

Commencement Information

I71 S. 44 in force at 15.5.2017 by S.S.I. 2017/119, art. 2, **sch.** (with arts. 3, 4)

45 Ground for review of premises licence

(1) The 2005 Act is amended as follows.

(2) In section 36 (application for review of premises licence)—

(a) in subsection (3), before paragraph (a) insert—

"(za) that, having regard to the licensing objectives, the licence holder is not a fit and proper person to be the holder of a premises licence,",

(b) in subsection (5), before paragraph (a) insert—

"(za) where the ground is that specified in subsection (3)(za), a summary of the information on which the applicant's view that the alleged ground applies is based,",

(c) after subsection (5) insert—

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Air Weapons and Licensing (Scotland) Act 2015. (See end of Document for details)*

"(5A) A person making a premises licence review application may include in the application any information that the applicant considers may be relevant to consideration by the Licensing Board of the alleged ground for review including, in particular, information in relation to—

(a) the licence holder,

(b) where the licence holder is neither an individual nor a council, a connected person in relation to the licence holder, or

(c) any person who is an interested party in relation to the licensed premises.".

(3) In section 37 (review of premises licence on Licensing Board's initiative)—

(a) in subsection (4), before paragraph (a) insert—

"(za) where the ground is that specified in section 36(3)(za), a summary of the information on which the Board's view that the alleged ground applies is based,",

(b) after subsection (4) insert—

"(5) A Licensing Board making a premises licence review proposal may include in the proposal any information that the Board considers may be relevant to their consideration of the alleged ground for review including, in particular, information in relation to—

(a) the licence holder,

(b) where the licence holder is neither an individual nor a council, a connected person in relation to the licence holder, or

(c) any person who is an interested party in relation to the licensed premises.".

(4) In section 39 (Licensing Board's powers on review)—

(a) after subsection (1), insert—

"(1A) Subsection (1) is subject to subsection (2A).",

(b) after subsection (2), insert—

"(2A) Where, at a review hearing in relation to any premises licence, the Licensing Board are satisfied that the ground for review specified in section 36(3)(za) is established, the Board must revoke the licence.

(2B) Subject to section 39B, a revocation under subsection (2A) takes effect at the end of the period of 28 days beginning with the day on which the Board makes the decision.".

(5) In section 39A (notification of determinations), in subsection (1)—

(a) the word "or" immediately following paragraph (a) is repealed,

(b) after paragraph (b), insert ", or

(c) decides to revoke a premises licence under section 39(2A),".

(6) After section 39A insert—

"**39B Recall of revocation of licence under section 39(2A)**

(1) This section applies where a Licensing Board decides to revoke a premises licence under section 39(2A).

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Air Weapons and Licensing (Scotland) Act 2015. (See end of Document for details)*

(2) The Board must recall the revocation if—

(a) a relevant application is made before the end of the period referred to in section 39(2B) ("the 28 day period"), and

(b) the Board grants the application.

(3) The Board may extend the 28 day period pending determination of a relevant application.

(4) In this section, "relevant application" means—

(a) an application under section 33(1) for the transfer of the premises licence, or

(b) a premises licence variation application seeking a variation of the licence that the Board considers would remove the ground on which the licence was revoked under section 39(2A).

(5) This section does not affect the right to appeal against the decision to revoke the licence under section 39(2A).".

(7) In Part 1 of schedule 5 (appeals to the sheriff principal), in the entry in the left-hand column relating to a decision under section 39(1), after "39(1)" insert " or (2A) ".

Commencement Information

I72 S. 45 in force at 15.5.2017 by S.S.I. 2017/119, art. 2, **sch.** (with arts. 3, 4)

46 Personal licence applications and renewals: ground for refusal

(1) The 2005 Act is amended as follows.

(2) In section 73 (notification of application to the chief constable), after subsection (4) insert—

"(5) On giving a notice under subsection (3)(a) or (b), the chief constable may also provide to the Licensing Board any information in relation to the applicant that the chief constable considers may be relevant to consideration by the Board of the application.".

(3) After section 73 of the 2005 Act insert—

"**73A Notification of application to Licensing Standards Officer**

(1) Where a Licensing Board receive a personal licence application, the Board must give notice of it, together with a copy of the application, to a Licensing Standards Officer for the Board's area.

(2) A Licensing Standards Officer may, within 21 days of the date of receipt of a notice under subsection (1), respond to the notice by giving the Licensing Board any information in relation to the applicant that the Officer considers may be relevant to consideration by the Board of the application.".

(4) In section 74 (determination of personal licence application)—

(a) in subsection (2), after paragraph (c) insert—

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Air Weapons and Licensing (Scotland) Act 2015. (See end of Document for details)*

"(ca) no information has been provided under section 73(5) or 73A(2),",

(b) after subsection (5A) insert—

"(5AA) If—

(a) all of those conditions are met in relation to the applicant,

(b) the notice received from the chief constable under subsection (3)(a) or (b) of section 73 does not include a recommendation under subsection (4) of that section, and

(c) information has been provided under subsection (5) of that section or under section 73A(2),

the Board may hold a hearing for the purpose of considering and determining the application.",

(c) in subsection (5B), after "(5A)" insert " or (5AA) ",

(d) in subsection (6)—

(i) for "(5) or (5A)" substitute " (5), (5A) or (5AA) ",

(ii) after "notice" insert " and any information provided under section 73(5) or 73A(2) ",

(iii) in paragraph (a), for the words from "it" to "objectives" substitute " a ground for refusal applies ",

(e) after subsection (6) insert—

"(6A) The grounds for refusal are—

(a) that, having regard to the licensing objectives, the applicant is not a fit and proper person to be the holder of a personal licence,

(b) that it is otherwise necessary to refuse the application for the purposes of any of the licensing objectives.".

(5) In section 78 (renewal of personal licence), in subsection (5), for "73 and 74" substitute " 73, 73A and 74 ".

Commencement Information

I73 S. 46 in force at 15.5.2017 by S.S.I. 2017/119, art. 2, **sch.** (with arts. 3, 4)

47 Personal licence holders: procedure on receipt of notice of conviction

(1) The 2005 Act is amended as follows.

(2) In section 83 (procedure where Licensing Board receive notice of conviction)—

(a) after subsection (8), insert—

"(8A) Subsection (8) is subject to subsection (9A).",

(b) after subsection (9), insert—

"(9A) Where, at the hearing, the Licensing Board are satisfied that, having regard to the licensing objectives, the licence holder is not a fit and proper person to be the holder of a personal licence, the Board must make an order revoking the licence.",

(c) in subsection (10), after "(9)" insert " or (9A) ".

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Air Weapons and Licensing (Scotland) Act 2015. (See end of Document for details)*

(3) In Part 2 of schedule 5 (appeals to the sheriff), in the entry in the left-hand column relating to a decision to make an order under section 83(9), 84(7) or 86(3), for "83(9)" substitute " 83(9) or (9A) ".

Commencement Information

I74 S. 47 in force at 15.5.2017 by S.S.I. 2017/119, art. 2, **sch.** (with arts. 3, 4)

48 Personal licence holders: conduct inconsistent with the licensing objectives

(1) The 2005 Act is amended as follows.

(2) In section 84 (conduct inconsistent with the licensing objectives)—

(a) after subsection (6), insert—

"(6A) Subsection (6) is subject to subsection (7A).",

(b) after subsection (7), insert—

"(7A) Where, at the hearing, the Licensing Board are satisfied that, having regard to the licensing objectives, the licence holder is not a fit and proper person to be the holder of a personal licence, the Board must make an order revoking the licence.",

(c) in subsection (8), after "(7)" insert " or (7A) ".

(3) In section 84A (power of chief constable to report conduct inconsistent with the licensing objectives), in subsection (3), for "(6), (7)" substitute " (6), (6A), (7), (7A) ".

(4) In Part 2 of schedule 5 (appeals to the sheriff), in the entry in the left-hand column relating to a decision to make an order under section 83(9), 84(7) or 86(3), for "84(7)" substitute " 84(7) or (7A) ".

Commencement Information

I75 S. 48 in force at 15.5.2017 by S.S.I. 2017/119, art. 2, **sch.** (with arts. 3, 4)

PROSPECTIVE

Transfer of premises licences

49 Transfer of premises licences

(1) The 2005 Act is amended as follows.

(2) In section 33 (transfer of premises licence on application of licence holder)—

(a) for subsections (1) to (3) substitute—

"(1) Any person, other than an individual under the age of 18, may apply to the appropriate Licensing Board for the transfer of a premises licence to the person (such person being referred to in this section and section 33A as the "transferee").

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Air Weapons and Licensing (Scotland) Act 2015. (See end of Document for details)*

(1A) An application under subsection (1) must—

(a) specify the date on which the transfer is to take effect, and

(b) be accompanied by—

(i) the premises licence to which the application relates or, if that is not practicable, a statement of the reasons for failure to produce the licence, and

(ii) a written statement signed by the holder of the premises licence consenting to its transfer to the transferee (a "consent statement") or, if that is not practicable, a statement of the reasons for failure to obtain the licence holder's written consent.",

(b) in subsection (4), after "constable" insert " , unless the Board must refuse the application under subsection (8A) ",

(c) in subsection (8), before paragraph (a) insert—

"(za) the application is accompanied by a consent statement referred to in subsection (1A)(b)(ii),",

(d) after subsection (8) insert—

"(8A) If the application is not accompanied by a consent statement referred to in subsection (1A)(b)(ii), the Board must refuse the application, unless the Board dispenses with the requirement for a consent statement under section 33A(4).".

(3) The title of section 33 becomes " **Application for transfer of premises licence** ".

(4) After section 33 insert—

"**33A Application for transfer: further provision**

(1) This section applies where a Licensing Board receives an application under section 33(1) for the transfer of a premises licence.

(2) The Board must take all reasonable steps to give notice of the application to the premises licence holder.

(3) Subsection (4) applies where the application is not accompanied by a consent statement referred to in section 33(1A)(b)(ii).

(4) The Board may dispense with the requirement for a consent statement if satisfied that the transferee has taken all reasonable steps to contact the premises licence holder in order to obtain consent but has received no response.

(5) Where the Board decides under subsection (4) not to dispense with the requirement for a consent statement, the Board must give notice of the decision, and of the reasons for it, to the transferee.

(6) Where the Board decides under subsection (4) to dispense with the requirement for a consent statement the Board must hold a hearing under section 33(9) for the purpose of considering and determining the application.

(7) Where the Board grants the application, the transfer of the licence takes effect—

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Air Weapons and Licensing (Scotland) Act 2015. (See end of Document for details)*

(a) on the date specified in the application in accordance with section 33(1A)(a), or

(b) where the Board grants the application after that date, on such date as the Board may determine.".

(5) Section 34 (transfer on application of person other than licence holder) is repealed.

(6) In Part 1 of schedule 5 (appeals to the sheriff principal)—

(a) in column 1 of the entry relating to a decision to refuse an application under section 33(1) or 34(1) for transfer of a premises licence, the words "or 34(1)" are repealed,

(b) in column 2 of that entry, after "applicant" insert " or the premises licence holder ",

(c) after that entry insert—

"A decision to grant an application under section 33(1) for transfer of a premises licence	The person from whom the premises licence is to be transferred
A decision under section 33A(4), in relation to an application under section 33(1) for transfer of a premises licence, not to dispense with the requirement for a consent statement	The applicant".

Relevant offences and foreign offences

50 Premises licences: procedure in relation to relevant offences or foreign offences

In section 44 of the 2005 Act (procedure where Licensing Board receive notice of conviction in relation to a premises licence)—

(a) in subsection (7), after "subsection (4)(b)" insert " which includes a recommendation under subsection (5) ",

(b) after subsection (7) insert—

"(7A) If the Licensing Board receive from the chief constable a notice under subsection (4)(b) which does not include a recommendation under subsection (5), the Licensing Board must—

(a) make a premises licence review proposal in respect of the premises licence, or

(b) decide to take no further action in relation to the conviction.".

Commencement Information

I76 S. 50 in force at 15.5.2017 by S.S.I. 2017/119, art. 2, **sch.** (with art. 5)

51 Personal licences: procedure in relation to relevant offences or foreign offences

In section 83 of the 2005 Act (procedure where Licensing Board receive notice of a conviction in relation to a personal licence)—

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Air Weapons and Licensing (Scotland) Act 2015. (See end of Document for details)*

(a) in subsection (7), after "subsection (4)(b)" insert " which includes a recommendation under subsection (5) ",

(b) after subsection (7) insert—

"(7A) If the Licensing Board receive from the chief constable a notice under subsection (4)(b) which does not include a recommendation under subsection (5), the Licensing Board must—

(a) hold a hearing, or

(b) decide to take no further action in relation to the conviction.",

(c) in subsection (8), for "the hearing" substitute " a hearing under subsection (7) or (7A)(a) ".

Commencement Information

I77 S. 51 in force at 15.5.2017 by S.S.I. 2017/119, art. 2, **sch.** (with art. 5)

PROSPECTIVE

52 Relevant offences and foreign offences: spent convictions

In section 129 of the 2005 Act (relevant offences and foreign offences), subsection (4) is repealed.

Supply of alcohol to a child or young person

53 Offences of supplying alcohol to a child or young person

(1) After section 104 of the 2005 Act insert—

"**104A Supply of alcohol to a child**

(1) A person, other than a child or young person, who—

(a) buys or attempts to buy alcohol—

(i) on behalf of a child, or

(ii) for a child, or

(b) gives alcohol (or otherwise makes it available) to a child,

commits an offence.

(2) Subsection (1)(a)(ii) and (b) does not apply to the buying of alcohol for, or (as the case may be) giving or making available of alcohol to, a child—

(a) for consumption other than in a public place, or

(b) for the purposes of religious worship.

(3) In subsection (2)(a), "public place" includes—

(a) relevant premises,

(b) any place to which the public have access for the time being (whether on payment of a fee or otherwise), and

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Air Weapons and Licensing (Scotland) Act 2015. (See end of Document for details)*

(c) any place to which the public do not have access but to which the child unlawfully gains access.

(4) A person who commits an offence under subsection (1) is liable on summary conviction to—

(a) a fine not exceeding level 5 on the standard scale,

(b) imprisonment for a term not exceeding 3 months, or

(c) both.

104B Supply of alcohol to a young person

(1) A person, other than a child or young person, who knowingly—

(a) buys or attempts to buy alcohol—

(i) on behalf of a young person, or

(ii) for a young person, or

(b) gives alcohol (or otherwise makes it available) to a young person,

commits an offence.

(2) Subsection (1)(a)(ii) and (b) does not apply to—

(a) the buying of alcohol for, or (as the case may be) giving or making available of alcohol to, a young person—

(i) for consumption other than in a public place, or

(ii) for the purposes of religious worship, or

(b) the buying, or (as the case may be) giving or making available, of beer, wine, cider or perry for consumption by a young person along with a meal supplied on relevant premises.

(3) In subsection (2)(a)(i), "public place" includes—

(a) relevant premises,

(b) any place to which the public have access for the time being (whether on payment of a fee or otherwise), and

(c) any place to which the public do not have access but to which the young person unlawfully gains access.

(4) A person who commits an offence under subsection (1) is liable on summary conviction to—

(a) a fine not exceeding level 5 on the standard scale,

(b) imprisonment for a term not exceeding 3 months, or

(c) both.".

(2) In section 105 of the 2005 Act (purchase of alcohol by or for a child or young person)—

(a) subsections (4), (5) and (7) are repealed,

(b) the section title becomes " **Purchase of alcohol by a child or young person** ".

Commencement Information

I78 S. 53 in force at 15.5.2017 by S.S.I. 2017/119, art. 2, **sch.**

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Air Weapons and Licensing (Scotland) Act 2015. (See end of Document for details)*

Miscellaneous

54 Meaning of "alcohol": inclusion of angostura bitters

In section 2 of the 2005 Act (meaning of "alcohol"), in subsection (1)(b), paragraph (iv) is repealed.

Commencement Information
I79 S. 54 in force at 15.5.2017 by S.S.I. 2017/119, art. 2, **sch.**

55 Overprovision

(1) The 2005 Act is amended as follows.

(2) In section 7 (duty to assess overprovision)—

(a) in subsection (2), after "Act" insert " and in doing so the Board may determine that the whole of the Board's area is a locality ",

(b) in subsection (3)—

(i) the word "must" is repealed,

(ii) at the beginning of paragraph (a) insert " must ",

(iii) the word "and" immediately following that paragraph is repealed,

(iv) after that paragraph insert—

"(aa) may have regard to such other matters as the Board thinks fit including, in particular, the licensed hours of licensed premises in the locality, and",

(v) at the beginning of paragraph (b) insert " must ".

(3) In section 23(5)(e) (refusal of premises licence on grounds of overprovision)—

(a) for the words from "that," where first occurring to "situated," substitute " that ",

(b) for "that description," substitute " the same or similar description as the subject premises, ".

(4) In section 30(5)(d) (refusal to vary premises licence on grounds of overprovision)—

(a) for the words from "that," where first occurring to "situated," substitute " that ",

(b) for "that description," substitute " the same or similar description as the subject premises (taking account of the variation), ".

Commencement Information
I80 S. 55 in force at 30.9.2016 by S.S.I. 2016/132, **art. 2(b)** (with art. 4)

56 Duties of Licensing Boards to produce annual reports

(1) The 2005 Act is amended as follows.

(2) After section 9 insert—

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Air Weapons and Licensing (Scotland) Act 2015. (See end of Document for details)*

"**9A Annual functions report**

(1) Each Licensing Board must prepare and publish a report not later than 3 months after the end of each financial year.

(2) A report under this section must include—

(a) a statement explaining how the Board has had regard to—

(i) the licensing objectives, and

(ii) their licensing policy statement and any supplementary licensing policy statement (including the Board's statement under section 7(1) (duty to assess overprovision)),

in the exercise of their functions under this Act during the financial year,

(b) a summary of the decisions made by (or on behalf of) the Board during the financial year, and

(c) information about the number of licences held under this Act in the Board's area (including information about the number of occasional licences issued during the year).

(3) A report under this section may include such other information about the exercise of the Licensing Board's functions under this Act as the Board consider appropriate.

(4) At the request of a Licensing Board the relevant council must provide the Board with such information as the Board may reasonably require for the purpose of preparing a report under this section.

(5) In discharging their duties under subsection (1) and section 9B(1) (annual financial report), a Licensing Board may, if they consider it appropriate, prepare and publish a combined report containing the information required under this section and under section 9B (which combined report must be published not later than 3 months after the end of the financial year in question).

(6) The Scottish Ministers may by regulations make further provision about reports under this section including, in particular, provision about—

(a) the form and required content of reports,

(b) the publication of reports.

(7) In this section, "financial year" means a yearly period ending on 31 March.

9B Annual financial report

(1) Each Licensing Board must prepare and publish a report not later than 3 months after the end of each financial year.

(2) A report under this section must include—

(a) a statement of—

(i) the amount of relevant income received by the Licensing Board during the financial year, and

(ii) the amount of relevant expenditure incurred in respect of the Board's area during the year, and

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Changes to legislation: *There are currently no known outstanding effects for the Air Weapons and Licensing (Scotland) Act 2015. (See end of Document for details)*

(b) an explanation of how the amounts in the statement were calculated.

(3) For the purposes of subsection (2)—

"relevant income", in relation to a Licensing Board, means income received by the Board in connection with the exercise of the Board's functions under or by virtue of—

(a) this Act, or

(b) section 14(1) of the Alcohol etc. (Scotland) Act 2010 (social responsibility levy) in so far as relating to holders of premises licences or occasional licences, and

"relevant expenditure", in relation to a Licensing Board, means any expenditure—

(a) which is attributable to the exercise of the Board's functions under or by virtue of—

(i) this Act, or

(ii) section 14(1) of the Alcohol etc. (Scotland) Act 2010 (social responsibility levy) in so far as relating to holders of premises licences or occasional licences, and

(b) which is incurred by—

(i) the Board,

(ii) the relevant council, or

(iii) the Licensing Standards Officer (or Officers) for the Board's area.

(4) At the request of a Licensing Board the relevant council must provide the Board with such information as the Board may reasonably require for the purpose of preparing a report under this section.

(5) The Scottish Ministers may by regulations make further provision about reports under this section including provision—

(a) about the form and content of reports including, in particular—

(i) how a statement required under subsection (2) is to be set out, and

(ii) what constitutes relevant income and relevant expenditure for the purposes of subsection (2), and

(b) the publication of reports.

(6) Regulations under subsection (5)(a) may modify subsection (3).

(7) In this section, "financial year" means a yearly period ending on 31 March.".

(3) In section 146 (orders and regulations: affirmative procedure),

(a) in subsection (4)(c), after "applies," insert " regulations under section 9B(5) or ",

(b) in subsection (5), before paragraph (a) insert—

"(za) regulations under section 9B(5) containing provisions which add to, replace or omit any part of the text of subsection (3) of that section,".

Commencement Information

I81 S. 56 in force at 1.12.2015 for specified purposes by S.S.I. 2015/382, art. 2, **Sch.**

I82 S. 56 in force at 15.5.2017 for specified purposes by S.S.I. 2017/119, art. 2, **sch.**

I83 S. 56 in force at 20.12.2017 in so far as not already in force by S.S.I. 2017/424, **art. 2(a)**

57 Licensing Standards Officers: general function in relation to personal licences

In section 14(1) of the 2005 Act (general functions of Licensing Standards Officers), after paragraph (b) insert—

"(ba) providing information to Licensing Boards about any conduct of holders of, or persons applying for, personal licences in the area, which is inconsistent with the licensing objectives,".

Commencement Information

I84 S. 57 in force at 15.5.2017 by S.S.I. 2017/119, art. 2, **sch.**

58 Powers of Licensing Standards Officers

(1) The 2005 Act is amended as follows.

(2) After section 84A insert—

"**84B Power of Licensing Standards Officers to report conduct inconsistent with the licensing objectives**

(1) If a Licensing Standards Officer considers that any personal licence holder who is or was working in licensed premises in the Officer's area has acted in a manner which is inconsistent with any of the licensing objectives, the Officer may report the matter to the relevant Licensing Board.

(2) Where a Licensing Board receives a report from a Licensing Standards Officer under subsection (1), the Board may hold a hearing.

(3) Subsections (6), (6A), (7), (7A) and (8) of section 84 and subsection (1)(b) of section 85 apply in relation to a hearing under subsection (2) of this section as they apply in relation to a hearing under subsection (3)(a) or (5) of section 84.

(4) In subsection (1), "relevant Licensing Board" has the meaning given in section 83(11).".

Commencement Information

I85 S. 58 in force at 15.5.2017 by S.S.I. 2017/119, art. 2, **sch.**

59 Interested parties

(1) The 2005 Act is amended as follows.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Air Weapons and Licensing (Scotland) Act 2015. (See end of Document for details)*

(2) In section 40A (connected persons and interested parties: licence holder's duty to notify changes)—

(a) in subsection (1)—

(i) the word "or" immediately following paragraph (a) is repealed,

(ii) paragraph (b) is repealed,

(b) in subsection (2), the words "or an interested party" are repealed,

(c) the section title becomes " **Connected persons: licence holder's duty to notify changes** ".

(3) The italic cross heading preceding section 40A becomes " Connected persons ".

(4) In section 48(1)(c) (notification of change of name or address)—

(a) the word "or" immediately following sub-paragraph (i) is repealed,

(b) sub-paragraph (ii) is repealed.

(5) In section 147(5) (interpretation), in the opening words, the words "nor the premises manager" are repealed.

Commencement Information
I86 S. 59 in force at 29.6.2018 by S.S.I. 2018/102, **art. 3**

60 Personal licences: grant, duration and renewal

(1) The 2005 Act is amended as follows.

(2) In section 74 (determination of personal licence application), in subsection (3)(c), after "revoked" insert " under any provision of this Act other than section 87(3) ".

(3) In section 77 (period of effect of personal licence), in subsection (8), for "3" substitute " 9 ".

(4) In section 78 (renewal of personal licence)—

(a) in subsection (2)—

(i) for "2" substitute " 9 ",

(ii) for "3" substitute " 12 ",

(b) in subsection (5), after "74" insert " (other than subsection (3)(ba)) ".

(5) In section 84A (power of chief constable to report conduct inconsistent with the licensing objectives), in subsection (3), for "(8)(a)" substitute " (8) ".

Commencement Information
I87 S. 60(3)-(5) in force at 15.5.2017 by S.S.I. 2017/119, art. 2, **sch.**

PROSPECTIVE

61 Processing and deemed grant of applications

(1) The 2005 Act is amended as follows.

(2) After section 134 insert—

"**134ZA Duty to acknowledge applications**

(1) This section applies where a Licensing Board receive a relevant application.

(2) In a case where the Licensing Board are satisfied that the application meets the prescribed requirements they must, unless subsection (3) applies, give an acknowledgement to the applicant—

(a) confirming that they are satisfied that the application meets the prescribed requirements,

(b) listing any documents received in support of the application and the date or dates on which the documents were received by them, and

(c) informing the applicant about the period for determining the application under section 134ZB.

(3) This subsection applies where the Licensing Board consider it appropriate to determine the application on its merits without first giving an acknowledgement to the applicant.

(4) In a case where the Licensing Board are not satisfied that the application meets the prescribed requirements, they must give a notice to the applicant—

(a) indicating that they are treating the application as incomplete and not having been made, and

(b) stating their reasons for treating the application in that way.

(5) Subsection (4) does not prevent an applicant from submitting further information in support of the application if that is otherwise competent.

(6) A Licensing Board must give an acknowledgement under subsection (2) or give a notice under subsection (4) as soon as is practicable.

(7) For the purposes of this section, "prescribed requirements", in relation to a relevant application, means the requirements (as to form, content, etc.) which are imposed by or under this Act or any other enactment in respect of the type of relevant application in question.

(8) In this section, a "relevant application" is—

(a) a premises licence application,

(b) a premises licence variation application,

(c) an application under section 33(1) to transfer a premises licence,

(d) an application under section 35(1) for variation of a premises licence on transfer,

(e) a provisional premises licence application,

(f) an application under section 46 for confirmation of a provisional premises licence,

(g) an application under section 47(2) for a temporary premises licence,

(h) an occasional licence application,

(i) an extended hours application,

(j) a personal licence application,

(k) a personal licence renewal application.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Air Weapons and Licensing (Scotland) Act 2015. (See end of Document for details)*

134ZB Period for determination of applications

(1) A Licensing Board must determine every relevant application which meets the prescribed requirements (including an application mentioned in subsection (2)) before the end of the period of 9 months beginning with (the later of)—

(a) the date on which the Licensing Board received the application, or

(b) where the application did not initially meet the prescribed requirements, the date on which the application met the prescribed requirements.

(2) Where a Licensing Board consider it appropriate to determine a relevant application without first giving an acknowledgement under section 134ZA(2), they must determine the application as soon as is practicable.

(3) A sheriff of the appropriate sheriffdom may, on an application by a Licensing Board in relation to a relevant application, extend the period for determining the application under subsection (1).

(4) The sheriff may extend the period only if—

(a) it appears to the sheriff that there is a good reason to do so, and

(b) no previous extension has been granted in relation to the relevant application.

(5) The applicant in relation to a relevant application is entitled to be a party to proceedings on an application to a sheriff under subsection (3).

(6) In this section—

"prescribed requirements" has the same meaning as in section 134ZA,

"relevant application" has the same meaning as in section 134ZA.

134ZC Deemed grant of applications

(1) Subsection (2) applies where a Licensing Board have failed to determine a relevant application before the expiry of the determination period.

(2) Where this subsection applies—

(a) the application is deemed to have been granted on the date on which the determination period expired, and

(b) the deemed grant of the application has the same effect, for the purposes of this Act, as if the application had been granted by the Licensing Board.

(3) A Licensing Board may not impose any conditions (other than those which they must impose under this Act) in respect of an application which is deemed to have been granted under subsection (2).

(4) Subsection (5) applies in relation to an application—

(a) that is deemed to have been granted under subsection (2), and

(b) in respect of which the Licensing Board must, on granting such an application, determine the period during which the thing applied for is to have effect.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Air Weapons and Licensing (Scotland) Act 2015. (See end of Document for details)*

(5) The thing applied for is to have effect for the duration of the period stated in the application (subject to any limits imposed by this Act).

(6) In this section—

"determination period" means, in relation to a relevant application, the period for determining the application under section 134ZB(1) including (if applicable) any extension to that period granted under subsection (3) of that section,

"prescribed requirements" has the same meaning as in section 134ZA,

"relevant application" has the same meaning as in section 134ZA.".

62 Form etc. of communications under the 2005 Act

(1) Section 134 of the 2005 Act (form etc. of applications, proposals and notices) is amended as follows.

(2) In each of the following provisions, for "or notice" substitute " , notice or other communication ", namely—

(a) subsection (1)(a) and (d), and

(b) subsection (2).

(3) The section title becomes " **Form etc. of applications, proposals, notices and other communications** ".

Commencement Information
I88 S. 62 in force at 15.5.2017 by S.S.I. 2017/119, art. 2, **sch.**

PART 3

CIVIC LICENSING

Taxis and private hire cars

63 Refusal to grant private hire car licences on grounds of overprovision

In section 10 of the Civic Government (Scotland) Act 1982 ("the 1982 Act") (taxi and private hire car licences), after subsection (3) insert—

"(3A) Without prejudice to paragraph 5 of Schedule 1, the grant of a private hire car licence may be refused by a licensing authority if, but only if, they are satisfied that there is (or, as a result of granting the licence, would be) overprovision of private hire car services in the locality (or localities) in their area in which the private hire car is to operate.

(3B) It is for the licensing authority to determine the localities within their area for the purposes of subsection (3A) and in doing so the authority may determine that the whole of their area is a locality.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Air Weapons and Licensing (Scotland) Act 2015. (See end of Document for details)*

(3C) In satisfying themselves as to whether there is or would be overprovision for the purposes of subsection (3A) in any locality, the licensing authority must have regard to—

(a) the number of private hire cars operating in the locality, and

(b) the demand for private hire car services in the locality.".

Commencement Information

I89 S. 63 in force at 1.5.2017 by S.S.I. 2016/307, art. 2, **sch.**

64 Testing of private hire car drivers

In section 13 of the 1982 Act (taxi and private hire car driving licences), in subsection (5)—

(a) after "licence" where first occurring insert " or a private hire car driver's licence ",

(b) after "taxi" where second occurring insert " or, as the case may be, private hire car ".

Commencement Information

I90 S. 64 in force at 1.11.2016 by S.S.I. 2016/307, art. 2, **sch.**

65 Exemptions from requirements of sections 10 to 21 of 1982 Act

(1) Section 22 of the 1982 Act (saving for certain vehicles etc.) is amended as follows.

(2) The existing provision becomes subsection (1).

(3) Paragraph (c) of that subsection is repealed.

(4) After that subsection, insert—

"(2) The Scottish Ministers may by regulations specify further circumstances in which sections 10 to 21 (with the exception of subsection (7) of section 21) are not to apply.

(3) Regulations under subsection (2)—

(a) may make transitional, transitory and saving provision,

(b) are subject to the negative procedure.".

(5) The title to section 22 becomes " **Exemptions** ".

Commencement Information

I91 S. 65(1)(2)(4)(5) in force at 1.12.2015 by S.S.I. 2015/382, art. 2, **Sch.**

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Air Weapons and Licensing (Scotland) Act 2015. (See end of Document for details)*

Metal dealers

66 Penalties for failure to have appropriate licence or comply with conditions

In section 7 of the 1982 Act (offences etc.)—

(a) in subsection (1)(a), after "is" insert " a metal dealer's licence, an itinerant metal dealer's licence or ",

(b) in subsection (2)—

(i) the word "and" immediately following paragraph (aa) is repealed,

(ii) after paragraph (aa) insert—

"(ab) in a case where the licence is a metal dealer's licence or an itinerant metal dealer's licence, to such fine or imprisonment as is mentioned in subsection (1)(a) (or to both), and".

Commencement Information
I92 S. 66 in force at 1.9.2016 by S.S.I. 2016/85, art. 2, **Sch.** (with art. 3)

67 Removal of exemption warrants for certain metal dealers

(1) The 1982 Act is amended as follows.

(2) In section 28 (metal dealers: licensing and regulation)—

(a) in subsection (1), for the words "Subject to subsection (2) below, a" substitute " A ",

(b) subsections (2) and (3) are repealed.

(3) Section 29 (metal dealers' exemption warrants) is repealed.

Commencement Information
I93 S. 67 in force at 1.9.2016 by S.S.I. 2016/85, art. 2, **Sch.** (with arts. 4, 5)

68 Abolition of requirement to retain metal for 48 hours

Section 31 of the 1982 Act (retention of metal) is repealed.

Commencement Information
I94 S. 68 in force at 1.9.2016 by S.S.I. 2016/85, art. 2, **Sch.**

69 Acceptable forms of payment for metal

After section 33 of the 1982 Act insert—

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Changes to legislation: *There are currently no known outstanding effects for the Air Weapons and Licensing (Scotland) Act 2015. (See end of Document for details)*

"**33A Acceptable forms of payment for metal**

(1) A metal dealer or an itinerant metal dealer may pay for metal only by a method of payment specified in subsection (2).

(2) The methods of payment are—

(a) by means of a cheque which under section 81A of the Bills of Exchange Act 1882 is not transferable, or

(b) by electronic transfer of funds to a bank or building society account in the name of the payee.

(3) If a metal dealer or an itinerant metal dealer pays for metal otherwise than in accordance with subsection (1), the dealer and each of the persons listed in subsection (4) (if any) commit an offence.

(4) The persons are—

(a) in a case of payment being made by a metal dealer at a place of business of the dealer, the person with day to day management of the place,

(b) in any case, any person who, acting on behalf of the metal dealer or the itinerant metal dealer, makes the payment.

(5) It is a defence for a metal dealer, an itinerant metal dealer or a person described in subsection (4)(a) who is charged with an offence under this section to prove that the dealer or, as the case may be, person—

(a) made arrangements to ensure that the payment was to be made only in accordance with subsection (1), and

(b) took all reasonable steps to ensure that those arrangements were complied with.

(6) A person who commits an offence under this section is liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.

(7) The Scottish Ministers may by regulations—

(a) amend subsection (2) so as to add, amend or remove methods of payment, and

(b) make such consequential modification of section 33B or 33C(3) as they consider appropriate.

(8) Regulations under subsection (7) are subject to the affirmative procedure.

(9) In this section, "place of business" means a place of business operated by a metal dealer in the ordinary course of that dealer's business as a metal dealer.

33B Acceptable forms of payment: meaning of "bank or building society account"

(1) In section 33A(2)(b), "bank or building society account" means an account held with a bank or a building society.

(2) For the purposes of subsections (1) and (4)—

(a) "bank" means an authorised deposit-taker that has its head office or a branch in the United Kingdom, and

(b) "building society" has the same meaning as in the Building Societies Act 1986.

(3) In subsection (2)(a), "authorised deposit-taker" means—

(a) a person who has permission to accept deposits under Part 4A of the Financial Services and Markets Act 2000 (but see subsection (4) for exclusions),

(b) an EEA firm of the kind mention in paragraph 5(b) of Schedule 3 to that Act that has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule).

(4) The reference in subsection (3)(a) to a person who has permission to accept deposits under Part 4A of the Financial Services and Markets Act 2000 does not include—

(a) a building society,

(b) a society registered as a credit union under the Co-operative and Community Benefit Societies Act 2014 or the Credit Unions (Northern Ireland) Order 1985 (S.I. 1985/1205 (N.I. 12)),

(c) a friendly society within the meaning given by section 116 of the Friendly Societies Act 1992, or

(d) an insurance company within the meaning of section 275 of the Finance Act 2004.".

Commencement Information

I95 S. 69 in force at 1.9.2016 by S.S.I. 2016/85, art. 2, **Sch.**

70 Metal dealers and itinerant metal dealers: records

(1) The 1982 Act is amended as follows.

(2) Sections 30 (keeping of records) and 33 (receipts and invoices: itinerant metal dealers) are repealed.

(3) After section 33B (as inserted by section 69 of this Act), insert—

"**33C Requirement to keep records**

(1) This section applies where a metal dealer or an itinerant metal dealer ("the dealer"), in the course of the dealer's business—

(a) acquires any metal (whether or not for value), or

(b) processes or disposes of any metal (by any means).

(2) In respect of any metal acquired, the dealer must record the following information—

(a) the description and weight of the metal,

(b) the date and time of the acquisition of the metal,

(c) if the metal is acquired from another person—

(i) the name and address of the person,

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Changes to legislation: *There are currently no known outstanding effects for the Air Weapons and Licensing (Scotland) Act 2015. (See end of Document for details)*

(ii) the means by which the person's name and address was verified,

(d) the price, if any, payable in respect of the acquisition of the metal, if that price has been ascertained at the time when the entry in the record relating to that metal is to be made,

(e) the method of payment of the price (if applicable),

(f) where no price is payable for the metal, the value of the metal at the time when the entry is to be made as estimated by the dealer,

(g) in the case of metal delivered to the dealer by means of a vehicle, the registration mark (within the meaning of section 23 of the Vehicle Excise and Registration Act 1994) borne by the vehicle.

(3) Where the dealer has paid for metal, the dealer must keep a copy of—

(a) the cheque, or

(b) the document evidencing the electronic transfer of funds.

(4) In respect of any metal processed or disposed of, the dealer must record the following information—

(a) the description and weight of the metal immediately before its processing or disposal,

(b) in the case of metal which is processed, the process applied,

(c) in the case of metal disposed of by sale or exchange—

(i) the consideration for which it is sold or exchanged,

(ii) the name and address of the person to whom the metal is sold or with whom it is exchanged, and

(iii) the means by which the person's name and address was verified,

(d) in the case of metal disposed of otherwise than by sale or exchange, its value immediately before its disposal as estimated by the dealer.

(5) The dealer must—

(a) keep separate records in relation to—

(i) metal acquired, and

(ii) metal processed or disposed of,

(b) record the information immediately after the metal is acquired, processed or disposed of,

(c) keep a copy of any document produced by a person to verify that person's name or address, and

(d) retain information recorded or documents kept under this section for a period of not less than 3 years beginning with the date on which the information was recorded or document obtained.

(6) The Scottish Ministers may by regulations—

(a) specify the means by which a person's name and address may be verified for the purposes of this section,

(b) require further information to be recorded about any metal acquired, processed or disposed of by metal dealers or itinerant metal dealers.

(7) Regulations under subsection (6)—

(a) may make different provision for different purposes, and

(b) are subject to the negative procedure.

33D Form of records

(1) A metal dealer or an itinerant metal dealer ("a dealer") must record the required information—

(a) in books with serially numbered pages, or

(b) by means of a device for storing and processing information.

(2) Where a dealer records the required information in books, the dealer must use separate books for recording the required information about—

(a) metal acquired, and

(b) metal processed or disposed of.

(3) Where a dealer uses a device for storing and processing information, the dealer must, by means of the device or otherwise, keep details of all modifications made in the records kept by the device.

(4) Where a dealer is required to keep a copy of a document under section 33C, it is sufficient for the dealer—

(a) to keep an electronic copy of the document, and

(b) in relation to a document verifying a person's name or address, keep only one copy of the document.

(5) In this section, "required information" means the information about metal acquired, processed or disposed of that a dealer is required to record under or by virtue of section 33C(2), (4) or (6).

33E Metal dealer to keep records for each place of business

(1) A metal dealer must keep separate records of the required information in relation to—

(a) each place of business operated by the dealer, and

(b) any metal acquired, processed or disposed of otherwise than at such a place of business.

(2) Where a metal dealer records the required information in books, the dealer must not, at any time at a place of business, use more than—

(a) one book for recording the required information about metal acquired, and

(b) one book for recording the required information about metal processed or disposed of.

(3) In this section—

"place of business" means a place of business operated by a metal dealer in the ordinary course of that dealer's business as a metal dealer,

"required information" means the information about metal acquired, processed or disposed of that a dealer is required to record under or by virtue of section 33C(2), (4) or (6).".

(4) In section 34 (offences relating to metal dealing)—

(a) after subsection (2) insert—

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Air Weapons and Licensing (Scotland) Act 2015. (See end of Document for details)*

"(2A) Any metal dealer or itinerant metal dealer who fails to comply with a requirement of section 33C, 33D or 33E commits an offence and is liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.",

(b) in subsection (3), for the words from "furnishes" to "keep" substitute " produces any information or document which the dealer is required to record or keep under section 33C which is false or misleading in a material particular ".

Commencement Information

I96 S. 70(1)(3) in force at 1.12.2015 for specified purposes by S.S.I. 2015/382, art. 2, **Sch.**

I97 S. 70(1)(3) in force at 1.9.2016 in so far as not already in force by S.S.I. 2016/85, art. 2, **Sch.**

I98 S. 70(2)(4) in force at 1.9.2016 by S.S.I. 2016/85, art. 2, **Sch.**

71 Register of dealers in metal

After section 35 of the 1982 Act, insert—

"**35A Register of metal dealers and itinerant metal dealers**

(1) The Scottish Ministers may by regulations make provision for and about the establishment, keeping and maintaining of a register of metal dealers and itinerant metal dealers.

(2) Regulations under subsection (1) may, in particular, make provision—

(a) about who is to keep and maintain the register,

(b) requiring the provision of information to the person who keeps the register,

(c) specifying the information to be included in the register in relation to each person who holds a licence as a metal dealer or itinerant metal dealer,

(d) about the form and publication of the register,

(e) for the charging of fees in such circumstances as may be specified in the regulations.

(3) Regulations under subsection (1) may—

(a) make incidental, supplementary, consequential, transitional, transitory or saving provision,

(b) modify this or any other enactment.

(4) Regulations under subsection (1) which contain provision which adds to, replaces, or omits any part of an Act are subject to the affirmative procedure.

(5) Otherwise, regulations under subsection (1) are subject to the negative procedure.".

Commencement Information

I99 S. 71 in force at 1.11.2016 by S.S.I. 2016/307, art. 2, **sch.**

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Air Weapons and Licensing (Scotland) Act 2015. (See end of Document for details)*

72 Interpretation of provisions relating to metal dealers etc.

(1) Section 37 of the 1982 Act (interpretation of sections 28 to 36) is amended as follows.

(2) In subsection (1), for the definition of "itinerant metal dealer" substitute—

""itinerant metal dealer" means a person who—

(a) carries on a business which consists wholly or substantially of buying or selling for scrap—

(i) metal articles that are old, broken, worn out or defaced, or

(ii) partly manufactured articles that are made wholly or partly from metal,

(b) collects articles of the kind described in paragraph (a)(i) and (ii) by means of visits from place to place, and

(c) disposes of such articles without causing them to be kept in a metal store or other premises (including by disposing or giving custody of the articles to a person who keeps a metal store),".

(3) For subsection (2) substitute—

"(2) For the purposes of sections 28 to 36, a person carries on business as a metal dealer if the person—

(a) carries on a business which consists wholly or substantially of buying or selling for scrap—

(i) metal articles that are old, broken, worn out or defaced, or

(ii) partly manufactured articles that are made wholly or partly from metal, or

(b) carries on business as a motor salvage operator (so far as that does not fall within paragraph (a)).

(3) For the purposes of subsection (2)(b), a person carries on business as a motor salvage operator if the person carries on a business which consists wholly or substantially of—

(a) recovering salvageable parts from motor vehicles for re-use or sale and selling or disposing of the rest of the vehicle for scrap,

(b) buying significantly damaged motor vehicles and subsequently repairing and reselling them, or

(c) buying or selling motor vehicles which are to be the subject (whether immediately or upon a subsequent resale) of any of the activities mentioned in paragraphs (a) and (b).".

Commencement Information

I100 S. 72 in force at 1.9.2016 in so far as not already in force by S.S.I. 2016/85, art. 2, **Sch.** (with arts. 4, 6)

73 Exemptions from requirements of sections 28 to 37 of 1982 Act

After section 37 of the 1982 Act insert—

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Air Weapons and Licensing (Scotland) Act 2015. (See end of Document for details)*

"**37A Exemptions**

(1) The Scottish Ministers may by regulations make provision specifying circumstances in which the provisions of sections 28 to 37 are not to apply.

(2) Regulations under subsection (1)—

(a) may make transitional, transitory or saving provision,

(b) are subject to the negative procedure.".

Commencement Information

I101 S. 73 in force at 1.12.2015 by S.S.I. 2015/382, art. 2, **Sch.**

Public entertainment venues

74 Licensing of theatres etc.

(1) In section 41 of the 1982 Act (public entertainment licences)—

(a) in subsection (2)(d), the words "the Theatres Act 1968, or" are repealed,

(b) after subsection (3) insert—

"(3A) In relation to a public entertainment licence which authorises the use of premises for the performance of plays, no condition may be attached to the licence as to the nature of the plays which may be performed, or the manner of performing plays, under the licence.

(3B) Subsection (3A) does not prevent a licensing authority from attaching, by virtue of section 3B or in accordance with subsection (3) or paragraph 5 of Schedule 1, any condition which they consider appropriate on the grounds of public safety.".

(2) In section 1 of the Theatres Act 1968 ("the 1968 Act") (abolition of censorship of the theatre), subsection (2) is repealed.

(3) Sections 12 to 14 of the 1968 Act (licensing of premises for public performances of plays) are repealed.

(4) In section 15 of the 1968 Act (powers of entry and inspection)—

(a) in subsection (1)—

(i) the word "or" immediately following paragraph (a) is repealed,

(ii) paragraph (b) is repealed,

(iii) the words "or, in a case falling within paragraph (b) above, any police officer or authorised officer of the licensing authority" are repealed,

(iv) paragraph (ii) is repealed,

(b) subsections (2), (3), (5) and (6) are repealed.

(5) In section 18 of the 1968 Act (interpretation), in subsection (1), the definition of "licensing authority" is repealed.

(6) Schedule 1 to the 1968 Act (provision about licenses to perform plays) is repealed.

Commencement Information

I102 S. 74(1) in force at 26.4.2019 by S.S.I. 2019/99, **art. 2(1)(a)** (with art. 3)

I103 S. 74(2)-(6) in force at 27.1.2021 by S.S.I. 2019/99, **art. 2(2)** (with art. 3)

75 Restriction of exemption from requirement for public entertainment licence

In section 41(2) of the 1982 Act (places not requiring public entertainment licences), in paragraph (f), for the words from "licensed" where first occurring to "(asp 16)" substitute " premises in respect of which a premises licence within the meaning of section 17 of the Licensing (Scotland) Act 2005 has effect ".

Commencement Information

I104 S. 75 in force at 1.11.2016 by S.S.I. 2016/307, art. 2, **sch.** (with art. 3)

Sexual entertainment venues

76 Licensing of sexual entertainment venues

(1) The 1982 Act is amended as follows.

(2) In section 41(2) (definition of place of public entertainment), after paragraph (aa) insert—

"(ab) a sexual entertainment venue (as defined in section 45A) in relation to which Schedule 2 (as modified for the purposes of section 45B) has effect, while being used as such;".

(3) After section 45 insert—

"**45A Licensing of sexual entertainment venues: interpretation**

(1) This section applies for the purposes of the interpretation of section 45B and Schedule 2 (as modified for the purposes of section 45B).

(2) "Sexual entertainment venue" means any premises at which sexual entertainment is provided before a live audience for (or with a view to) the financial gain of the organiser.

(3) For the purposes of that definition—

"audience" includes an audience of one,

"financial gain" includes financial gain arising directly or indirectly from the provision of the sexual entertainment,

"organiser", in relation to the provision of sexual entertainment in premises, means—

(a) the person ("A") who is responsible for—

(i) the management of the premises, or

(ii) the organisation or management of the sexual entertainment, or

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Air Weapons and Licensing (Scotland) Act 2015. (See end of Document for details)*

(b) where A exercises that responsibility on behalf of another person (whether by virtue of a contract of employment or otherwise), that other person,

"premises" includes any vehicle, vessel or stall but does not include any private dwelling to which the public is not admitted,

"sexual entertainment" means—

(a) any live performance, or

(b) any live display of nudity,

which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means).

(4) For the purposes of the definition of "sexual entertainment", "display of nudity" means—

(a) in the case of a woman, the showing of (to any extent and by any means) her nipples, pubic area, genitals or anus,

(b) in the case of a man, the showing of (to any extent and by any means) his pubic area, genitals or anus.

(5) Sexual entertainment is provided if (and only if) it is provided (or allowed to be provided) by or on behalf of the organiser.

(6) References in Schedule 2 (as modified for the purposes of section 45B) to the use of any premises by a person as a sexual entertainment venue are to be read as references to their use by the organiser.

(7) The following are not sexual entertainment venues—

(a) a sex shop (within the meaning of paragraph 2(1) of Schedule 2),

(b) such other premises as the Scottish Ministers may by order specify.

(8) An order under subsection (7)(b) may make different provision for different purposes.

(9) Premises at which sexual entertainment is provided as mentioned in subsection (2) on a particular occasion ("the current occasion") are not to be treated as a sexual entertainment venue if sexual entertainment has not been provided on more than 3 previous occasions which fall wholly or partly within the period of 12 months ending with the start of the current occasion.

(10) For the purposes of subsection (9)—

(a) each continuous period during which sexual entertainment is provided on the premises is to be treated as a separate occasion, and

(b) where the period during which sexual entertainment is provided on the premises exceeds 24 hours, each period of 24 hours (and any part of a period of 24 hours) is to be treated as a separate occasion.

(11) The Scottish Ministers may by order provide for—

(a) descriptions of performances, or

(b) descriptions of displays of nudity,

which are not to be treated as sexual entertainment for the purposes of this section.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Air Weapons and Licensing (Scotland) Act 2015. (See end of Document for details)*

(12) An order under subsection (7)(b) or (11) is subject to the negative procedure.

45B Licensing of sexual entertainment venues

(1) A local authority may resolve that Schedule 2 (as modified for the purposes of this section) is to have effect in their area in relation to sexual entertainment venues.

(2) If a local authority passes a resolution under subsection (1), Schedule 2 (as so modified) has effect in their area from the day specified in the resolution.

(3) The day mentioned in subsection (2) must not be before the expiry of the period of one year beginning with the day on which the resolution is passed.

(4) A local authority must, not later than 28 days before the day mentioned in subsection (2), publish notice that they have passed a resolution under this section.

(5) The notice must—

(a) state the general effect of Schedule 2 (as modified for the purposes of this section), and

(b) be published electronically or in a newspaper circulating in the local authority's area.

(6) For the purposes of this section, paragraphs 1 and 3 to 25 of Schedule 2 apply with the following modifications—

(a) references to a sex shop are to be read as references to a sexual entertainment venue,

(b) references to the use by a person of premises, vehicles, vessels or stalls as a sexual entertainment venue are to be read as references to their use by the organiser,

(c) in paragraph 1—

(i) in sub-paragraph (b)—

(A) the word "or" immediately following paragraph (i) is omitted,

(B) paragraph (ii) is omitted, and

(ii) sub-paragraph (c) is omitted,

(d) in paragraph 7—

(i) in sub-paragraph (2), at the beginning insert " Subject to sub-paragraph (3A), ", and

(ii) after sub-paragraph (3) insert—

"(3A) If a local authority consider it appropriate to do so in relation to an application, the local authority may dispense with the requirement to publish an advertisement under sub-paragraph (2) and may instead publish notice of the application electronically.

(3B) Publication under sub-paragraph (3A) must be not later than 7 days after the date of the application.

(3C) The applicant must also, not later than 7 days after the date of the application—

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Air Weapons and Licensing (Scotland) Act 2015. (See end of Document for details)*

(a) send a copy of the application to each person or body listed in the local authority's determination under sub-paragraph (3D), and

(b) submit to the local authority a certificate stating that the applicant has complied with this sub-paragraph.

(3D) For the purposes of sub-paragraph (3C), a local authority must—

(a) from time to time determine the persons or bodies who must receive a copy of the application, and

(b) publicise the determination in such manner as they consider appropriate.",

(e) in paragraph 9—

(i) in sub-paragraph (5)(c)—

(A) after the word "in" insert " the local authority's area or ",

(B) after the word "for" insert " their area or ",

(ii) after sub-paragraph (5) insert—

"(5A) For the purposes of sub-paragraph (5)(c), a local authority must—

(a) from time to time determine the appropriate number of sexual entertainment venues for their area and for each relevant locality, and

(b) publicise the determination in such manner as they consider appropriate.",

(iii) after sub-paragraph (6) insert—

"(6A) A local authority may refuse an application for the grant or renewal of a licence despite the fact that a premises licence under Part 3 of the Licensing (Scotland) Act 2005 is in effect in relation to the premises, vehicle, vessel or stall to which the application relates.",

(f) in paragraph 12(2)(b), for "shorter" substitute " other ",

(g) in paragraph 19(1)(e), for the words from "without" to the end of paragraph (e) substitute "knowingly permits any person under the age of 18 to enter the sexual entertainment venue—

(i) at a time when sexual entertainment is being provided, or

(ii) without reasonable excuse, at any other time,", and

(h) in paragraph 25, in each of sub-paragraphs (1)(a) and (2), for "45" substitute " 45B ".

(7) In carrying out functions conferred by virtue of this section, a local authority must have regard to any guidance issued by the Scottish Ministers.

45C Statements of policy in relation to sexual entertainment venues

(1) This section applies where a local authority passes a resolution under section 45B(1).

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Air Weapons and Licensing (Scotland) Act 2015. (See end of Document for details)*

(2) The local authority must prepare a statement of their policy with respect to the exercise of their functions in relation to the licensing of sexual entertainment venues (a "SEV policy statement").

(3) In preparing a SEV policy statement, a local authority must—

(a) consider the impact of the licensing of sexual entertainment venues in their area, having regard, in particular, to how it will affect the objectives of—

(i) preventing public nuisance, crime and disorder,

(ii) securing public safety,

(iii) protecting children and young people from harm,

(iv) reducing violence against women, and

(b) consult such persons or bodies as they consider appropriate.

(4) The local authority must publish the SEV policy statement at the same time and in the same manner as they publish the notice of the resolution under section 45B(4).

(5) The local authority must—

(a) from time to time review the SEV policy statement and make such revisions as they consider appropriate (if any), and

(b) publish the revised statement in such manner as they consider appropriate.

(6) Subsection (3) applies to a review of a SEV policy statement as it applies to preparing such a statement.

(7) In exercising their functions in relation to the licensing of sexual entertainment venues, a local authority must have regard to their SEV policy statement or revised statement.

(8) In this section—

"children" means persons under the age of 16,

"young people" means persons aged 16 or 17.".

(4) The title of Part 3 becomes " **Control of sex shops and sexual entertainment venues** ".

Commencement Information

I105 S. 76(1)(3) in force at 1.12.2015 for specified purposes by S.S.I. 2015/382, art. 2, **Sch.**

I106 S. 76(1)(3) in force at 26.4.2019 in so far as not already in force by S.S.I. 2019/99, **art. 2(1)(b)** (with art. 3)

I107 S. 76(2)(4) in force at 26.4.2019 by S.S.I. 2019/99, **art. 2(1)(b)** (with art. 3)

Miscellaneous and general

77 Deemed grant of applications

(1) The 1982 Act is amended as follows.

(2) In section 3 (discharge of functions of licensing authorities)—

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Air Weapons and Licensing (Scotland) Act 2015. (See end of Document for details)*

(a) in subsection (1), for the words from "shall" to the end substitute "must—

(a) consider each relevant application made to them within the period of 3 months beginning with the date on which the application was made, and

(b) subject to the following provisions of this section, reach a final decision on the application within the period of 6 months beginning with the end of the 3 month period referred to in paragraph (a).",

(b) in subsection (4)—

(i) the words "applied for" are repealed,

(ii) for "or, as the case may be, renewed" substitute " , renewed or, as the case may be, varied ",

(iii) the words from "and" where first occurring to the end are repealed,

(c) after subsection (4) insert—

"(4A) A licence deemed to have been granted or renewed under subsection (4) is—

(a) in the case of a temporary licence, to remain in force for the duration of the period sought in the application (up to a maximum period of 6 weeks), or

(b) in any other case, to remain in force for the period of one year.

(4B) A variation of the terms of a licence deemed to have been granted under subsection (4) is to have effect for the remaining period of the licence.

(4C) Subsections (4) and (4B) do not affect—

(a) the powers of revocation under section 7(6)(a),

(b) paragraph 8(5) of Schedule 1 (which relates to renewals of existing licences),

(c) the powers of variation under paragraph 10 of that Schedule, or

(d) the powers of suspension and revocation under paragraphs 11 and 12 of that Schedule.",

(d) for subsection (5) substitute—

"(5A) The deemed grant, renewal or variation of the terms of a licence under subsection (4) is, for the purposes of Schedule 1, to be treated as a decision of the licensing authority to grant, renew or vary the terms of a licence.

(5B) For the purposes of this section, a "relevant application" is an application under paragraph 1, 7 or 10 of Schedule 1.".

(3) After section 45C (as inserted by section 76 of this Act) insert—

"**45D Deemed grant of applications**

(1) For the purpose of the discharge of their functions under this Part, every local authority must—

(a) consider each relevant application made to them within the period of 3 months beginning with the date on which the application was made, and

(b) subject to the following provisions of this section, reach a final decision on the application within the period of 6 months beginning with the end of the 3 month period referred to in paragraph (a).

(2) On an application by the local authority within the 6 month period referred to in subsection (1)(b), the sheriff may, if it appears that there is a good reason to do so, extend that period as the sheriff thinks fit.

(3) The applicant is entitled to be a party to proceedings on an application under subsection (2).

(4) Where the local authority have failed to reach a final decision on the application before the expiry of—

(a) the 6 month period referred to in subsection (1)(b), or

(b) such further period as the sheriff may have specified on application under subsection (2),

the licence is deemed to have been granted, renewed or, as the case may be, varied on the date of such expiry.

(5) A licence deemed to have been granted or renewed under subsection (4) is to remain in force for the period of one year.

(6) A deemed variation of the terms of a licence deemed under subsection (4) is to have effect for the remaining period of the licence.

(7) Subsections (4) and (6) do not affect—

(a) the powers of revocation under paragraph 13 of Schedule 2, and

(b) the powers of variation under paragraph 15 of that Schedule.

(8) The deemed grant, renewal or variation of the terms of a licence under subsection (4) has the same effect, for the purposes of Schedule 2, as a decision of the licensing authority to grant, renew or vary the terms of a licence.

(9) For the purposes of this section, a "relevant application" is an application under paragraph 6 or 15 of Schedule 2.".

(4) In Schedule 1 (licensing: further provisions as to the general system), in paragraph 10, after sub-paragraph (5) insert—

"(6) Sub-paragraph (5) does not apply to a deemed variation of the terms of a licence under section 3(4).".

(5) In Schedule 2 (control of sex shops and sexual entertainment venues), in paragraph 15, after sub-paragraph (4) insert—

"(4A) Sub-paragraph (4) does not apply to a deemed variation of the terms of a licence under section 45D(4).".

Commencement Information

I108 S. 77 in force at 1.5.2017 by S.S.I. 2016/307, art. 2, **sch.** (with art. 4)

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Air Weapons and Licensing (Scotland) Act 2015. (See end of Document for details)*

78 Revocation of Part 2 licences

(1) The 1982 Act is amended as follows.

(2) In section 5 (rights of entry and inspection), in subsection (2)(a)(ii), after "suspended" insert " or revoked ".

(3) In Schedule 1 (licensing: further provisions as to the general system)—

(a) the italic heading preceding paragraph 10 becomes " *Variation, suspension and revocation of licences* ",

(b) in paragraph 11—

(i) in sub-paragraph (1), after "suspend" insert " or revoke ",

(ii) in sub-paragraph (2), after "suspension" insert " or revocation ",

(iii) in sub-paragraph (4), after "suspend" insert " or revoke ",

(iv) in sub-paragraph (6), after "order" insert " to suspend a licence ",

(v) in sub-paragraph (7), after "suspend" insert " or revoke ",

(vi) in sub-paragraph (8), after "suspension" insert " or revocation ",

(vii) in sub-paragraph (9)—

(A) after "suspension" where first occurring insert " or revocation ",

(B) after each subsequent occurrence of "suspension" insert " or, as the case may be, revocation ",

(viii) in sub-paragraph (10), after "suspension" where first occurring insert " or revocation ",

(c) in paragraph 12(5)(b), after "suspend" insert " or revoke ",

(d) in paragraph 13—

(i) in sub-paragraph (2)(a), after "suspend" insert " , revoke ",

(ii) in sub-paragraph (3), after "suspending" insert " or revoking ",

(iii) in sub-paragraph (4), after "suspension" where first occurring insert " or revocation ",

(e) in paragraph 14(2)(b), after "terms," insert " revocation ",

(f) in paragraph 17, in sub-paragraph (1)(d), before paragraph (i) insert—

"(ai) to revoke a licence or to refuse to do so,",

(g) in paragraph 18(10)—

(i) after "suspension" where first occurring insert " or revocation ",

(ii) the words "above that the suspension be immediate" are repealed.

Commencement Information

I109 S. 78 in force at 1.11.2016 by S.S.I. 2016/307, art. 2, **sch.** (with art. 5)

79 Procedure for hearings

(1) The 1982 Act is amended as follows.

(2) In Schedule 1 (licensing: further provisions as to the general system), after paragraph 18 insert—

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Air Weapons and Licensing (Scotland) Act 2015. (See end of Document for details)*

"**Power to make provision about hearings**

18A (1) The Scottish Ministers may by regulations make provision as to the procedure to be followed at, or in connection with, any hearing to be held by a licensing authority under this Schedule.

(2) Regulations under this paragraph may, in particular, make provision—

(a) for notice of the hearing to be given to such persons as may be prescribed in the regulations,

(b) about the rules of evidence which are to apply for the purposes of the hearing,

(c) about the representation of any party at the hearing,

(d) as to the times by which any step in the procedure must be taken, and

(e) as to liability for expenses.

(3) Regulations under this paragraph may make different provision for different purposes including, in particular, different types of licence.

(4) Regulations under this paragraph are subject to the negative procedure.".

(3) In Schedule 2 (control of sex shops and sexual entertainment venues), after paragraph 24 insert—

"**Power to make provision about hearings**

24A (1) The Scottish Ministers may by regulations make provision as to the procedure to be followed at, or in connection with, any hearing to be held by a local authority under this Schedule.

(2) Regulations under this paragraph may, in particular, make provision—

(a) for notice of the hearing to be given to such persons as may be prescribed in the regulations,

(b) about the rules of evidence which are to apply for the purposes of the hearing,

(c) about the representation of any party at the hearing,

(d) as to the times by which any step in the procedure must be taken, and

(e) as to liability for expenses.

(3) Regulations under this paragraph may make different provision for different purposes, including, in particular, different types of licence.

(4) Regulations under this paragraph are subject to the negative procedure.".

Commencement Information

I110 S. 79 in force at 1.12.2015 by S.S.I. 2015/382, art. 2, **Sch.**

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Air Weapons and Licensing (Scotland) Act 2015. (See end of Document for details)*

80 Conditions for Part 3 licences

(1) The 1982 Act is amended as follows.

(2) After section 45D (as inserted by section 77 of this Act) insert—

"Conditions of licences granted under this Part

45E Mandatory licence conditions

(1) The Scottish Ministers may by order prescribe conditions to which licences granted by local authorities under this Part are to be subject.

(2) Different conditions may be prescribed under subsection (1)—
- (a) in respect of different licences or different types of licence,
- (b) otherwise for different purposes, circumstances or cases.

(3) An order under subsection (1) is subject to the affirmative procedure.

(4) Subsection (1) does not affect any other power of the Scottish Ministers under this Act or any other enactment to prescribe conditions—
- (a) to which licences granted by local authorities under this Part are to be subject, or
- (b) to be imposed by local authorities in granting or renewing licences under this Part.

(5) The following conditions are referred to in this Part as "mandatory conditions"—
- (a) conditions prescribed under subsection (1),
- (b) conditions prescribed under any power referred to in subsection (4), and
- (c) conditions imposed, or required to be imposed, by any provision of this Part.

(6) In this section and section 45F, references to licences granted by local authorities include references to—
- (a) licences renewed by local authorities, and
- (b) licences deemed by virtue of section 45D to have been granted or renewed by local authorities.

45F Standard licence conditions

(1) A local authority may determine conditions to which licences granted by them under this Part are to be subject.

(2) Conditions determined under subsection (1) are referred to in this Part as "standard conditions".

(3) Different conditions may be determined under subsection (1)—
- (a) in respect of different licences or different types of licence,
- (b) otherwise for different purposes, circumstances or cases.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Air Weapons and Licensing (Scotland) Act 2015. (See end of Document for details)*

(4) A local authority must publish, in such manner as they think appropriate, any standard conditions determined by them.

(5) Standard conditions have no effect—

(a) unless they are published, and

(b) so far as they are inconsistent with any mandatory conditions.

(6) Subsection (1) is subject to paragraph 9(1A) of Schedule 2.".

(3) In paragraph 9 of Schedule 2 (disposal of applications for licences)—

(a) in sub-paragraph (1)—

(i) in paragraph (a), the word "unconditionally" is repealed,

(ii) paragraph (b) is repealed,

(b) after sub-paragraph (1) insert—

"(1A) In granting or renewing a licence under sub-paragraph (1)(a), a local authority may (either or both)—

(a) disapply or vary any standard conditions,

(b) impose conditions in addition to any mandatory or standard conditions to which the licence is subject.",

(c) in sub-paragraph (2)—

(i) for "sub-paragraph" where first occurring substitute " sub-paragraphs (2ZA) and ",

(ii) for "(1)" substitute " (1A)(b) ",

(d) after sub-paragraph (2) insert—

"(2ZA) A variation made under sub-paragraph (1A)(a) or a condition imposed under sub-paragraph (1A)(b) has no effect in so far as it is inconsistent with any mandatory condition to which the licence is subject.",

(e) in sub-paragraph (2A), for "(1)" substitute " (1A)(b) ".

Commencement Information

I111 S. 80(1)(2) in force at 1.12.2015 for specified purposes by S.S.I. 2015/382, art. 2, **Sch.**

I112 S. 80(1)(2) in force at 1.11.2016 in so far as not already in force by S.S.I. 2016/307, art. 2, **sch.**

I113 S. 80(3) in force at 1.11.2016 by S.S.I. 2016/307, art. 2, **sch.**

81 Conditions for Part 3 licences: displays or advertising

In paragraph 9(2) of Schedule 2 to the 1982 Act (examples of conditions which may be imposed in relation to Part 3 licences), in paragraph (b), after "on or in" insert " or otherwise connected with ".

Commencement Information

I114 S. 81 in force at 1.11.2016 by S.S.I. 2016/307, art. 2, **sch.**

82 Civic licensing standards officers

After Part 3 of the 1982 Act insert—

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Air Weapons and Licensing (Scotland) Act 2015. (See end of Document for details)*

"**PART 3A**

CIVIC LICENSING STANDARDS OFFICERS

45G **Civic licensing standards officers**

(1) Each local authority must appoint for their area one or more officers (a "civic licensing standards officer")—

(a) to exercise, in relation to the authority's area, the general functions conferred on civic licensing standards officers by virtue of section 45H, and

(b) to exercise any other functions that may be conferred on such an officer by virtue of this or any other enactment.

(2) A civic licensing standards officer appointed by a local authority is taken to be an authorised officer of the authority for the purposes of Parts 1 to 3.

(3) A person may hold more than one appointment under subsection (1) (so as to be a civic licensing standards officer for more than one local authority area).

(4) Nothing in this section prevents an officer of a local authority other than a civic licensing standards officer from being an authorised officer of the authority for a purpose of Parts 1 to 3.

(5) In this Part, a reference to a local authority includes a reference to that authority acting as the licensing authority for their area and a reference to an authorised officer of a local authority (however expressed) is to be construed accordingly.

45H **General functions of a civic licensing standards officer**

(1) The general functions of a civic licensing standards officer are—

(a) to provide to any interested person information and guidance concerning the operation of Parts 1 to 3 in the officer's area,

(b) to supervise the compliance by the holder of a licence granted under Parts 1 to 3 in the officer's area with—

(i) the conditions of the licence, and

(ii) the other requirements of Parts 1 to 3,

(c) to provide mediation services for the purposes of avoiding or resolving disputes or disagreements between—

(i) the holder of a licence granted under Parts 1 to 3 in the officer's area, and

(ii) any other person,

concerning any matter relating to compliance with the conditions of the licence or the other requirements of Parts 1 to 3.

(2) The function under subsection (1)(b) includes, in particular, power for a civic licensing standards officer, where the officer believes that a condition to which the licence is subject has been or is being breached—

(a) to give a notice to the holder of the licence requiring such action to be taken to remedy the breach as may be specified in the notice, and

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Changes to legislation: *There are currently no known outstanding effects for the Air Weapons and Licensing (Scotland) Act 2015. (See end of Document for details)*

(b) to refer the breach to the local authority which granted the licence for consideration at a meeting of the authority.

(3) A civic licensing standards officer may only refer a breach of a condition under subsection (2)(b) if—

(a) the officer has given notice under subsection (2)(a) and the holder of the licence has failed to comply with it, or

(b) the officer considers that it is appropriate for the breach to be referred to the authority without such a notice being given.

(4) In this section, a reference to an officer's area is a reference to—

(a) the local authority area for which the officer is appointed under section 45G(1), or

(b) where the officer is appointed for more than one local authority area, the area for which the officer is exercising a function at the relevant time.".

Commencement Information

I115 S. 82 in force at 1.5.2017 by S.S.I. 2016/307, art. 2, **sch.**

83 Electronic communications under the 1982 Act

(1) The 1982 Act is amended as follows.

(2) In Schedule 1 (licensing: further provisions as to the general system)—

(a) after paragraph 3(3), insert—

"(3A) Where a licensing authority have determined to accept objections and representations by means of an electronic communication under paragraph 16A, an objection or representation is made for the purpose of sub-paragraph (1) of this paragraph if it is sent—

(a) to the authority by means of an electronic communication which complies with the determination, and

(b) within the time specified in sub-paragraph (1).

(3B) Sub-paragraph (3A) is without prejudice to sub-paragraph (3).",

(b) after paragraph 16 insert—

16A "**Electronic communications**

(1) A licensing authority may determine to accept—

(a) applications for the grant or renewal of a licence under paragraph 1,

(b) objections or representations under paragraph 3,

(c) notifications of a change to a licence under paragraph 9,

by means of an electronic communication.

(2) Where a licensing authority make a determination under sub-paragraph (1) they must—

(a) specify in the determination—

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Changes to legislation: *There are currently no known outstanding effects for the Air Weapons and Licensing (Scotland) Act 2015. (See end of Document for details)*

(i) the form of electronic communication by which applications, objections, representations or notifications may be made or given,

(ii) the electronic address to be used for making or giving applications, objections, representations or notifications, and

(iii) any means of authentication (in addition to an electronic signature) that are acceptable, and

(b) publicise the determination as they consider appropriate.

(3) In relation to an application, objection, representation or notification made or given by means of an electronic communication, any requirement of this Schedule for the application, objection, representation or notification—

(a) to be in writing is satisfied if the communication is—

(i) in the form specified under sub-paragraph (2)(a)(i), and

(ii) sent to the address specified under sub-paragraph (2)(a)(ii),

(b) to be signed is satisfied if the communication includes an electronic signature or is authenticated by a means specified under sub-paragraph (2)(a)(iii).

(4) A licensing authority may determine to—

(a) give notices under paragraphs 5, 9, 10, 11 or 12, and

(b) give reasons under paragraph 17,

by means of an electronic communication.

(5) A licensing authority may only give a notice or reasons by means of an electronic communication if—

(a) the person to whom the notice or reasons is or are to be given has agreed to receive notices and reasons by means of an electronic communication, and

(b) the communication is sent to an electronic address, and is in an electronic form, specified for that purpose by the person.

(6) In relation to any notice or reasons given by means of an electronic communication, any requirement of this Schedule for the notice or reasons to be given in writing is satisfied if the communication is sent in accordance with sub-paragraph (5).

(7) When a licensing authority gives a notice or reasons by means of an electronic communication then, unless the contrary is proved, it is to be treated as having been received by the person to whom it was sent on the second working day after the day on which it was sent.

(8) For the purposes of sub-paragraph (7), "working day" means a day which is not—

(a) a Saturday or Sunday,

(b) Christmas Eve or Christmas Day,

(c) a day which is a bank holiday in Scotland under the Banking and Financial Dealings Act 1971,

(d) a day appointed for public thanksgiving or mourning, or

(e) a day which is a local or public holiday in the area in which the electronic communication is to be sent.

(9) A licensing authority may make different determinations for different purposes including, in particular, for different types of licence.

(10) In this Schedule—

"electronic communication" is to be construed in accordance with section 15(1) of the Electronic Communications Act 2000,

"electronic signature" is to be construed in accordance with section 7(2) of the Electronic Communications Act 2000.".

(3) In Schedule 2 (control of sex shops and sexual entertainment venues)—

(a) after paragraph 8(4) insert—

"(4A) Where a local authority have determined to accept objections and representations by means of an electronic communication under paragraph 22A, an objection or representation is made for the purpose of sub-paragraph (2) of this paragraph if it is sent—

(a) to the authority by means of an electronic communication which complies with the determination, and

(b) within the time specified in sub-paragraph (2).

(4B) Sub-paragraph (4A) is without prejudice to sub-paragraph (4).",

(b) after paragraph 22 insert—

22A "**Electronic communications**

(1) A local authority may determine to accept—

(a) applications for the grant or renewal of a licence under this Schedule,

(b) objections or representations under paragraph 8,

(c) notifications of a change to a licence under paragraph 14,

by means of an electronic communication.

(2) Where a local authority make a determination under sub-paragraph (1) they must—

(a) specify in the determination—

(i) the form of electronic communication by which applications, objections, representations or notifications may be made or given,

(ii) the electronic address to be used for making or giving applications, objections, representations or notifications, and

(iii) any means of authentication (in addition to an electronic signature) that are acceptable, and

(b) publicise the determination as they consider appropriate.

(3) In relation to an application, objection, representation or notification made or given by means of an electronic communication, any

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requirement of this Schedule for the application, objection, representation or notification—

(a) to be in writing is satisfied if the communication is—

(i) in the form specified under sub-paragraph (2)(a)(i), and

(ii) sent to the address specified under sub-paragraph (2)(a)(ii),

(b) to be signed is satisfied if the communication includes an electronic signature or is authenticated by a means specified under sub-paragraph (2)(a)(iii).

(4) A local authority may determine to—

(a) give notices under paragraphs 8, 10, 13, 14 or 15, and

(b) give reasons under paragraph 23,

by means of an electronic communication.

(5) A local authority may only give a notice or reasons by means of an electronic communication if—

(a) the person to whom the notice or reasons is or are to be given has agreed to receive notices and reasons by means of an electronic communication, and

(b) the communication is sent to an electronic address, and is in an electronic form, specified for that purpose by the person.

(6) In relation to any notice or reasons given by means of an electronic communication, any requirement of this Schedule for the notice or reasons to be given in writing is satisfied if the communication is sent in accordance with sub-paragraph (5).

(7) When a licensing authority gives a notice or reasons by means of an electronic communication then, unless the contrary is proved, it is to be treated as having been received by the person to whom it was sent on the second working day after the day on which it was sent.

(8) For the purposes of sub-paragraph (7), "working day" means a day which is not—

(a) a Saturday or Sunday,

(b) Christmas Eve or Christmas Day,

(c) a day which is a bank holiday in Scotland under the Banking and Financial Dealings Act 1971,

(d) a day appointed for public thanksgiving or mourning, or

(e) a day which is a local or public holiday in the area to which the electronic communication is sent.

(9) A local authority may make different determinations for different purposes including, in particular, for different types of licence.

(10) In this Schedule—

"electronic communication" is to be construed in accordance with section 15(1) of the Electronic Communications Act 2000,

"electronic signature" is to be construed in accordance with section 7(2) of the Electronic Communications Act 2000.".

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Changes to legislation: *There are currently no known outstanding effects for the Air Weapons and Licensing (Scotland) Act 2015. (See end of Document for details)*

Commencement Information
I116 S. 83 in force at 1.11.2016 by S.S.I. 2016/307, art. 2, **sch.**

PART 4

GENERAL

84 Interpretation

(1) In this Act—

"the 1982 Act" means the Civic Government (Scotland) Act 1982,

"the 2005 Act" means the Licensing (Scotland) Act 2005.

(2) See section 40 for the interpretation of words and expressions used in Part 1.

85 Regulations

(1) Any power of the Scottish Ministers to make regulations under this Act includes power to make—

(a) different provision for different purposes,

(b) incidental, supplementary, consequential, transitional, transitory or saving provision.

(2) Regulations under section 2(4), 8(3) or 20(3) are subject to the affirmative procedure.

(3) Regulations under section 86(1) containing provisions which add to, replace or omit any part of the text of an Act are subject to the affirmative procedure.

(4) All other regulations under this Act are subject to the negative procedure.

86 Ancillary provision

(1) The Scottish Ministers may by regulations make such incidental, supplementary, consequential, transitional, transitory or saving provision as they consider necessary or expedient for the purposes of, or in consequence of, or for giving full effect to, any provision of this Act or any provision made under it.

(2) Regulations under this section may modify this or any other enactment.

87 Minor and consequential amendments and repeals

Schedule 2 contains—

(a) minor amendments, and

(b) amendments and repeals consequential on the provisions of this Act.

Commencement Information
I117 S. 87 in force at 31.12.2016 for specified purposes by S.S.I. 2016/130, **art. 3(b)**
I118 S. 87 in force at 15.5.2017 for specified purposes by S.S.I. 2017/119, art. 2, **sch.**

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Air Weapons and Licensing (Scotland) Act 2015. (See end of Document for details)*

I119 S. 87 in force at 20.12.2017 in so far as not already in force by S.S.I. 2017/424, **art. 2(b)**

88 Commencement

(1) Section 60(1) and (2) and this Part, other than section 87, come into force on the day after Royal Assent.

(2) The other provisions of this Act (including section 87) come into force on such day as the Scottish Ministers may by order appoint.

(3) An order under this section may include transitional, transitory or saving provision.

89 Short title

The short title of this Act is the Air Weapons and Licensing (Scotland) Act 2015.

Status:
This version of this Act contains provisions that are prospective.

Changes to legislation:
There are currently no known outstanding effects for the Air Weapons and Licensing (Scotland) Act 2015.