

THE MORAY LICENSING BOARD

THURSDAY 1 DECEMBER 2016

YOUR ATTENDANCE IS REQUESTED at the Meeting of **THE MORAY LICENSING BOARD** to be held within the The Moray Council, Council Chambers, High Street, Elgin on Thursday 1 December 2016 at 10.00am.

Alasdair McEachan
CLERK

24 November 2016

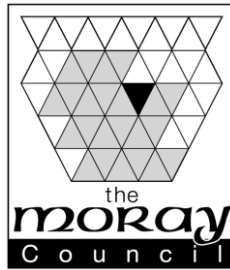
BUSINESS

1. Prior Minutes
 - (i) Minutes of the Meeting held on 6 October 2016
 - (ii) Minutes of the Special Meeting held on 24 November 2016 (to be tabled at meeting)

The Licencing (Scotland) Act 2005

2. Applications Section– Appendix 1
3. Calendar of Meetings 2017
4. Immigration Act 2016- Update
5. Air Weapons and Licensing (Scotland) Act 2015 - Update

CLERK:	Alasdair McEachan
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THE MORAY LICENSING BOARD

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THE MORAY LICENSING BOARD**SEDERUNT****COUNCILLOR J ALLAN****COUNCILLOR G COWIE****COUNCILLOR J DIVERS****COUNCILLOR M HOWE****COUNCILLOR G LEADBITTER****COUNCILLOR A MCLEAN****COUNCILLOR R H SHEPHERD****COUNCILLOR D SLATER****COUNCILLOR C TUKE****COUNCILLOR S WARREN****CLERK TO THE BOARD: Mr A McEachan**

THE MORAY LICENSING BOARD

MINUTE OF THE MEETING OF THE MORAY LICENSING BOARD

The Moray Council Chambers, Council Headquarters, High Street, Elgin on Thursday 6 October 2016

PRESENT

Councillors: G Cowie
M Howe
M McConachie
A McLean
R Shepherd
C Tuke

APOLOGIES

Apologies were intimated on behalf of Councillors J Allan, G Leadbitter and D Slater.

IN ATTENDANCE

Sean Hoath, Depute Clerk to the Licensing Board
Sergeant Gavin Jardine, Police Scotland

1. PRIOR MINUTES

- (i) The Minutes of the Meeting held on 11 August 2016 were submitted and approved.
- (ii) The Minutes of the Special Meeting held on 3 October 2016 were submitted and approved.

2. LIST OF DECISIONS FOR APPLICATIONS FOR PREMISES LICENCES

(i) Application for a Variation to Premises Licence Moray House, Trinity Road, Elgin

The Depute Clerk introduced the application and advised the applicant had been cited to the meeting. The applicant's manager represented the applicant. The Depute Clerk advised that all paperwork was in order. After hearing from the applicant's representative the Board agreed to grant the variation of the licence.

(ii) Application for a Variation to Premises Licence Knockando Distillery, Knockando

The Depute Clerk introduced the application and advised the applicant had requested that a decision be deferred to the next meeting. The Board agreed.

(iii) Application for a Variation to Premises Licence Cardhu Distillery, Aberlour

The Depute Clerk introduced the application and advised the applicant had requested that a decision be deferred to the next meeting. The Board agreed.

(iv) Application for a Variation to Premises Licence The Muckle Cross, 36 High Street, Elgin

The Depute Clerk introduced the application and advised the applicant had been cited to the meeting. The applicant was represented by Mr Archie McIver, solicitor and the applicant's regional manager. The Depute Clerk advised that all paperwork was in order. After hearing from the applicant's representative the Board agreed to grant the variation of the licence.

(v) Application for a Variation to Premises Licence Windswept Brewing Co Ltd, Coulardbank Industrial Estate, Lossiemouth

The Depute Clerk introduced the application and advised the applicant had been cited to the meeting. The applicant was represented by the applicant's managing director who joined the meeting by audio conference. The Depute Clerk advised that all paperwork was in order. After hearing from the applicant's representative the Board agreed to grant the variation of the licence.

3. Licensing (Scotland) Act 2005 – Chief Constable’s report under Section 12A

The Depute Clerk introduced the report. The Board heard from the Chief Constable’s representative and agreed to note the report.

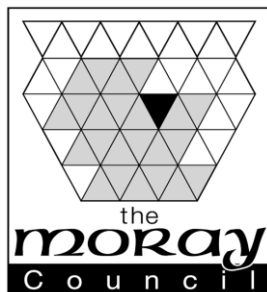
APPENDIX 1

MORAY LICENSING BOARD

MEETING, 1 December 2016 at 10:00am in Council Chambers, Council Headquarters, High Street, Elgin, IV30 1BX

Licensing (Scotland) Act 2005

Type	Premises	Applicant	Date Received	Comments
Variation (Major)	The Visitor Centre Knockando Distillery Knockando AB38 7RT	Diageo Scotland Limited	7 September 2016	Variation to visitor centre to Change of hours to allow opening until 00:30 daily including Sunday Change to seasonal variations to say may close earlier depending on demand. Inclusion of additional activities. Change to allow children & young persons access if accompanied by an adult. Paperwork in order.
Variation (Major)	The Visitor Centre Cardhu Distillery Cardhu Aberlour Moray AB38 7RY	Diageo Scotland Limited	6 September 2016	Variation to visitor centre to increase to the licensed area to add a small section of the warehouse and the tasting room next to the shop. Clarify areas to which children and young persons have access etc. Change the off sales capacity to account for new areas to 9.2 m3. Paperwork in order.
New Premises Licence	Speyside Craft Brewery 2 Greshop Road Forres Moray	Sebastian Jones	25 October 2016	New premises licence application.



REPORT TO: THE MORAY LICENSING BOARD 1 DECEMBER 2016

SUBJECT: LICENSING (SCOTLAND) ACT 2005 – CALENDAR OF MEETINGS

BY: CLERK TO THE BOARD

1. Reason for Report

- 1.1 To invite the Board to fix a Calendar of Meetings for the period January 2017 to April 2022 in accordance with **Appendix 1**.

2. Recommendations

- 2.1 **It is recommended that the Board consider the proposed dates and determine whether these are suitable to be fixed as the dates for the Meetings of the Board.**

3. Background

- 3.1 The Licensing (Scotland) Act 2005 and associated Regulations provide for set processing times for various applications to be decided upon, and Licensing Boards are free to set meeting dates in order to comply with these processing times.
- 3.2 In order to best meet the anticipated processing requirements the Clerk has devised a list of proposed Board meetings that will allow for one meeting approximately every two months. It is anticipated that this timescale will meet the processing times for the majority of business to be undertaken.
- 3.3 It is stressed that all proposed dates are based on anticipated demand for the Board's time. In the event that the planned meetings do not meet the anticipated processing requirements, the Clerk may be required to request further meetings on a demand led basis.
- 3.4 In particular planned meetings may not meet the timescale for holding premises licence review hearings. Under the 2005 Act anyone can request a review and in respect of an application for review of a premises licence, there is a timescale of 42 days from the date of receipt of the application in which the Board must hold a review hearing. Where the planned timetable does not meet this requirement a further meeting will be requested specifically for the purpose of considering the review application.

- 3.5 Conversely, where a lack of business dictates, the Clerk may determine, with the agreement of members, that it will not be necessary to proceed with a particular Board meeting.
- 3.6 In accordance with the Scheme of Delegation it will not be necessary to conduct all business at Board meetings. Where the agreed scheme dictates, matters will be dealt with by the Clerk and staff. In addition, where appropriate, members are reminded that certain matters may be dealt with by way of email circulation to the Board e.g. in respect of occasional licence applications where a representation has been received.
- 3.7 Currently the Board undertakes site visits, which are arranged by way of special meetings so that a quorum of members is required. Site visits are arranged individually as necessary around the relevant Board meeting date.

4. The Proposals

- 4.1 It is proposed that the dates for the Meetings of the Board from 1st January 2017 to 6 April 2022 be in accordance with Appendix 1 attached.

5. Implications

(a) Moray 2026: A Plan for the Future and Moray Corporate Plan 2015 - 2017

The Moray Licensing Board exercises statutory functions under various Acts including the Licensing (Scotland) Act 2005 and the Gambling Act 2005, which includes promoting licensing objectives such as :

- Preventing crime and disorder
- Securing public safety
- Preventing public nuisance
- Protecting and improving public health
- Protecting children from harm

The objectives of licensing regimes closely reflect some of the priorities within the Moray 2026 plan in relation to healthier citizens, a growing and diverse economy and safer communities. Alcohol and alcohol dependency influence the health of the population. The alcohol industry in terms of production, retail and the positive effects on tourism all aid a growing economy. Regulation of the sale of alcohol contributes to a safer community. Provision for appropriate staff and support will assist the Board in this.

(b) Policy and Legal

Legal implications have been explained above.

(c) Financial Implications

None

(d) Risk Implications

None

- (e) **Staffing Implications**
None
- (f) **Property**
None
- (g) **Equalities**
There are no issues.
- (h) **Consultations**
Consultation is not required.

6. Conclusion

It is recommended that the Board:

- 6.1 Consider the proposed dates and determine whether these are suitable to be fixed.

Author of Report: Sean Hoath, Senior Solicitor, Depute Clerk to the Licensing Board
Background Papers: There are no background papers
Ref: SAH/TT

Signature _____

Date: 24 November 2016

Designation Head of Legal and Democratic Services, Clerk to the Board
Name Alasdair McEachan

THE MORAY LICENSING BOARD

MEETING DIARY

JANUARY 2017 TO APRIL 2022

All meetings held in the Council Chambers, Council Offices, High Street, Elgin unless otherwise specified.

Meetings are subject to approval / change by the Licensing Board.

A meeting may be cancelled if it is not required as a result of a lack of business. Additional meetings may also be arranged if business demands.

2017 – PRE Election

Thursday 2 February 2017 10:00am - Licensing Board

Thursday 23 March 2017 10:00am - Licensing Board

2017 – POST Election

Wednesday 17 May 2017:	9:30am –	The Moray Council
Thursday 25 May 2017	9:30am –	Moray Local Review Body
Tuesday 30 May 2017:	9:30am –	Policy & Resources Committee
Thursday 1 June 2017:	9:30am –	Police and Fire & Rescue Services Committee
Tuesday 6 June 2017:	9:30am –	Planning & Regulatory Services Committee
Wednesday 7 June 2017:	9:30am –	Appeals Committee (Committee Room)
Tuesday 13 June 2017:	9:30am –	Communities Committee
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Thursday 29 October 2020:	9:30am –	Moray Local Review Body
Tuesday 10 November 2020:	9:30am –	Policy & Resources Committee
Thursday 12 November 2020	10:00am -	Licensing Board
Tuesday 17 November 2020:	9:30am –	Planning & Regulatory Services Committee
Wednesday 18 November 2020:	9:30am –	Appeals Committee (Committee Room)
Thursday 19 November 2020:	9:30am –	Police and Fire & Rescue Services Committee
Tuesday 24 November 2020:	9:30am –	Communities Committee
Wednesday 25 November 2020:	9:30am –	Children & Young People's Services Committee
Thursday 26 November 2020:	9:30am –	Moray Local Review Body
Tuesday 1 December 2020:	9:30am –	Economic Development & Infrastructure Services Committee
Wednesday 2 December 2020:	9:30am –	Licensing Committee
	2:00pm –	Sustainable Education Sub-Committee
Tuesday 8 December 2020:	9:30am –	Policy & Resources Committee
Wednesday 9 December 2020:	9:30am –	Audity & Scrutiny Committee
Thursday 17 December 2020:	9:30am –	Moray Local Review Body

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Wednesday 13 January 2021:	9:30am –	The Moray Council
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Tuesday 26 January 2021:	9:30am –	Policy & Resources Committee
Thursday 28 January 2021:	9:30am –	Moray Local Review Body
Tuesday 2 February 2021:	9:30am –	Planning & Regulatory Services Committee
Wednesday 3 February 2021:	9:30am –	Appeals Committee (Committee Room)
Thursday 4 February 2021	10:00am -	Licensing Board
Tuesday 9 February 2021:	9:30am –	Communities Committee
Wednesday 10 February 2021:	9:30am –	Children & Young People's Services Committee
Tuesday 16 February 2021:	9:30am –	Economic Development & Infrastructure Services Committee
Wednesday 17 February 2021:	9:30am –	Licensing Committee
	2:00pm –	Sustainable Education Sub-Committee
Thursday 18 February 2021:	9:30am –	Police and Fire & Rescue Services Committee
Tuesday 23 February 2021:	9:30am –	Policy & Resources Committee
Wednesday 24 February 2021:	9:30am –	Audity & Scrutiny Committee
Thursday 25 February 2021:	9:30am –	Moray Local Review Body
Wednesday 10 March 2021:	9:30am –	The Moray Council
Tuesday 23 March 2021:	9:30am –	Policy & Resources Committee
Thursday 25 March 2021:	9:30am –	Moray Local Review Body
Tuesday 30 March 2021:	9:30am –	Planning & Regulatory Services Committee
Wednesday 31 March 2021:	9:30am –	Appeals Committee (Committee Room)
Tuesday 6 April 2021:	9:30am –	Communities Committee
Wednesday 7 April 2021:	9:30am –	Children & Young People's Services Committee
Tuesday 13 April 2021:	9:30am –	Economic Development & Infrastructure Services Committee
Wednesday 14 April 2021:	9:30am –	Licensing Committee
Thursday 15 April 2021	10:00am -	Licensing Board
	2:00pm –	Sustainable Education Sub-Committee
Tuesday 20 April 2021:	9:30am –	Policy & Resources Committee
Wednesday 21 April 2021:	9:30am –	Audity & Scrutiny Committee
Thursday 29 April 2021:	9:30am –	Moray Local Review Body
Wednesday 5 May 2021:	9:30am –	The Moray Council
Tuesday 18 May 2021:	9:30am –	Policy & Resources Committee
Thursday 20 May 2021:	9:30am –	Police and Fire & Rescue Services Committee

Tuesday 25 May 2021:	9:30am –	Planning & Regulatory Services Committee
Wednesday 26 May 2021:	9:30am –	Appeals Committee (Committee Room)
Thursday 27 May 2021:	9:30am –	Moray Local Review Body
Tuesday 1 June 2021:	9:30am –	Communities Committee
Wednesday 2 June 2021:	9:30am –	Children & Young People's Services Committee
Thursday 3 June 2021	10:00am -	Licensing Board
Tuesday 8 June 2021:	9:30am –	Economic Development & Infrastructure Services Committee
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Tuesday 15 June 2021:	9:30am –	Policy & Resources Committee
Wednesday 16 June 2021:	9:30am –	Audity & Scrutiny Committee
Thursday 24 June 2021:	9:30am –	Moray Local Review Body
Wednesday 30 June 2021:	9:30am –	The Moray Council
Tuesday 3 August 2021:	9:30am –	Policy & Resources Committee
Tuesday 10 August 2021:	9:30am –	Planning & Regulatory Services Committee
Wednesday 11 August 2021:	9:30am –	Appeals Committee (Committee Room)
Tuesday 17 August 2021:	9:30am –	Communities Committee
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Wednesday 1 September 2021:	9:30am –	Audity & Scrutiny Committee
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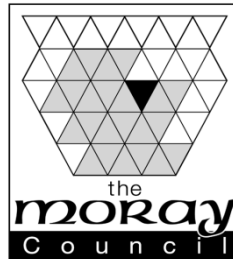
Tuesday 5 October 2021:	9:30am –	Communities Committee
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Tuesday 14 December 2021:	9:30am –	Policy & Resources Committee
Wednesday 15 December 2021:	9:30am –	Audity & Scrutiny Committee
Thursday 16 December 2021:	9:30am –	Moray Local Review Body

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Wednesday 12 January 2022:	9:30am –	The Moray Council
Tuesday 18 January 2022:	9:30am –	Policy & Resources Committee
Tuesday 25 January 2022:	9:30am –	Planning & Regulatory Services Committee
Wednesday 26 January 2022:	9:30am –	Appeals Committee (Committee Room)
Thursday 27 January 2022:	9:30am –	Moray Local Review Body
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Queries should be directed to Committee Services (committee.services@moray.gov.uk)



REPORT TO: LICENSING BOARD ON 1 DECEMBER 2016

**SUBJECT: REPORT: IMMIGRATION ACT 2016 AND
GUIDANCE FOR LICENSING AUTHORITIES TO PREVENT
ILLEGAL WORKING IN LICENSABLE ACTIVITIES**

BY: CORPORATE DIRECTOR (CORPORATE SERVICES)

1. Reason for Report

- 1.1 The reason for this report is to update the Board on the commencement and provisions of the Immigration Act 2016 and associated guidance.

2. RECOMMENDATIONS

- 2.1 It is recommended that the Board consider the information within this report.

3. Background

- 3.1 The Immigration Act 2016 contains a range of measures to tackle illegal working and access to services by those who do not have the right to work or access services by virtue of their immigration status. It includes measures which will mean that licensing authorities must be satisfied that an applicant for a licence is not disqualified by reason of their immigration status before they can issue them with a licence. It will also apply to those who are renewing an existing licence.
- 3.2 Different parts of the Act are being brought into force at different times. No firm date has yet been given for the implementation of the provisions relating to alcohol licensing. It is expected to be some time in 2017. Commencement of the provisions in relation to taxis and private hire vehicles will take place on 1 December this year so procedures will be put in place that can be expanded to cover all licence types in time. Again there is no firm date for other civic and miscellaneous licence types.
- 3.3 An applicant will be disqualified from holding a licence if they are subject to Immigration control and has not been granted leave to enter or remain in the UK or their leave to enter or remain in the UK is invalid or has expired.

- 3.4 In addition, if an applicant has a limited immigration status then their licence has to be limited in line with this status; for example if the applicant has a right of residence limited to 1 year, then the licence should reflect this.
- 3.5 The Licensing (Scotland) Act 2005 currently provides for a mix of licences that are either time limited or unlimited.
- 3.6 Therefore further draft regulations have been produced to implement the immigration provisions for alcohol licensing. As they are drafted the Regulations provide as follows:
- 3.6.1 An individual will not be entitled to apply for a premises licence unless that individual is entitled to work in the UK. Further where an individual who holds a premises licence ceases to be entitled to work in the UK then the licence will cease to have effect.
- 3.6.2 The Board will be required to give notice of any new premises licence application as well as any transfer or review of a premises licence to the Secretary of State as a consultee.
- 3.6.3 In relation to personal licences the applicant must be entitled to work in the UK and the Board will be required to give notice of the application to the secretary of State as consultee.
- 3.6.4 The requirements on a licence holder to notify the Board of relevant convictions will be extended to immigration offences and penalties.
- 3.6.5 Immigration officers will also be given the power to enter and inspect licensed premises.
- 3.7 Currently there does not seem to be an implication for occasional licences. Proposed implementation will be monitored and updates will be provided as necessary.
- 3.8 In August 2016, the Home Office published, for consultation, draft Guidance for use by licensing authorities in Scotland to explain to licensing authorities how they should carry out their duty to ascertain whether or not an applicant is disqualified.
- 3.9 The draft Guidance stresses that checks should be carried out on all applicants for licences and those renewing such licences. The draft guidance is very much concerned with the practical steps that licensing staff will have to undertake when conducting the checks. It breaks the process into three steps:-
- obtaining original versions of acceptable documents
 - checking the documents validity in the presence of the holder
 - copying and retaining the documents

- 3.10 A list of acceptable documents or combinations of documents is provided in the Guidance. The most obvious examples, and probably those which will most commonly be provided, are a passport showing that the holder is a British citizen or a citizen of the UK and colonies having a right of abode in the UK and a passport or national identity card showing the person is a national of a European Economic Area country or Switzerland. For those applicants not having a passport there are other documents that will suffice including birth or adoption certificates together with an official document giving the person's National Insurance number. Those persons who are recent immigrants will be able to establish their right to work in the UK by exhibiting either a current Biometric Immigration Document issued by the Home office indicating the right to stay in the UK or a current Immigration Status Document issued by the Home Office together with official document with NI number.
- 3.11 The draft Guidance provides a checklist for staff examining documents to try to ensure that fraudulent identity documents are identified. It gives examples of ways to spot a fake and techniques that can be used to check the validity of documents. It is envisaged that checks will involve face to face meetings with applicants.
- 3.12 The Home Office have set up a network of Local Partnership Managers across the UK and licensing staff will, it is understood, be able to call on their local manager for support and guidance as and when required. The Home Office are also to roll out a programme of local training events for staff who will undertake the checks.
- 3.13 Licensing staff await the issue of the final Guidance and will work to update and amend processes, forms and guidance for applicants to reflect the new requirements before they come into operation.
- 3.14 The proposed immigration checks do not seem to affect gambling licensing at this time. Gambling is licensed in a different way in that the Gambling Commission grants operator licences and an operator must be licensed before application can be made for a gambling premises licence. It seems likely that any requirements in respect of immigration for gambling applicants will be for the Gambling Commission.

4. Implications

(a) Moray 2026: A Plan for the Future and Moray Corporate Plan 2015 - 2017

The provision of a licensing regime directly relates to the priorities within the 10 Year Plan (Moray 2026) in relation to healthier citizens, a growing and diverse economy and safer communities. Licensing activities within the provision of goods and services can contribute to positive effects on tourism and aid a growing economy. Regulation contributes to a safer community.

(b) Policy and Legal

Legal implications have been explained above.

(c) Financial Implications

There may be the need to purchase additional equipment for checking and scanning of documentation. This is yet to be confirmed together with likely costs. Should costs be required and be unable to be met from within existing resources this will be reported back.

(d) Risk Implications

Failure to ensure that staff are properly trained to undertake checks to meet the new statutory requirements may mean that the Council issues a licence to someone who is disqualified and thus expose the Council to reputational damage. Attendance at the anticipated Home Office training events will help address this.

(e) Staffing Implications

Staff time will be required for work to amend processes and documentation etc. Increased staff time will also be required to publicise the provisions. It is anticipated that this can be absorbed within existing resources. However, should this prove not to be the case then this will be reported back.

However, an increase in checks for all licence applicants as described above and the time taken to undertake these and to advise and assist applicants would increase on an on-going basis the workload for staff. Some 1400 applications are processed per annum across all licence types, of which approx 150 alcohol licence applications will require immigration checks. It is conservatively estimated the time to be taken for each application for the additional checks will be 30 minutes. Previous developments involving increased workload when taken with previous reductions in staffing may mean that there is no scope to absorb this additional on-going work within the Legal and Democratic Services Admin team. It is currently being explored with Customer Services, who assist with other parts of the licensing process, whether or not they have capacity to undertake this work. If they are not able to assist and additional resources are required this will be reported back.

(f) Property

None identified at present.

(g) Equalities

An Equalities Impact Assessment is not required. The process of verifying immigration status will apply to all applicants irrespective of whether or not they have a protected characteristic.

Consultations

- (h) Don Toonen, Equalities Officer, and the Legal Services Manager (Litigation & Licensing) have been consulted on the contents of this report and comments received incorporated.

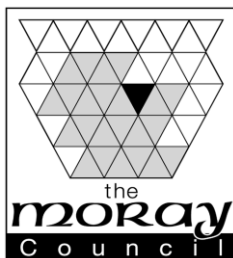
5. Conclusion

5.1 The Board is invited to consider the recommendations set out in section 2 of this report

Author of Report: Sean Hoath, Senior Solicitor and Depute Clerk
Background Papers: Draft UK Government Guidance on the Immigration Act 2016 and the right to work can be accessed by this link:
<https://www.gov.uk/guidance/immigration-rules>

Ref: SAH

Signature: _____ Date: 24 November 2016
Designation: Head of Legal and Democratic Services
Name: Alasdair McEachan



REPORT TO: THE MORAY LICENSING BOARD ON 1 DECEMBER 2016

SUBJECT: UPDATE ON THE AIR WEAPONS AND LICENSING (SCOTLAND) ACT 2015

BY: CLERK TO THE BOARD

1. Reason for Report

- 1.1 This report is to update the Board on the progress on bringing into force the provisions of the Air Weapons and Licensing (Scotland) Act 2015.

2. Recommendations

It is recommended that the Board note the progress.

3. Report

- 3.1. Both the Licensing Board and Committee have been updated at various times on the bringing into force of provisions in the Air weapons and Licensing (Scotland) Act 2015.
- 3.2. The purposes of the Act are to:
- 3.2.1 Introduce a system of licensing for air weapons in Scotland, to be administered by Police Scotland.
 - 3.2.2 Give local communities the power to regulate sexual entertainment venues in their areas through the Civic Government (Scotland) Act 1982 ("the 1982 Act").
 - 3.2.3 Amend the licensing regimes in relation to alcohol licensing, taxis and private hire cars, metal dealers, as well as making systematic changes across the civic licensing regimes contained within the 1982 Act.
- 3.3. A summary of the measures proposed is attached at **Appendix 1** for noting. In particular the Board should have regard to the Part 2 regarding licensing the sale of alcohol.
- 3.4. Many of the timescales for the introduction of the proposed measures are not yet known. The Clerk will endeavour to keep the Board advised of progress.
- 3.5. Part 3 regarding Civic Government licensing contains details of a provision (highlighted yellow as section 75 of the Act) that was brought into force on the 1st November. This provision indirectly affects alcohol licensing in that it removes the exemption that previously existed for public entertainment licences where an occasional alcohol licence was in force. This means that an occasional alcohol licence can no longer authorise entertainment by itself.

Only a full alcohol premises licence can authorise entertainment. Therefore, where licenseable entertainment takes place at an event that is the subject of an occasional licence, then the organiser will need to apply for a separate public entertainment licence (PEL).

- 3.6. These changes are being made known on the licensing website pages and in guidance. Licensing staff will also be alert to occasional licence applications that identify the possible need for a PEL and will endeavour to advise applicants accordingly. However it is always the responsibility of the event organiser to ensure that all licences/permissions are in place.

4. Implications

(a) Moray 2026: A Plan for the Future and Moray Corporate Plan 2015 - 2017

The provisions of alcohol licensing directly relate to the priorities within the 10 Year Plan (Moray 2026) in relation to healthier citizens, a growing and diverse economy and safer communities. Alcohol and alcohol dependency influence the health of the population. The alcohol industry in terms of production, retail and the positive effects on tourism all aid a growing economy. Regulation of the sale of alcohol contributes to a safer community.

(b) Policy and Legal

Legal implications have been explained above.

(c) Financial Implications

Increased staff time will be required to publicise the provisions and to advise and assist licence holders. Additional time may also be required in respect of monitoring and enforcement. The fee for an occasional licence is prescribed nationally.

(d) Risk Implications

None.

(e) Staffing Implications

As above under financial implications.

(f) Property

None.

(g) Equalities

There are no issues identified.

(h) Consultations

None.

5. Conclusion

It is proposed that the Board note the progress of the Act's provisions.

Author of Report: Sean Hoath, Senior Solicitor, Depute Clerk to the Licensing Board

Background Papers: There are no background papers

Ref: SAH/TT

Signature _____

Date: 24 November 2016

Designation Head of Legal and Democratic Services, Clerk to the Board
Name Alasdair McEachan

Changes	Section of Act	Commencement	Action
PART 1: AIR WEAPONS			
New licensing of air weapons by Chief Constable through an air weapon certificate or permit	1-40	<p>1st December 2015 Section 1, Section 2 (4) Section 35 (1),(2) and (4), Section 36, Section 39 (2) and (3), Section 40</p> <p>1st July 2016 Sections 3-22, 28, 31-34 and 37</p> <p>31st December 2016 Sections 23 -27, 29,30 and 38</p>	N/A – this will be administered by Police Scotland.
PART 2: ALCOHOL LICENSING			
Amends the licensing objectives to include Young Persons as well as children	41	Not yet in force - date to be appointed	Amend the statement of licensing policy to reflect the inclusion of young persons in the licensing objectives.
Statements of licensing policy – substitutes licensing policy periods	42	30 th September 2016	Update procedures on making statements in order to comply with the changing period of effect and update the Board. REPORTED TO BOARD AUG 2016
Introduces fit and proper test to premises licence applications and grounds for refusal where not a fit and proper person	43	Not yet in force - date to be appointed	Amend any procedure in place for granting applications and to make the Board aware that they can now take this into consideration and only grant premises licence where satisfied that the applicant is a fit and proper person.

Changes	Section of Act	Commencement	Action
Introduces fit and proper test to application to transfer premises licence and grounds for refusal where not a fit and proper person.	44	Not yet in force - date to be appointed	As above.
Introduces a ground for review of premises licence	45	Not yet in force - date to be appointed	Again, need to amend any procedure in place and make Board aware of the ground for review.
Introduces ground for refusal for personal licence applications and renewals. Chief Constable may provide to the Board any information in relation to the applicant that is considered to be relevant to the consideration of the application. Where a personal licence application is received, the Board must give notice of it, along with a copy to the LSO for the area. LSO may then give any information in relation to the application that is considered to be relevant to the consideration of the application.	46	Not yet in force – date to be appointed	Again, make the Board aware of the ground for refusal and the consideration of information from the Chief Constable. Also, update the procedure following the receipt of a personal licence application.
Personal licence holders, procedure on receipt of notice of conviction. Where, at a hearing the Board are satisfied that the licence holder is not a fit and person to be a holder of a licence, the Board may revoke the licence.	47	Not yet in force – date to be appointed	The Board needs to be made aware of the procedure following receipt of notice of conviction and their power to revoke this at a hearing if they are satisfied that the licence holder is not a fit and proper person.

Changes	Section of Act	Commencement	Action
Personal licence holders, conduct inconsistent with the licensing objectives. Where, at a hearing the Board are satisfied that the licence holder is not a fit and person to be a holder of a licence, the Board may revoke the licence.	48	Not yet in force – date to be appointed	The Board needs to be aware of their power to revoke a licence at a hearing where the licence holder's conduct is inconsistent with the licensing objectives and the Board are satisfied that the licence holder is not a fit and proper person.
Transfer of premises licences. any person other than an individual under the age of 18, may apply to the appropriate Board for the transfer of a premises licence to the person	49	Not yet in force – date to be appointed	Update any procedure/handbook we have in place.
Premises Licence - Procedure in relation to relevant offences or foreign offences and premises licences.	50	Not yet in force – date to be appointed	The Board needs to be aware of the review that is to be initiated on notice of a conviction and hold a hearing where the Chief Constable makes a recommendation. Where the Chief Constable makes no recommendation, the Board can either review or decide to take no further action in relation to the conviction.
Personal Licence - Procedure in relation to relevant offences or foreign offences and personal licences.	51	Not yet in force – date to be appointed	As above
Repeals section 129 (4) of 2005 Act. Spent conviction may now be considered by the Board as part of their decision making.	52	Not yet in force – date to be appointed	The Board needs to be made aware that spent convictions may now be considered as part of their decision making, as is already the case with civic licensing.
Offences of supplying alcohol to child or young person.	53	Not yet in force – date to be appointed	Update any procedures/handbooks in place to reflect change.

Changes	Section of Act	Commencement	Action
Meaning of alcohol to include angostura bitters and amends section 2 of 2005 Act	54	Not yet in force – date to be appointed	Update any procedures/handbooks in place to reflect update.
Overprovision. Amends section 7 of the 2005 Act which deals with the duty of the Board to assess overprovision, and provides that where a Board determines the 'localities' for the purposes of the Act then it may determine that the whole of the Board's area is a locality.	55	30 th September 2016	Check the statement of policy and update as required, when review policy as per timetable.
Duties of Licensing Boards to produce annual reports. Must be produced three months following the end of each financial year.	56	Came PARTLY into force on 1 st December 2015 for purposes of making Regs. No Regs yet made.	Add into the Board calendar – will need to complete and report no later than beginning June each year. S9A Functions report and s9B financial report Check if only in part. Are we waiting on another date –yes we are.
Licensing Standards Officers, general function in relation to personal licenses. LSOs have a new general function of being able to provide information to the Board about the conduct of personal licence holders or applicants for a personal licence which is inconsistent with the licensing objectives.	57	Not yet in force – date to be appointed	LSOs will need to be made aware of this and this function should be incorporated into their job role and responsibilities.

Changes	Section of Act	Commencement	Action	
Powers of Licensing Standard Officers. If LSO considers that any PL holder who is or was working in a licensed premises in the Officer's area has acted in a manner which is inconsistent with any of the licensing objectives, the LSO may report the matter to the Board.	58	Not yet in force – date to be appointed	As above.	
Removal of references interested parties and the requirement to notify interested parties. The licence holder now only requires to provide notification in respect of connected persons.	59	Not yet in force – date to be appointed	N/A	
Personal licences grant, duration and renewal. Amends s74 of the 2005 Act regarding the determination of personal licence applications. Accordingly, if a personal licence is revoked under s87(3) the person will no longer have to wait for 5 years to lapse before applying for new licence	60	Partially in force from 5 th August 2015	Guidance has been changed.	

Changes	Section of Act	Commencement	Action
<p>Processing and deemed grant of applications. The Board must send the applicant confirmation that:</p> <p>(a) They are satisfied that the application meets the prescribed requirements</p> <p>(b) Listing documents received in support of the application and the dates received</p> <p>(c) Informing the applicant about the period for determining the applicant.</p> <p>Sets the time limit for the Board to decide applications as 9 months from the date of receipt of a properly constituted application. The Sheriff can extend this period on application. Sets a deemed grant date for the date when the 9 month period expires if the Board has failed to decide the application within that time.</p>	61	Not yet in force – date to be appointed	Update procedure regarding what the Board has to do when receive application for licence, the period for determining applications and the deemed grant of applications if they fail to determine the relevant application.
<p>Provides that the Scottish Government may make further Regulations about the form of any notice or communication.</p>	62	Not yet in force – date to be appointed	Be aware of these potential regulations.

Changes	Section of Act	Commencement	Action
PART 3: CIVIC LICENSING			
Refusal to grant private hire car licences on grounds of overprovision. Amends Section 60 of the 1982 Act. Enables (but does not require) the authority to refuse a private hire car licence application on the grounds of overprovision of services in a given locality or localities. Allows the authority to determine the localities within their area, allowing them to either treat the whole licensing authority area as one locality or to sub-divide it.	63	1 May 2017 to allow for guidance to be developed	Committee will need to be made aware that they can now refuse a PHCL application on the ground of overprovision. There will be a need to see if Committee wish overprovision as a ground of refusal. Usually need surveys beforehand and these are costly.
Testing of private hire car drivers. Amends section 13 of the 1982 Act to allow the authority to require testing of applicants for private hire car drivers licence as is the case with taxi drivers. Can require the same testing on both taxi and private hire car drivers or different elements (or no testing) on one set of driver.	64	1 November 2016	Committee will need to be made aware that they have authority to require testing of PHCD. Committee will have to agree on whether or not this provision is be introduced once this comes into force. Check forms and guidance.

Changes	Section of Act	Commencement	Action
Removes the exemption from the requirement to hold a taxi/PL licence where the vehicle is used for exclusive hire for not less than 24 hours. This brings contract hire vehicles into the licensing regime. Also provides that ministers may make further exemptions from taxi licensing in Regulations	65	<p>Section 65(1),(2),(4) and (5) came into force on 1st December 2015. Permission to make Regs.</p> <p>Date to be appointed for (3) which repeals 22 (c) of the 1982 Act which related to carrying passengers under a contract for a exclusive hire for a period of not less than 24 hours.</p>	<p>Committee will need to be updated and aware of this exemption.</p> <p>Sub section (3), actually removing exemption not yet in force.</p>
Penalties for failure to have appropriate licence or to comply with conditions. Amends section 7 of 1982 Act to increase penalties for the offences of operating without a metal dealer's licence or itinerant metal dealer's licence(where a licence is required) to a maximum fine of £20,000 and/or 6 months imprisonment	66	Comes into force on 1 st September 2016	<p>Make metal dealers in the area aware that they are required to have a licence and comply with the conditions. The Commencement Order No 2 states that the licence must be applied for by the 1st June 2016, albeit the actual licence will not come into force until the 1st September 2016. Report was done in March 2016.</p>

AIR WEAPONS AND LICENSING (SCOTLAND) ACT 2015 – TABLE OF COMMENCEMENT DATES

Changes	Section of Act	Commencement	Action
Removal of exemption warrants for certain metal dealers	67	Comes into force on 1 st September 2016	Update procedure/handbooks on metal dealers to incorporate these, update Committee when commences and prepare for an increase in numbers of application. Reported Mar 2016.
Abolition of requirement to retain metal for 48 hours	68	Comes into force on 1 st September 2016	Update procedures/handbooks and Committee. Reported Mar 2016.
Acceptable forms of payment for metal – metal dealers can only pay by prescribed methods of cheque or electronic bank transfer and provides for offences for making payments other than by these means.	69	Comes into force on 1 st September 2016	As above
Metal dealers and itinerant metal dealers: records to be kept. Creates an offence in relation to failure to comply with record keeping and for providing false or misleading information.	70	Section 70 (1) and (3) came into force 1 st December 2015 and the remaining will come into force on 1 st September 2016	
Register of dealers in metal. Provides regulating-making powers to the Scottish Ministers to establish keep and maintain a register or metal dealers and itinerant metal dealers.	71	1 November 2016	
Interpretation of provisions relating to metal dealers etc. Amends the definition in 1982 Act to encompass those who buy or	72	Came into force partially on 16 th March 2016	Already in force – committee should be updated on the interpretation. Done MAR 2016 along with any procedures/handbooks Check handbooks and guidance

AIR WEAPONS AND LICENSING (SCOTLAND) ACT 2015 – TABLE OF COMMENCEMENT DATES

Changes	Section of Act	Commencement	Action
sell metal as opposed to those who both buy and sell metal.			
Exemptions from requirements in sections 28 – 37 of the 1982 Act. Creates a regulation-making power that will allow Scottish Ministers to set out circumstances where the metal dealer and itinerant metal dealer regime does not apply, thereby resulting in a licence not being required.	73	Came into force 1 st December 2015	N/A
Abolishes theatre licences as currently required under the Theatres Act 1968 and instead regulate theatres through the existing public entertainment licensing regime provided for in the 1982 Act.	74	Not in force – date to be appointed	This is already the practice at the Council and so this section formalises this.
Restriction of exemption from requirement for public entertainment licence. Restricts the exemption currently in the 1982 Act to specify that the exemption is only applicable to premises in possession of a premises licence within the meaning of the 2005 Act.	75	1 November 2016	Update procedures/handbook and Committee Newsletter/Press release/social media. Look at guidance/web and contact centre scripts. Amend letters issuing occasional.

AIR WEAPONS AND LICENSING (SCOTLAND) ACT 2015 – TABLE OF COMMENCEMENT DATES

Changes	Section of Act	Commencement	Action
Licensing of sexual entertainment venues	76	Came into force partially on 1 st December 2015, s76(1) and (3). Date to be appointed for commencement of parts (2) and (4)	Report when fully in force.
Where it has not already been provided for, the deemed grant of a licence where the authority has failed to determine an application within that period. Initial consideration must be within 3 months of application and a final decision within 6 months of the end of the 3 month period; failing this the licence is granted. The sheriff may extend the period.	77	1 May 2017 this has been deferred to ensure that local authorities have time to review procedures to ensure that incomplete applications are not being accepted. With the deemed grant of a licence there would be risks attached to this.	Update procedure on receiving applications and the timescales for determining. Also update Committee when in force.
Ability to revoke a Part 2 licence, in addition to the current ability to suspend such licences.	78	1 November 2016	Update procedures/handbooks and committee. Amend standard committee reports for suspension.
Procedure for hearings. This section creates an order-making power to allow the Scottish	79	Came into force 1 st December 2015	Note the Scottish Minister's powers in this respect.

AIR WEAPONS AND LICENSING (SCOTLAND) ACT 2015 – TABLE OF COMMENCEMENT DATES

Changes	Section of Act	Commencement	Action
Ministers to make provision about hearings in relation to activities licensed under Part 1 to 3 of the 1982 Act			
Conditions for Part 3 licences. This section recreates powers that allow the Scottish Ministers to set mandatory conditions that would apply to all licences under Part 3 of the 1982 Act. Also allows local authorities to produce standard conditions to which licences issued by them under this Part would be subject	80	Section 80(1) and (2) Came into force 1 st December 2015. With remaining parts of s.80 1 November 2016.	As above
Conditions for Part 3 licences. This section expands the definition of conditions that may be imposed to include displays or advertisements in connection with the premises.	81	1 November 2016	Update procedures/handbook and Committee on the amendments which means the Committee can impose further conditions.
Inserts condition that all local authorities must appoint one or more civic LSO.	82	1 May 2017 this is to allow sharing of job descriptions by local authorities should they wish to.	Appoint LSO(s).
Electronic Communications under the 1982 Act	83	1 November 2016	Update procedures/handbook.