REPORT TO: LICENSING COMMITTEE ON 9 MARCH 2016

SUBJECT: AIR WEAPONS AND LICENSING (SCOTLAND) ACT 2015 – UPDATE RELATING TO METAL DEALERS

BY: CORPORATE DIRECTOR (CORPORATE SERVICES)

1. REASON FOR REPORT

1.1. The reason for this report is to advise the Committee of the commencement of the provisions within the Air Weapons and Licensing (Scotland) Act 2015 (“the Act”) relating to metal dealers.

1.2. This report is submitted to Committee in terms of Section III (G) (1) of the Council’s Scheme of Administration relating to all the functions of the Council as Licensing Authority.

2. RECOMMENDATIONS

2.1 It is recommended that the Committee note the date for and impact of the commencement of the provisions relating to metal dealers within the Act.

3. BACKGROUND

3.1 A report on the passage of the Act was put before the Committee at its meeting on 26 August 2015 (para. 14 of the minute refers). What was previously a Bill was passed by the Scottish Parliament on 25 June 2015, received Royal Assent on 4 August 2015 and became an Act. The many varied provisions within the Act are to have different commencement dates, some as yet unknown, and so they are being brought into effect in stages by Commencement Orders.

3.2 Section 63 of the Act provides for the removal of a metal dealer’s exemption warrant. This is due to come in to force on 1 September 2016 by virtue of The Air Weapons and Licensing (Scotland) Act 2015 (Commencement No. 2 and Transitional Provisions) Order 2016 (“the Order”). The impact of this will be to increase the number of licences applied for and issued by the authority, as the former ‘exemption’ registration system for dealers operating with a value over £1M will cease to apply. However, it is not anticipated to be a large number. There are currently 2 operators with exemption warrants.
3.3 By virtue of the Order, metal dealers that require to be licensed must apply by the 1 June 2016, and the Licensing Authority should try and ensure that applications are fully processed before 1 September 2016.

3.4 Other changes coming in to effect in respect of metal dealing are:

3.4.1 Strengthened provisions with respect to metal theft, with new rules on cashless payments for scrap sold;

3.4.2 Section 64 of the Act provides for the abolition of requirement to retain metal for 48 hours after purchase. The effect of this will be to remove the mandatory requirement that metal dealers should not process metal for 48 hours after receiving it. This would allow a dealer to process metal quickly (which may be required for the safe operation of the site);

3.4.3 Increased Penalties for undertaking metal dealing without a licence including a possible fine of up to £20,000 (currently £5000) or a custodial sentence of up to 6 months or to both. A metal dealer or itinerant metal dealer failing to comply with a licence condition would face the same level of penalties;

3.4.4 Section 66A provides regulation–making powers to the Scottish Minister to establish, keep and maintain a register of metal dealers.

3.5 Officers will endeavour to notify known metal dealers, who hold exemption warrants, of the changes to the licensing system, the requirement to be licensed and the requirement to apply before the 1st June 2016.

3.6 Officers will also keep the Committee advised of the commencement of other parts of the Act as and when they occur.

4. IMPLICATIONS

(a) Moray 2023 A Plan for the Future/ Service Plan

The provision of a licensing regime directly relates to the priorities within the 10 Year Plan (Moray 2023) in relation to healthier citizens, a growing and diverse economy and safer communities. Alcohol and alcohol dependency influence the health of the population. 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

The implementation of the new provisions will require increased officer time, to process any new applications received by the 1 September 2016 deadline. Officer time will also be involved in alerting metal dealers to the changes. The lead-in time begins 16 March 2016.
(c) **Financial Implications**

Increased staff time will be required to publicise the provisions, to advise and assist applicants and process an increased number of licences. Any additional time required and financial implications will be factored into the future review of licence fees.

(d) **Risk Implications**

None.

(e) **Staffing Implications**

As above under financial implications.

(f) **Property**

None.

(g) **Equalities**

There are no issues.

(h) **Consultations**

Consultation on this report has taken place with the Legal Services Manager (Litigation & Licensing) and comments received incorporated.

5. **CONCLUSION**

Changes brought in by the Air Weapons and Licensing (Scotland) Act 2015 may mean that an increased number of metal dealers will require to apply for a licence by 1 June 2016 and these applications will need to be processed by 1 September 2016.

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Background Papers: There are no background papers

Ref: HL