

To: Regulatory Functions Board

On: 1st September 2016

Report by: Director of Finance and Resources

Heading: **Air Weapons and Licensing (Scotland) Act 2015: Changes to Metal Dealers Licensing Regime**

1. Summary

- 1.1 The purpose of this report is to provide an update to the Board on the implementation of the Air Weapons and Licensing (Scotland) Act 2015, particularly with regard to changes being introduced to the metal dealers licensing regime with effect from 1st September 2016.
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2. Recommendations

- 2.1 It is recommended that the Board note the contents of the report.

3. Background

- 3.1 On 25th September 2014, the Board considered the terms of a report in relation to the Air Weapons and Licensing (Scotland) Bill (as it then was) and approved the terms of a response to a call for evidence for submission to the Scottish Parliament's Local Government and Regeneration Committee.
- 3.2 Following completion of the legislative procedures, the Air Weapons and Licensing (Scotland) Act 2015 ("the 2015 Act") received Royal Assent on 4th August 2015. In addition to provisions regulating air weapons and liquor licensing, the Act contains a number of changes which will impact upon the Regulatory Functions Board. While these changes will affect the licensing of taxis and private hire cars and

their drivers, public entertainment licensing and procedures under the Civic Government (Scotland) Act 1982 (“the 1982 Act”) and allow the Council to introduce a new regime for sexual entertainment venue licensing, the only changes to be commenced at this stage relate to the licensing of metal dealers. These changes take effect from 1st September 2016 and are summarised in Paragraphs 3.3 to 3.5 of this report.

- 3.3 The 2015 Act makes a number of changes to the definition in the 1982 Act as to what constitutes metal dealing. While metal dealers previously required to be licensed only where they were both buying and selling metal for scrap, they will now require to be licensed if they are either buying or selling metal for that purpose. The new definition will only require individuals or businesses to be licensed where they are “wholly or substantially” carrying on business as metal dealers, as compared with doing so “wholly or partly” as at present. The new provisions will now specifically include motor salvage businesses within the definition of metal dealers. The previous exemption from licensing, available to metal dealers with a turnover of over £1,000,000 (the exemption warrant system), is also removed and these businesses will now require to be licensed.
- 3.4 Individuals or businesses whose operations now fall within the definition of metal dealing for the first time require to be licensed from 1st September 2016. As a result of transitional provisions made under the 2015 Act, those requiring to be licensed for the first time required to apply for a licence by 1st June 2016 to enable them to operate as metal dealers as at 1st September 2016 when the provisions come into force. Officers of the Council communicated, prior to 1st June 2016, with persons appearing to fall within the terms of the new definition for the first time.
- 3.5 The new provisions remove the requirement for metal dealers to retain metal for 48 hours prior to disposing of it, given the removal of the exemption warrant system for large operators. However, all licensed metal dealers will now have to comply with more detailed record-keeping requirements introduced by the 2015 Act. The 2015 Act also prohibits payment for metal being made in cash and evidence of cheque or electronic payment requires to be retained. The 2015 Act, and Regulations made under the 1982 Act, also introduce requirements relating to the verification of identity of those involved in the acquisition, sale and exchange of metal. Regulations under the Act, when made, will allow a National Register of Metal Dealers to be established. Officers have updated the terms of application forms and guidance notes in view of the introduction of the metal dealers licensing provisions on 1st September 2016. No changes are however required to the licence conditions for metal dealers at this time, having regard to the provisions of the 2015 Act.

- 3.6 The Scottish Government have published Guidance in relation to the above changes at www.gov.scot/Resource/0049/00496927.pdf
- 3.7 It is anticipated that further commencement orders in relation to the wider provisions of the 2015 Act may be made in Autumn 2016, or thereafter. Further reports will be brought to the Board, as required, as the provisions of the 2015 Act are brought into force.

Implications of the Report

1. **Financial-** Nil
2. **HR & Organisational Development-** Nil
3. **Community Planning – Safer and Stronger-** The ongoing improvement of licensing standards will contribute to stronger and safer communities.
4. **Legal-** as detailed in the report
5. **Property/Assets-** Nil
6. **Information Technology-** Nil
7. **Equality & Human Rights-**

The Recommendations contained within this report have been assessed in relation to their impact on equalities and human rights. No negative impacts on equality groups or potential for infringement of individuals' human rights have been identified arising from the recommendations contained in the report, as the report advises the Board of changes to legislation. If required following implementation, the actual impact of the recommendations and the mitigating actions will be reviewed and monitored, and the results of the assessment will be published on the Council's website.

8. **Health & Safety-** Nil
9. **Procurement-** Nil
10. **Risk-** Nil
11. **Privacy Impact-** Nil

List of Background Papers- Nil.

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