Air Weapons and Licensing (Scotland) Bill

2nd Groupings of Amendments for Stage 2

This document provides procedural information which will assist in preparing for and following proceedings on the above Bill. The information provided is as follows:

- the list of groupings (that is, the order in which amendments will be debated). Any procedural points relevant to each group are noted;
- the text of amendments to be debated on the second day of Stage 2 consideration, set out in the order in which they will be debated. THIS LIST DOES NOT REPLACE THE MARSHALLED LIST, WHICH SETS OUT THE AMENDMENTS IN THE ORDER IN WHICH THEY WILL BE DISPOSED OF.

Groupings of amendments

Alcohol licensing: community involvement in licensing decisions
85

Alcohol licensing: fit and proper person test
38, 39, 40, 41, 42, 44, 45, 46, 47, 48

Transfer of premises licence
43, 49, 57, 75, 77, 78

Restrictions on advertising of alcohol
86

Overprovision
82, 50, 51, 52

Annual report on exercise of functions
87, 88, 89, 90

Functions and powers of Licensing Standards Officers
53, 54

Personal licences
83, 84, 55, 56, 80, 81

Metal dealers: increase in penalties
58

Metal dealers: forms of payment
59, 60, 61

Metal dealers: records
62, 63
Register of metal dealers
64

Metal dealers: definitions
65

Metal dealers: exemptions
66

Restriction of exemption from requirement for public entertainment licences
67

Public entertainment licences: exemption for funfairs
68

Revocation of licences under the 1982 Act
69, 70

Minor and technical amendments
71, 76, 79

Sex shops and sexual entertainment venues: displays or advertising
72

Register of transactions
73

Certificates as to proof of routine matters
74
Amendments in debating order

Alcohol licensing: community involvement in licensing decisions

Dr Richard Simpson

85 After section 42, insert—

<Community involvement in licensing decisions

Applications for, or to vary, premises licence: consultation and publicity

(1) The Licensing Procedure (Scotland) Regulations 2007 (SSI 2007/453) are amended as follows.

(2) In regulation 4 (meaning of “neighbouring land”)—
   (a) the existing provision becomes paragraph (1),
   (b) after that paragraph insert—
      “(2) Where—
       (a) there is no community council within whose area the premises are situated, or
       (b) the Board reasonably believes that any community council within whose area the premises are situated is inactive,

       paragraph (1) has effect with the substitution for the words “4 metres” of the words “50 metres”.”.

(3) In regulation 6 (publicity as to applications), in each of paragraphs (3) and (6), for “21 days” substitute “42 days”.

(4) In regulation 7 (display of notice)—
   (a) in paragraph (3), for “21 days” substitute “42 days”,
   (b) in paragraph (4), for “a further 21-day period” substitute “such further period as the Board considers necessary to ensure that the notice is displayed (or, as the case may be, displayed undamaged) for a total period of 42 days”,
   (c) in paragraph (8), for “21-day period under paragraph (3) or (4)” substitute “42-day period under paragraph (3) or any further period under paragraph (4)”.

(5) In Schedule 3 (confirmation of site notice)—
   (a) for “21 days” in the first place where those words occur substitute “42 days”,
   (b) for “21 days” in the second and third places where those words occur substitute “period”,
   (c) for “of not less than 21 days” in the second place where those words occur substitute “(or, where the Licensing Board has ordered the display of the notice for a further period, a total period) of not less than 42 days”.

>
Alcohol licensing: fit and proper person test

Michael Matheson

38 In section 43, page 24, line 2, at end insert—

<( ) The 2005 Act is amended as follows.

( ) 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))”.

Michael Matheson

39 In section 43, page 24, line 3, leave out subsection (1) and insert—

<( ) In section 23 (determination of premises licence application)——>

Michael Matheson

40 In section 43, page 24, line 10, at end insert—

<( ) 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 of refusal specified in subsection (5)(ba) and (c) applies,”.

Michael Matheson

41 In section 44, page 24, line 18, leave out <or>

Michael Matheson

42 In section 44, page 24, line 20, at end insert <, or

( ) 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.

Michael Matheson

44 In section 45, page 25, line 10, at end insert—

<( ) after subsection (5) insert—
“(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.”.

Michael Matheson

45 In section 45, page 25, line 11, after <initiative)> insert <—

( )>

Michael Matheson

46 In section 45, page 25, line 15, at end insert—

<( )> 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.”.

Michael Matheson

47 In section 45, page 25, line 22, at end insert—

<(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.”.

Michael Matheson

48 In section 45, page 25, line 26, at end insert—

<( )> 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).

(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).”.

Transfer of premises licence

Michael Matheson

43 In section 44, page 24, line 37, leave out subsection (3)

Michael Matheson

49 After section 48, insert—

<Transfer of premises licences

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”).

   (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—

(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 A decision under section 33A(4), in relation to an application under section |
| The person from whom the premises licence is to be transferred |
| The applicant” |
Michael Matheson

57  In section 58, page 33, line 15, leave out <or 34(1)>

Michael Matheson

75  In schedule 2, page 62, line 7, at end insert—

<( )  In section 28(2) (period of effect of premises licence), for “34(1)” substitute “33(1)”.

Michael Matheson

77  In schedule 2, page 62, line 7, at end insert—

<( )  In section 35 (variation on transfer), in each of subsections (1) and (3)(b), the words “or 34(1)” are repealed.

Michael Matheson

78  In schedule 2, page 62, line 12, at end insert—

<( )  In section 49(1)(c) (Licensing Board’s duty to update premises licence), the words “or 34(1)” are repealed.

Restrictions on advertising of alcohol

Dr Richard Simpson

86  After section 52, insert—

<Restrictions on advertising of alcohol

Restrictions of advertising of alcohol

(1)  The 2005 Act is amended as follows.

(2)  After section 122 insert—

“PART 8A

RESTRICTIONS ON ADVERTISING OF ALCOHOL

Advertising near premises used by children

122A  Ban on alcohol advertising near schools etc.

(1)  It is an offence knowingly to cause or permit the display of an alcohol advertisement in a prohibited place within a restricted area.

(2)  A restricted area is the area within 200 metres in any direction of any boundary of—

(a)  the premises of a school (“premises” and “school” having the meanings given in section 135(1) of the Education (Scotland) Act 1980),
(b) premises used principally as a nursery or crèche,
(c) outdoor premises designed or adapted for use by members of the public as a children’s play area.

(3) In this section—

“advertisement” means any word, letter, image, mark, light, model, placard, board, notice, screen, awning, blind, flag, device, representation, container or package in the nature of, and employed wholly or partly for the purpose of, advertisement or promotion,

“alcohol advertisement” means an advertisement promoting alcohol,

“the display of an advertisement” includes emitting, screening or exhibiting an advertisement,

“prohibited place” means any fixed place from which the advertisement may be seen by a person in a public place (other than a public place in any premises within which the prohibited place is situated).

122B Exceptions

(1) An advertisement is not an alcohol advertisement for the purposes of section 6 if it is an advertisement displayed on licensed premises that refers wholly to all or any of the following—

(a) a general description of the business carried on,
(b) a general description of the goods or services provided,
(c) the name of the business,
(d) the name or qualifications of the person carrying out the business or supplying the goods or services on those premises.

(2) An alcohol advertisement displayed on licensed premises and visible principally from within those premises is not displayed in a prohibited place for the purposes of section 122A merely because the advertisement is also visible from outside the premises.

122C Advertising within licensed premises

(1) This section applies where off-sales premises form part of larger retail premises.

(2) It is an offence for a responsible person knowingly to cause or permit the display of an alcohol advertisement in any part of the larger premises other than the off-sales premises.

(3) In this section—

“advertisement”, “alcohol advertisement” and “the display of an advertisement” have the meanings given in section 122A(3),

“off-sales premises” means premises licensed to sell alcohol only for consumption off the premises,

“responsible person” means—
(a) the holder of the licence of the off-sales premises, and
(b) any other person having management or control of the off-sales premises.

Advertising at sporting and cultural events

122D Advertising at sporting and cultural events

(1) It is an offence for a responsible person knowingly to cause or permit the display of an alcohol advertisement at any premises where a sporting event or a cultural event is being held if—

(a) the majority of the participants in the event are under the age of 18, or
(b) the intended audience for the event consists principally of persons under that age.

(2) If the premises mentioned in subsection (1) form part of larger premises, that subsection does not apply to any other part of those larger premises.

(3) In this section—

“advertisement” has the meaning given in section 122A(3) and also includes an advertisement displayed on clothing,

“alcohol advertisement” and “the display of an advertisement” have the meanings given in section 122A(3),

“cultural event” includes any form of public exhibition or performance other than a film exhibition within the meaning of section 21(1) of the Cinemas Act 1985,

“participants” means—

(a) in relation to a cultural event, the performers (if any), and
(b) in relation to a sporting event, those engaging in the sport,

“responsible person” means any person having management or control of the event,

“sporting event” means any contest, exhibition or display of any sport to which the public are invited as spectators (whether or not on payment).

Penalties and enforcement

122E Penalties

A person guilty of an offence under this Part is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

122F Offences by bodies corporate, etc.

(1) 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 any neglect on the part of—

(i) a relevant individual, or

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

that individual as well as the body, partnership or association is guilty of the offence and is liable to be proceeded against and punished accordingly.

(2) In subsection (1), “relevant individual” means—

(a) in relation to a body corporate other than a local authority—

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

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

(b) in relation to a local authority, an officer or member of the local authority,

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

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

(3) Any penalty imposed on a body corporate, Scottish partnership or unincorporated association on conviction of an offence under this Part is to be recovered by civil diligence in accordance with section 221 of the Criminal Procedure (Scotland) Act 1995.

122G Fixed penalties

(1) Schedule 4A (which makes provision as to fixed penalties for offences under this Part) has effect.

(2) Schedule 4A does not have effect in relation to an offence committed by a local authority.”.

(3) After Schedule 4 insert—

“SCHEDULE 4A
(introduced by section 122G)

FIXED PENALTY FOR ALCOHOL ADVERTISING OFFENCES

Power to give fixed penalty notices

1 (1) An authorised officer of a local authority may, if having reason to believe that a person is committing or has committed an offence under Part 8A within the area of the local authority, give that person a fixed penalty notice in relation to that offence.

(2) A constable may, if having reason to believe that a person is committing or has committed an offence under Part 8A, give that person a fixed penalty notice in relation to that offence.
In this schedule, “fixed penalty notice” means a notice offering a person the opportunity of discharging any liability to conviction for the offence in question by payment of a fixed penalty.

### Contents of fixed penalty notice

1. A fixed penalty notice must identify the offence to which it relates and give reasonable particulars of the circumstances alleged to constitute that offence.
2. A fixed penalty notice must also state—
   - (a) the amount of the penalty and the period within which it may be paid,
   - (b) the discounted amount and the period within which it may be paid,
   - (c) the person to whom and the address at which payment may be made,
   - (d) the method by which payment may be made,
   - (e) the person to whom and the address at which any representations relating to the notice may be made,
   - (f) the consequences of not making a payment within the period for payment.
3. The person specified under sub-paragraph (2)(c) must be the local authority in the area of which the offence is alleged to have been committed or a person acting on its behalf.
4. The person specified under sub-paragraph (2)(e) must be—
   - (a) where the notice is issued by an authorised officer of a local authority, a person at such office of the local authority as is specified in the notice,
   - (b) where the notice is issued by a constable, a person at such office of the Police Service of Scotland as is specified in the notice.

### Amount of penalty and period for payment

1. The fixed penalty for an offence under Part 8A is £200.
2. The period for payment of the fixed penalty is the period of 29 days beginning with the day on which the notice is given.

### The discounted amount

1. A discounted amount is payable instead of the amount of the fixed penalty if payment is made before the end of the period of 15 days beginning with the day on which the notice is given.
2. The discounted amount is 75% of the amount of the fixed penalty.
3. If the last day of the period specified in sub-paragraph (1) does not fall on a working day, the period for payment of the discounted amount is extended until the end of the next working day.
4. In this paragraph, “working day” means any day other than a Saturday, a Sunday, Christmas Day or a day which, under the Banking and Financial Dealings Act 1971, is a bank holiday in Scotland.
**Effect of notice and payment of penalty**

5  (1) This paragraph applies where a person is given a fixed penalty notice under paragraph 1(1) or (2) in respect of an offence.

   (2) No proceedings for the offence may be commenced—

      (a) if the penalty is paid before the end of the period for payment of the penalty, or

      (b) if the penalty is tendered after the end of that period and payment is accepted by the local authority.

   (3) Payment of the discounted amount counts for the purposes of sub-paragraph (2)(a) only if it is made before the end of the period for payment of the discounted amount.

   (4) The local authority must not accept any payment tendered in respect of the fixed penalty after proceedings have been commenced.

   (5) In proceedings for the offence, a certificate which—

      (a) purports to be signed by or on behalf of a person having responsibility for the financial affairs of the local authority, and

      (b) states that payment of an amount specified in the certificate was or was not received by a date so specified,

      is sufficient evidence of the facts so stated.

**Withdrawal of notices**

6  (1) If the local authority considers (whether in light of representations made under paragraph 2(2)(e) or for any other reason) that a fixed penalty notice given by an authorised officer of the local authority ought not to have been given, it may give to the person to whom it was given a notice withdrawing the fixed penalty notice.

   (2) If a constable considers (whether in light of representations made under paragraph 2(2)(e) or for any other reason) that a fixed penalty notice given by a constable ought not to have been given, the constable may give to the person to whom it was given a notice withdrawing the fixed penalty notice.

   (3) The constable must give a copy of the notice under sub-paragraph (2) to the local authority specified in the fixed penalty notice under paragraph 2(2)(c).

   (4) A notice under sub-paragraph (1) or (2) may be given only at a time when proceedings have not been commenced.

   (5) Where a notice of withdrawal is given to a person under sub-paragraph (1) or (2) no proceedings are to be commenced against that person for the offence in question.

**Repayment of fixed penalty**

7  Where—

   (a) a notice of withdrawal is given under paragraph 6(1) or (2), or

   (b) proceedings for an offence in respect of which a fixed penalty notice has been given are commenced,
any amount which has been paid by way of penalty in pursuance of the fixed penalty notice is to be repaid.

**Duty to review fixed penalty**

8 (1) The Scottish Ministers must annually review the fixed penalty for the time being specified in paragraph 3(1) to determine whether it should be modified to take account of changes in the value of money.

(2) The first review is to be no later than 12 months after the date on which the Bill for this Act receives Royal Assent.

(3) Each subsequent review is to be no later than the next subsequent anniversary of Royal Assent.

(4) If, on a review, the Scottish Ministers determine that the fixed penalty should be modified, they must by regulations modify the fixed penalty.

**Regulations**

9 (1) The Scottish Ministers may make regulations about the method by which a fixed penalty may be paid.

(2) The Scottish Ministers may by regulations modify the periods for the time being specified in paragraphs 3(2) and 4(1) if they consider it desirable to do so having regard to other enactments making provision about fixed penalty notices.”.

**Overprovision**

**Cameron Buchanan**

82 In section 54, page 30, leave out lines 4 and 5

**Michael Matheson**

50 In section 54, page 30, leave out lines 8 to 10 and insert—

\(<(\ )\) at the beginning of paragraph (a) insert “must”,

( ) the word “and” immediately following that paragraph is repealed,

( ) 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”.

**Michael Matheson**

51 In section 54, page 30, line 12, leave out from <“and”> to end of line 13 and insert <the words from “that,” where first occurring to “situated,” substitute “that”>.

**Michael Matheson**

52 In section 54, page 30, line 15, leave out from <“and”> to the end of the line and insert <the words from “that,” where first occurring to “situated,” substitute “that”>.
Annual report on exercise of functions

John Wilson

87 In section 55, page 31, line 25, at end insert—

9B Annual report on exercise of functions

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

(2) The Scottish Ministers may by regulations vary the period of time for the time being specified in subsection (1) within which each Licensing Board must prepare and publish their annual report under this section.

(3) A report under this section must include—

(a) a summary of the decisions taken by the Licensing Board in the exercise of their functions under this Act, including any decisions taken by any person to whom functions have been delegated by the Board under paragraph 10 of Schedule 1, during the financial year,

(b) a summary of the provision of licensed premises and the number of occasional licences granted in the Board’s area, including in particular localities within their area,

(c) a statement setting out how, in exercising their functions under this Act during the financial year, the Licensing Board—

(i) have sought to give effect to their licensing policy statement and any supplementary licensing policy statement published under section 6,

(ii) have taken account of any assessment they have made under section 7 of overprovision in any locality within their area,

(iii) consider how the exercise of their functions has contributed to the licensing objectives.

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

(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) the information on decisions that is to be included in a summary under subsection (3)(a),

(ii) how a summary is to be reported for the purposes of subsection (3)(b), and

(iii) the information to be kept for the purposes of providing a statement required under subsection (3)(c) and how such a statement is to be set out, 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.”

John Wilson

88 In section 55, page 31, line 27, after <9A(6)> insert <or 9B(5)>

John Wilson

89 In section 55, page 31, line 29, after <9A(6)> insert <or 9B(5)>

John Wilson

90 In section 55, page 31, line 30, leave out <that> and insert <the relevant>

Functions and powers of Licensing Standards Officers

Michael Matheson

53 After section 55, insert—

<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,”.

Michael Matheson

54 After section 55, insert—

<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).”
Personal licences

Cameron Buchanan

83 In section 57, page 32, line 11, leave out <(3)(c),> and insert <(3)(c)—
( )>

Cameron Buchanan

84 In section 57, page 32, line 12, at end insert—
<(  ) for “5” substitute “3”.>

Michael Matheson

55 In section 57, page 32, line 15 after <licence)> insert <—
(a)>

Michael Matheson

56 In section 57, page 32, line 17, at end insert—
<(b) in subsection (5), after “74” insert “(other than subsection (3)(ba))”.

Michael Matheson

80 In section 78, page 54, line 19, at beginning insert <Section 57(1) and (2) and>

Michael Matheson

81 In section 78, page 54, line 19, leave out <comes> and insert <come>

Metal dealers: increase in penalties

Michael Matheson

58 Before section 63, insert—
<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”.
>
Metal dealers: forms of payment

Michael Matheson

59  In section 65, page 36, line 21, leave out <an> and insert <a bank or building society>

Michael Matheson

60  In section 65, page 37, line 6, after <section> insert <33AA or>

Michael Matheson

61  In section 65, page 37, line 10, at end insert—

<33AA  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.”.

Metal dealers: records

Michael Matheson

62  In section 66, page 38, leave out line 5
In section 66, page 38, line 25, after <regulations> insert<—

( ) specify the means by which a person’s name and address may be verified for the purposes of this section,

( )>

Register of metal dealers

After section 66, insert—

<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.”.>
Metal dealers: definitions

Michael Matheson

65 After section 66, insert—

<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).”>
Metal dealers: exemptions

Michael Matheson

66 After section 66, insert—

<Exemptions from requirements of sections 28 to 37 of 1982 Act>

After section 37 of the 1982 Act insert—

“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.”.>

Restriction of exemption from requirement for public entertainment licences

Michael Matheson

67 After section 67, insert—

<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”.>

Public entertainment licences: exemption for funfairs

Richard Lyle

Supported by: David Torrance

68 After section 67, insert—

<Public entertainment licenses: exemption for funfairs>

In section 41 of the 1982 Act (public entertainment licenses), after subsection (2)(aa) insert—

“(ab) premises used for the purpose of a funfair;”.

Revocation of licences under the 1982 Act

Michael Matheson

69 In section 69, page 44, line 39, after <suspension> insert <and revocation>
After section 69, insert—

<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”,
   (ii) 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.>
Minor and technical amendments

Michael Matheson

71  In section 71, page 48, line 10, at beginning insert "in paragraph (a),".

Michael Matheson

76  In schedule 2, page 62, line 7, at end insert—

   "( ) In section 29(4) (application to vary premises licence), for “and 22” substitute “, 22 and 24A”.

Michael Matheson

79  In schedule 2, page 62, line 12, at end insert—

   "( ) In section 57 (notification of occasional licence application to chief constable and Licensing Standards officer), in subsection (5)—

   (a) for “Subsections (2) and (3) have” substitute “Subsection (3) has”,
   (b) for “references” where first occurring substitute “reference”,
   (c) for “references” where second occurring substitute “a reference”.

Sex shops and sexual entertainment venues: displays or advertising

Michael Matheson

72  After section 71, insert—

   "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”.

Register of transactions

Michael Matheson

73  In schedule 2, page 61, line 26, at end insert—

   "( ) In Schedule 4 (particulars to be entered by firearms dealer in register of transactions)—

   (a) in Part 1, in the note, after “2” insert “or 3”,
   (b) in Part 2, for the note substitute—

   “Notes:

   This Part does not apply in relation to Scotland.

   In this Part “air weapon” includes any component of, or accessory to, an air weapon.

   (c) the heading of Part 2 becomes—

   “Particulars relating to air weapons: England and Wales”,

   Notes:

   This Part does not apply in relation to Scotland.

   In this Part “air weapon” includes any component of, or accessory to, an air weapon.”,
(d) after that Part insert—

“PART 3

PARTICULARS RELATING TO AIR WEAPONS: SCOTLAND

Notes:
This Part applies in relation to Scotland.
In this Part “air weapon” includes any component of, or accessory to, an air weapon.

1 The quantities and description of air weapons manufactured and the dates of manufacture.
2 The quantities and description of air weapons purchased or acquired with the names and addresses of the sellers or transferors and the date of each transaction.
3 The quantities and description of air weapons accepted for sale, repair, testing, cleaning, storage, destruction, or any other purposes, with the names and addresses of the transferors and the date of each transaction.
4 The quantities and description of air weapons sold or transferred with the names and addresses of the purchasers or transferees and the date of each transaction.
5 The quantities and description of air weapons in possession for sale or transfer at the date of the last stocktaking or such other date in each year as may be specified in the register.”.

Certificates as to proof of routine matters

Michael Matheson

74 In schedule 2, page 61, line 37, at end insert—

<Criminal Procedure (Scotland) Act 1995

In Schedule 9 to the Criminal Procedure (Scotland) Act 1995 (certificates as to proof of certain routine matters), at the end of the table insert—

| “The Air Weapons and Licensing (Scotland) Act 2015 | A constable or a person employed by the Scottish Police Authority, if the constable or person is authorised to do so by the chief constable of the Police Service of Scotland. | In relation to a person identified in the certificate, that on the date specified in the certificate the person held, or as the case may be, did not hold, an air weapon certificate (within the meaning of Part 1 of that Act).” |