Air Weapons and Licensing (Scotland) Bill

3rd Marshalled List of Amendments for Stage 2

The Bill will be considered in the following order—

Sections 1 and 2 Schedule 1
Sections 3 to 77 Schedule 2
Sections 78 and 79 Long Title

Amendments marked * are new (including manuscript amendments) or have been altered.

Before section 60

Colin Keir

93 Before section 60, insert—

<Licensing of booking systems>

(1) Article 2 of the Civic Government (Scotland) Act 1982 (Licensing of Booking Offices) Order 2009 (SSI 2009/145) is amended as follows.

(2) In paragraph (2), the words from “premises” to the end of the paragraph become sub-paragraph (a).

(3) At the end of paragraph (2) insert—

“(b) any electronic application or other communication systems for the taking of bookings from members of the public for the hire of a relevant vehicle.”.

(4) The title of article 2 becomes “Licensing of booking premises and systems”.

Cara Hilton

99* Before section 60, insert—

<Licensing of premises deemed to be used as booking offices>

(1) Article 2 of the Civic Government (Scotland) Act 1982 (Licensing of Booking Offices) Order 2009 (SSI 2009/145) is amended as follows.

(2) In paragraph (2), after “use” insert “or deemed use (under paragraph (2A))”.

(3) After paragraph (2) insert—

“(2A) For the purpose of paragraph (2), a business referred to in that paragraph—

(a) is deemed to use, for the activity referred to in that paragraph, premises in each local authority area in which the relevant vehicles operate, and

(b) must nominate premises in each such local authority area.”.
Section 60

Colin Keir

94 In section 60, page 35, line 21, at end insert—

<(3D) The Scottish Ministers must by regulations prescribe the methodology to be used by licensing authorities to assess the demand for private car hire services for the purposes of subsection (3C).

(3E) Regulations under subsection (3D) are subject to the negative procedure.”.>

Cameron Buchanan

91 Leave out section 60

Section 61

Cameron Buchanan

92 Leave out section 61

Before section 63

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(i) the word “and” immediately following paragraph (aa) is repealed,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”.>

Section 65

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>
<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.”.

Section 66

Michael Matheson

62 In section 66, page 38, leave out line 5

Michael Matheson

63 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,
   ( )>
After section 66

Michael Matheson

64 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.”;

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).”.

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.”.>
After section 67

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”.

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;”.

Section 68

Cara Hilton
95 In section 68, page 42, line 28, at end insert—

<( ) A notice under subsection (4) must include a statement of their policy with respect to the exercise of their functions under this Act in relation to sexual entertainment venues, including in particular an assessment of how such exercise will contribute to their commitments to address violence against women.

Cara Hilton
96 In section 68, page 43, line 32, leave out from beginning to <provided.”,> in line 5 on page 44

Cara Hilton
97 In section 68, page 44, line 10, at end insert—

<( ) In paragraph 7 of Schedule 2 (notice to be given of application), after sub-paragraph (2) insert—

“(2A) The applicant shall in addition send notice to any organisation specified by the local authority, being—

(a) a local violence against women partnership operating in the authority’s area,

(b) such other body as appears to the authority to have a function similar to that of a local violence against women partnership.”.
Section 69

Michael Matheson

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

After section 69

Michael Matheson

70 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.>

Section 71

Michael Matheson

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

After section 71

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”.>

Cara Hilton

98 After section 71, insert—

<Conditions for Part 3 licences: displays or advertising>

(1) Paragraph 9 of Schedule 2 to the 1982 Act (disposal of applications for licences) is amended as follows.

(2) In paragraph 9(1)—

(a) in sub-paragraph (1)(a), for “unconditionally” substitute “subject to conditions under sub-paragraph (1A) relating to displays or advertising”,

(b) in sub-paragraph (1)(b), for “conditions” substitute “such other conditions as the authority think fit”.

(3) After paragraph 9(1) insert—

“(1A) The conditions referred to in sub-paragraph (1)(a) above shall be conditions regulating displays or advertising on or in or otherwise connected with such shops.”.

(4) In paragraph 9(2)—

(a) before “conditions” where it first occurs insert “other”,

(b) for “(1)” substitute “(1)(b)”,

(c) sub-paragraph (2)(b) is repealed.>

Schedule 2

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”,

(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.”.

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).” |

9
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

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

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.

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”.

Section 78

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>