

REPORT TO: East Lothian Licensing Board

MEETING DATE: 27 August 2015

BY: Clerk of the Licensing Board

SUBJECT: Air Weapons and Licensing (Scotland) Act 2015

1 PURPOSE

- 1.1 To advise the Board of the main alcohol licensing provisions of the Air Weapons and Licensing (Scotland) Act 2015 (the Act).
- 1.2 To ascertain the Board's policy on what proof of training will be acceptable with applications for Personal Licences

2 RECOMMENDATIONS

- 2.1 That the Board notes the new alcohol licensing provisions contained in the Act.
- 2.2 That Personal Licence applications will only be accepted where the mandatory training was either undertaken less than five years before the date of the application or where it is accompanied by proof that refresher training has been undertaken within 1 year of the date of the application.
- 2.3 That applications will not be accepted in any circumstances if the mandatory training was undertaken more than 10 years before the date of the application

3 BACKGROUND

- 3.1 The Air Weapons and Licensing (Scotland) Act 2015 recently received Royal Assent. It introduces a number of new measures in relation to alcohol licensing.
- 3.2 The Act reintroduces a "Fit and Proper person" test to the granting of licences

- 3.3 It introduces wider power for Boards to refuse applications on the basis of overprovision. Boards will be entitled to determine that an entire locality is overprovided and may have regard to any other matters it sees fit, including the hours of other local licensed premises, so long as they relate to the licensing objectives.
- 3.4 It makes changes to transfer provisions to allow “any person” to apply for the transfer of a licence so long as they have a statement of consent signed by the licence holder or can satisfy the Board that they have taken all reasonable steps to contact the licence holder but have received no response.
- 3.5 It imposes a new duty on Boards to prepare and publish a yearly financial report
- 3.6 It introduces a new provision making it a criminal offence for a person, other than a child or young person, to buy, attempt to buy, give or otherwise make alcohol available to a young person
- 3.7 It includes ‘young persons’ in the fifth Licensing Objective of ‘Protecting Children from Harm’
- 3.8 It gives new powers to the LSO to report any conduct of licence holders which is inconsistent with the licensing objectives to Boards
- 3.9 Members of the Board will recall that it is a requirement Section 87 of the Licensing (Scotland) Act 2005 that personal licence holders require to undertake refresher training within five years of obtaining their personal licence and to exhibit evidence of having done so to the Board. Failure to do either of these things means that there is a mandatory revocation of their personal licence. A personal licence otherwise lasts for ten years.
- 3.10 This Act immediately removes the 5 year ban on reapplying for personal licence holders who have failed to undergo refresher training or failed to notify the licence board of their refresher training. Individuals will now be able to re-apply straight away if their licence is or has been revoked
- 3.11 The effect of the removal of the five year ban could mean that those who failed to undergo refresher training could seek to avoid doing so. The Board is therefore asked to adopt a policy whereby any applicant for a personal licence must demonstrate that they have undertaken refresher training if their mandatory training was undertaken more than five years before the application.
- 3.12 In order to ensure that those being issued with personal licences in East Lothian are adequately trained and that the training is up to date, the Board is asked to adopt a policy that applications will not be accepted if the mandatory training was undertaken more than ten years before the date of the application

4 POLICY IMPLICATIONS

- 4.1 This will involve a change to the Board's Statement of Policy in relation to personal licence applications

5 EQUALITIES IMPACT ASSESSMENT

- 5.1 This Report is not applicable to the wellbeing of equalities groups and Equalities Impact Assessment is not required.

6 RESOURCE IMPLICATIONS

- 6.1 Financial – the Board will require to prepare and publish an annual financial report
- 6.2 Personnel - None
- 6.3 Other - None

7 BACKGROUND PAPERS

- 7.1 Report by the Clerk of the Board dated 28th August 2014

AUTHOR'S NAME	Kirstie MacNeill
DESIGNATION	Clerk Of the Licensing Board
CONTACT INFO	01620 827217 licensing@eastlothian.gov.uk
DATE	11 th August 2015