

REPORT TO: Licensing Sub-Committee

MEETING DATE: 8 September 2016

BY: Depute Chief Executive (Resources and People Services)

SUBJECT: Metal Dealers Licences - New Conditions

1 PURPOSE

- 1.1 To inform the Sub-Committee of the new conditions which now apply to Metal Dealers licences by virtue of the Air Weapons & Licensing (Scotland) Act 2015.

2 RECOMMENDATIONS

- 2.1 That the Sub-Committee note the terms of the new conditions, which are included as an appendix to this report.

3 BACKGROUND

- 3.1 The Air Weapons and Licensing (Scotland) Act 2015 introduces changes to various parts of the Civic Government licensing regime, which are being brought into force in stages. One of the areas to be affected by these changes, in terms of Sections 66-73 of the 2015 Act, is the licensing of metal dealers and itinerant metal dealers.
- 3.2 The changes are effectively in two parts. As from 16 March 2016, the statutory definition of a "metal dealer" was altered from that originally given in the Civic Government (Scotland) Act 1982. The current definition is now as shown on part one of the attached appendix.
- 3.3 The other main area to be changed relates to the regime governing the keeping of records, forms of payment etc. The new rules in respect of these areas came into effect as from 1 September 2016. Transitional rules ensured that, so long as applicants had submitted their applications for a licence by 1 June 2016, they would not be in breach of the new rules in the event that their application had not completed processing by the licensing office by 1 September.

- 3.4 The new provisions which now apply to all such licences are shown in part 2 of the attached appendix. All relevant licence-holders and applicants have been made aware of these new provisions in writing.
- 3.5 There is no requirement for the Sub-Committee to formally adopt or approve these conditions. As they have been imposed by primary legislation, they will simply take effect on the said dates and all new licences from and after those dates will incorporate the new wording of the conditions. The present report is therefore simply to inform the Sub-Committee of the changes which have been introduced by the 2015 Act.

4 POLICY IMPLICATIONS

- 4.1 None

5 INTEGRATED IMPACT ASSESSMENT

- 5.1 The subject of this report does not affect the wellbeing of the community or have a significant impact on equality, the environment or economy.

6 RESOURCE IMPLICATIONS

- 6.1 Financial - None
- 6.2 Personnel - None
- 6.3 Other - None

7 BACKGROUND PAPERS

- 7.1 Air Weapons & Licensing (Scotland) Act 2015 Sections 66-73

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From 16 March 2016 the definitions of metal dealer and itinerant metal dealer have changed.

"metal dealer" now means

1. A person who carries on a business which consists of buying or selling for scrap:
 - metal articles that are old, broken, worn out or defaced; or
 - partly manufactured articles that are made from metal.
2. A person who carries on business as a "motor salvage operator" (so far as that does not fall within the kind of business referred to at 1 above). This applies to you if you carry on a business which consists of:
 - recovering salvageable parts from motor vehicles for re-use or sale and selling or disposing of the rest of the vehicle for scrap;
 - buying significantly damaged motor vehicles and subsequently repairing and reselling them; or
 - buying or selling motor vehicles which are to be the subject (whether immediately or upon a subsequent resale) of any of the activities referred to

"itinerant metal dealer"

- carry on a business which consists of buying or selling of scrap:
 - metal articles that are old, broken, worn out or defaced; or
 - partly manufactured articles that are made from metal;
- collect articles of either of these kinds from place to place; and
- dispose of such articles without causing them to be kept in a metal store or other premises (including disposing or giving custody of the articles to a person who keeps a metal store)

Metal dealers and itinerant metal dealers: records

Requirement to keep records

- (1) A metal dealer must record the following information—
 - (a) the description and weight of the metal,
 - (b) the date and time of when you acquired the metal,
 - (c) if the metal is acquired from another person—
 - (i) the name and address of the person,
 - (ii) how the person's name and address was verified,
 - (d) the price, if any, payable for the metal, if the price has been ascertained at the time when the entry in the record relating to that metal is to be made,
 - (e) the method of payment of the price (if applicable),
 - (f) where no price is payable for the metal, the estimated value of the metal at the time when the entry is made by the dealer,
 - (g) in the case of metal delivered to the dealer by means of a vehicle, the registration mark of the vehicle.
- (3) Where the dealer has paid for metal, the dealer must keep a copy of—
 - (a) the cheque, or
 - (b) the document evidencing the electronic transfer of funds.
- (4) Any metal processed or disposed of, the dealer must record the following information—
 - (a) the description and weight of the metal immediately before its processing or disposal,
 - (b) in the case of metal which is processed, the process applied,
 - (c) in the case of metal disposed of by sale or exchange—
 - (i) the consideration for which it is sold or exchanged,
 - (ii) the name and address of the person who the metal is sold or exchanged with, and
 - (iii) the means by which the person's name and address was verified,
 - (d) in the case of metal disposed other than by sale or exchange, its value immediately before its disposal as estimated by the dealer.
- (5) The dealer must—
 - (a) keep separate records in relation to—
 - (i) metal acquired, and
 - (ii) metal processed or disposed of,
 - (b) record the information immediately after the metal is acquired, processed or disposed of,
 - (c) keep a copy of any document produced by a person to verify that person's name or address, and
 - (d) retain information recorded or documents kept under this section for a period of not **less than 3 years** beginning with the date on which the information was recorded or document obtained.
- (6) To verify a person's name and address a dealer must have:
 - (a) a document showing the **person's name, residential address including a photograph** of then for example, a photocard driving licence, valid passport, etc.

- (b) Where this is not available, the dealer must obtain a
- (i) document showing the **person's name and photograph**, for example a valid passport, **and**
 - (ii) document confirming the **person's full name and residential address**, for example a bank building society statement, council tax bill, etc.

Form of records

- (1) A metal dealer or an itinerant metal dealer must record the above information detailed above —
 - (a) in books with serially numbered pages, or
 - (b) by means of a device for storing and processing information.
- (2) The dealer must keep one book for recording information on metal acquired and one book for recording information on metal processed or disposed of.
- (3) Where a dealer uses a device for storing and processing information, the dealer must keep details of all modifications made in the records kept by the device.
- (4) Where a dealer is required to keep a copy of a document, it is sufficient for the dealer—
 - (a) to keep an electronic copy of the document, and
 - (b) in relation to a document verifying a person's name or address, keep only one copy of the document.

Metal dealer to keep records for each place of business

- (1) A metal dealer must keep separate records of the above information for each place of business operated by the dealer.