

## ADDENDUM

### **CHANGES TO LICENSING IN SCOTLAND RESULTING FROM THE 'AIR WEAPONS AND LICENSING (SCOTLAND) ACT 2015'**

#### ***Introduction for trainers delivering the SCPLH/SCPLH Refresher courses***

The 'Air Weapons and Licensing (Scotland) Act 2015' has provisions that change licensing law in Scotland and has been introduced in stages. The latest changes will come into force on the 15<sup>th</sup> May 2017 and must be reflected in the teaching of the SCPLH and SCPLH refresher courses. Below I have summarised the changes brought in, or about to be brought in by the Act:

#### ***The changes***

- ***Licensing objectives*** - In Scotland there are five 'licensing objectives'. The fifth is 'Protecting children from harm'. This has now been amended to read 'Protecting children and young people from harm.'
  - Clarification – Unlike in England and Wales where a 'child' is any person younger than 18 years old, in Scotland there are three categories of person: 'children' – persons aged up to 12 years; 'young people' – persons aged from 13 to 17 years; and 'adults' – persons aged 18 years or older. This change to Scottish licensing law simply ensures that 'young people' are covered by the fifth licensing objective and not just 'children' as previously defined.
- ***Fit and proper person test*** - The introduction of a 'fit and proper person' test – as existed under the previous licensing regime.
  - This applies to personal licence applications; premises licence applications; applications for the transfer of a premises licence; and to premises licence reviews. It enables the Licensing Board to refuse to grant an application if the applicant is not a 'fit and proper person' or to revoke a licence if the holder is deemed no longer 'fit and proper' at a licensing review. Personal licence applications must also be notified to the applicable Licensing standards Officer who may comment on the application within 21 days of receipt.
  - The 'fit and proper' test for licensees allows police to present more information to Licensing Boards about applicants than is presently the case. Currently, information must be restricted to that relating to serious and organised crime. The new 'fit and proper' test is, however, narrower to that in place before 2009, as it restricts any assessment of the licence holder or applicant's fitness to being "with regard to the five licensing objectives".
- ***Convictions taken into account*** - Convictions for relevant or foreign offences can still be considered even when spent.
- ***New offences*** - The introduction of new offences: supply of alcohol to a child in public places (except for religious worship); supply of alcohol (knowingly) to young persons in public places (except for religious worship).
- ***Interested parties*** - Removal of the requirement for a premises licence holder to notify a change in interested parties and amendment of the definition of an interested party to remove premises managers.
- ***Definition of alcohol*** - Inclusion of angostura bitters as an 'alcoholic product'
- ***Overprovision*** – Licensing Boards may determine the whole Licensing Board area as an overprovision locality; no longer required just to have regard to the number and capacity of

licensed premises in the locality, but may also consider the licensed hours of licensed premises in the locality.

- **Revocation of personal licence** - for failure to undertake refresher training requirements: Licensing Boards must remind personal licence holders nine months (previously three) prior to the licence expiring of the need to renew the licence and the renewal window to be a period of nine months beginning 12 months before the licence expiry date
  - The Act removes the requirement that a person who failed to comply with refresher training requirements were prohibited from reapplying for their personal licence for five years. They can now reapply immediately.
- Licensing Boards must now produce annual reports.
- The length of time a Licensing Board's licensing policy is applicable is now to be tied to local elections, with new policies required within 18 months of local elections.
- A requirement for a Licensing Board to issue an acknowledgement of complete applications, unless the Board does not consider that it would be appropriate to do so.
- Automatic grant of a licence where a Licensing Board has failed to determine an application within the required period or the extended period as granted by a sheriff. This clarifies compliance with the EU Services Directive.