



## **Agenda Item 6**

**Air Weapons & Licensing  
(Scotland) Act 2015 – Changes to  
Licensing of Metal Dealers and  
Itinerant Metal Dealers**

**Falkirk Council**

**Title:** **Air Weapons & Licensing (Scotland) Act 2015 – Changes to Licensing of Metal Dealers and Itinerant Metal Dealers**

**Meeting:** **Civic Licensing Committee**

**Date:** **2 November 2016**

**Submitted By:** **Chief Governance Officer**

**1. Purpose of Report**

- 1.1 This report provides Members with the changes to the Civic Licensing (Scotland) Act 1982 introduced by the Air Weapons & Licensing (Scotland) Act 2015 and seeks approval for new mandatory conditions.

**2. Recommendations**

**Members are**

**requested to:-**

- (1) note the contents of the report**
- (2) approve the new mandatory conditions for Metal Dealers**
- (3) approve the new mandatory conditions for Itinerant Metal Dealers**

**3. Background**

- 3.1 The purpose of the Act, which received Royal Assent on 4 August 2015, is to protect public safety by creating a new licensing regime for air weapons to be administered by Police Scotland and to improve aspects of locally led alcohol and civic government licensing with the aim of advancing public health, reducing crime and preserving public order and safety.
- 3.2 The 2015 Act makes changes to sections 28 to 37 of the Civic Government (Scotland) Act 1982 which relate to the licensing of metal dealers and itinerant metal dealers. The Act also includes a change to the definition of those terms.
- 3.3 Metal dealers are defined as persons who carry 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 who carry on business as a motor salvage operator. Itinerant metal dealers who buy or sell articles for scrap as noted above, collect those articles by means of visits from place to place and dispose of them without causing them to be kept in a metal store or other premises.

- 3.4 The effect of these changes is to shift the emphasis to those dealers who buy and sell scrap metal, and will now include motor salvage operators who buy significantly damaged motor vehicles, repairing and reselling them, rather than those whose trade in metal is incidental to their core business, for example jewelers. The rationale behind the change is the marked increase in the theft of metal. The changes came into effect on 1 September 2016.
- 3.5 The section of the Civic Government (Scotland) Act 1982 which allows metal dealers (those with an evidenced turnover in excess of £100,000 in respect of metal sold or supplied during the 18 months immediately prior to application) to be exempt from being licensed has been repealed in its entirety. Holders of exemption warrants, if they fall with the new definition of metal dealer, were required to apply before 1 June 2016 for a licence.
- 3.6 The section obligating metal dealers to not dispose of or process any metal they acquire for a period of 48 hours (not including Saturdays or Sundays) after acquisition is also repealed.
- 3.7 There is now a restriction in relation to the methods of payment that can be used by both metal dealers and itinerant metal dealers. Holders of both types of licences can only pay for metal by a non-transferable cheque or electronic transfer of funds to a bank or building society account in the name of the payee. Failure to do so is an offence. Cash is no longer an acceptable method of payment.
- 3.8 The 1982 Act obligated dealers to maintain records in relation to their transactions. These sections have been repealed and a new section inserted obliging both types of dealer to keep certain records which must be retained for not less than 3 years. Separate records must be kept regarding the purchasing, processing and disposal of metals. The record must be made immediately after the metal is acquired, processed or disposed of. Metals dealers that have more than one premises must keep separate records for each. The type of information that is to be recorded includes the description and weight of the metal, date and time it was acquired, the detail of the seller/purchaser, price paid and method of payment and the nature of any processing. Copies of documentation (cheque, electronic funds transfer, seller/purchaser identification) must also be retained.
- 3.9 As noted in paragraph 3.6, dealers must keep records of the name and address of persons from whom metal was acquired and to whom it was exchanged or sold. The Civic Government (Scotland) Act 1982 (Metal Dealers and Itinerant Metal Dealers) (Verification of Name and Address) Regulations 2016 which came into force on 1 September 2016 detail the documents that can be accepted as proof of a person's name and address. These include a valid UK passport, a valid passport issued by a EEA state, a valid biometric immigration document, a valid UK or Northern Ireland photo driving licence, utility bill, council tax bill, bank or building society statement. A mobile telephone bill is not acceptable. Any document to prove an address must not have been issued more than 3 months prior to the acquisition, exchange or sale of the metal.

#### **4. Considerations**

- 4.1 The amendments to the Civic Government (Scotland) Act 1982 introduced by 2015 Act have necessitated a review of the mandatory conditions for metal dealers and itinerant metal dealers. The legal requirements from 1 September 2016 in relation to record keeping and acceptable forms of payment for metal detailed in paragraphs 3.5 and 3.6 are required under the legislation and are therefore not reiterated in the mandatory conditions. The proposed mandatory conditions for metal dealers and itinerant metal dealers are attached as Appendices 1 and 2 respectively.

#### **5. Implications**

##### **Financial and Resources**

- 5.1 The licensing of metal dealers and itinerant metal dealers will continue to be carried out by the Licensing Section. No additional resources are required. Currently, the cost of administering all civic licensing applications is met by fee income as required by the Civic Government (Scotland) Act 1982.

##### **Legal**

- 5.2 The changes introduced by the Air Weapons & Licensing (Scotland) Act 2015 are statutory.

##### **Risk**

- 5.3 The change in the definition of “metal dealer” and “itinerant metal dealer” could result in operators who were previously not required to be licensed requiring to be. Guidance issued by the Scottish Government states that “It is for any individual to satisfy themselves over whether they do, or do not, fall within one of these definitions and should therefore seek a metal dealer or itinerant metal dealer licence. It will be dependent on the specific facts of an individual’s business whether a licence will be necessary”.

The Licensing Section has contacted licenceholders and those operators who had an Exemption Warrant to advise them of the changes to the legislation. As a result, two metal dealer licence applications were submitted from previously exempted operators. These require to be determined by 11 November 2016.

##### **Equalities**

- 5.5 None.

##### **Sustainability/Environmental Impact**

- 5.6 The changes to the licensing of metal dealers will assist in the reduction of damage to property caused by some types of destructive metal thefts.

## 6. Conclusions

- 6.1 It is anticipated that the changes to the Civic Government (Scotland) Act 1982 as it relates to metal dealers will tighten up the exiting regime and therefore reduce the frequency of metal theft.

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Chief Governance Officer

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Date: 24 October 2016

Appendices:

Appendix 1: **Mandatory conditions for Metal Dealers**

Appendix 2: **Mandatory conditions for Itinerant Metal Dealers**

**List of Background Papers:**

- None

**Falkirk Council**

**Civic Government (Scotland) Act 1982**

**Mandatory Conditions for Licensed Metal Dealers**

1. The licenceholder shall display their licence (or a certified copy) at all times at each place of business to which the licence relates.
2. The licenceholder shall produce records kept by them in the course of their business as a licensed metal dealer to a duly authorised officer of the licensing authority or Police Scotland on request.
3. The licenceholder must notify the licensing authority of any change of address(es) before or within 28 days after the change of address(es) has taken place.
4. The licenceholder shall comply with all legislative provisions affecting his trade as a metal dealer and in particular all relevant sections of the Civic Government (Scotland) Act 1982 and any orders made thereunder.

**Falkirk Council**

**Civic Government (Scotland) Act 1982**

**Mandatory Conditions for Licensed Itinerant Metal Dealers**

1. The licenceholder shall produce records kept by them in the course of their business as a licensed metal dealer to a duly authorised officer of the licensing authority or Police Scotland on request.
2. The licenceholder must notify the licensing authority of any change of address(es) before or within 28 days after the change of address(es) has taken place.
3. The licenceholder shall comply with all legislative provisions affecting his trade as a metal dealer and in particular all relevant sections of the Civic Government (Scotland) Act 1982 and any orders made thereunder.