

AIR WEAPONS AND LICENSING (SCOTLAND) ACT 2015

EXPLANATORY NOTES

STRUCTURE AND SUMMARY OF THE ACT

Part 3 – Civic Licensing

Sexual entertainment venues

Section 76 – Licensing of sexual entertainment venues

229. This section creates a new licensing regime for sexual entertainment venues.
230. This is achieved by amending the existing licensing scheme for sex shops found in Part 3 and Schedule 2 of the 1982 Act, such that it applies to sexual entertainment venues also, with modifications as necessary. The following paragraphs explain the key features of the new regime as modified.
231. The section amends section 41(2) of the 1982 Act to preclude a sexual entertainment venue from being licensed under public entertainment licences.
232. The section creates a new section 45A which establishes for the purposes of the legislation what is meant by a sexual entertainment venue and provides definitions of ‘audience’, ‘financial gain’, ‘organiser’, ‘premises’, ‘sexual entertainment’ itself and ‘display of nudity’.
233. A power is provided by the section to allow the Scottish Ministers to prescribe types of premises that are not sexual entertainment venues. Sex shops are specifically identified as not being sexual entertainment venues.
234. A further power is provided to allow the Scottish Ministers to prescribe descriptions of performances or displays of nudity that are not to be treated as sexual entertainment for the purposes of the legislation.
235. The section specifies that a venue hosting sexual entertainment very occasionally (defined as four occasions or less in a 12 month period) would not be treated as a sexual entertainment venue.
236. A new section 45B is created which requires a resolution by a local authority in order for sexual entertainment venue licensing to have effect in their area. The section requires that a resolution under the section would not have effect until a specified date (which cannot be less than one year after the resolution is passed). A resolution must be publicised either electronically or in a local newspaper.
237. The section also allows a local authority to determine an appropriate number of sexual entertainment venues for their area. The appropriate number so determined must be publicised then the determination must be publicised in a manner considered appropriate by the local authority.

*These notes relate to the Air Weapons and Licensing (Scotland)
Act 2015 (asp 10) which received Royal Assent on 4 August 2015*

238. Section 45B also clarifies that a licence for a sexual entertainment venue does not have to be granted even when that venue has a premises licence under Part 3 of 2005 Act (an alcohol premises licence).
239. Any application for a sexual entertainment licence must be notified by the applicant, within 7 days, to any bodies specified by the local authority. These bodies might be violence against women partnerships, community councils etc.
240. It will not be permissible for a person under 18 to be employed by a sexual entertainment venue. It is also not permissible for an under 18 to enter a sexual entertainment venue when sexual entertainment is taking place. When sexual entertainment is not taking place, an under 18 can enter the premises only if there is a reasonable excuse for such e.g. an apprentice to a plumber being allowed access to assist the plumber in repairing a leak.
241. Section 45B also provides that local authorities must have regard to any guidance issued by the Scottish Ministers in relation to the licensing of sexual entertainment venues.
242. A new section 45C is created which requires each local authority, which passes a resolution to licence sexual entertainment, to prepare a sexual entertainment venue policy statement in respect of the exercise of their functions in relation to such licensing (referred to in the Act as an SEV policy statement). The statement should detail the impact the authority considers the licensing will have, particularly in relation to the objectives of preventing public nuisance and disorder, securing public safety, protecting young people from harm and reducing violence against women. The local authority, when preparing the SEV policy statement, must also consult such persons and bodies as they consider appropriate. The SEV policy statement must be published at the same time as their resolution to licence sexual entertainment venues. The statement must also be reviewed from time to time. In exercising functions in relation to sexual entertainment venue licensing, the authority must have regard to their SEV policy statement.