

**2016 No. 85 (C. 10)**

**LICENCES AND LICENSING**

**The Air Weapons and Licensing (Scotland) Act 2015  
(Commencement No. 2 and Transitional Provisions) Order 2016**

<i>Made</i> - - - -	<i>2nd February 2016</i>
<i>Laid before the Scottish Parliament</i>	<i>4th February 2016</i>
<i>Coming into force</i> - -	<i>16th March 2016</i>

The Scottish Ministers make the following Order in exercise of the powers conferred by section 88(2) and (3) of the Air Weapons and Licensing (Scotland) Act 2015(a).

**Citation, commencement and interpretation**

1.—(1) This Order may be cited as the Air Weapons and Licensing (Scotland) Act 2015 (Commencement No. 2 and Transitional Provisions) Order 2016 and comes into force on 16th March 2016.

(2) In this Order—

“the 2015 Act” means the Air Weapons and Licensing (Scotland) Act 2015;

“metal dealers licence” means a licence required under section 28(1) of the 1982 Act; and

“itinerant metal dealers licence” means a licence required under section 32(1) of the 1982 Act.

**Appointed day**

2.—(1) Subject to paragraph (2), the day appointed for the coming into force of the provisions of the 2015 Act specified in column 1 of the table in the Schedule (the subject matter of which is described in column 2 of that table) is specified in column 3 of that table.

(2) Where a purpose is specified in column 4 of that table in relation to any provision specified in column 1, that provision comes into force in accordance with paragraph (1) for that purpose only.

**Transitional provision: section 66 of the 2015 Act**

3.—(1) The amendments made by section 66 of the 2015 Act do not apply in relation to an offence committed prior to 1st September 2016.

(2) For the purposes of paragraph (1), where an offence is found to have been committed over a period of 2 or more days, or at some time during a period of 2 or more days, it is to be taken to have been committed on the first of those days.

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(a) 2015 asp 10.

**Transitional provision: sections 67 and 72 of the 2015 Act**

4. Where a metal dealers licence or itinerant metal dealers licence is required following the commencement of sections 67 or 72 of the 2015 Act, such a licence granted before 1st September 2016 is not to take effect until that date (unless for the purposes of notification of changes, alteration of circumstances or the variation or suspension of the licence).

**Transitional provision: section 67 of the 2015 Act**

5.—(1) Where a person who, on or after 1st September 2016, would not require a metal dealers licence but for the commencement of section 67 of the 2015 Act, does anything for which such a licence is required, that person is not guilty of an offence under section 7(1) of the 1982 Act for failure to have such a licence if—

- (a) that person has been issued with an exemption warrant or a temporary exemption warrant under section 29 of the 1982 Act that remains in force on 1st September 2016;
- (b) that person has, before 1st June 2016, applied to the licensing authority for the grant of a metal dealers licence; and
- (c) the application has, through no failure on the part of that person, not been finally determined.

(2) For the purposes of paragraph (1)(c), an application is finally determined when—

- (a) it is granted;
- (b) it is withdrawn; or
- (c) it is refused by the licensing authority and either—
  - (i) the period of 28 days specified in paragraph 18(4) of Schedule 1 to the 1982 Act expires without an appeal against the refusal being made to the sheriff; or
  - (ii) an appeal against a refusal is withdrawn or dismissed and there is no further right of appeal.

**Transitional provision: section 72 of the 2015 Act.**

6.—(1) Where a person who, on or after 1st September 2016, would not require a metal dealers licence or itinerant metal dealers licence but for the commencement of section 72 of the 2015 Act, does anything for which such a licence is required, that person is not guilty of an offence under section 7(1) of the 1982 Act for failure to have such a licence if—

- (a) that person has, before 1st June 2016, applied to the licensing authority for the grant of a metal dealers licence or itinerant metal dealers licence; and
- (b) the application has, through no failure on the part of that person, not been finally determined.

(2) For the purposes of paragraph (1)(b), an application is finally determined when—

- (a) it is granted;
- (b) it is withdrawn; or
- (c) it is refused by the licensing authority and either—
  - (i) the period of 28 days specified in paragraph 18(4) of Schedule 1 to the 1982 Act expires without an appeal against the refusal being made to the sheriff; or

- (ii) an appeal against a refusal is withdrawn or dismissed and there is no further right of appeal.

St Andrew's House,  
Edinburgh  
2nd February 2016

*MICHAEL MATHESON*  
A member of the Scottish Government

## SCHEDULE

Article 2

<i>Column 1 Provisions of the 2015 Act</i>	<i>Column 2 Subject matter</i>	<i>Column 3 Appointed day</i>	<i>Column 4 Purpose</i>
Section 72	Interpretation of provisions relating to metal dealers etc.	16th March 2016	<p>For the purposes of—</p> <p>(a) enabling applications for metal dealer licences or itinerant metal dealer licences to be made, considered and determined in accordance with the provisions of the 1982 Act by the licensing authority or any other person or appealed to and decided by the Courts before 1st September 2016; and</p> <p>(b) enabling such licences to be granted and for the provisions of the 1982 Act to apply to any such licence so far as the notification of changes, alteration of circumstances or the variation or suspension of the licences are concerned, which arise before 1st September 2016.</p>
Section 66	Penalties for failure to have appropriate licence or comply with conditions	1st September 2016	
Section 67	Removal of exemption warrants for certain metal dealers	1st September 2016	
Section 68	Abolition of requirement to retain metal for 48 hours	1st September 2016	
Section 69	Acceptable forms of	1st September 2016	

	payment for metal		
Section 70	Metal dealers and itinerant metal dealers: records	1st September 2016	For all remaining purposes.
Section 72	Interpretation of provisions relating to metal dealers etc.	1st September 2016	For all remaining purposes.

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order brings into force the following provisions of the Air Weapons and Licensing (Scotland) Act 2015 (“the 2015 Act”): sections 66, 67, 68, 69, 70 (for all remaining purposes) and 72 (article 2).

The Schedule to the Order appoints the 16th March 2016 for the partial commencement of section 72 of the 2015 Act for the purpose of enabling preliminary arrangements to be made for the provision to be fully effective in operation from 1st September 2016. The remaining provisions are brought into force on 1st September 2016.

Articles 3 to 6 contain transitional provisions.

Article 3 of the Order makes a transitional provision that has the effect that the commencement of section 66 of the 2015 Act only has effect in respect of offences that have been committed on or after the appointed day.

Article 4 makes transitional provisions to provide that metal dealer or itinerant metal dealer licences issued before 1st September 2016 are not to take effect until that day.

Article 5 of the Order makes a transitional provision to provide that despite the commencement of section 67 of the 2015 Act, a person will not be guilty of an offence under section 7(1) of the Civic Government (Scotland) Act 1982 (“the 1982 Act”), by virtue of doing anything for which a metal dealers licence is required if that person has been issued with an exemption warrant or temporary exemption warrant that remains in force on 1st September 2016, and has applied for a metal dealers licence before 1st June 2016 but that application has not yet been finally determined by the time section 67 comes into force on 1st September 2016.

Article 6 of the Order makes a transitional provision to provide that despite the commencement of section 72 of the 2015 Act, a person that would not otherwise require a metal dealers or itinerant metal dealers licence, will not be guilty of an offence under section 7(1) of the 1982 Act, by virtue of doing anything for which a metal dealers or itinerant metal dealers licence is required, if that person has applied for a metal dealers or itinerant metal dealers licence before 1st June 2016 but that application has not yet been finally determined by the time section 72 comes fully into force on 1st September 2016.

The Bill for the 2015 Act received Royal Assent on 4th August 2015. Sections 60(1) and (2), 84, 85, 86, 88 and 89 of the 2015 Act came into force on the following day.

## NOTE AS TO EARLIER COMMENCEMENT ORDERS

*(This note is not part of the Order)*

The following provisions of the 2015 Act have been brought into force by commencement order made before the date of this Order.

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.S.I. No.</i>
Section 1	1st December 2015	2015/382
Section 2 (partially)	1st December 2015	2015/382
Section 35 and 36	1st December 2015	2015/382
Section 39(2) and (3)	1st December 2015	2015/382
Section 40	1st December 2015	2015/382
Section 56 (partially)	1st December 2015	2015/382
Section 65(1), (2), (4) and (5)	1st December 2015	2015/382
Section 70(1) and (3) (partially)	1st December 2015	2015/382
Section 73	1st December 2015	2015/382
Section 76(1) and (3) (partially)	1st December 2015	2015/382

Section 79	1st December 2015	2015/382
Section 80(1) and (2) (partially)	1st December 2015	2015/382

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