
SCOTTISH STATUTORY INSTRUMENTS

2019 No. 99 (C. 2)

LICENCES AND LICENSING

**The Air Weapons and Licensing (Scotland) Act 2015
(Commencement No. 9 and Transitional Provisions) Order 2019**

<i>Made</i>	- - - -	<i>19th March 2019</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>21st March 2019</i>
<i>Coming into force</i>	- -	<i>26th April 2019</i>

The Scottish Ministers, in exercise of the powers conferred by section 88(2) and (3) of the Air Weapons and Licensing (Scotland) Act 2015⁽¹⁾, make the following Order.

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Air Weapons and Licensing (Scotland) Act 2015 (Commencement No. 9 and Transitional Provisions) Order 2019 and comes into force on 26 April 2019.

(2) In this Order—

“the 1968 Act” means the Theatres Act 1968⁽²⁾,

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

Appointed days

2.—(1) 26 April 2019 is the day appointed for the coming into force of the following provisions of the 2015 Act—

(a) section 74(1) (licensing of theatres etc.), and

(b) section 76 (licensing of sexual entertainment venues), in so far as not already in force.

(2) 27 January 2021 is the day appointed for the coming into force of section 74 of the 2015 Act insofar as it is not brought into force by paragraph (1).

(1) 2015 asp 10.
(2) 1968 c.54.

Transitional provisions

3.—(1) Any licence granted under the 1968 Act for the use of premises for the public performance of any play will cease to have effect on 27 January 2021.

(2) Paragraph (3) applies to a resolution, made by a local authority under section 9 of the Civic Government (Scotland) Act 1982(3), that the requirements of section 41(4) of that Act will apply to the use of premises for the public performance of any play.

(3) A resolution may be made by a local authority on or after 26 April 2019 but no resolution may come into effect prior to 27 January 2021.

(4) For the purposes of this article, “the use of premises for the public performance of any play” means the use of any premises which, prior to 27 January 2021, would require a licence under the 1968 Act.

St Andrew’s House,
Edinburgh
19th March 2019

ASH DENHAM
Authorised to sign by the Scottish Ministers

(3) 1982 c.45. There are no amendments to section 9 of the 1982 Act which are relevant to this Order.

(4) Section 41(2) of the 1982 Act was amended by the Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), section 176. There are no other amendments to section 41 which are relevant to this Order.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force sections 74 and 76 of the provisions of the Air Weapons and Licensing (Scotland) Act 2015 (“the 2015 Act”). In a prior commencement order section 76 was commenced but only for the purpose of allowing certain orders to be made.

The Theatres Act 1968 (“the 1968 Act”) provides a licensing regime for premises which are used for the public performance of plays. Section 41 of the Civic Government (Scotland) Act 1982 (“the 1982 Act”) provides a discretionary licensing regime for places of public entertainment and the definition of “place of public entertainment” in section 41(2) specifically excludes premises which are licensed under the 1968 Act. Prior to the commencement of section 74 of the 2015 Act, theatres require to be licensed under the 1968 Act and cannot be brought into the public entertainment licensing regime under the 1982 Act.

Section 74 of the 2015 Act amends the 1968 Act so as to repeal the theatre licensing regime under that Act. Section 74 also amends section 41 of the 1982 Act so as to remove the exclusion of theatres from the definition of “place of public entertainment” thereby enabling a local authority to resolve under section 9 of the 1982 Act to license theatres under its public entertainment licensing regime.

Article 2(1) of this Order brings section 74(1) into force on 26 April 2019, amending section 41 of the 1982 Act and thereby enabling local authorities to make a resolution under section 9 of the 1982 Act to license theatres under their public entertainment licensing regime if they so choose. Article 2(2) of this Order brings the remainder of section 74 into force on 27 January 2021, repealing the theatre licensing regime in the 1968 Act. This will enable local authorities to introduce a public entertainment licensing regime for theatres, be that through the variation of an existing public entertainment licensing regime or otherwise.

Article 3 of this Order makes transitional provision to ensure that the introduction of a public entertainment licensing regime for theatres under the 1982 Act cannot take place before the 1968 Act licensing regime comes to a complete end. This will prevent any overlap between theatre licences granted under the 1968 Act and public entertainment licences granted under the 1982 Act.

Section 16 of the Interpretation Act 1978 (read alongside section 23A of that Act) provides that the repeal of an enactment does not affect any right, privilege, obligation or liability acquired under that enactment. This means that the repeal of the 1968 licensing regime does not result in the automatic cessation of the licences granted under that regime. Article 3(1) of this Order makes transitional provision which states that all theatre licences granted under the 1968 Act will cease to have effect on the same day as the 1968 Act licensing regime is repealed.

The delayed repeal of the 1968 Act licensing regime could create the possibility of a resolution to license theatres via the public entertainment licensing regime being brought into force prior to the repeal of the 1968 Act licensing regime. Article 3(2) of this Order makes transitional provision which states that a resolution made under section 9 to require a licence for the use of premises for the public performance of any play cannot come into effect prior to the repeal of the 1968 Act licensing regime on 27 January 2021.

Section 76 of the 2015 Act adds new sections 45A to 45C to the 1982 Act in order to introduce a discretionary licensing regime for sexual entertainment venues. Section 76 also amends section 41 of the 1982 Act to specifically exclude sexual entertainment venues from the definition of places of public entertainment so that a public entertainment licence cannot also be required for those venues. Article 2(1) of this Order brings section 76 into force on 26 April 2019. A sexual entertainment

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venue licence will only be required where a local authority makes a resolution in these terms under new section 45B of the 1982 Act. Accordingly, no transitional provisions are considered necessary. The Bill for the 2015 Act received Royal Assent on 4 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 orders made before the date of this Order.

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.S.I. No.</i>
Section 1	1 December 2015	2015/382
Section 2 (partially)	1 December 2015	2015/382
Section 2 in so far as not already in force	31 December 2016	2016/130
Sections 3–5	1 July 2016	2016/130
Section 6(1) to (3)	1 July 2016	2016/130
Section 6 in so far as not already in force	31 December 2016	2016/130
Sections 7, 8(1), 9(1) and (2), 10 and 11(1) to (4) and (7)	1 July 2016	2016/130
Sections 8, 9 and 11 in so far not already in force	31 December 2016	2016/130
Sections 12, 13, 14, 15(1) to (3), 16(1) to (5) and (8) and 17(1), (2), (6) and (7)	1 July 2016	2016/130
Sections 15,16 and 17 in so far as not already in force	31 December 2016	2016/130
Sections 18-22	1 July 2016	2016/130
Sections 23-27	31 December 2016	2016/130
Section 28	1 July 2016	2016/130
Sections 29 and 30	31 December 2016	2016/130
Sections 31(1) and (3)	1 July 2016	2016/130
Section 31 in so far as not already in force	31 December 2016	2016/130
Sections 32, 33 and 34 (other than subsection(2)(n))	1 July 2016	2016/130
Section 34 in so far as not already in force	31 December 2016	2016/130
Section 35(1), (2), and (4)	1 December 2015	2015/382
Section 35(3)	1 July 2016	2016/130
Section 36	1 December 2015	2015/382
Section 37	1 July 2016	2016/130

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<i>Provision</i>	<i>Date of Commencement</i>	<i>S.S.I. No.</i>
Section 38	31 December 2016	2016/130
Section 39(1)	1 July 2016	2016/130
Section 39(2) and (3)	1 December 2015	2015/382
Section 40	1 December 2015	2015/382
Section 41	15 May 2017	2017/119
Section 42	30 September 2016	2016/132
Section 43-48	15 May 2017	2017/119
Section 50 and 51	15 May 2017	2017/119
Section 53 and 54	15 May 2017	2017/119
Section 55	30 September 2016	2016/132
Section 56 (partially)	1 December 2015	2015/382
Section 56 (partially)	15 May 2017	2017/119
Section 56 in so far as not already in force	20 December 2017	2017/424
Section 57 and 58	15 May 2017	2017/119
Section 59	29 June 2018	2018/102
Section 60	15 May 2017	2017/119
Section 62	15 May 2017	2017/119
Section 63	1 May 2017	2016/307
Section 64	1 November 2016	2016/307
Section 65(1), (2), (4) and (5)	1 December 2015	2015/382
Sections 66-69	1 September 2016	2016/85
Section 70(1) and (3) (partially)	1 December 2015	2015/382
Section 70 in so far as not already in force	1 September 2016	2016/85
Section 71	1 November 2016	2016/307
Section 72 (partially)	16 March 2016	2016/85
Section 72 in so far as not already in force	1 September 2016	2016/85
Section 73	1 December 2015	2015/382
Section 75	1 November 2016	2016/307
Section 76(1) and (3) (partially)	1 December 2015	2015/382
Section 77	1 May 2017	2016/307
Section 78	1 November 2016	2016/307
Section 79	1 December 2015	2015/382
Section 80(1) and (2) (partially)	1 December 2015	2015/382

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<i>Provision</i>	<i>Date of Commencement</i>	<i>S.S.I. No.</i>
Section 80 (so far as not already in force)	1 November 2016	2016/307
Section 81	1 November 2016	2016/307
Section 82	1 May 2017	2016/307
Section 83	1 November 2016	2016/307
Section 87 (partially)	31 December 2016	2016/130
Section 87 (partially)	15 May 2017	2017/119
Section 87 insofar as not already in force	20 December 2017	2017/424
Schedule 1	31 December 2016	2016/130
Schedule 2 part 1	31 December 2016	2016/130
Schedule 2 part 2 (except paragraph 4(2), (4) and (6))	15 May 2017	2017/119
Schedule 2 part 3	20 December 2017	2017/424