

EXECUTIVE NOTE

The Licensing (Transitional and Saving Provisions) (Scotland) Amendment Order 2007 - (S.S.I. 2007/ 573)

The above Order was made in exercise of the powers conferred by sections 145 and 146(2)(b) and (3) of the Licensing (Scotland) Act 2005. The Order is subject to negative resolution procedure.

Policy Objectives

The purpose of the Order is to amend the Licensing (Transitional and Saving Provision) (Scotland) Order 2007 which prescribes how the Licensing Boards are to undertake the change from the previous licensing regime as regulated by the Licensing (Scotland) Act 1976 to the regime prescribed by the 2005 Act.

The Order reduces the time period within which applicants for a 1976 Act licence must notify their application to proprietors in the same building. This removes the possibility that during transition such notification might not take place until the last day for the submission of objections to the Board.

The Order enables Licensing Boards during transition to consider late objections to licence applications under the 1976 Act (a provision already available to Licensing Boards for applications under the 2005 Act).

The Order simplifies the procedure for dealing with regular extensions and children's certificates during the transitional phase. It ensures that they are treated in the same manner no matter which type of licence they apply to and if awarded during the transitional period a regular extension or children's certificate will remain in force until 1 September 2009 when transition ends.

Finally, the Order amends article 19(3) of the main Order to make clear that certain transitional rights apply where a 2005 Act application seeks the same licensed hours as are presently authorised by a provisional licence (whether as originally granted or extended by virtue of specified provisions in the 1976 Act).

Consultation

The Scottish Government undertook a consultation on a draft of the Licensing (Transitional and Saving Provision) (Scotland) Order between October and December 2006. This included all local authorities in Scotland, all Licensing Boards, the key licensed trade associations and a range of other stakeholder groups. This Order arises from a continued dialogue with representatives of the trade, their legal representatives and Licensing Boards.

Financial Effects

The instrument has no financial implications for the Scottish Government. Costs will fall on Licensing Boards in respect of administering the applications for licences but these will be offset by fees received from applicants. Parliament has been invited to consider regulations which would set the level of fees payable under the Licensing (Scotland) Act 2005.

Criminal Justice Directorate
2007