EXECUTIVE NOTE

THE KNIFE DEALERS' (LICENCE CONDITIONS) ORDER 2009
SSI 2009/217

The above instrument is made in exercise of powers conferred on the Scottish Ministers by section 27C(1) and (2) of the Civic Government (Scotland) Act 1982.

Policy objectives

The Custodial Sentences and Weapons (Scotland) Act 2007 gave Ministers the power to establish a licensing scheme for knife dealers. In 2008 a consultation was conducted on draft orders on how the scheme should operate in practice. Following that consultation the draft orders were amended. The Knife Dealers' Licences (Licence Conditions) (Scotland) Order 2009 underpins the scheme and sets out the mandatory conditions that a licensing authority must attach to any knife dealers licence that is issued. The licensing authority may attach any other condition it deems appropriate to licences issued in its area, or to a particular licence.

The Scottish Government has not proposed extensive mandatory conditions that would apply to all licences issued in Scotland. In doing so it has acknowledged that what is appropriate for a premise in, for example, an area with a particular problem with violent incidents, may not be proportionate for an area, perhaps rural, where no such problems exist. Whilst CCTV may be deemed necessary for a shop that has been previously been associated with problems concerning the sale of knives, it would seem unreasonable to insist upon it for a responsibly managed establishment that caters mainly for legitimate country pursuits. The approach taken therefore allows local authorities to decide which conditions would be most appropriate for premises in their area.

However, the Scottish Government considers that the following should be minimum requirements for all licences and has therefore proposed them as mandatory conditions:

- Written records detailing the identity of the customer and how that was verified,

- Confirmation of how it was verified (where verification is necessary) that the customer was at least eighteen years old,

- Description of the article sold (or hired, offered or exposed for sale or hire, lent or given to the customer),

- Ensuring that any article or display of articles is not visible from the street or any public entrance to the premises,

- Displaying a notice that states the regulations around the minimum age of purchase.

- Retaining records for three years.

As additional conditions where the item involved is a sword,

- The dealer must take all reasonable steps to establish from the customer and confirm the intended use of any sword.
- Written records stating the enquiries made of the customer or other persons or bodies as to the intended use of any sword.

The additional conditions for swords will ensure that a dealer must satisfy themselves that a sword is being purchased for a legitimate reason. This may involve requiring inspection of a membership card for a society or a letter from a club official confirming the *bona fides* of an individual.

The Scottish Government believes that the mandatory conditions represent a framework that will make it more difficult for potentially deadly weapons to fall into the wrong hands and forms a basis that can be built upon by local licensing authorities in dealing with local circumstances and individual applications.

Regulatory Impact

A regulatory impact statement was conducted at the time of the passing of the Custodial Sentences and Weapons (Scotland) Act 2007. It has been updated in light of the regulations. We do not expect the mandatory conditions will themselves result in significant extra costs for business. There will be the burden of additional record keeping and possibly modification of window displays. However, if a licensing authority chooses to impose a requirement for a CCTV system or rigorous security requirements then the costs may be extensive, depending on the size of the premises concerned.

Financial Effects

There will be no cost to the Scottish Government. The cost to local authorities of administering the system, should be recouped through licensing fees.

Criminal Justice Directorate
May 2009