POLICY NOTE

THE PERSONAL LICENCE (TRAINING) (SCOTLAND) REGULATIONS 2013

SSI 2013/261

The above instrument was made in exercise of the powers conferred by sections 87 and 147(1) of the Licensing (Scotland) Act 2005(**1**) and all other powers enabling them to do so. The instrument is subject to negative procedure.

Policy Objectives

The Licensing (Scotland) Act 2005 requires those who authorise the sale of alcohol to possess a personal licence. All premises licence holders must possess a personal licence. The personal licence has effect, subject to conditions, for a period of ten years from the date on which it is issued.

The Licensing (Scotland) Act 2005 introduced mandatory training of personal licence holders at initial application and subsequently after 5 years (from herein the later training is referred to as 'refresher' training).

The holder of a personal licence must, no later than 3 months after the expiry of –
a) the period of five years beginning with the date on which the licence was issued, and
b) each subsequent period of 5 years during which the licence has effect

> *"produce to the Licensing Board which issued the licence evidence in the* **prescribed form** *of the licence holder's having complied, during that period, with such requirements as to the training of personal licence holders as may be* ***prescribed****" S87(1)* (my emphasis)

Secondary legislation is necessary to prescribe:-

- the form of evidence submitted to Licensing Boards by personal licence holders as proof that they have carried out the required refresher training; should be the Scottish Certificate for Personal Licence Holders (Refresher) SCQF Level 6 (either an original or a copy), name, address, date of birth, and licence number
- that 'requirements as to the training of personal licence holders' means a qualification (whether awarded within or outwith Scotland) which has been accredited for the purposes of that section by the Scottish Ministers

Consultation - developing refresher training course

There was wide ranging consultation on the creation of the refresher training.

The Government contractor, People 1st set up project steering groups, made up of representatives of the licensed trade, SQA accreditation, Alcohol Focus Scotland, representatives from both the on and off trade, awarding bodies and the Scottish Government.

(**1**) 2005 asp 16.

People 1st engaged with these groups as well as carrying out wider consultation work to determine the content of the refresher course. They then drafted a training specification and consulted on this before finalising the document.

This engagement was focused on the content of the refresher training course. The specific issue of the SSI - prescribing the form and accreditation process of the course would not suit consultation as they are very specialised and the Licensing (Scotland) Act 2005 prescribed what is suitable quite narrowly so there was little opportunity to consider other views. For these reasons, engagement was carried out directly with Boards and legal professionals as outlined below.

Consultation – secondary legislation

The following government agencies and departments have been involved in the preparation of this secondary legislation.

- Scottish Government, Criminal Law and Licensing Division
- Scottish Government Legal Directorate has provided advice on the legal issues raised in this consultation

The following Licensing Board clerks were engaged throughout the process, from the initial ideas-gathering phase, up to commenting on the draft SSI:-

- Aberdeenshire Licensing Board
- Renfrewshire Licensing Board
- Glasgow Licensing Board

A prominent licensing lawyer and blogger was involved throughout the process, and commented on the draft SSI

Impact Assessments

This SSI prescribes the content and form for a refresher of a pre-existing personal licence scheme. The refresher training does not created any new equality issues.

Financial Effects

A Business and Regulatory Impact Assessment (BRIA) has been completed and is attached. The Business and Regulatory Impact Assessment was signed off by colleagues in the Better Regulation team on 28 August 2013. The BRIA makes clear that administration of the refresher process will have short-term financial implications for Licensing Boards. However, the licensing fees regime is based on cost recovery so if a Board is making a deficit due to this process, in the long term they will be able to regain these finances through raising their fees.

There will be some costs for personal licence holders as training organisations are likely to charge around £90-£100 for this refresher course. Where Licensing Boards require the personal licence to be sent in there may also be some costs associated with registered post.

Despite these costs, the refresher training is required by the 2005 Act, will result in better trained personal licence holders with a greater understanding of up-to-date legislation and health impacts, and will create work for training organisations, awarding bodies and individual trainers.

Scottish Government
Criminal Law and Licensing Division
September 2013