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Our Ref: LS56/amcc/mmccg
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Dear Ian

**LICENSING (SCOTLAND) ACT 2005 - CONSULTATION ON DRAFT
REGULATIONS SETTING OUT A PROPOSED RELEVANT OFFENCES UNDER
THE ACT AND THE PROPOSED FORM OF STATEMENT OF REASONS**

The Licensing Law Sub-Committee of the Law Society of Scotland ("the Committee") welcomes the opportunity to comment upon the draft Regulations setting out the proposed relevant offences under the Act and the proposed form of Statement of Reasons. The Sub-Committee welcomes the contents of the draft Regulations but would like to make the following comments:

Relevant Offences

The Sub-Committee note that in terms of Section 73 and 74 of the Licensing Scotland Act 2005, the Board must hold a hearing for the purpose of considering and determining the application where the Chief Constable has responded to a Board by notice specifying convictions of the applicant in terms of Section 73. The Sub-Committee would highlight an error in paragraph 2 of the introductory notes where it states that a conviction of a relevant or foreign offence would make a person ineligible for a personal licence. This error was also highlighted by the Criminal Law Committee of the Law Society of Scotland. The Licensing Law Sub-Committee also considered whether it should be mandatory to have a hearing for any single conviction regardless of its nature or seriousness.

The Sub-Committee also were unsure as to why only convictions can be considered given the increased use of alternatives to prosecution by way of fixed penalties and fiscal fines. The Sub-Committee also considered the relevance of spent convictions and the question as to whether, given the historical problems at Boards with this emotive topic, it should be reflected on the face of the Regulations.



The issues with regard to alternatives to prosecution and spent convictions were also raised by the Criminal Law Committee of the Law Society of Scotland.

Statement of Reasons

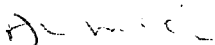
The Sub-Committee notes that, despite the requirement to issues reasons at present in terms of Section 18 of the Licensing Scotland Act 1976 for arriving at any decisions within 21 days of being required so to do, there have been occasions where Boards have failed so to do timeously. It is the Sub-Committee's position that the current Regulations should prescribe a maximum period of three weeks as it is of commercial importance to the trade and indeed to all concerned to have stated reasons for any decision of a Board within as short a timescale as is reasonably possible.

The Sub-Committee is content with the layout of the form but would state that a form should be prepared and sent electronically where possible, there should be no requirement to use the boxes but the order of information should be consistent and post codes should of course be included where possible.

At box 3 the details of the applicant's agent (if any), should be given, at box 5 the name and address of parties present and the details of the agents, where the applicant was represented, should be given, at box 8 a note of the number of Board members present, a statement of the quorum for that Board and a note of voting such as whether it was a unanimous vote, split vote or a vote which required a casting vote should also be given. At the end of the Statement of Reasons the name of the clerk or the person acting on behalf of the clerk should also be given as should the date the reasons were issued and the date the reasons were either posted or emailed to the applicant.

I trust that the above is of some assistance to you, but should you require to discuss any further, please do not hesitate to contact me.

Yours sincerely



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