

REPORT

To: CORPORATE SERVICES COMMITTEE		Subject: LICENSING OF KNIFE DEALERS	
From: HEAD OF LEGAL SERVICES			
Date: 21 August 2008	Ref: GBM/JM		

1. **PURPOSE OF REPORT**

1.1. The purpose of this report is to seek approval for a response to a consultation on the details of the new licensing regime for non-domestic knives which will commence on 1 September 2009. This timescale permits the consultation exercise to be conducted, the regulations to be considered by Parliament and to allow an appropriate period of applications to, and considered by, licensing authorities.

2. **BACKGROUND**

2.1. In 2005 the Scottish Executive issued the consultation document "Tackling Knife Crime". This document included the current proposals for licensing knife dealers. The response of that consultation have shaped the order which we are consulting on now by proposing, for example, the exceptions for professional teachers.

A copy of the Scottish Government publication "Licensing of Knife Dealers" is attached.

The period for applications for the requirement for licensing of knife dealers to hold a licence is expected to come into force from 1 September 2009.

3. **ISSUES FOR CONSIDERATION**

3.1. The Scottish Government have invited discussion and questions on the following issues pertaining to Licensing of Knife Dealers. Detailed below are the various consultation questions and proposed responses. Appropriate headings and narrations have also been provided.

3.2. **Timetable**

When should the new licensing regime come into force and when should applications for new licences be made?

The Scottish Government proposes that the new licensing regime should commence on 1 September 2009 but there should be an application phase commencing 1 March 2009 when applications must be made and determined by licensing authorities.

Consultation	July to October 2008
Licensing Boards able to receive applications	1 March 2009
Deadline for applications to be received in order to guarantee processing by 1 September	1 June 2009
Coming into force: dealers must hold licence	1 September 2009

Q. Is the proposed timetable appropriate?

A. The Council are of the opinion that the proposed timetable with regard to consultation and the coming into force of the new licence regime is adequate. The Council is of the view that the timescale specified allow for the process to be managed in a controlled manner.

The Council are of the view that the timescales specified allow for the process to be managed in a controlled manner.

4. **THE KNIFE DEALER'S LICENCES (LICENCE CONDITIONS) (SCOTLAND) ORDER 2008**

4.1. An order identifying the mandatory conditions that local authorities must attach to licences (including additional mandatory conditions for swords).

5. **LICENCE CONDITIONS**

5.1. Licences will be subject to such mandatory conditions as may be prescribed in regulations. We are currently consulting on a draft of the proposed regulations and we would welcome comments on what is proposed (see section 4). Additionally, licences will also be subject to such conditions that a Licensing Authority may attach.

6. **MANDATORY CONDITIONS**

6.1. The precise requirements will be very clear in the final terms of each licence issued. However all licences will include conditions that set out what records must be kept and how articles must be stored and displayed.

The records that we propose should be kept relate to establishing identity, proof of age and recording what was sold to the customer. We also propose that as a mandatory condition articles should not be displayed so that they are visible from the street or in any public entrance to the premises.

Q: Are the proposed mandatory conditions appropriate? Are there other conditions that should be mandatory?

A: The Council feel the proposed mandatory conditions strike a fair balance between ensuring proper recording takes place and not being unduly burdensome on the retailer. No other mandatory conditions are proposed..

7. **IDENTIFICATION**

7.1. It will be necessary in all cases to establish the age, identity and address of the customer. The draft order does not specify how these criteria must be established. However, we propose that one photographic form of identity such as a Passport, Driving Licence, or PASS card will be required and a second document to certify an address e.g. bank statement or utility bill.

Q. Should there be other forms of identification that should be permitted?

A: The Council are of the opinion that the proposed forms of identification are satisfactory and what is proposed and is in accordance with what established financial institutions like banks would ordinarily require.

8. RECORD KEEPING

8.1. Retailers should retain documentation that supports how they have handled a transaction. This should include a photocopy of the identity document presented by the purchaser. They will also have to record the detail of the article itself. The licence will specify what level of detail is required. This may include the dimensions, design and colour of the article or perhaps a photograph if the article isn't of a standard design listed in a brochure. Records will have to be retained.

Q: Are the proposals for record keeping appropriate?

A: The Council are of the opinion that the proposals for recordkeeping are appropriate and allow for accurate information to be provided in connection with any follow up enquiries by the enforcing authorities.

Q: For how long should these records be kept? We have suggested in the draft regulations that 12 months is an appropriate period but we would be grateful for views.

A: The Council are of the opinion that a period of 12 months is too short and that records of transactions should be kept for 5 years. The Council are of the view that matters requiring investigation may arise well after one year has elapsed and feel keeping records for up to 5 years is apposite.

9. THE KNIVES (FORFEITED PROPERTY) (SCOTLAND) ORDER 2008

9.1. An order governing the disposal of forfeited property.

9.2. Following a conviction for offences of dealing without a licence or failure to comply with licence conditions a forfeiture order may be made. Rights of third parties are protected by provisions which entitles owners of goods to recover them.

10. FEES

10.1. Licensing authorities will be able to set their own fees in accordance with paragraph 15 of schedule 1 to the Civic Government (Scotland) Act 1982 of the Civic Government (Scotland) Act 1982.

11. SWORDS – ADDITIONAL PROVISIONS

11.1. The provisions for licensing also apply to swords. More extensive restrictions on the sale of swords are available to the Government but this is still a matter that is under consideration. In anticipation of making an order under Section 141ZA of the Criminal Justice Act 1988 we have specified within the order conditions that dealers must retain written records that show the intended use of the sword is for an authorised purpose. This would tie in with section 61 of the 2007 Act, which allows the Scottish Ministers to provide for defences relating to the purpose for which the sword is to be used.

AUTHORISED PURPOSES

11.2. It will be necessary for the dealer to establish that the prospective purchaser will use a sword for one of the authorised purposes set out in the legislation. Acceptable evidence may include a membership card or a letter on headed paper from, for example, a relevant sporting organisation or re-enactment society.

Q. What other forms of evidence should be considered?

A. The Council are of the view that any form of evidence that purports to be from an official organisation should be an appropriate safeguard to ensure that the prospective purchaser will use a sword for one of the authorised purposes as specified in the legislation. The Council also feels that if a letter on headed paper from a relevant organisation/sporting organisation is produced it should be a requirement that the letter is signed by someone in authority and the signatory's position in the organisation should be specified in the letter.

12. RECORD KEEPING

12.1. As for knives it will be necessary for copies of documentation to be kept. For swords a copy of the proof that the transaction was for an authorised purpose will be also required to be retained.

Q. For how long should these records be kept. We have suggested in the draft regulations that 12 months is an appropriate period but we would be grateful for views.

A. The Council is of the view that a period of 12 months is too short and as already stated matters requiring investigation by the appropriate authorities may arise well after one year has elapsed and feel that requiring records to be kept for up to 5 years is appropriate. The Council does not feel that imposing a requirement that records be kept for up to 5 years should place an undue difficulty for the retailers concerned.

13. RECOMMENDATION

The Committee is asked to authorise a response to the consultation incorporating the comments narrated in this report.



Head of Legal Services

The Scottish Government

Publications

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Licensing of Knife Dealers: A Consultation

Page: [1] [2]

Description	A consultation on Scottish Government plans to introduce a system of licensing for knife dealers
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CUSTODIAL SENTENCES & WEAPONS (SCOTLAND) ACT 2007

LICENSING OF KNIFE DEALERS

A CONSULTATION

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Annex A - Respondee Information Form

1. Introduction

Policy Framework

1. Too many lives have been blighted by the 'booze and blade' culture that has taken root in many Scottish communities. The Scottish Government is determined to change that culture. People should not pick up a knife along with their wallet and mobile phone when they head out for the evening.
2. A number of steps have been taken in recent years to reduce incidences of knife crime. These have included an increase in the maximum sentence for possessing a knife from two years to four years; strengthening police powers of arrest and increasing the age at which a non-domestic knife can be purchased to 18. In addition the Violence Reduction Unit has conducted campaigns which have seen the Police working closely with partners to deliver tough enforcement measures. In October 2007 the police across Scotland searched over 14,000 individuals looking for weapons and over 500 knives and weapons were seized. Disposal bins were also placed in police stations and other areas and over 1500 knives and weapons were surrendered.
3. The creation of a system of knife dealer licensing is the latest in the range of measures to tackle the knife carrying culture and it seeks to limit the ease of access to these dangerous weapons and prevent them falling

into the wrong hands.

4. In 2005 the Scottish Executive issued the consultation document, 'Tackling Knife Crime'. This included the current proposals for licensing of knife dealers. The responses to that consultation have shaped the orders that we are consulting on now by proposing, for example, the exceptions for professional fencing teachers. A copy of the 2005 consultation and an analysis of the responses can be found on the Scottish Government Website.

<http://www.scotland.gov.uk/Publications/2005/06/27110147/01518>

<http://www.scotland.gov.uk/Publications/2005/11/30165358/53589>

Legal framework

5. The Custodial Sentences and Weapons (Scotland) Act 2007 was passed by the Scottish Parliament on 15 March 2007 and received Royal Assent on 19 April 2007. The Act amends the Civic Government (Scotland) Act 1982 and establishes a new licensing regime for knife dealers. This Act can be viewed at the Office of Public Sector Information (OPSI) website at the following address: -

http://www.opsi.gov.uk/legislation/scotland/acts2007/asp_20070017_en_1

6. Part 3 of the Act puts in place new restrictions on the sale of swords and non-domestic knives. These provisions are key parts of the Government's reform of knife crime law and are a vital component of a wider package of measures designed to tackle knife crime and violence more generally.

7. Specifically Part 3 of the Act establishes a new licensing regime for those dealing in non-domestic knives.

8. Prior to full implementation of the new licensing regime, the Government needs to put in place a number of procedural matters which will enable those persons affected by such a regime to apply for their licences and for licensing authorities to manage that administrative process.

9. In Order to facilitate this process, the Custodial Sentences and Weapons (Scotland) Act 2007 (Commencement No. 1) Order 2007 (SSI 2007/431) brought into force certain Order making powers for Scottish Ministers in section 58 of the Act on 1 November 2007, on which we are now seeking comments.

10. Those provisions are: -

Section 27A(7) of the Civic Government (Scotland) Act 1982, which allows the Scottish Ministers to modify the articles that fall within the scope of the licensing scheme;

Section 27A(8), which allows the Scottish Ministers to modify the definition of "dealer" for the purposes of the licensing scheme, and specify descriptions of activity that are not to be taken to be business activities for the purposes of the scheme;

Section 27C(1)(a), which allows the Scottish Ministers to specify conditions that must be attached to a knife dealer's licence; and

Section 27K(7), which allows the Scottish Ministers to make provision in connection with the disposal of property forfeited under a forfeiture order in certain circumstances

11. The Orders referred to above are set out in the following sections of this consultation document. The provisions of section 27A(7) and (8) are combined in one Order. We have set out below a short summary of what each Order will do.

12. It is expected that the new licensing regime for non-domestic knives will be commenced on 1 September 2009. This timescale permits the consultation exercise to be conducted, the regulations to be considered by Parliament and to allow an appropriate period for applications to be submitted to, and considered by, licensing authorities..

13. The period for applications is required prior to the requirement for dealers to hold a licence coming into

force from 1 September 2009. We are therefore proposing that applications should be made after 1 March 2009.

14. We have invited views on this timetable below.

Discussion and Questions

When should the new licensing regime come into force & when should applications for the new licences be made?

15. The Scottish Government proposes that the new licensing regime should commence on 1 September 2009 but there should be an application phase commencing 1 March 2009 when applications must be made and determined by licensing authorities.

Consultation	July to October 2008
Licensing Boards able to receive applications	1 March 2009
Deadline for applications to be received in order to guarantee processing by 1 September	1 June 2009
Coming into force: dealers must hold license	1 September 2009

Q. Is the proposed timetable appropriate?

The Knife Dealers' Licences (Exceptions) Order 2008

16. An order identifying articles and businesses that are exempt from the requirement for licensing.

Articles which fall within scope of licensing regime

17. The order provides that certain articles should be exempt from the requirements of the licensing scheme. These are folding pocket knives, kirpans; and skean dubhs but only where the article's blade does not exceed 8.91 centimetres (3.5 inches) in length.

18. This reflects the current law on carrying knives in public which provides a specific exception for penknives of this size and provides defences in law for knives carried for religious reasons or as part of national costume. Dealers who wish to sell larger versions of these knives will however require a licence.

Activities not requiring a licence

19. The order also provides that certain activities will be exempt. These are where a person (A) is teaching or training another person (B) the sport of fencing, the hiring, lending or giving of fencing weapons by A to B [but only where A is a professional who is qualified to teach or train B in the sport]

The Knife Dealers' Licences (Licence Conditions) (Scotland) Order 2008

20. An order identifying the mandatory conditions that local authorities must attach to licenses (including additional mandatory conditions for swords).

Licence conditions

21. Licences will be subject to such mandatory conditions as may be prescribed in regulations. We are currently consulting on a draft of the proposed regulations and we would welcome comments on what is proposed (see section 4). Additionally, licences will also be subject to such conditions that a Licensing authority may attach.

Mandatory conditions

22. The precise requirements will be very clear in the final terms of each license issued. However all licenses will include conditions that set out what records must be kept and how articles must be stored and displayed.

The records that we propose should be kept relate to establishing identity, proof of age and recording what was sold to the customer. We also propose that that as a mandatory condition articles should not be displayed so that they are visible from the street or in any public entrance to the premises.

Q. Are the proposed mandatory conditions appropriate? Are there other conditions that should be mandatory?

23. It will be necessary in all cases to establish the age, identity and address of the customer. The draft order does not specify how these criteria must be established. However we propose that one photographic form of identity such as a Passport, Driving Licence or PASS card will be required and a second document to verify an address e.g. bank statement or utility bill.

Q. Should there be other forms of identification that should be permitted?

24. Retailers should retain documentation that supports how they have handled a transaction. This should include a photocopy of the identity document presented by the purchaser. They will also have to record the detail of the article itself. The license will specify what level of detail is required. This may include the dimensions, design and colour of the article or perhaps a photograph if the article isn't of a standard design listed in a brochure. Records will have to be retained.

Q. Are the proposals for record keeping appropriate?

Q. For how long should these records be kept? We have suggested in the draft regulations that 12 months is an appropriate period but we would be grateful for views.

Local authority requirements

25. In addition to the mandatory requirements licensing authorities can set requirements that will apply only to an area or an individual licence. Some examples of the different types of conditions that might be considered are set out below.

26. As a condition of a licence it may be specified that articles should be kept in a locked cabinet. It might also be specified that a display of articles is prohibited or that they should not be visible at all i.e. articles should be produced on request only. Or appropriate displays may be allowed provided articles are kept more securely overnight. It could be required that premises should be equipped with CCTV cameras that would identify a customer and these recordings should be kept.

Should there be a requirement for a burglar alarm?

Should the licence require to specify the quality of locks/Metal shutters?

Should the license specify the packaging requirements for swords and non-domestic knives sold by mail or otherwise?

The Knives (Forfeited Property) (Scotland) Order 2008

27. An order governing the disposal of forfeited property.

28. Following a conviction for offences of dealing without a licence or failure to comply with licence conditions a forfeiture order may be made. Rights of third parties are protected by provisions which entitles owners of goods to recover them.

Fees

29. Licensing authorities will be able to set their own fees in accordance with paragraph 15 of schedule 1 to the Civic Government (Scotland) Act 1982 of the Civic Government (Scotland) Act 1982

Swords-Additional Provisions

30. The provisions for licensing also apply to swords. More extensive restrictions on the sale of swords are available to the Government but this is still a matter that is under consideration. In anticipation of making an

order under section 141ZA of the Criminal Justice Act 1988 we have specified within the order conditions that dealers must retain written records that show the intended use of the sword is for an authorised purpose. This would tie in with section 61 of the 2007 Act, which allows the Scottish Ministers to provide for defences relating to the purpose for which the sword is to be used.

Authorised purposes

31. It will be necessary for the dealer to establish that the prospective purchaser will use a sword for one the authorised purposes set out in the legislation. Acceptable evidence may include a membership card or a letter on headed paper from, for example, a relevant sporting organisation or re-enactment society.

Q. What other forms of evidence should be considered?

Record keeping

32. As for knives it will be necessary for copies of documentation to be kept. For swords a copy of the proof that the transaction was for an authorised purpose will also require to be retained.

Q. For how long should these records be kept? We have suggested in the draft regulations that 12 months is an appropriate period but we would be grateful for views.

What will the application form look like?

33. Schedule 1 of the Civic Government (Scotland) Act 1982 will apply. This will allow local authorities discretion with regard to the form, manner and procedure for applications for knife dealers' licences. The Scottish Government does not intend to provide guidance in this area.

Next Steps

34. This consultation closes on 22 October 2008. Following this the responses will be considered by Ministers. It is then proposed that regulations will be laid before Parliament and will be brought into force later this year.

2. Invitation to comment

35. You are invited to submit your comments on the draft regulations set out in this consultation paper.

Responding to this consultation paper

36. We are inviting written responses to this consultation paper by: **Wednesday 22 October 2008.**

Please send your response to:

by email: KnifeCrimeConsultation@scotland.gsi.gov.uk

in writing: Criminal Law & Licensing Division

Criminal Justice Directorate

Scottish Government

GW.14

St Andrews House

Edinburgh EH1 3DG

If you have any queries contact Walter Drummond-Murray on **0131 244 4222.**

37. I would also ask that you complete and submit the attached respondent information form provided at **Annex A** when responding to this consultation.

38. This consultation, and all other Scottish Government consultation exercises, can be viewed online on the consultation web pages of the Scottish Government website at <http://www.scotland.gov.uk/consultations/seconsult.aspx>. You can Freephone 0800 77 1234 to find out your nearest public internet access point.

39. The Scottish Government now has an email alert system for consultations (**SEconsult**: <http://www.scotland.gov.uk/consultations/seconsult.aspx>). This system allows stakeholder individuals and organisations to register and receive a weekly email containing details of all new consultations (including web links). **SEconsult** complements, but in no way replaces SE distribution lists, and is designed to allow stakeholders to keep up to date with all SE consultation activity, and therefore be alerted at the earliest opportunity to those of most interest. We would encourage you to register.

Handling your response

40. We need to know how you wish your response to be handled and, in particular, whether you are happy for your response to be made public. Please complete and return the **Respondent Information Form** enclosed with this consultation paper as this will ensure that we treat your response appropriately. If you ask for your response not to be published we will regard it as confidential, and we will treat it accordingly.

41. All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

Next steps in the process

42. Where respondents have given permission for their response to be made public, these will be made available to the public in the Scottish Government Library and on the Scottish Government consultation web pages. We will check all responses where agreement to publish has been given for any potentially defamatory material before logging them in the library or placing them on the website. You can make arrangements to view responses by contacting the SE Library on 0131 244 4565. Responses can be copied and sent to you, but a charge may be made for this service.

Comments and complaints

43. If you have any comments about how this consultation exercise has been conducted, please send them to:

Name: **Walter Drummond-Murray**

Address: **Criminal Law & Licensing Division**

Criminal Justice Directorate

Scottish Government

GW.14

St Andrews House

Edinburgh EH1 3DG

E-mail: walter.drummond-murray@scotland.gsi.gov.uk

3. The Knife Dealers' Licences (Exceptions) Order 2008

2008 No.

LICENCES AND LICENSING

criminal law

The Knife Dealers' Licences (Exceptions) Order 2008

Made - - - - 2008

Laid before the Scottish Parliament 2008

Coming into force 2009

The Scottish Ministers make the following Order in exercise of the powers conferred by section 27A(7) and 27A (8)([1]) of the Civic Government (Scotland) Act 1982([2]) and all other powers enabling them to do so.

Citation and interpretation

1. This Order may be cited as the Knife Dealers' Licences (Exceptions) Order 2007.

2. The words and phrases below have the following meaning in this Order:

"fencing weapons" means the categories of blunted competition swords known as foil, épée and sabre;

"kirpan" means a ceremonial curved dagger worn by Sikhs in observance of their religious duties;

"skean dubh" means an ornamental dagger which is ordinarily worn thrust into the stocking as part of Scottish national costume;

"The 1982 Act" means the Civic Government (Scotland) Act 1982.

Exceptions to the list of articles under section 27A(2)

3. The following classes of articles are removed from the list of articles under section 27A(2) of the 1982 Act but only where the article's blade does not exceed 8.91 centimetres (3.5 inches) in length:

(a) folding pocket knives;

(b) kirpans; and

(c) skean dubhs.

Exceptions to the meaning of business under section 27A(4)

4. Where a person (A) is teaching or training another person (B) the sport of fencing, the hiring, lending or giving of fencing weapons by A to B is not to be taken to be a business for the purposes of section 27A(4) of the 1982 Act but only where A is a professional who is qualified to teach or train B in the sport.

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St Andrew's House,

Edinburgh

2008

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes exceptions to the requirement for a knife dealer's licence under section 27A of the Civic Government (Scotland) Act 1982

Article 3 specifies the classes of article which are to be excepted from the list of articles under section 27A(2) of the 1982 Act. The classes of article to be removed are folding pocket knives, kirpans and skean dubhs. Article 3 applies only where the article's blade does not exceed 3.5 inches (8.91 centimetres) in length.

Article 4 specifies the exceptions to the meaning of business under section 27A(4) of the 1982 Act. Where a person (A) is teaching or training another person (B) in the sport of fencing, the hiring, lending or giving of fencing weapons by A to B is not to be taken to be a business for the purposes of section 27A(4) of the 1982 Act.

4. The Knife Dealers' Licences (Licence Conditions) (Scotland) Order 2008

2008 No.

LICENCES AND LICENSING

criminal law

The Knife Dealers' Licences (Licence Conditions) (Scotland) Order 2008

Made - - - -

Laid before the Scottish Parliament

Coming into force - -

The Scottish Ministers make the following Order in exercise of the powers conferred by section 27C(1) and (2) ([3]) of the Civic Government (Scotland) Act 1982 and all other powers enabling them to do so.

Citation and commencement

1. This Order may be cited as the Knife Dealers' Licences (Licence Conditions) (Scotland) Order 2007 and comes into force on [date].

Interpretation

2. In this Order:

"customer" means a person who buys, hires, borrows or otherwise acquires any article listed in section 27A(2) of the Civic Government (Scotland) Act 1982([4]) in a transaction with a dealer;

Mandatory conditions for all knife dealers' licences

3.- (1) In granting or renewing a knife dealer's licence, a licensing authority must attach to the licence the mandatory conditions as specified in paragraphs (2) and (3).

(2) A condition that the dealer must make and retain (for a period of at least 12 months) detailed written records of the following information-

(a) the identity of the customer and the means by which the customer's identity was verified;

(b) proof that the customer was at least eighteen years of age at the time of the transaction and the means by which the customer's age was verified; and

(c) a full description of the article sold, hired, offered or exposed for sale or hire, lent or given to the customer.

(3) The dealer must ensure that any article or display of articles is not visible from the street or any public

entrance to the premises.

Mandatory additional conditions for swords

4.- In addition to the conditions specified in article 3, a licensing authority must attach to the licence the additional mandatory conditions in paragraphs (2) and (3) where the article bought, hired, borrowed or otherwise acquired is a sword.

(2) The dealer must take all reasonable steps to establish from the customer and confirm the intended use of any sword.

(3) The dealer must make and retain (for a period of at least 12 months) detailed written records of the following information:-

(a) the enquiries made of the customer or other persons or bodies as to the intended use of any sword;

(b) confirmation and the reasons for the dealer's view that the intended use of the sword is for a purpose authorised by Scottish Ministers under section 141ZA of the Criminal Justice Act 1988 ([5]); and

(c) the steps taken to establish the information in paragraph (2).

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St Andrew's House,

Edinburgh

2008

EXPLANATORY NOTE

(This note is not part of the Order)

This Order requires local authorities to attach mandatory conditions to knife dealers' licences granted or renewed under section 27C of the Civic Government (Scotland) Act 1982.

Article 3 specifies the mandatory conditions that must be attached to all knife dealers' licences granted or renewed by a local authority. These are the identity of the customer and the means by which the customer's identity was verified; proof that the customer was at least eighteen years of age at the time of the transaction and the means by which the customer's age was established; and a full description of the article which was sold, hired, offered or exposed for sale or hire, lent or given to the customer.

Article 4 requires local authorities to attach additional mandatory conditions to a licence where a sword is sold, hired, offered or exposed for sale or hire, lent or given to the customer . These are that a knife dealer must take all reasonable steps to establish from the customer and confirm the use of any sword; and that the knife dealer must make and retain for a period of at least 12 months the enquiries made of the customer as to the intended use of the sword; confirmation and reasons for the dealer's view that the intended use of the sword is for a purpose authorised by the Scottish Ministers under section 141ZA of the Criminal Justice Act 1988; and the steps taken to establish the intended use.

5. The Knives (Forfeited Property) (Scotland) Order 2008

2008 No

CRIMINAL LAW

The Knives (Forfeited Property) (Scotland) Order 2008

Made.....2008

Laid before the Parliament.....2008

Coming into force.....2009

The Scottish Ministers make the following Order in exercise of the powers conferred by the section 27K of the Civic Government (Scotland) Act 1982 [6] and all other powers enabling them to do so.

Citation and Commencement

1. This Order may be cited as the Knives (Forfeited Property) (Scotland) Order 2008 and comes into force on []

Interpretation

2. In this Order-

"museum or similar institution" means any institution which has as its purpose, or one of its purposes, the preservation and display of material of historical, aesthetic or technical interest to which the public are given access.

"the relevant authority" means a police authority or a joint police board (constituted under an amalgamation scheme made under the Police (Scotland) Act 1967 [7].

"the 1982 Act" means the Civic Government (Scotland) Act 1982.

Property to which this Order applies

3.- (1) Subject to paragraph (2) below, this Order applies to property that is in the possession of the police by virtue of a forfeiture order under section 27J of the 1982 Act and in respect of which-

(a) no application under section 27K(3) of the 1982 Act has been made before the end of the period of 6 months beginning with the date on which the forfeiture order was made; or

(b) no such application has succeeded.

(2) Where, within the period specified in paragraph (1) above, an application by a claimant of the property has been made under section 27K(3) of the 1982 Act or the person upon whose conviction the court ordered the forfeiture of the property under section 27J of that Act has appealed against the conviction or sentence, this Order will not apply to the property until that application or appeal has been determined.

Disposal of Property

4.- (1) Subject to paragraph (2) below, property to which this Order applies must be destroyed.

(2) Where the relevant authority are satisfied that property to which this Order applies which would otherwise fall to be destroyed is of particular rarity, aesthetic quality or technical or historical interest, they may, instead of arranging for its destruction, give or sell it to a museum or similar institution.

(3) The proceeds of disposals under this Order (if any) are to be paid to, and will vest in, the relevant authority.

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St Andrew's House,

Edinburgh

2008

ANNEX A

RESPONDENT INFORMATION FORM: CUSTODIAL SENTENCES & WEAPONS (SCOTLAND) ACT 2007 LICENSING OF KNIFE DEALERS- A CONSULTATION

44. Please complete the details below and return it with your response. This will help ensure we handle your response appropriately. Thank you for your help.

Name:

Postal Address:

Are you responding: PLEASE TICK

as an individual go to Q2a/b and then Q4

on behalf of a group/organisation go to Q3 and then Q4

INDIVIDUALS

45. 2a. Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government website)?

Yes (go to 2b below)

No, not at all We will treat your response as confidential

2b. Where confidentiality is not requested, we will make your response available to the public on the following basis (**please tick**)

Yes, make my response, name and address all available

Yes, make my response available, but not my name or address

Yes, make my response and name available, but not my address

ON BEHALF OF GROUPS OR ORGANISATIONS:

The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government website). Are you also content for your **response** to be made available?

Yes

No We will treat your response as confidential

SHARING RESPONSES/FUTURE ENGAGEMENT

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for the Scottish Government to contact you again in the future in relation to this consultation response?

Yes

No

THE SCOTTISH GOVERNMENT CONSULTATION PROCESS

46. Consultation is an essential and important aspect of Scottish Government working methods. Given the wide-ranging areas of work of the Scottish Government, there are many varied types of consultation. However, in general, Scottish Government consultation exercises aim to provide opportunities for all those who wish to express their opinions on a proposed area of work to do so in ways which will inform and enhance that work.

47. The Scottish Government encourages consultation that is thorough, effective and appropriate to the issue under consideration and the nature of the target audience. Consultation exercises take account of a wide range of factors, and no two exercises are likely to be the same.

48. Typically Scottish Government consultations involve a written paper inviting answers to specific questions or more general views about the material presented. Written papers are distributed to organisations and individuals with an interest in the issue, and they are also placed on the Scottish Government web site enabling a wider audience to access the paper and submit their responses [8]. Consultation exercises may also involve seeking views in a number of different ways, such as through public meetings, focus groups or questionnaire exercises. Copies of all the written responses received to a consultation exercise (except those where the individual or organisation requested confidentiality) are placed in the Scottish Government library at Saughton House, Edinburgh (K Spur, Saughton House, Broomhouse Drive, Edinburgh, EH11 3XD, telephone 0131 244 4565).

49. All Scottish Government consultation papers and related publications (eg, analysis of response reports) can be accessed at: [Scottish Government consultations \(http://www.scotland.gov.uk/consultations\)](http://www.scotland.gov.uk/consultations)

50. The views and suggestions detailed in consultation responses are analysed and used as part of the decision making process, along with a range of other available information and evidence. Depending on the nature of the consultation exercise the responses received may:

indicate the need for policy development or review

inform the development of a particular policy

help decisions to be made between alternative policy proposals

be used to finalise legislation before it is implemented

51. Final decisions on the issues under consideration will also take account of a range of other factors, including other available information and research evidence.

52. While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.

([1]) Inserted by s.58 of the [Custodial Sentences and Weapons \(Scotland\) Act 2007](#).

([2]) 1982 c.45.

(1) 1982 c.45. Section 27C was inserted by section 58 of the [Custodial Sentences and Weapons \(Scotland\) Act 2007](#)

(2) Section 27A was inserted by section 58 of the [Custodial Sentences and Weapons \(Scotland\) Act 2007](#)

([5]) 1988 c.33 Section 141ZA was inserted by section 61(2) of the [Custodial Sentences and Weapons \(Scotland\) Act 2007](#) asp 17.

[6] Section 27K was inserted by section 58 of the [Custodial Sentences and Weapons Act \(Scotland\) 2007](#) (asp 17)

[7] 1967 c.77