

Proposals for Licensing Air Weapons in Scotland

**A Consultation Paper
December 2012**

PROPOSALS FOR LICENSING AIR WEAPONS IN SCOTLAND

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MINISTERIAL FOREWORD

Since we took office in May 2007, this administration has consistently urged the UK Government to review all firearms legislation, or to devolve responsibility for firearms to the Scottish Parliament. In particular, Ministers have pressed the UK Government to devolve responsibility for air weapons, in line with Recommendation 5.13 of the Calman Commission, which [reported](#) in June 2009. It is only now, with recently secured powers through the Scotland Act 2012, that the Scottish Government is able to legislate on air weapons.



I am keen to make Scotland Safer and Stronger, and the statistics published on firearms offences earlier this month show that we are making good progress. Recorded offences involving firearms in 2011-12 have fallen by 21 per cent compared to last year and are now at a 34 year low. Air weapons offences have fallen 17 per cent; 195 air weapons offences were recorded last year, compared to 234 in 2010-11. I believe that these continuing reductions are due to the hard work of the police and also the Scottish Government's award winning firearms campaign which ran in summer 2009 and highlighted the dangers of air weapons.

But we cannot be complacent. We do not intend to ban air weapons outright, but I do not think that it is appropriate in our modern Scotland that there can be up to half a million unregistered, uncontrolled and often forgotten firearms in circulation. Our aim is to ensure that only those people with a legitimate reason for owning and using an airgun should have access to them in the future, and that they are properly licensed and accounted for.

In preparing the options set out in this consultation paper I have been very grateful for the expert advice and recommendations made by the Scottish Firearms Consultative Panel. We have not always agreed on the issues, but their expertise, hard work and candour have been invaluable in putting this paper together.

I look forward to hearing your views as we address these historic recommendations.

INTRODUCTION AND BACKGROUND

Introduction

1. The Scottish Government is seeking views on ways to regulate air weapons. Principally, we want to protect the people of Scotland from the problem of inappropriate and unsafe airgun use. The SNP Manifesto for the 2011 Scottish Parliament election stated:

“We welcome proposals in the Scotland Bill to devolve competence for air weapons to the Scottish Parliament which should be used to create a licensing regime for all airguns so that only those with legitimate reason, such as sport or pest control, will be able to own an airgun. We hope that this is a first step leading to the devolution of responsibility for all firearms legislation. With complete powers we could replace the current confusing array of firearms laws with a single all-encompassing Act to provide clarity for the police and improve public safety”.

Background

2. Current firearms legislation is reserved to the UK Parliament. The Firearms Act 1968 has been amended and extended over 40 years and it is confusing, difficult to enforce and to understand. There is a need to start again – to produce an unambiguous, modern and enforceable system that protects the people of Scotland. The Scottish Government has argued for complete devolution of the firearms legislation, not just air weapons, and has been pressing the Home Office regularly for the powers to address firearms issues in Scotland properly.

3. The Calman Commission recommended that powers on air weapons be devolved to Scotland and this was taken forward through the Scotland Act 2012 at Westminster.

4. The Scotland Act received Royal Assent on 1 May 2012, giving the power to legislate on air weapons to the Scottish Parliament. Section 10 of the Scotland Act includes provision to devolve responsibility for most air weapons. In advance of this devolution of powers we established the Scottish Firearms Consultative Panel. The Panel has examined the practicalities of licensing air weapons and has advised on the development and implementation of a new licensing regime.

Scottish Government proposals

5. Our intention has never been to have a “blanket ban” of air weapons. There are legitimate reasons to possess an air weapon and, whilst our primary concern is for public safety, we do not wish to penalise those who use air weapons responsibly. We aim to introduce a system of licensing and regulation which recognises the need to protect and reassure the public, but

which is proportionate, transparent and practicable for regulators and users alike.

Who would the proposed changes apply to?

6. Anyone who owns, or wishes to own an air weapon would be required to apply for an air weapon certificate.

What is included in this consultation?

7. This paper will highlight the Scottish Government's current thinking and will ask questions as and when appropriate. Although there will be specific questions where we are seeking responses, more general comments are welcomed.

8. The main topics on which we seek comments are:

- the types of air weapon to be covered by the new regime;
- legitimate reasons for possession of an air weapon;
- where shooting with air weapons should take place;
- the application process for air weapon certificates;
- age limits for air weapon use;
- a fee to cover licensing administration and other costs;
- visitor permits;
- a possible lead-in period to allow those who currently hold air weapons either to license them, or to hand them in to the police;
- offences and penalties; and
- communications strategy.

9. The overall aim of this paper is to explore and establish the main principles of the new licensing regime. Detailed arrangements such as the format of air weapons certificates, or the tariff of fees to be charged on applications will be the subject of further consideration and, in some cases, consultation.

Duration of Consultation

10. This consultation is for a period of 13 weeks, with responses due by Friday 15 March 2013. Responses must be accompanied by a completed Respondent Information Form (see Annex C) and should be sent to:

AirWeaponLicensing@Scotland.gsi.gov.uk, or

Police Powers Unit
Safer Communities Directorate
Scottish Government
1WR, St. Andrew's House
Regent Road
Edinburgh
EH1 3DG

SCOTTISH FIREARMS CONSULTATIVE PANEL (SFCP)

11. In November 2011 the Cabinet Secretary for Justice convened the Scottish Firearms Consultative Panel (SFCP) to discuss and advise on developing a new licensing system for air weapons in Scotland. The Panel agreed the following Remit and Terms of Reference.

Remit

In light of the Scottish Government's commitment to introduce a new licensing regime for air weapons in Scotland, to advise on the development and implementation of a new system.

The Group will be chaired by the Scottish Government and is expected to meet every six to eight weeks until its tasks have been discharged. The first meeting of the group will be held on 29 November 2011. The Group may wish to establish sub-groups to consider and report back on detailed or specialist areas of work.

Terms of Reference

The Scottish Firearms Consultative Panel would have a number of main tasks including:

- to examine and advise on the practical aspects of licensing air weapons, taking into account wider developments such as policing structures post-reform;
- to consider the value of piloting a scheme before roll-out and to consider the scope and terms of such a pilot; and
- to consider how licensing air weapons fits into wider firearms controls.

In addition to these main areas, the Panel will consider detailed issues including:

- legitimate reasons for possession of an air weapon;
- competence or awareness of safety in handling air weapons;
- confirmation by a medical professional of the suitability of a licence holder;
- cross-border issues;
- timescales for the introduction of the new systems;
- a possible lead-in period to allow those who currently hold air weapons either to license them free of charge, or to hand them in to the police; and
- a licence fee to cover administration and other costs.

Membership

Police / Association of Chief Police Officers in Scotland / Scottish Police Services Authority
Crown Office and Procurator Fiscal Service
British Association for Shooting and Conservation
Scottish Target Shooting Federation
Gun Trade Association
British Shooting Sports Council
Scottish Air Rifle and Pistol Association
Gun Control Network
Scottish Community Safety Network
Convention of Scottish Local Authorities
Scottish Government

Core Principles

12. In the course of its discussions the Panel highlighted the complexities involved in establishing a new licensing regime. However, the following core principles had broad agreement across the Panel:

- Responsibility for air weapon licensing administration and enforcement should rest with the chief officer of police for the area in which the applicant or certificate holder resides.
- Processes, arrangements and considerations around the suitability of air weapons owners and users should mirror, as far as practicable, the criteria currently applied to firearms/shotguns generally.
- A single air weapons certificate should cover all such weapons held by an individual. This broadly mirrors the approach taken on shotgun certification.
- Certificates would not include information or restrictions on ammunition held - although some further consideration may be needed for certain types of ammunition such as darts.
- As with firearms and shotguns, powers to refuse or revoke certificates in individual cases are an essential sanction that must be open to the police, for example, in cases when persons are deemed unsuitable, or where insufficient good reason for holding an air weapon exists.
- The application process and the possession of a certificate, and the ownership and use of air weapons should place legal responsibilities on the individual concerned, for which contravention constitutes a criminal offence attracting appropriate sanctions.
- Applicants for a certificate for air weapons would not be required to undergo detailed, duplicate checks if they already possess a firearm or shotgun certificate.
- An application for an air weapons certificate should be accompanied by a fee, payable to the chief officer of police.

LEGISLATIVE POSITION

13. The exact timing and detail of the proposed changes have yet to be established, and will have to take account of the many pressures on the legislative timetable in the Scottish Parliament.

14. It is most likely that a new “enabling” Bill will be laid in the Scottish Parliament. This could be a stand alone Bill, or part of a wider Bill covering similar issues across the Justice portfolio. Secondary legislation would then be introduced setting out the detail of the new procedures, fees, offences etc.

15. It is likely that new legislation and systems for air weapons licensing in Scotland will have to operate alongside the existing British firearms licensing arrangements, at least for the foreseeable future. It therefore makes sense to develop systems which mirror, as far as possible, the existing legislative structures, processes and controls on firearms to ensure consistency and clarity. This does not, of course, preclude “improving” on existing systems where that makes sense, or where Ministers wish to make specific changes.

DEFINING AN AIR WEAPON

16. The question of how to define an air weapon for the purposes of the licensing regime is a difficult one. Although the capability of a firearm to inflict a lethal injury is not strictly defined in law, the definition provided by Moore v Gooderham 1960 is generally accepted: “if it is capable of causing more than trifling and trivial injury when misused then it is a weapon which is capable of causing injury from which death may occur”. Only a court, however, can provide a definite ruling on how trivial an injury may be.

17. For an air weapon (including CO₂ powered items) to be covered by the proposed legislation it would need to fall within the definition of a firearm, i.e.:

“A lethal barrelled weapon of any description...” (Section 57, Firearms Act 1968) - but not be sufficiently powerful to be deemed “specially dangerous” under the Firearms (Dangerous Air Weapons)(Scotland) Rules 1969.”

18. The Panel considered that the new legislation should as far as possible adopt the existing, widely recognised technical and legislative definitions for air weapons. In general terms this would mean adopting the industry recognised definition of an air weapon as one which is capable of producing a kinetic energy between 0.7 foot pounds (1 joule) and 6 ft/lbs in the case of an air pistol, or 12 foot pounds in the case of an air weapon other than an air pistol.

19. At the lower end of the scale, throughout the UK any barrelled weapon producing a „muzzle energy” below 1 joule (approximately 0.7 ft/lbs) is considered to lack the capability to cause more than a trivial injury and should

not therefore be classified as a firearm. This limit can be blurred, however, by items that are capable of discharging darts which due to their nature are capable of penetrating a vulnerable part of the body at lower velocities and energies.

20. In general terms we do not propose to legislate for, or include, very low powered air weapons, “BB guns” or paintball or Airsoft guns within the new regime. Under normal use such weapons are unlikely to prove lethal or pose any significant threat. In line with current practice, provided paintball guns are limited to registered, insured clubs further licensing should not be required. The misuse of paintball guns, i.e. through the firing of non-standard ammunition is already illegal under existing legislation.

21. High powered air weapons are defined by the Firearms (Dangerous Air Weapons) Rules 1969 or the Firearms (Dangerous Air Weapons) (Scotland) Rules 1969. The Rules provide that any air weapon is “specially dangerous” if it is capable of discharging a missile so that the missile has, on being discharged from the muzzle of the weapon, kinetic energy in excess, in the case of an air pistol, of 6 foot lbs or, in the case of an air weapon other than an air pistol, 12 foot pounds. These are covered under Section 5 of the Firearms Act 1968 and will continue to be so. The Scotland Act did not devolve responsibility for these weapons which are considered to be “specially dangerous”, as defined by the Home Secretary.

Question 1: Do you agree with the proposed types of weapons to be covered by the new regime?

Question 2: Should any other weapons be covered?

Ammunition

22. We do not propose that the licensing regime should cover ammunition. Pellets and other ammunition for air weapons are relatively cheap and may be purchased in large quantities. Attempting to regulate this is neither practicable nor effective.

Question 3: Is there any type of air weapon ammunition which should be covered?

LEGITIMATE USE

23. Ministers have made it clear that they do not wish to ban air weapons outright or to affect the rights of “legitimate users”, but there is a clear policy imperative to restrict the casual and unnecessary ownership and use of potentially lethal weapons in Scotland. There is no “right to bear arms” in modern Scotland. For those weapons which are needed we should seek to implement proper, proportionate controls over them.

24. Given this, the Scottish Government has been exploring with advisers and members of the Consultative Panel the options for setting out a “good reason” test in the proposed legislation. Typically, “good reasons” to possess an air weapon might include uses such as pest control, target shooting or firearms collecting. This does not seek to be an exclusive list. The legislation could be supported by indicative or statutory guidance to chief officers of police as to the issues they should consider when deciding on an application for an air weapons certificate. Much of this guidance will already be familiar to licensing officers and to legitimate shooters within the existing firearms regime.

25. The Scottish Government believes that standard conditions relating to possession, use, security and transfers of ownership of air weapons should be set out in legislation and guidance. The application of further, specific conditions would be a matter for the police to consider on a case by case basis. While some members of the Consultative Panel considered that this is appropriate, others noted that specific conditions cannot be applied to shotgun certificates under the current legislation.

26. Whilst accepting the point made about shotguns, the Scottish Government takes the view that there is room to improve on the existing legislation and changes may be made to procedures and requirements in future. We consider there are sound reasons for allowing the possibility of specific conditions in certain circumstances. It is therefore proposed that the legislation should include provisions allowing the police to include specific conditions that are unique to the circumstances of individual applicants, where this is appropriate.

Question 4: Are there other forms of air weapon use which should be considered as “legitimate”?

“Plinking”

27. The issue of air weapon owners shooting targets in, for example, back gardens – so-called “plinking” – is a particularly difficult one for the Scottish Government. This has been a common pastime for many shooters in Scotland and a number of Panel members, and other correspondents, have argued that it offers an “entry level” for young shooters who go on to take up the sport on a regular and more organised basis.

28. While this may well be the case, the practice of target shooting in urban or built up areas concerns Ministers, the media and the general public. Apart from immediate public safety concerns, the visibility and ease of access to a weapon in such an environment can lead to alarm or to misuse. While Ministers are very aware of the history of such domestic and hobby shooting, the Scottish Government has a wider responsibility for the safety and reassurance of the public. The sight of guns in residential areas is no longer acceptable.

29. Ministers therefore believe that the unrestricted practice of “plinking” should come to an end. Shooting should only take place on land that is suitable, provides a safe shooting environment and does not pose a risk to the public, and ideally at licensed target shooting clubs, where new shooters can learn the sport in a disciplined and supportive environment

30. On this last point, some Panel members have argued that there is not a proper or sufficient network of clubs available in Scotland. This may simply be because such a network has not been necessary until now. Introduction to and training in other dangerous sports, however, must be undertaken at appropriate venues and with suitable arrangements in place. Ministers believe that the same position should apply in the case of air weapons.

Question 5: Do you agree that greater restrictions should be placed on where air weapon owners can shoot?

ADMINISTRATION

31. Responsibility for air weapon licensing administration and enforcement will rest with the police. The new Police Service of Scotland comes into being on 1 April 2013. Detailed processes and arrangements for dealing with applications for an air weapons certificate will be a matter for the Chief Constable of the Police Service of Scotland. However, applications are likely to be handled by local police in the area where the applicant resides.

Applying for an air weapons certificate

32. Processes, arrangements and considerations around the suitability of air weapons owners and users should mirror, as far as practicable, the criteria currently applied to firearms/shotguns generally. We are proposing that:

- A single air weapons certificate should cover all such weapons held by an individual. This broadly mirrors the approach taken on shotgun certification, and seems practical given that most air weapons do not have serial numbers.
- Certificates would not include information or restrictions on ammunition held.
- As with firearms and shotguns, powers to refuse or revoke certificates in individual cases are an essential sanction that must be open to the police, for example, in cases when persons are deemed unsuitable, or where good reason for holding an air weapon cannot be demonstrated.
- The application process and the possession of a certificate, and the ownership and use of air weapons, should place legal responsibilities on the individual concerned, for which contravention constitutes a criminal offence attracting appropriate sanctions.

- Applicants for a certificate for air weapons would not be required to undergo the same checks if they already possess a firearm or shotgun certificate.
- An application for an air weapons certificate should be accompanied by a fee, payable to the chief officer of police.

33. Prior to purchasing an air weapon, the onus should be on the buyer to ensure that they are in possession of a valid certificate which they could present at the point of purchase. Under existing arrangements, registered firearms dealers already have to confirm a buyer's age and address before making an air weapons sale. We do not propose that dealers or sellers would have to confirm that a valid certificate is in place as well.

34. We will expect registered dealers to make buyers aware of their responsibilities as an air weapon owner, through the display or distribution of up to date information and advice. This could form part of a long term, joint information campaign involving dealers, shooting organisations and clubs and the Scottish Government.

Question 6: Do you agree with these proposals for the application process?

Question 7: Do you think there are other issues we should consider around the application process?

Certificates

35. We want to make the air weapons application and certification process as straightforward and familiar as possible. Air weapon certificates will be the mechanism of licensing for those weapons that are not considered to be specifically dangerous as previously defined. As stated previously, we envisage that air weapon certificates will follow a similar procedure to shotgun certificates, whereby approval is not required for individual guns but for the authority to own shotgun/s. Discussions will take place at a later date with stakeholders regarding the detailed form of certificates etc.

36. Standard and specific conditions will be set out on certificates for air weapons.

Age Limits

37. The Violent Crime Reduction Act 2006 limits air weapon ownership to those aged 18 and over, and clearly sets out provisions for supervised use by younger people. In discussion, Panel members considered that these restrictions operate well. We therefore propose a lower age limit of 18 for those seeking an air weapon certificate.

Question 8: Do you agree that there should be a lower age limit of 18 for those seeking an air weapon certificate, and that use by those younger than 18 should be appropriately supervised by a licensed adult?

FEES

38. Firearms licensing is a service provided by the police and comes at a cost in terms of processing the application itself, carrying out background checks and home visits, issuing certificates, monitoring existing certificate holders and prosecuting those who contravene the law.

39. As such, it is right that the process for obtaining a certificate should incur a fee. Under the current firearms regime, fees are generally only charged on issue of a firearms or shotgun certificate following a successful application. The Government believes, however, that it is more appropriate to charge applicants regardless of the outcome of their application. This better reflects the costs of providing the service overall and is in line with comparable processes such as applying for an MoT certificate. It is anticipated that the majority of applications would be successful provided the applicant could satisfy the need to exhibit a legitimate need for the weapon in future, and other checks.

40. At this stage we do not believe that it is appropriate or necessary to discuss the exact levels of fee which might be charged when the new regime is in place: that would be a matter for further detailed discussion and consultation. There are, however, certain principles and drivers which might be highlighted now.

41. At one end of the scale Ministers are keen to ensure that, in principle, the costs of providing such a service should be met by those using it, rather than from the general public purse. This is an issue which has been the subject of wider debate and the Association of Chief Police Officers in England and Wales, supported by the Association of Chief Police Officers in Scotland and Scottish Ministers, have been pressing the Home Office to raise the existing firearms fee tariff. That table of fees has not changed since 2000.

42. Against this, members of the Scottish Firearms Consultative Panel have argued that it would be inappropriate to introduce fees at full cost recovery levels as this would mean air weapons applications costing considerably more than licences for firearms or shotguns. Members have argued that this would be disproportionate and unfair in terms of the relative lethality of the different weapon types.

43. Panel members have also pointed out that many of the air weapons sold in Scotland cost less than £100 at point of sale. Should the application fee be set too high, this too would be seen as disproportionate, having a detrimental impact on the retail industry and potentially leading to a situation where owners chose not to comply with the licensing regime.

44. The Scottish Government has listened to these concerns and agrees that there is a need to set a scale of fees which aims to balance these various pressures. Fees should be high enough to make a realistic contribution to processing costs, and to properly reflect the responsibility that comes with gun ownership, whilst acknowledging the value of weapons owned and the need to ensure as many air weapons as possible are captured by the new regime.

Question 9: Do you agree that a fee should be charged for each air weapon application, whether successful or not?

Question 10: Do you have a view on an appropriate fee to be charged for new or renewed applications?

VISITOR PERMITS

45. With a move to license air weapons in Scotland, all Scottish owners will be required to have proper authority to own and use their guns. Alongside this, it will be necessary to put in place a related system whereby those visiting Scotland to shoot with an air weapon can provide suitable evidence of their right to have that weapon. Without such evidence, police and other authorities would have no practical way of checking a person's right to carry and use an air weapon.

46. The Scottish Government's aim is to introduce a simple, pragmatic regime, which is transparent to those coming to Scotland with air weapons, while providing a proportionate level of control and reassurance about the movement and use of weapons in Scotland. It is also important to ensure firearms licensing officers can apply meaningful and proportionate checks on people hoping to visit Scotland with air weapons.

47. We therefore propose to introduce a relatively simple permit for visitors to Scotland which gives permission to possess one or more air weapons for a limited period. This could follow the current format for visitor permits for firearms and shotguns which require the applicant to nominate a sponsor in the UK, who would vouch for the information provided by the applicant. Similar air weapon visitor permit systems operate elsewhere, including in Northern Ireland, and we will look to their experience and work with licensing managers to prepare more detailed proposals and guidance.

Checks

48. Air weapons are not generally licensed in other countries and there are differences in the definition of air weapons amongst UK, EU and other legislation. Existing visitor permit checks against certificates held could not be applied. In addition, any necessary background checks relating to an application for a visitor's permit under the new regime should be proportionate and need not generally involve detailed background checks by the authorities.

49. We therefore propose that:

- holders of GB or Northern Ireland firearms or shotgun certificates should provide a copy of these in support of their application and these shall, under normal circumstances, be taken as sufficient to allow issue of a Scottish air weapons visitors permit.;
- holders of a European Firearms Pass, or of recognised firearm, shotgun or equivalent certificates from elsewhere in the world should similarly furnish a copy in support of their application. It will be for the licensing authority to decide whether further evidence is required to support the air weapon visitor permit application; and
- those without such certification or authority should furnish evidence in support of their application, providing good reason for bringing air weapons into Scotland. This may, for example, include a holiday booking with a recognised operator, or evidence of an invitation to shoot from a private landowner.

Question 11: Do you agree with the proposed levels of checks on applicants for a visitor's permit?

Duration and Fee

50. Given the level of checks proposed for visitors, and the need to provide specific evidence of good reason, as set out above, we propose that a standard visitor permit should last for a limited period – for example, three months. We also propose that the costs of such a permit should be relatively low.

51. We recognise that regular competition shooters may well wish to visit Scotland regularly, and perhaps several times a year. Such shooters are likely to be well qualified and already subject to suitable checks on their fitness to hold weapons. To reflect this experience and the importance of competition shooting in Scotland we propose that the option of a separate competition certificate be explored. This would last for longer than the standard visitor permit – for example, one year – and would attract a higher fee than the standard application.

Question 12: Do you agree with the proposal to adopt a system of time-limited visitor permits and do you agree with the proposed duration of such permits?

Question 13: Do you agree that a separate, longer term permit should be available to competition shooters?

SECURITY

52. Existing firearms legislation requires specific and detailed arrangements to be in place for storing and transporting firearms and shotguns. As part of the licence application process, a firearm licensing officer will generally visit the home of the applicant to ensure that appropriate security arrangements are in place.

53. Since February 2011, the Crime and Security Act 2010 makes it an offence for a person in possession of an air gun to fail to take “reasonable precautions” to prevent someone under the age of 18 from gaining unauthorised access to it. A defence is provided where a person can show he had reasonable grounds for believing the other person to be aged 18 or over.

54. The issue of reasonable precautions has wider implications in considering more general security over air weapons. Different considerations will apply depending on whether an air weapon is in use or not. In many cases, when not in use an existing, suitably robust, lockable cupboard may provide sufficient security to avoid unauthorised access to the weapon. Alternatively, owners may use a locking device (such as a security cord) by which an air weapon can be attached to the fabric of a building, in a secure cupboard or to another fixed feature.

55. While these arrangements are specifically aimed at ensuring compliance with the 2011 Act, they provide good principles for ensuring the security of air weapons more generally.

56. Beyond this, a weapons owner may choose to store air weapons in an existing gun cabinet, provided this did not compromise security of those other firearms.

HAND IN PERIOD

57. Most air weapons have not required a certificate until now. While there have been certain restrictions, it has been relatively straightforward for most people to acquire an air weapon. In addition, there are many air weapons in Scotland which have been inherited, forgotten or have simply fallen out of use. Going forward, not everyone who has previously owned an air weapon will have a good reason to continue to do so, or wish to license the weapons they have.

58. A campaign will be launched prior to the introduction of certification, encouraging people who do not need or want their air weapon to hand it in to the police. We will also need to remind everyone to check their cupboards, attics etc. for any forgotten weapons that they should pass to the police.

59. Longer term, the Scottish Government accepts that there may be a number of air weapons held in Scotland which are genuinely “forgotten” or even unknown at present. This could happen for instance where a deceased relative has had an air weapon at some stage in the past, and has stored it in an attic or garage. Where such unlicensed weapons are uncovered in future we propose that they should be surrendered to the police, in line with existing practice for shotguns or other firearms.

60. Under the current arrangements, it is open to the police to issue a permit to the holder, to allow them to have possession of that weapon for a period and for a specific purpose, such as winding up an estate. The person may also, in certain circumstances, choose to apply for a certificate in their own right.

Question 14: Do you agree that there should be an appropriate hand in period for currently held weapons, in advance of the new legislation taking effect?

Question 15: Do you agree that it should be a matter for the police and prosecution services to take a view on air weapons handed in at a later date?

Question 16: Do you agree that it should be open to the police to issue a permit to allow the person to deal with “forgotten” air weapons or, in appropriate cases, to apply for an air weapons certificate?

COMPENSATION

61. One of the issues which has been raised at the Scottish Firearms Consultative Panel is whether air weapons owners who choose to give up their weapons should be compensated financially. On balance, the Scottish Government does not propose to offer such compensation. Many of the 500,000 air weapons estimated to be in Scotland may be old, unused and lying forgotten in attics and garages and we do not believe it is appropriate to offer compensation for these.

62. For newer, or regularly used air weapons, it will be for the owner to decide whether he or she wishes to retain the weapon and obtain a certificate for it, or to hand it in to the police. In order to assist in that decision, the Scottish Government will aim to set a certificate application fee at a level which takes account of the fact that the majority of new air weapons being sold by dealers cost less than £100 at point of sale. Those who possess the more expensive weapons are highly likely to have them for legitimate use such as pest control, organised sports events etc, and are therefore more likely to apply for and be granted a certificate.

ENFORCEMENT AND PENALTIES

Enforcement

63. Alongside the new licensing regime the Government will introduce a series of new offences and penalties for those who break the law. In general terms these offences will reflect the issues discussed within this paper and will mirror, as far as possible, the equivalent offences relating to firearms or shotguns. The new offences and provisions are likely to be subject to more detailed consultation at a later date, but are likely to include:

- an offence will be committed if someone is in possession of an air weapon without a certificate and/or fails to comply with the conditions of an air weapon certificate regarding its storage, handling or use; and
- police officers should have the power to require the handing over of an air weapon for examination. A police officer will also be able to demand from any person believed to be in possession of an air weapon, the production of their air weapon certificate.

64. It is expected that these provisions and any others (such as powers of arrest in relation to these offences) will be set out in secondary legislation.

Penalties

65. As part of the consultation on this area, the Government will also seek views on the levels of penalty to be applied. As a guide, existing maximum penalties for shotgun offences are:

- Summary conviction - 6 months imprisonment /maximum fine
- Conviction on indictment - up to 5 years imprisonment
- Failure to comply with a condition of a certificate - triable only summarily - 6 months imprisonment/level 5 fine

Question 17: Do you consider that penalties should be set at the same level as for shotgun offences?

PILOT SCHEME

66. The Scottish Firearms Consultative Panel discussed the possibility of undertaking a regional pilot of an air weapon licensing scheme, as set out in the Panel's Terms of Reference. There was no support for this suggestion. It was agreed that a pilot would be of little benefit because any data it provided would be skewed by the availability of air weapons outside the pilot area. Furthermore, it was considered that a pilot scheme would be expensive and difficult to manage.

TRADE IMPACTS

67. It is estimated that there are currently 500,000 air weapons in circulation in Scotland. The Scottish Firearms Consultative Panel has worked on estimating the current position in the gun trade. It is impossible to predict exactly how changes to legislation will affect the trade, but it is understood that there could be a significant impact. Reports suggest that some air weapon dealers have noted a decrease in sales since the speculation began on the possible licensing of air weapons in Scotland following the Scotland Act 2012.

68. The [Firearms Certificate Statistics Scotland 2011](#) stated that there were 347 registered firearms dealers in Scotland at the end of 2011. The work of the Panel suggests that 114 of these trade in air weapons, with 43 of these being air weapon-only outlets. In addition, it is worth noting here that a considerable percentage of air weapon sales and transfers – probably more than half – are private sales between owners, and would not involve registered dealers.

69. The average cost of an air weapon is estimated to be £119. Around 40% of sales cost £150 or more – but costs can vary widely, from much less than £100 to several hundreds of pounds.

70. Air weapon outlets in Scotland each sell around three air weapons per week, with a retail sales value of £20,500 per outlet, per annum. On these estimates, the likely total retail sales value of air rifles and air pistols per year is in excess of £2 million. This does not include the cost of pellets, targets, scopes, clothing etc, which may be substantial.

COMMUNICATIONS STRATEGY

71. Under these proposals, anyone possessing one of the estimated 500,000 air weapons in Scotland will in future require a certificate if they wish to continue to hold these weapons. We need to inform weapons holders of the change in the law, both in the run up to the change, and on an ongoing basis. Our aim will be to ensure that everyone in Scotland hears this message at least once before the new regime comes into effect.

Audience

Scotland

72. We believe that air weapons in Scotland are largely held by three main groups of people:

- Regular/competitive shooters who are likely to be well informed about licensing through shooting organisations and the shooting media. We need to ensure that they are receiving the correct information, but targeting them should be relatively straightforward.

- Casual shooters who are unlikely to be part of any formal shooting network. This includes younger, urban air weapon owners, and will be one of our primary target audiences.
- „Accidental“ air weapon owners – those who have old or inherited weapons in the attic etc, and may not even realise they own a firearm. We need to ensure that the message doesn’t pass them by.

Rest of UK/World

73. We will need to convey the message to the rest of the UK and beyond that if individuals want to bring an air weapon into Scotland they will need permission. It is important to have a campaign which grabs the attention and makes people aware of the message. We are currently considering a number of media formats. The Scottish Government will, as a first measure, ensure that full and up to date information on this issue is prominently displayed on [our own website](#).

74. Many of the shooters crossing the border are likely to be sportsmen/professionals, who will receive notice through shooting organisations of the changes. We will work closely with the gun lobby and shooting interests to look at advertising through shooting clubs and venues, or at point of sale, for example on pellet tins. In addition, we will engage closely with VisitScotland, holiday and other travel organisations to ensure their websites carry accurate information.

75. Further afield, we will also work with the Home Office, Foreign and Commonwealth Office, UK Border Agency, airports, ports etc to advise them of the new requirements and to ensure that they too disseminate up to date information. Travellers are familiar with checking local laws and permit requirements before travelling abroad, for example, to obtain a visitor’s driving permit. Whilst it will be important to ensure that such information is readily available, we do not believe that the new arrangements for air weapon permits need cause any significant problems for visitors.

Question 18: How else might the message be spread?

ANNEX A: SCOTTISH GOVERNMENT CONSULTATIONS

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. 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.

Typically, Scottish Government consultations involve a consultation paper inviting answers to specific questions or more general views about the material presented. Consultation papers are distributed to organisations and individuals with an interest in the issue, electronically or in hard copy and are placed on the Scottish Government's consultations webpage to allow for participation from a wider audience.

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 or the response may be considered defamatory) are placed in the Scottish Government library at Saughton House, Edinburgh (K Spur, Saughton House, Broomhouse Drive, Edinburgh, EH11 3XD, telephone 0131 244 4556).

All Scottish Government consultation papers and related publications (e.g. analysis of response reports) can be accessed on the [Scottish Government Consultations website](#).

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; or
- be used to finalise legislation before it is implemented.

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

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.

ANNEX B: RESPONDING TO THIS CONSULTATION PAPER

Please ensure that your response is accompanied by a completed Respondent Information Form, at Annex C. You may wish to use the template at Annex D when making your response. Please send all responses to:

Email:

AirWeaponLicensing@Scotland.gsi.gov.uk

or

Postal address:

Police Powers Unit
Safer Communities Directorate
Scottish Government
1WR, St Andrew's House
Regent Road
Edinburgh
EH1 3DG

The deadline for responding is 15 March 2012.

This consultation, and all other Scottish Government consultation exercises, can be viewed online on the [Scottish Government Consultations website](#).

The Scottish Government now has an [email alert system](#) for consultations. This system allows individuals and organisations to register and receive a weekly email containing details of all new consultations (including web links).

Handling your response

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** at Annex C. 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. **Please note we will not accept any responses without a Respondent Information Form.**

The Scottish Government are 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

Where respondents have given permission for their response to be made public and after we have checked that they contain no potentially defamatory

material, responses will be made available to the public on the Scottish Government website, and through the Scottish Government Library (see the attached Respondent Information Form). You can make arrangements to view responses by contacting the SG Library on 0131 244 4552. Responses can be copied and sent to you, but a charge may be made for this service.

After the closing date, all responses will be analysed and considered along with any other available evidence. The analysis of responses will be published.

Queries, comments and complaints

If you have any queries, comments or complaints about how this consultation exercise has been conducted, please contact the Police Powers Unit by emailing firearms.enquiries@scotland.gsi.gov.uk.

ANNEX C: RESPONDENT INFORMATION FORM: PROPOSALS FOR LICENSING AIR WEAPONS IN SCOTLAND



Please Note this form **must** be returned with your response to ensure that we handle your response appropriately

1. Name/Organisation

Organisation Name

Title Mr Ms Mrs Miss Dr *Please tick as appropriate*

Surname

Forename

2. Postal Address

Postcode	Phone	Email
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3. Permissions - I am responding as...

Individual / **Group/Organisation**
Please tick as appropriate

(a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

Please tick as appropriate Yes No

(b) Where confidentiality is not requested, we will make your responses available to the public on the following basis
Please tick ONE of the following boxes

Yes, make my response, name and address all available

or

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

or

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

(c) 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 web site).

Are you content for your **response** to be made available?

Please tick as appropriate Yes No

(d) 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 Scottish Government to contact you again in relation to this consultation exercise?

Please tick as appropriate Yes No

ANNEX D: RESPONSE FORM: SUMMARY OF QUESTIONS

PROPOSALS FOR LICENSING AIR WEAPONS IN SCOTLAND

Question 1: Do you agree with the proposed types of weapons to be covered by the new regime?

Comments

Question 2: Should any other weapons be covered?

Comments

Question 3: Is there any type of air weapon ammunition which should be covered?

Comments

Question 4: Are there other forms of air weapon use which should be considered as “legitimate”?

Comments

Question 5: Do you agree that greater restrictions should be placed on where air weapon owners can shoot?

Comments

Question 6: Do you agree with these proposals for the application process?

Comments

Question 7: Do you think there are other issues we should consider around the application process?

Comments

Question 8: Do you agree that there should be a lower age limit of 18 for those seeking an air weapon certificate, and that use by those younger than 18 should be appropriately supervised by a licensed adult?

Comments

Question 9: Do you agree that a fee should be charged for each air weapons application, whether successful or not?

Comments

Question 10: Do you have a view on an appropriate fee to be charged for new or renewed applications?

Comments

Question 11: Do you agree with the proposed levels of checks on applicants for a visitor's permit?

Comments

Question 12: Do you agree with the proposal to adopt a system of time-limited visitor permits and do you agree with the proposed duration of such permits?

Comments

Question 13: Do you agree that a separate, longer term permit should be available to competition shooters and other regular visitors?

Comments

Question 14: Do you agree that there should be an appropriate hand in period for currently held weapons, in advance of the new legislation taking effect?

Comments

Question 15: Do you agree that it should be a matter for the police and prosecution services to take a view on air weapons handed in at a later date?

Comments

Question 16: Do you agree that it should be open to the police to issue a permit to allow the person to deal with “forgotten” air weapons or, in appropriate cases, to apply for an air weapons certificate?

Comments

Question 17: Do you agree that penalties should be set at the same level as for shotgun offences?

Comments

Question 18: How else might the message be spread?

Comments

Please send any responses, along with a completed Respondent Information Form, to either:

AirWeaponLicensing@Scotland.gsi.gov.uk

or

Police Powers Unit
Safer Communities Directorate
Scottish Government
1WR, St. Andrew’s House
Regent Road
Edinburgh
EH1 3DG

ANNEX E: LIST OF CONSULTEES

Airgun Manufacturers & Trade Association
Animal Aid
Animal Concern
Arms & Armour Society
Army Cadet Force Association
Association for the Protection of Rural Scotland
Association of Chief Police Officers in Scotland
Association of Professional Clay Target Shooting Grounds
Association of Professional Shooting Instructors
Association of Scottish Police Superintendants
BAA - Aberdeen Airport
BAA - Glasgow Airport
Blue Cross
British Association for Shooting and Conservation
British Pest Control Association
British Ports Association
British Shooting Sports Council
British Trust for Ornithology
British Veterinary Association
Chief Fire Officers Association Scotland
Child Accident Prevention Trust
Children 1st
Clay Pigeon Shooting Association
Clerk of Justice Committee
Community Initiative to Reduce Violence
Convention of Scottish Local Authorities
Council for Cadet Rifle Shooting
Country Land and Business Association
Countryside Alliance
Crimestoppers
Crown Office & Procurator Fiscal Service
Deer Commission for Scotland
Department for Business, Innovation and Skills
Departmental Liaison Officer for Justice Committee
Edinburgh Airport
Equality and Human Rights Commission
Faculty of Advocates
Fairground Association of Great Britain
Federation of Associations for Hunting and Conservation of the EU (FACE)
Federation of Small Businesses
Fire Brigades Union
Forestry Commission
Game & Wildlife Conservation Trust
Game Farmers Association
Gun Control Network
Gun Trade Association
Highland Reserve Forces and Cadets Association
Historical Breechloading Smallarms Association

Home Office
Humane Slaughter Association
Infer Trust
Institute of Clay Pigeon Shooting Instructors
Inverness Airport
Law Society of Scotland
League Against Cruel Sports
Medics Against Violence
Moorland Association
Mothers Against Guns
Mothers Against Murder and Aggression
Museums Weapons Group
Muzzle Loaders Association of Great Britain
National Farmers' Union Scotland
National Rifle Association
National Small Bore Rifle Association
NHS National Services Scotland
NSPCC
Partnership for Action Against Wildlife Crime
Pony Club UK
Royal College of Nursing Scotland
Royal Mail
Royal Society for the Prevention of Accidents, Scotland
RSPB Scotland
Sacro
Scottish Accident Prevention Council
Scottish Agricultural College
Scottish Air Rifle & Pistol Association
Scottish Ambulance Service
Scottish Association for Country Sports
Scottish Association of Local Sports Councils
Scottish Association of Young Farmers
Scottish Clay Target Association
Scottish Community Safety Network
Scottish Country Sports Tourism Group
Scottish Disability Sport
Scottish Gamekeeper's Association
Scottish Land & Estates
Scottish Natural Heritage
Scottish Police Federation
Scottish Police Services Authority
Scottish Retail Consortium
Scottish Rifle Association
Scottish Rural College
Scottish Small-bore Rifle Association Council
Scottish Society for the Prevention of Cruelty to Animals
Scottish Sports Association
Scottish Target Shooting Federation
Scottish Tenant Farmers Association
Scottish Wildlife Trust

Scout Association
Showmen's Guild of Great Britain
Society of Local Authority Chief Executives
SOLAR Licensing Forum
sportscotland
Sportsmans Association of Great Britain and Northern Ireland
Streetwise
Toy Retailers Association
Trading Standards Institute
UK Hunter Field Target Association
UK Practical Shooting Association
Victim Support Scotland
Violence Reduction Unit
VisitScotland

All Scottish MEPs

A number of individuals



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