

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

British Shooting Sports Council

Title Mr Ms Mrs Miss Dr Please tick as appropriate

Surname

Penn

Forename

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2. Postal Address

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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?

The British Shooting Sports Council was grateful for the opportunity to contribute to the work of the Scottish Firearms Consultative Panel. The BSSC remains, however, completely unconvinced that there is justification for the introduction of any form of licensing system for low powered air weapons. Existing legislation has been very successful in driving down the number of air weapon offences, particularly in Scotland (a reduction of 71%) and this may be expected to continue in the absence of new legislation. The latter could have the consequence of *increasing* the number of prosecutions, however. A licensing system would certainly put a considerable additional strain on the resources of the police and carries a high risk of creating an entirely new licensing ‘bulge’.

That said, we disagree with the principle, but we note that the Scotland Act devolves power to legislate only for air weapons defined as not being ‘specially dangerous’ (Firearms Act 1968 S1(3)(b)).

It should be borne in mind that low-powered air weapons have been developed to be safe for use in the home and garden, including in urban environments. It is misuse, not responsible use, which creates a risk.

Please note that ‘specially dangerous’ air rifles and air guns which do not fall within the definition of a ‘small firearm’ (S5(1)(aba)) are controlled as S1 firearms.

In line with the practice for muzzle-loading and older breech-loading firearms, older air weapons will qualify for ‘antique’ status under S58(2) and thus not require a certificate if possessed as a ‘curio or ornament’. Home Office Circular 12/2007 indicates that any air weapon manufactured before 1939 should normally be regarded as an antique.

Question 2: Should any other weapons be covered?

Comments No

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

We are in full agreement with Paragraph 22. Sale of air weapon ammunition to under-18s is already prohibited by the Violent Crime Reduction Act 2006.

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

The BSSC does not consider that there should be a requirement for ‘good reason’. Rather, the proposed legislation should be analogous to that for the grant of a shot gun certificate, which is the more efficient aspect of the current certification system. A background check to establish whether there are grounds for refusal would be proportionate. Nor does the BSSC accept that there is a case for the imposition of conditions. The administration of a system incorporating ‘good reason’ and/or ‘conditions’ would add disproportionately to the burden of the police force.

While pest control, target shooting and firearms collecting cover a substantial proportion of the use of air weapons, there are a wide range of other legitimate activities which will need to be encompassed by the proposed legislation. This is particularly the case to cover the activities of target shooting clubs, schools, cadet corps, scout troops, pony clubs and so on where it would clearly be undesirable to require every participant to have an air weapon certificate just to authorise very temporary and occasional ‘possession’ of an air weapon while safely and enjoyably engaged in target practice with air weapons possessed by the organising body. It would be disproportionate to see ‘target shooting’ only in terms of organised club activities. The present system for club approval applies only to some Section 1 firearms, so would not be applicable to ‘Section X’ air weapons. While a parallel air weapon club approval system might be created at significant cost in police and civil service resources, it is far more likely that groups of target shooters would opt for S11(4) status as a miniature range or shooting gallery outside the licensing system. One unintended consequence might be a flowering of interest in small-bore cartridge rifles.

Any new legislation would need to take into account the position of common carriers, ‘gun bearers’ under S11(1) and of the temporary possession and use under supervision of air weapons, analogous to the borrowing of shotguns (S11(5)). Experience with the borrowing of shotguns and use of estate rifles has demonstrated that there is no significant risk, and this approach encourages the safe use of firearms, without the need for certification, by the neophyte or very occasional shooter. As many users see air weapons as ‘family guns’ of great value in the safe instruction of young shots it is of clear public safety benefit to avoid putting barriers in the way of such training.

The BSSC takes strong exception to the statement ‘The sight of guns in residential areas is no longer acceptable’. As already stated, air weapons are designed for safe urban use. There is a world of difference between safely-conducted target shooting in a private yard or garden and the possession of an uncovered air weapon in a public place. Adequate legislation (S21(A)(1)) already exists to deal with the firing of pellets beyond property boundaries. The BSSC and its member organisations have for many years strongly supported the publication of safe practice advice for firearms owners and any licensing process introduced would provide an opportunity to reinforce this message. The Airgun Manufacturers and Trades Association (AMTA)’s leaflet and BASC’s Code of Practice are available for this purpose. This would be a better focused, more proportionate and appropriate response than would be a blanket ban on a traditional and safe activity.

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

No. There is already effective legislation in place with regard to possession in a public place without good reason or to misuse in a public place. This should continue to be enforced with vigour and rigour.

We do not consider that conditions affecting the place or nature of use should be applied to the certificate holder. A certificate holder should be able to participate in any lawful shooting activity.

Where privately-owned land or private premises are concerned, it is for the landowner or occupier to ensure that shooting is conducted safely and responsibly. The use of intemperate language by some sections of the media has raised 'public concern' unnecessarily and unjustifiably. Indeed no quantified evidence has been produced of the extent of such concern. The publicity surrounding the introduction of a system of certification would provide a very good opportunity to reassure the public that the great majority of air weapon use is safe and that the legislation is aimed at the irresponsible few.

Comments

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

No. If a licensing system is to be introduced, then we are frankly mystified by Paragraph 33 which indicates that dealers or private vendors would not have to confirm that the purchaser holds a certificate. If the certificate cannot be used to verify the legal status of the purchaser then its already questionable value is further reduced.

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

Provision needs to be in place to ensure that Crown servants are not inadvertently affected by the proposals.

Very serious thought should be given to the avoidance of the creation of another 'bulge' of certificate renewals in the future. As air weapons do not come within the ambit of the EU Directive on weapons control, this could be achieved either by issuing the certificate for life or until the holder reaches a certain age, for instance 70 or 75. Today's sophisticated police intelligence systems should ensure that any lapse by what would be a tiny minority of certificate holder would quickly come to the attention of the licensing office.

The licensing burden could be considerably reduced by asking all firearm certificate and shotgun certificate holders whether or not they wished to receive an air weapon certificate. To those who responded in the affirmative, a certificate should be issued without further investigation (and preferably without charge in the first instance, to keep the process as simple as possible). If a certificate for life is not introduced, a formula could be worked out to vary the life of these initial grants to certificate holders, again in order to avoid the creation of a renewal 'bulge'.

There should be a blanket exemption from the need for a visitor's permit for the holder of a firearm certificate or shot gun certificate issued in England, Wales, Northern Ireland, the Isle of Man or the Channel Islands.

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?

We consider that there should be no lower limit, as is the case with the shot gun certificate. Controls applying to users of air weapons who are under 14 or are between 14 and 17 are already in the Act. These have been proven to be sensible and proportionate and we support their continuation in Scotland. As indicated in our response to Section 4, the legislation will need to take account of a wide range of group activities involving target shooting and for temporary possession and use under supervision of air weapons, analogous to the borrowing of shotguns. Without these exemptions, the police would be overwhelmed with certificate applications for what in many cases would be occasional or transient use.

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

No. Since a refusal would probably be on the ground of public safety, this cost should be met from the public purse. The system applied to firearm certificates and shot gun certificates, whereby the applicant pays for the cost of issuing the certificate, is appropriate. Parliament clearly did not intend certificate holders to bear the entire cost of the system, or it would not have included those certificates issued free of charge. The entire public safety element of the certification process should be met by the state.

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

Many air weapons have a low financial value and a high fee will discourage applications. For those people who do not choose to get a certificate or to hand in their air weapons (a formal surrender scheme will have to be set up for this purpose at not insignificant cost), this would result in either their criminalisation if they retain them uncertificated, or the private sale of these weapons before the legislation comes into force (often to individuals who will not themselves be applying for a certificate), since the certification process will effectively kill off the market for used cheap air weapons and dealers will not wish to encumber themselves with unsaleable stock. To avoid such discouragement and a substantial pool of illegally-owned air weapons, the fee should be very low or, better still, waived in the first instance.

While we are aware that a proposal that there should be a 'buy-in' scheme has been rejected, we must nevertheless re-iterate that this would be a positive means of ensuring that the future pool of illegally owned air weapons is minimised. We

would suggest a flat payment of £100, unless the owner could produce an acceptable valuation for a higher sum.
Unless there is a low (or no) fee regime and a buy-in, we would question the seriousness of the commitment to make the certification system as effective as it can be.
Comments

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

For applicants who do not hold a firearm certificate, shot gun certificate or European Firearms Pass (see below) we would agree with the proposed level of checks, although we doubt the value of requiring a sponsor. Some evidence of an opportunity to shoot would suffice.
As indicated in response to 7 above, we consider that there should be a blanket exemption from the need for a visitor's permit for the holder of a firearm certificate or shot gun certificate issued in England, Wales, Northern Ireland, the Isle of Man or the Channel Islands. Production of the certificate should suffice to demonstrate *bona fides*. English and Welsh certificate holders will continue to travel to Scotland with their rifles and shotguns and without any need to advise any Scottish authority. This practice creates no problems. Nor would the one proposed for air weapons. We would also support the extension of this proposal to EU citizens in possession of a European Firearms Pass.
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?

We consider that that the standard visitor's permit should have a duration of one year.
We also consider that a Visitor's Permit should clearly give the visitor the right to acquire an air weapon in Scotland, whether permanently or on loan. This would be of value in the event that a visitor's air weapon breaks down, or would be to the benefit of the Scottish gun trade, with no threat to public safety.

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

Comments We do agree and would suggest a duration of ten years. We think that there may be at present a significant amount of cross-border activity by shooters living in Cumbria and Northumberland and there would be no value in discouraging these shooters. The fee should be the same as for a one-year certificate, since the administration would be the same.

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 We do agree, with the *caveat* that we would consider a buy-in scheme to be more effective. The hand ins for repeating shotguns, self-contained gas cartridge system firearms and Olympic 38 blank firers all accounted for a relatively small proportion of the arms known to be out there. In the last case the majority came in from the trade and sports organisations, not private individuals. Whatever the approach, good well thought through publicity across the media is essential. You may wish to consider whether this hand-in should be combined with a general firearms amnesty as there has not been one since 2003. In any case there should be no prosecutions as a result of a hand-in and it would be an inappropriate use of forensic resources to test air weapons to see if they were over the 12 foot pound/6 foot pound limits, since almost all those handed in will be destined for destruction.

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?

We do agree, and would furthermore propose that there be guidance to the effect that the presumption should be against the prosecution of anyone seeking to surrender an air weapon. Home Office ‘Guidance’ suggests that ‘No obstacle should be placed in the way of a person who wants to surrender firearms or ammunition to the police’.

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?

We do agree. This might require legislation to amend Section 7 of the 1968 Act. Any measures which assists in ensuring that firearms remain legally held and owners are able to retain or realise the value of their property are to be encouraged.

Comments

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

We do not agree. Most air weapon misuse is of a minor nature, such as criminal damage. Those under consideration are by definition not specially dangerous, certainly far less so than a shotgun. A fine or non-custodial sentence would be appropriate.

Question 18: How else might the message be spread?

BSSC Associations will include editorial copy on their websites and in their

Journals, but since many Journals are quarterly, plenty of lead time will be needed. This is unlikely to get to the casual shooter or the 'accidental' owner, however. Possible avenues would be 'big screens' at sporting fixtures, widespread 'point of sale' messages on soft drinks cans and even beer cans and, for the 'accidental' owners, a leaflet in with a utility bill.

Comments

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

AirWeaponLicensing@Scotland.gsi.gov.uk

or

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