



Briefing for the Public Petitions Committee

Petition Number: [PE1485](#)

Main Petitioner: David Ewing

Subject: Airgun licensing in Scotland

Calls on the Parliament to urge the Scottish Government to drop its proposals to licence air guns in Scotland

Background

Firearms legislation is currently reserved to the UK Parliament. However, following a recommendation by the [Calman Commission](#) that powers on air weapons be devolved to Scotland, this was subsequently taken forward through the Scotland Act 2012 (“the 2012 Act”) at Westminster. The 2012 Act received Royal Assent on 1 May 2012, giving the power to legislate on most air weapons (see below) to the Scottish Parliament.

The present Scottish Government has had a longstanding commitment to modernise the law in relation to air weapons and other firearms in the event that the relevant powers be devolved to Scotland. For example, the [SNP Manifesto](#) for the 2011 Scottish Parliament elections 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”.

Scottish Government Action

Powers to regulate air weapons were transferred to the Scottish Government on 3 July 2012. In preparation for this the Scottish Government established

the Scottish Firearms Consultative Panel (“the Panel”)¹. The Panel was tasked with examining the practicalities of licensing air weapons and has advised on the development and implementation of a new licensing regime.

Based on the recommendations of the Panel, the Scottish Government published a [consultation paper](#) in December 2012. The consultation ran from 14 December 2012 to 15 March 2013. The consultation invited comments on a range of subjects including types of air weapons which should be subject to licensing, legitimate reasons and environments for air weapon shooting, licence fees, age limits, visitor permits and offences and penalties. The consultation received over [1,000 responses](#).

An [independent analysis](#) of the consultation responses showed that the majority of the respondents to the consultation (n=954, 87%) were opposed to the principle of licensing air weapons. The remaining respondents either supported the principle of licensing and the Scottish Government’s proposals; advocated greater restrictions (or a full ban) on air weapon use; or they expressed mixed or unclear views.

The Scottish Government has stated that it has no intention of imposing a blanket ban on air weapons and recognises that there are legitimate reasons to possess an air weapon and as such, whilst its primary concern is for public safety, it does not wish to penalise those who use air weapons responsibly. The Government’s aim is “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”². Under the Government’s proposals, anyone who owns, or wishes to own an air weapon of the types specified, would be required to apply for an air weapon certificate.

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”.

For an air weapon (including CO₂ powered items) to be covered by the Scottish Government’s 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

¹ The membership of the Panel comprised the police; COPFS; 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; COSLA; the Scottish Government.

² Scottish Government [consultation paper](#).

Act 1968) - but not be sufficiently powerful to be deemed “specially dangerous” under 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 pounds 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 2012 Act did not devolve responsibility for these weapons which are considered to be “specially dangerous”, as defined by the Home Secretary.

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 and 6 foot pounds in the case of an air pistol, or 12 foot pounds in the case of an air weapon other than an air pistol.

In general terms the Scottish Government does not propose to legislate for, or include, very low powered air weapons, such as “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).

In 2011-12, Scottish police forces recorded 514 offences in which a firearm was alleged to have been involved, a decrease of 21 per cent from the 647 recorded in 2010-11. In 2011-12, air weapons accounted for 38 per cent (195) of all offences involving the alleged involvement of a firearm in Scotland³.

Scottish Parliament Action

Various aspects of firearms, air weapons and relevant legislation have been discussed within the Parliament in the past (eg during [evidence](#) taken by the Scotland Bill Committee) but, as the devolution of powers with regard to air weapons has only recently been passed over, the Parliament has, to date, taken no direct action on these matters.

Graham Ross
Senior Research Specialist
20 August 2013

SPICe research specialists are not able to discuss the content of petition briefings with petitioners or other members of the public. However if you have any comments
--

³ Scottish Government Statistical Bulletin: [Recorded Crimes and Offences Involving Firearms, Scotland, 2011-12](#).

on any petition briefing you can email us at spice@scottish.parliament.uk

Every effort is made to ensure that the information contained in petition briefings is correct at the time of publication. Readers should be aware however that these briefings are not necessarily updated or otherwise amended to reflect subsequent changes.