

AIR WEAPONS AND LICENSING (SCOTLAND) ACT 2015

EXPLANATORY NOTES

STRUCTURE AND SUMMARY OF THE ACT

Part 1 – Air Weapons

Transactions involving air weapons and commercial matters

Section 24 – Restrictions on transactions involving air weapons

93. Subsection (1) makes it an offence for any person except a Registered Firearms Dealer under section 33 of the 1968 Act to manufacture, sell, transfer, expose for sale or transfer, repair or test an air weapon by way of trade or business, or to possess an air weapon for one of these purposes. This subsection makes analogous provision to that in section 3(1) of the 1968 Act and adds manufacture, repair and test of air weapons to the activities limited to Registered Firearms Dealers. This offence only applies to sales, transfers etc. by way of trade or business, and does not prohibit private sales between individuals. “Person” here includes non-natural persons (e.g. corporate bodies) as well as natural persons. The offences in this section attract strict liability.
94. Subsection (2)(a), (b) and (d) makes it an offence for anyone to sell or transfer an air weapon (including private sales) without first confirming that the recipient is entitled to have the air weapon by: showing a valid air weapon certificate; demonstrating that the recipient does not need to have a certificate; or, by virtue of being a Registered Firearms Dealer.
95. Subsection (2)(c) specifically allows a Registered Firearms Dealer to sell an air weapon to someone without requiring to see an air weapon certificate or evidence that an exemption applies, provided that the air weapon in question will be sent out of Great Britain, or to a Registered Firearms Dealer in England or Wales where the buyer can collect it, without first coming into the possession of the purchaser. Where the purchaser is an individual (as opposed to, for example, a corporate body) the individual must also be aged 18 or over for this paragraph to apply. For example, an overseas visitor to Scotland who does not hold a visitor permit allowing purchase might have a Registered Firearms Dealer export an air weapon directly to their home country.
96. Subsection (3) broadly reflects subsection (2), and makes it an offence to manufacture, repair or test an air weapon for anyone without confirming that they hold a valid air weapon certificate or are a Registered Firearms Dealer or do not need to have a certificate.
97. Subsection (4) sets out the maximum penalty for an offence committed under this section.

Section 25 – Requirement for commercial sales of air weapons to be in person

98. This section requires that commercial sales of air weapons are done face-to-face, and is intended to make analogous provision to section 32 of the Violent Crime Reduction Act 2006. Subsection (1) sets out that this section applies to all sales by way of trade or business except those between two Registered Firearms Dealers, and to those where the sale is concluded outside Great Britain (for example mail order sales).
99. Subsection (2) requires that, at the point at which possession of the air weapon(s) is/ are transferred to the purchaser, both the purchaser and the seller – or the seller’s representative – must be physically present, otherwise the seller commits an offence. Subsection (3) sets out different categories of person who may act as a representative of the seller for the purposes of this section. A “person” here means a non-natural (e.g. corporate bodies) as well as a natural person. This offence attracts strict liability.