



# Air Weapons and Licensing (Scotland) Act 2015

2015 asp 10

## PART 1

### AIR WEAPONS

#### *Meaning of air weapon*

#### **1 Meaning of “air weapon”**

- (1) This section defines the expression “air weapon” for the purposes of this Part.
- (2) The expression generally has the same meaning as that given in section 1(3)(b) of the Firearms Act 1968 (“the 1968 Act”).
- (3) In addition, the expression includes—
  - (a) the component parts of an air weapon (within the meaning of section 1(3)(b) of the 1968 Act), and
  - (b) any accessory to such a weapon designed or adapted to diminish the noise caused by discharging the weapon.
- (4) But the expression does not include—
  - (a) an air weapon which is not a firearm (within the meaning of section 57(1) of the 1968 Act),
  - (b) an air weapon (within the meaning of section 1(3)(b) of the 1968 Act)—
    - (i) which is not capable of discharging a missile with kinetic energy of more than one joule as measured at the muzzle of the weapon, or
    - (ii) that is designed to be used only when submerged in water, or
  - (c) the component parts of an air weapon described in paragraph (a) or (b)(i) or (ii).
- (5) Other words and expressions used in this Part are defined in section 40.

### *Air weapon certificates*

## **2 Requirement for air weapon certificate**

- (1) It is an offence for a person to use, possess, purchase or acquire an air weapon without holding an air weapon certificate.
- (2) A person who commits an offence under subsection (1) is liable—
  - (a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both),
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine (or both).
- (3) Schedule 1 contains exemptions from—
  - (a) the offence under subsection (1), and
  - (b) certain other offences under this Part.
- (4) The Scottish Ministers may by regulations amend schedule 1 so as to—
  - (a) add further exemptions,
  - (b) remove or modify exemptions.

## **3 Application for grant or renewal of air weapon certificate**

- (1) An individual aged 14 years or more may apply to the chief constable for—
  - (a) the grant of an air weapon certificate, or
  - (b) the renewal of an air weapon certificate.
- (2) An application is valid only if it complies with the requirements of—
  - (a) section 4 (verification of applications),
  - (b) if applicable, section 7 (special requirements and conditions for young persons), and
  - (c) any regulations under section 36 which apply to the application.
- (3) The chief constable must maintain a register containing the details of each application made under this section (whether or not the application results in an air weapon certificate being granted or renewed).

## **4 Verification of applications**

- (1) An application for the grant or renewal of an air weapon certificate must be verified in the prescribed form and manner by an individual who meets the requirements of subsection (2) (“a verifier”).
- (2) The requirements are that a verifier must—
  - (a) have known the applicant for at least 2 years,
  - (b) in the opinion of the chief constable, be of good standing in the community,
  - (c) not be—
    - (i) a relative of the applicant,
    - (ii) a registered firearms dealer,
    - (iii) a constable or a member of police staff,
    - (iv) a member of, or a member of staff of, the Scottish Police Authority, or

(v) ordinarily resident outwith the United Kingdom.

- (3) In verifying the application, a verifier must confirm that, to the best of the verifier's knowledge and belief, the information supplied in the application is correct.

## **5 Grant or renewal of air weapon certificate**

- (1) The chief constable may only grant or renew an air weapon certificate if satisfied that the applicant—
- (a) is fit to be entrusted with an air weapon,
  - (b) is not prohibited from possessing an air weapon or other firearm under section 21 of the 1968 Act,
  - (c) has a good reason for using, possessing, purchasing or acquiring an air weapon, and
  - (d) in all the circumstances, can be permitted to possess an air weapon without danger to the public safety or to the peace.
- (2) The chief constable may, when considering an application made under section 3 by an applicant who holds a firearm or shot gun certificate, treat paragraphs (a) and (b) of subsection (1) as being satisfied in relation to the applicant.
- (3) The chief constable may, before determining an application made under section 3, require that the applicant permit a constable or member of police staff—
- (a) to visit the applicant at the applicant's usual place of residence,
  - (b) to inspect any place where the applicant intends to store or use an air weapon.

## **6 Air weapon certificate: conditions**

- (1) Every air weapon certificate is subject to any prescribed mandatory conditions.
- (2) The chief constable may, when granting or renewing an air weapon certificate, attach conditions to the certificate (and, in the case of a renewal, may attach different conditions from those attached to the certificate prior to its renewal).
- (3) The chief constable may not attach to an air weapon certificate a condition which is inconsistent with—
- (a) a prescribed mandatory condition which applies to air weapon certificates, or
  - (b) a condition which must be attached to the certificate under this Part.
- (4) It is an offence for a holder of an air weapon certificate to fail to comply with a condition attached to the holder's certificate.
- (5) An individual who commits an offence under subsection (4) is liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

## **7 Special requirements and conditions for young persons**

- (1) This section applies where an applicant for an air weapon certificate is under the age of 18.
- (2) A parent or guardian of the applicant must consent in the prescribed form and manner to the applicant making the application.

- (3) Where the chief constable grants an air weapon certificate to an individual under the age of 18, the chief constable must attach to the certificate—
  - (a) the condition described in subsection (4), and
  - (b) one or more of the conditions described in subsection (5).
- (4) The condition is that the holder may not purchase, hire, accept a gift of or own, an air weapon.
- (5) The conditions are that—
  - (a) the holder may use and possess an air weapon only for sporting purposes (including shooting live quarry) on private land,
  - (b) the holder may use and possess an air weapon only for the purposes of target shooting on private land,
  - (c) the holder may use and possess an air weapon only for the purposes of participating in events or competitions,
  - (d) the holder may use and possess an air weapon only for the purposes of the holder’s membership of an approved air weapon club,
  - (e) the holder may use and possess an air weapon only for the purposes of protecting livestock, crops or produce on land used for or in connection with agriculture,
  - (f) the holder may use and possess an air weapon only for the purposes of pest control.
- (6) It is sufficient, for the purposes of section 5(1)(c), for the chief constable to be satisfied that the applicant has a good reason for using or possessing an air weapon.
- (7) For the purposes of this section, “agriculture” is to be construed in accordance with section 85 of the Agricultural Holdings (Scotland) Act 1991.

## **8 Duration of air weapon certificate**

- (1) An air weapon certificate expires (unless earlier revoked or cancelled)—
  - (a) in the case of a certificate granted to an individual under the age of 18, when the individual attains the age of 18,
  - (b) in any other case, at the end of the period of 5 years beginning with the date on which the certificate is granted or renewed.
- (2) Where an individual has applied for the renewal of an air weapon certificate before its expiry but the chief constable has not, as at the date of its expiry, determined whether or not to grant the renewal, the certificate is to continue to have effect until the application is determined.
- (3) The Scottish Ministers may by regulations amend subsection (1)(b) to specify a different period.

## **9 Alignment of different types of certificate**

- (1) Subsection (2) applies where an individual—
  - (a) holds a firearm or shot gun certificate, and
  - (b) makes an application for the grant or renewal of an air weapon certificate under section 3.

- (2) Where this subsection applies, the applicant may request that the chief constable grant or renew an air weapon certificate for such shorter period than is provided for in section 8 as is appropriate to secure that it expires on the same day as the applicant's firearm or shot gun certificate (or, if the applicant holds both a firearm and shot gun certificate, either of them).
- (3) Subsection (4) applies where an individual—
  - (a) holds an air weapon certificate, and
  - (b) makes an application for the grant or renewal of a firearm or shot gun certificate under the 1968 Act.
- (4) Where this subsection applies, the applicant may make an application under section 3 of this Act for the air weapon certificate to be renewed as from the same day as that on which the firearm or shot gun certificate is granted or renewed.

## **10 Variation of air weapon certificate**

- (1) The chief constable may, by giving notice to the holder of an air weapon certificate—
  - (a) vary the holder's certificate,
  - (b) attach conditions to the certificate, or
  - (c) vary or revoke a condition attached to the certificate other than—
    - (i) a prescribed mandatory condition which applies to air weapon certificates, or
    - (ii) a condition which must be attached to the certificate under this Part.
- (2) The chief constable may give a notice under subsection (1)—
  - (a) on the application of the holder of an air weapon certificate, or
  - (b) of the chief constable's own accord (at any time).
- (3) The chief constable may not attach to an air weapon certificate a condition which is inconsistent with—
  - (a) a prescribed mandatory condition which applies to air weapon certificates, or
  - (b) a condition which must be attached to the certificate under this Part.
- (4) For the purposes of this section, the chief constable may by notice given to the holder of an air weapon certificate require the holder to produce the certificate within the period of 21 days beginning with the date on which the notice is given.

## **11 Revocation of air weapon certificate**

- (1) The chief constable must revoke an air weapon certificate if—
  - (a) the chief constable is satisfied that the holder of the certificate can no longer be permitted to possess an air weapon without danger to the public safety or to the peace, or
  - (b) the holder is prohibited from possessing an air weapon or other firearm under section 21 of the 1968 Act.
- (2) The chief constable may revoke an air weapon certificate if—
  - (a) the chief constable has reason to believe that the holder—
    - (i) is no longer a fit person to be entrusted with an air weapon, or

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- (ii) no longer has a good reason to use, possess, purchase or acquire an air weapon,
  - (b) the chief constable is satisfied that the holder of the certificate has failed to comply with a condition attached to the certificate, or
  - (c) the holder fails to produce the certificate when required to do so under section 10(4).
- (3) An air weapon certificate is revoked by the chief constable giving notice to the holder of the certificate to that effect.
- (4) A notice under subsection (3) must—
  - (a) be given at least 7 days before the date on which the revocation is to take effect, and
  - (b) require the holder to surrender the certificate and any air weapons that the holder possesses by such date as the chief constable may specify in the notice.
- (5) It is an offence for a person, without reasonable excuse, to fail to comply with the requirements of a notice given under subsection (3).
- (6) A person who commits an offence under subsection (5) is liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.
- (7) In the event that the holder of an air weapon certificate makes an appeal under section 34 against a decision to revoke the holder's certificate—
  - (a) the revocation does not take effect, but
  - (b) the holder must still surrender the certificate and any air weapons that the holder possesses in accordance with the requirements of the notice given under subsection (3),
 pending the determination or withdrawal of the appeal.

### *Permits*

## **12 Police permits**

- (1) The chief constable may, on the application of an individual, grant a permit (“a police permit”) authorising the individual—
  - (a) to possess or acquire an air weapon without holding an air weapon certificate, or
  - (b) to sell (or expose for sale) an air weapon in the course of that individual's business.
- (2) A police permit must not be granted to an individual who is prohibited from possessing an air weapon or other firearm under section 21 of the 1968 Act.
- (3) A police permit expires (unless earlier revoked or cancelled) on the expiry date specified in the permit.
- (4) An application for a police permit is valid only if it complies with the requirements of any regulations under section 36 which apply to the application.

### **13 Visitor permits**

- (1) The chief constable may, on the application of a qualifying visitor, grant a permit (“a visitor permit”) authorising the visitor to use, possess, purchase or acquire an air weapon without holding an air weapon certificate for the period (or a part of it) that the qualifying visitor is in Scotland.
- (2) A person may, on behalf of a group of 2 to 20 qualifying visitors, make an application to the chief constable for each member of the group to be granted a visitor permit.
- (3) The chief constable may grant a visitor permit to some or all of the members of the group.
- (4) The chief constable may grant a visitor permit only if satisfied—
  - (a) in the case of an individual application, that the qualifying visitor has a good reason for using, possessing, purchasing or acquiring an air weapon while visiting Scotland,
  - (b) in the case of a group application, that each qualifying visitor is to use and possess an air weapon while visiting Scotland only—
    - (i) for sporting purposes (including shooting live quarry) on private land,
    - (ii) for the purposes of target shooting on private land, or
    - (iii) for the purposes of participating in an event or competition,
  - (c) in every case—
    - (i) that the qualifying visitor can be permitted to possess an air weapon without danger to the public safety or to the peace, and
    - (ii) that the qualifying visitor is not prohibited from possessing an air weapon or other firearm under section 21 of the 1968 Act.
- (5) For the purposes of subsection (4)(b)(i) and (ii) the chief constable may require the applicant to produce evidence that the owner or occupier of the land consents to the visitors’ intended use or possession of air weapons on the land.
- (6) Except where section 14 applies, the chief constable must, on granting a visitor permit in respect of a group application, attach to the permit as a condition that the holder of the permit may use and possess an air weapon only for such of the purposes described in subsection (4)(b) as the chief constable may specify in the condition.
- (7) A visitor permit expires (unless earlier revoked or cancelled) on the expiry date specified in the permit.
- (8) No visitor permit is to be granted for a period of longer than 12 months.
- (9) An application for a visitor permit is valid only if it complies with the requirements of any regulations under section 36 which apply to the application.
- (10) For the purposes of this section and section 14—

“group application” means an application under subsection (2) for visitor permits made by a person on behalf of qualifying visitors in a group,

“individual application” means an application under subsection (1) for a visitor permit made by the qualifying visitor,

“qualifying visitor” means an individual who is—

  - (a) aged 14 years or more,
  - (b) not ordinarily resident in Scotland, and
  - (c) visiting (or intending to visit) Scotland.

#### **14 Visitor permits: young persons**

- (1) This section applies—
  - (a) where an individual applicant for a visitor permit is under the age of 18,
  - (b) in respect of any individual who is—
    - (i) under the age of 18, and
    - (ii) on whose behalf a visitor permit is applied for as part of a group application.
- (2) A parent or guardian of the applicant or individual under the age of 18 must consent in the prescribed form and manner to the making of the application.
- (3) The chief constable must, on granting a visitor permit in respect of an individual application, attach to the permit—
  - (a) the condition described in section 7(4), and
  - (b) one or more of the conditions described in subsection (5) of that section.
- (4) The chief constable must, on granting a visitor permit in respect of a group application, attach to the permit—
  - (a) the condition described in section 7(4), and
  - (b) one or more of the conditions described in paragraphs (a) to (c) of subsection (5) of that section.
- (5) It is sufficient, for the purposes of section 13(4)(a), for the chief constable to be satisfied that the applicant has a good reason for using or possessing an air weapon.

#### **15 Police and visitor permits: conditions**

- (1) Every police permit and visitor permit is subject to any prescribed mandatory conditions.
- (2) The chief constable may, when granting a police permit or a visitor permit, attach conditions to the permit.
- (3) The chief constable may not attach to a police permit or a visitor permit a condition which is inconsistent with—
  - (a) a prescribed mandatory condition which applies to police permits or, as the case may be, visitor permits, or
  - (b) a condition which must be attached to the permit under this Part.
- (4) It is an offence for the holder of a police permit or a visitor permit to fail to comply with a condition attached to the permit.
- (5) An individual who commits an offence under subsection (4) is liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

#### **16 Police and visitor permits: variation and revocation**

- (1) The chief constable may, by giving notice to the holder of a police permit or a visitor permit—
  - (a) vary the permit,
  - (b) attach conditions to the permit,
  - (c) vary or revoke a condition attached to the permit other than—



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- (i) a prescribed mandatory condition which applies to the permit, or
  - (ii) a condition which must be attached to a permit under this Part, or
- (d) revoke the permit.
- (2) The chief constable may give a notice under subsection (1)—
  - (a) on the application of the holder of a police permit or visitor permit, or
  - (b) of the chief constable’s own accord (at any time).
- (3) The chief constable may not attach to a police permit or a visitor permit a condition which is inconsistent with—
  - (a) a prescribed mandatory condition which applies to police permits or, as the case may be, visitor permits, or
  - (b) a condition which must be attached to the permit under this Part.
- (4) For the purposes of paragraphs (a) to (c) of subsection (1), the chief constable may by giving notice to the holder of a police permit or a visitor permit require the holder to produce the permit within the period of 21 days beginning with the date on which the notice is given.
- (5) A notice given under subsection (1) which revokes a police permit or a visitor permit must—
  - (a) be given at least 7 days before the date on which the revocation is to take effect, and
  - (b) require the holder of the permit to surrender the permit and any air weapons that the holder possesses by such date as the chief constable may specify in the notice.
- (6) It is an offence for the holder of a police permit or a visitor permit, without reasonable excuse, to fail to comply with a requirement contained in a notice under subsection (1).
- (7) An individual who commits an offence under subsection (6) is liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.
- (8) In the event that the holder of a police permit or a visitor permit makes an appeal under section 34 against a decision to revoke the holder’s permit—
  - (a) the revocation does not take effect, but
  - (b) the holder must still surrender the permit and any air weapons that the holder possesses in accordance with the requirements of the notice given under subsection (1),pending the determination or withdrawal of the appeal.

## **17 Event permits**

- (1) The chief constable may, on the application of a person (“the organiser”) who is organising or otherwise responsible for an event, grant a permit authorising individuals at the event to borrow, hire, use and possess air weapons while engaging in an event activity without holding an air weapon certificate (“an event permit”).
- (2) The chief constable may, when granting an event permit, attach conditions to it.
- (3) The organiser must ensure that the event permit (or a copy of it) is prominently displayed at the event so as to be capable of being read by any person attending the event.

- (4) It is an offence for the organiser—
  - (a) to fail to comply with a condition attached to the event permit, or
  - (b) without reasonable excuse, to fail to comply with subsection (3).
- (5) A person who commits an offence under subsection (4) is liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.
- (6) An application for an event permit is valid only if it complies with the requirements of any regulations under section 36 which apply to the application.
- (7) For the purposes of this section, an “event activity” is an activity—
  - (a) involving the use and possession of air weapons by individuals, and
  - (b) which has been planned by (or on behalf of) the organiser as part of the event.

*Air weapon clubs and recreational shooting facilities*

**18 Approval of air weapon clubs**

- (1) The chief constable may, on the application of an air weapon club, grant or renew an approval of the club.
- (2) An application for the grant or renewal of an approval of an air weapon club is valid only if it complies with the requirements of any regulations under section 36 which apply to the application.
- (3) The chief constable may, at any time by giving notice to an approved air weapon club, withdraw the club’s approval.
- (4) Every approval of an air weapon club is subject to any prescribed mandatory conditions.
- (5) The chief constable may, when granting or renewing an approval, attach conditions to the approval (and in the case of a renewal, may attach different conditions from those attached to the approval prior to its renewal).
- (6) The chief constable may not attach to an approval a condition which is inconsistent with a prescribed mandatory condition which applies to approvals.

**19 Variation of approval**

- (1) The chief constable may, by giving notice in writing to an approved air weapon club—
  - (a) vary the club’s approval,
  - (b) attach conditions to the club’s approval, or
  - (c) vary or revoke a condition attached to the club’s approval other than a prescribed mandatory condition which applies to approvals.
- (2) The chief constable may give a notice under subsection (1)—
  - (a) on the application of the approved air weapon club, or
  - (b) of the chief constable’s own accord (at any time).
- (3) The chief constable may not attach to an approval a condition which is inconsistent with a prescribed mandatory condition which applies to approvals.

## **20 Duration of approval**

- (1) An approval of an air weapon club expires (unless earlier withdrawn) at the end of the period of 6 years beginning with the date on which the approval is granted or renewed.
- (2) Where an approved air weapon club has applied for the renewal of its approval before its expiry but the chief constable has not, as at the date of its expiry, determined whether or not to grant the renewal, the approval is to continue to have effect until the application is determined.
- (3) The Scottish Ministers may by regulations amend subsection (1) to specify a different period.

## **21 Alignment of club approvals**

- (1) Subsection (2) applies where an air weapon club—
  - (a) is approved as a rifle club under section 15 of the Firearms (Amendment) Act 1988 (“the 1988 Act”), and
  - (b) makes an application for the grant or renewal of an approval under section 18(1) of this Act.
- (2) Where this subsection applies, the club may request that the chief constable grant or renew its approval under section 18(1) of this Act for such shorter period than is provided for in section 20(1) of this Act as is appropriate to secure that it expires on the same day as the club’s approval under section 15 of the 1988 Act.
- (3) Subsection (4) applies where a club—
  - (a) is an approved air weapon club, and
  - (b) makes an application for the grant or renewal of an approval as a rifle club under section 15 of the 1988 Act.
- (4) Where this subsection applies, the club may make an application under section 18(1) of this Act for the club’s approval to be renewed as from the same day as that on which the club’s application for approval under section 15 of the 1988 Act is granted or renewed.

## **22 Power to enter and inspect club premises**

- (1) The chief constable may, for the purposes of ascertaining whether the provisions of this Part or any conditions attached to an approved air weapon club’s approval are being complied with, authorise a constable or a member of police staff—
  - (a) to enter any club premises of an approved air weapon club, and
  - (b) to inspect those premises and anything on them which is relevant to the purposes for which the authorisation was granted.
- (2) The power of a constable or a member of police staff under subsection (1)(b) to inspect anything on club premises includes power to require any information which is stored in electronic form and accessible from the premises to be produced in a form which is visible and legible.
- (3) A constable or a member of police staff may exercise the powers of entry conferred by this section only at a reasonable time, unless it appears to the constable or member of police staff that the purposes of entering the club premises may be frustrated if the constable or member of police staff seeks to enter at a reasonable time.

- (4) A constable or a member of police staff must, if asked, produce the authorisation before entering any premises under this section.
- (5) The chief constable may delegate the power to grant an authorisation under subsection (1) only to a constable who holds the rank of inspector or above.
- (6) It is an offence for a person to obstruct intentionally a constable or a member of police staff in the exercise of the constable's or member of police staff's powers under an authorisation granted under this section.
- (7) A person who commits an offence under subsection (6) is liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.
- (8) In this section, "club premises", in relation to an approved air weapon club, means any premises, other than a dwelling, occupied or used by the club.

### **23 Requirements for recreational shooting facilities**

- (1) A person who operates a recreational shooting facility must—
  - (a) hold or (if not an individual) ensure that an individual responsible for the management and operation of the facility holds, an air weapon certificate, and
  - (b) at all times that the facility is in use, display the certificate (or a copy of it) prominently on the facility so as to be capable of being read by anyone considering whether to use the facility.
- (2) It is an offence for a person who operates a recreational shooting facility—
  - (a) to fail to comply with subsection (1)(a), or
  - (b) without reasonable excuse, to fail to comply with subsection (1)(b).
- (3) A person who commits an offence under subsection (2) is liable, on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale (or both).
- (4) In this section, "recreational shooting facility" means—
  - (a) a miniature rifle range or a shooting gallery at which air weapons are used, or
  - (b) a facility for combat games which involve using an air weapon, which is operated with a view to making a profit.
- (5) This section does not apply to an approved air weapon club.

#### *Transactions involving air weapons and commercial matters*

### **24 Restrictions on transactions involving air weapons**

- (1) It is an offence for a person other than a registered firearms dealer, by way of trade or business, to—
  - (a) manufacture, sell, transfer, repair or test an air weapon,
  - (b) expose an air weapon for sale or transfer, or
  - (c) possess an air weapon for the purposes of its sale, transfer, repair or testing.
- (2) It is an offence for a person ("A") to sell or transfer an air weapon to another person ("B") unless—

- (a) B is a registered firearms dealer,
  - (b) B holds an air weapon certificate (without a condition attached to it preventing B from purchasing or acquiring an air weapon) and shows it to A,
  - (c) A is a registered firearms dealer and is satisfied that—
    - (i) in a case where B is an individual, B is aged 18 years or more, and
    - (ii) the air weapon is to be delivered to a place outwith Great Britain, or to a registered firearms dealer in England or Wales, without first coming into B's possession, or
  - (d) B provides evidence to A that B is otherwise entitled to purchase or acquire an air weapon without holding an air weapon certificate by virtue of the provisions of this Part.
- (3) It is an offence for a person (“A”) to manufacture, repair or test an air weapon for another person (“B”) unless—
- (a) B is a registered firearms dealer,
  - (b) B holds an air weapon certificate and shows it to A, or
  - (c) B provides evidence to A that B is otherwise entitled to possess an air weapon without holding an air weapon certificate by virtue of the provisions of this Part.
- (4) A person who commits an offence under this section is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both),
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine (or both).

## **25 Requirement for commercial sales of air weapons to be in person**

- (1) This section applies where a person (“the seller”) sells an air weapon by way of trade or business to an individual in Great Britain who is not a registered firearms dealer.
- (2) It is an offence for the seller, for the purposes of the sale, to transfer possession of the weapon to the purchaser otherwise than at a time when both the purchaser and the seller (or a representative of the seller) are present in person.
- (3) The reference in subsection (2) to a representative of the seller is a reference to—
- (a) a person who is employed by the seller in the seller's business as a registered firearms dealer,
  - (b) a registered firearms dealer (“A”) who has been authorised by the seller to act on the seller's behalf in relation to the sale, or
  - (c) a person who is employed by A in A's business as a registered firearms dealer.
- (4) A person who commits an offence under this section is liable, on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding level 5 on the standard scale (or both).

## *Enforcement*

### **26 Power of search with warrant**

- (1) A sheriff may, on the application of a constable or a member of police staff, grant a warrant to the applicant under this section if satisfied, by evidence on oath, that there is a reasonable ground for suspecting—
  - (a) that an air weapon offence has been, is being, or is about to be committed, or
  - (b) that, in connection with an air weapon, there is a danger to the public safety or to the peace.
- (2) A warrant under this section may authorise a constable or a member of police staff—
  - (a) to enter at any time any place named in the warrant, if necessary by force, and to search the place and every person found there,
  - (b) to seize and detain anything that the constable or member of police staff may find at the place, or on any such person, in respect of which or in connection with which the constable or member of police staff has a reasonable ground for suspecting—
    - (i) that an air weapon offence has been, is being or is about to be committed, or
    - (ii) that in connection with an air weapon there is a danger to the public safety or to the peace.
- (3) The power of a constable or a member of police staff under subsection (2)(b) to seize and detain anything found at any place, or on any person found there, includes power to require any information which is stored in any electronic form and is accessible from the place or by the person to be produced in a form—
  - (a) which is visible and legible and can be taken away, or
  - (b) from which it can be readily produced in a visible and legible form and can be taken away.
- (4) It is an offence for an individual to obstruct intentionally a constable or member of police staff in the exercise of the constable's or member of police staff's powers under a warrant granted under this section.
- (5) An individual who commits an offence under subsection (4) is liable, on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding level 5 on the standard scale (or both).

### **27 Production of air weapon certificate**

- (1) A constable may require a person whom the constable believes to be in possession of an air weapon to produce—
  - (a) the person's air weapon certificate, or
  - (b) evidence that the person is entitled to possess an air weapon without holding an air weapon certificate by virtue of the provisions of this Act.
- (2) Where a person fails to produce the air weapon certificate or evidence required under subsection (1), the constable may—
  - (a) seize and detain the air weapon, and
  - (b) require the person to provide (immediately) the person's name and address.

- (3) It is an offence for a person—
  - (a) to fail to comply with a requirement under subsection (2)(b), or
  - (b) to provide a false name or address.
- (4) A person who commits an offence under subsection (3) is liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

## **28 Cancellation of air weapon certificate**

- (1) Subsection (2) applies where an individual (“A”) holding an air weapon certificate—
  - (a) is convicted of—
    - (i) an air weapon offence,
    - (ii) an offence under the 1968 Act, or
    - (iii) an offence for which A is sentenced to imprisonment or to detention in a young offenders’ institution,
  - (b) has been ordered to keep the peace or to be of good behaviour and, as a condition of that, is not to possess, carry or use an air weapon or other firearm,
  - (c) is subject to a community payback order under section 227A of the Criminal Procedure (Scotland) Act 1995 which contains a requirement not to possess, carry or use an air weapon or other firearm, or
  - (d) has been ordained to find caution and as a condition of that, is not to possess, carry or use an air weapon or other firearm.
- (2) Where this subsection applies, the court by or before which A is convicted, or which imposes the condition or requirement, may cancel the air weapon certificate held by A.
- (3) Where the court cancels an air weapon certificate under this section—
  - (a) the court must notify the chief constable of the cancellation, and
  - (b) the chief constable must, by notice given to A, require A to surrender A’s air weapon certificate within the period of 21 days beginning with the date the notice is given.
- (4) It is an offence for an individual, without reasonable excuse, to fail to comply with the requirements of a notice under subsection (3)(b).
- (5) An individual who commits an offence under subsection (4) is liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

## **29 Forfeiture and disposal of air weapons**

- (1) Subsection (2) applies where a person (“A”) is convicted of an air weapon offence.
- (2) Where this subsection applies, the court by or before which A is convicted may make such order as to the forfeiture or disposal of any air weapon found in A’s possession as the court thinks fit.
- (3) A constable may seize and detain an air weapon which may be the subject of an order for forfeiture under this section or which, but for subsection (5), could be the subject of such an order.
- (4) A sheriff may, on an application of the chief constable, order the disposal (by any means the chief constable thinks fit) of any air weapon seized and detained by a constable under this Part.

- (5) No order is to be made under subsection (2) or (4) for the forfeiture or disposal of an air weapon which is possessed for the purposes of a museum.
- (6) Subsection (7) applies where—
- (a) an air weapon is surrendered in pursuance of—
    - (i) a notice given under section 11(3) which revokes an individual’s air weapon certificate, or
    - (ii) a notice given under section 16(1) which revokes an individual’s police permit or visitor permit, and
  - (b) the individual appeals against the decision to revoke the individual’s air weapon certificate, police permit or, as the case may be, visitor permit (and does not withdraw that appeal prior to its determination).
- (7) Where this subsection applies—
- (a) if the appeal is successful, the air weapon must be returned,
  - (b) if the appeal is dismissed, the sheriff may make such order for the disposal of the air weapon as the sheriff considers appropriate.
- (8) Subsection (9) applies where—
- (a) an air weapon is surrendered in pursuance of—
    - (i) a notice given under section 11(3) which revokes an individual’s air weapon certificate, or
    - (ii) a notice given under section 16(1) which revokes an individual’s police permit or visitor permit, and
  - (b) the individual—
    - (i) does not appeal against the decision to revoke the individual’s air weapon certificate, police permit or, as the case may be, visitor permit, or
    - (ii) makes and subsequently withdraws an appeal against such a decision.
- (9) Where this subsection applies, the air weapon is to be disposed of—
- (a) in such manner as the chief constable and the owner of the weapon may agree, or
  - (b) in default of such agreement, in such manner as the chief constable may decide.
- (10) Where the chief constable decides to dispose of an air weapon under subsection (9) (b), the chief constable must give the owner notice of the decision.

### *Offences*

#### **30 Failure to keep air weapons secure or to report loss to police**

- (1) It is an offence for a person—
- (a) to fail to take reasonable precautions for the safe custody of an air weapon possessed by the person, or
  - (b) to fail to report as soon as reasonably practicable to the chief constable the loss or theft of an air weapon possessed by the person.
- (2) A person who commits an offence under subsection (1) is liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.



### **31 False statements, certificates and permits**

- (1) It is an offence for an individual to knowingly or recklessly make any statement which is false in any material particular for the purposes of procuring (either personally or for another person)—
  - (a) the grant, renewal or variation of an air weapon certificate,
  - (b) the grant or variation of a police or visitor permit,
  - (c) the grant of an event permit, or
  - (d) the grant, renewal or variation of an approval of an air weapon club.
- (2) It is an offence for an individual, with a view to purchasing, acquiring or procuring the repair or testing of an air weapon—
  - (a) to produce a false air weapon certificate, police permit or visitor permit,
  - (b) to produce an air weapon certificate, police permit or visitor permit which has been improperly altered, or
  - (c) to knowingly or recklessly make a statement which is false in a material particular.
- (3) An individual who commits an offence under this section is liable, on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding level 5 on the standard scale (or both).

### **32 Time limit for offences**

Section 136 of the Criminal Procedure (Scotland) Act 1995 (time limit for certain offences) applies to an air weapon offence which is triable only summarily as if the references in subsection (1) of that section to 6 months were to 36 months (and subsection (2) of that section were omitted).

### **33 Offences by bodies corporate etc.**

- (1) Subsection (2) applies where—
  - (a) an offence under this Part has been committed by—
    - (i) a body corporate,
    - (ii) a Scottish partnership, or
    - (iii) an unincorporated association other than a Scottish partnership, and
  - (b) it is proved that the offence was committed with the consent or connivance of, or was attributable to neglect on the part of—
    - (i) a relevant individual, or
    - (ii) an individual purporting to act in the capacity of a relevant individual.
- (2) The individual (as well as the body corporate, partnership or (as the case may be) association) commits the offence and is liable to be proceeded against and punished accordingly.
- (3) In subsection (1), “relevant individual” means—
  - (a) in relation to a body corporate (other than a limited liability partnership)—
    - (i) a director, manager, secretary or similar officer of the body,
    - (ii) where the affairs of the body are managed by its members, a member,
  - (b) in relation to a limited liability partnership, a member,
  - (c) in relation to a Scottish partnership, a partner,

- (d) in relation to an unincorporated association other than a Scottish partnership, an individual who is concerned in the management or control of the association.

### *General*

## **34 Appeals**

- (1) A person aggrieved by a decision of the chief constable under a section listed in subsection (2) may appeal against the decision to the appropriate sheriff.
- (2) The sections are—
  - (a) section 5(1) (grant or renewal of air weapon certificate),
  - (b) section 6(2) (air weapon certificate: conditions),
  - (c) section 7(3)(b) (special requirements and conditions for young person’s air weapon certificate),
  - (d) section 10(1) (variation of air weapon certificate),
  - (e) section 11(1)(a) or (2) (revocation of air weapon certificate),
  - (f) section 12(1) (police permits),
  - (g) section 13(1) or (6) (visitor permits),
  - (h) section 14(3)(b) or (4)(b) (visitor permits: young persons),
  - (i) section 15(2) (police and visitor permits: conditions),
  - (j) section 16(1) (police and visitor permits: variation and revocation),
  - (k) section 17(1) or (2) (event permits),
  - (l) section 18(1), (3) or (5) (approval of air weapon clubs),
  - (m) section 19(1) (variation of approval for air weapon clubs),
  - (n) section 29(9)(b) (forfeiture and disposal of air weapons).
- (3) An appeal must be made within the period of 21 days beginning with the date on which the decision appealed against was made.
- (4) An appeal under this section is to be determined on the merits (and not by way of review).
- (5) The sheriff hearing the appeal may consider any evidence or other matter, whether or not it was available at the time the chief constable made the decision appealed against.
- (6) On determining the appeal, the sheriff may—
  - (a) dismiss the appeal,
  - (b) give the chief constable such direction as the sheriff considers appropriate as respects the matter which is the subject of the appeal.
- (7) The decision of the sheriff may be appealed against only on a point of law.
- (8) In this section, “the appropriate sheriff” means—
  - (a) in a case where the appellant resides in Scotland, a sheriff of the sheriffdom in which the appellant resides, or
  - (b) in a case where the appellant resides outwith Scotland, a sheriff of the sheriffdom of Lothian and Borders, sitting at Edinburgh.

### **35 Fees**

- (1) The Scottish Ministers may by regulations make provision for the charging of fees by the chief constable—
  - (a) in respect of applications under this Part, and
  - (b) otherwise in respect of the performance of functions by the chief constable under this Part.
- (2) Regulations under subsection (1) may—
  - (a) specify different fees for different circumstances,
  - (b) specify circumstances in which no fee is payable,
  - (c) provide for fees to be determined by reference to such factors (including the value of money) as may be specified in the regulations.
- (3) Where regulations under subsection (1) provide for a fee to be charged in respect of an application under this Part, the application is valid only when the fee is paid.
- (4) Nothing in this section limits the generality of section 85.

### **36 Power to make further provision**

- (1) The Scottish Ministers may by regulations make further provision for the purposes of this Part.
- (2) Without limiting that generality (or the generality of section 85), regulations under subsection (1) may—
  - (a) make provision about the application processes under this Part (for example, prescribing the form and content of applications, any required supporting documentation or making further provision about the verification of applications),
  - (b) make provision in relation to air weapon certificates, police permits, visitor permits, event permits and approvals of air weapon clubs (for example, prescribing their form and content or the conditions which may or must be attached to them).

### **37 Crown application**

- (1) No contravention of any provision made by or under this Part makes the Crown criminally liable.
- (2) But the Court of Session may, on the application of the Scottish Ministers, the chief constable or any other public body or office-holder having responsibility for enforcing the provision, declare unlawful any act or omission of the Crown which constitutes such a contravention.
- (3) Despite subsection (1), any provision made by or under this Part applies to a person in the public service of the Crown as it applies to other persons.

### **38 Transitional arrangements for existing certificate holders**

- (1) This section applies where, on the day on which section 2(1) comes into force, a person aged 14 years or more holds a firearm certificate or a shot gun certificate (“the existing certificate”).

- (2) It is not an offence under section 2(1) for the person to use and possess an air weapon without holding an air weapon certificate for the duration of the transitional period.
- (3) The person must, in relation to such use or possession, comply with—
  - (a) any prescribed mandatory conditions which apply to the use and possession of air weapons, and
  - (b) if the person is under the age of 18, the conditions mentioned in section 7(5).
- (4) A person who fails to comply with a condition mentioned in subsection (3) commits an offence.
- (5) But it is not an offence under subsection (4) for a person to fail to comply with a condition mentioned in subsection (3) if—
  - (a) the person is entitled to use or possess an air weapon by virtue of an exemption under schedule 1, and
  - (b) the failure relates to the use or possession of an air weapon in accordance with the exemption.
- (6) A person who commits an offence under subsection (4) is liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.
- (7) In this section, the “transitional period” means, in relation to an existing certificate, the period—
  - (a) beginning with the day on which section 2(1) comes into force, and
  - (b) ending with (the earlier of)—
    - (i) the day on which the existing certificate is, or falls to be, renewed, or
    - (ii) the day on which the existing certificate is surrendered, cancelled or revoked.
- (8) For the purposes of subsection (7)(b)(i), where a person holds both a firearm certificate and a shot gun certificate, the existing certificate is the certificate which is, or which falls to be, renewed later.
- (9) For the purposes of subsection (7)(b)(ii), where a person holds both a firearm certificate and a shot gun certificate—
  - (a) the surrender of one of the certificates does not end the transitional period, but
  - (b) the cancellation or revocation of either certificate ends the transitional period.
- (10) For the purposes of paragraph 16 of schedule 1, this section is to be treated as if it were an exemption under that schedule.

### **39 Guidance**

- (1) The chief constable must, in exercising any function under this Part, have regard to any guidance issued by the Scottish Ministers.
- (2) The Scottish Ministers must publish any guidance they issue for the purposes of this Part.
- (3) The Scottish Ministers may revise and revoke such guidance.

## **40 Interpretation of Part 1**

(1) In this Part, unless the context otherwise requires—

- “the 1968 Act” means the Firearms Act 1968,
- “acquire” means hire, accept as a gift or borrow and “acquisition” is to be construed accordingly,
- “air weapon” is to be construed in accordance with section 1,
- “air weapon certificate” means an air weapon certificate granted under section 5(1),
- “air weapon club” means an association of individuals which has as a purpose the activity of target shooting with air weapons,
- “air weapon offence” means any offence under this Part,
- “approval”, in relation to an air weapon club, means an approval granted to the club under section 18(1),
- “approved air weapon club” means an air weapon club which has been granted an approval by the chief constable under section 18(1),
- “chief constable” means the chief constable of the Police Service of Scotland,
- “condition” includes requirement and restriction,
- “constable” has the meaning given in section 99(1) of the Police and Fire Reform (Scotland) Act 2012,
- “event permit” means a permit granted under section 17(1),
- “firearm certificate” is to be construed in accordance with section 57(4) of the 1968 Act,
- “guardian”, in relation to an individual, means a person appointed by deed or will or by a court of competent jurisdiction to be the guardian of the individual,
- “member of police staff” means an individual appointed under section 26 of the Police and Fire Reform (Scotland) Act 2012,
- “member of staff of the Scottish Police Authority” means an individual appointed under paragraph 6(1) of schedule 1 to the Police and Fire Reform (Scotland) Act 2012,
- “miniature rifle range” is to be construed in accordance with section 11 of the 1968 Act,
- “museum” means a museum or similar institution which has as its purpose, or one of its purposes, the preservation for the public benefit of a collection of historical, artistic or scientific interest which is maintained wholly or mainly out of money provided by Parliament, a Minister of the Crown, the Scottish Ministers or a local authority,
- “police permit” means a permit granted under section 12(1),
- “premises” means any place and includes a vehicle, vessel or moveable structure,
- “prescribed” means prescribed in regulations made under section 36,
- “registered firearms dealer” means a person registered as a firearms dealer under section 33 of the 1968 Act,
- “relative”, in relation to an individual, means—
  - (a) the spouse, civil partner, parent, stepparent, child, stepchild, grandparent or grandchild of the individual or of the individual’s spouse, former spouse, civil partner or former civil partner, or
  - (b) the sibling, uncle, aunt, nephew or niece (whether of the full blood or of the half blood or by affinity) of the individual or the individual’s spouse, former spouse, civil partner or former civil partner,

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*Status: This is the original version (as it was originally enacted).*

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and includes, in relation to an individual who is living or has lived with another individual as if they were spouses or civil partners, any individual who would fall within paragraph (a) or (b) if the parties were married or civilly partnered to each other,

“shot gun certificate” is to be construed in accordance with section 57(4) of the 1968 Act,

“transfer” includes let on hire, give, lend and part with possession,

“visitor permit” means a permit granted under section 13(1).

- (2) In this Part, a reference to an individual holding an air weapon certificate, a police permit or a visitor permit is a reference to an individual holding an air weapon certificate, police permit or, as the case may be, visitor permit—
  - (a) granted to the individual under section 5, 12 or, as the case may be, 13, and
  - (b) which has not expired or been revoked or cancelled.
- (3) In this Part, a reference to a condition attached to an air weapon certificate, police permit, visitor permit, event permit or approval of an air weapon club includes a reference to any condition to which the certificate, permit or as the case may be, approval is subject by virtue of this Act.
- (4) Any expression used in this Part which is also used in an Act listed in subsection (5) is, unless the context otherwise requires, to be construed in accordance with any decisions or opinions of a court interpreting the expression for the purposes of the Act.
- (5) The Acts are—
  - (a) the 1968 Act,
  - (b) the Firearms (Amendment) Act 1988, and
  - (c) the Firearms (Amendment) Act 1997.