Air Weapons and Licensing (Scotland) Act 2015

2015 asp 10

PART 1

AIR WEAPONS

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.