

Draft Order laid before Parliament under paragraphs 1, 2 and 3 of Schedule 7 to the Scotland Act 1998, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2017 No.

**CONSTITUTIONAL LAW
DEVOLUTION, SCOTLAND
ARMS AND AMMUNITION
CRIMINAL LAW**

**The Air Weapons and Licensing (Scotland) Act
2015 (Consequential Provisions) Order 2017**

Made - - - -

Coming into force in accordance with article 1(2)

The Secretary of State makes the following Order in exercise of the powers conferred by sections 104, 112(1) and 113(5) of the Scotland Act 1998⁽¹⁾.

In accordance with paragraphs 1, 2 and 3 of Schedule 7 to that Act, a draft of this Order has been laid before and approved by a resolution of each House of Parliament.

Citation, commencement and extent

1.—(1) This Order may be cited as the Air Weapons and Licensing (Scotland) Act 2015 (Consequential Provisions) Order 2017.

(2) This Order comes into force on the twenty-first day after the day on which it is made.

(3) This Order extends to England and Wales and Scotland only.

Offence of taking in pawn air weapons

2.—(1) The Firearms Act 1968⁽²⁾ is amended as follows.

(2) In section 3 (business and other transactions with firearms and ammunition)⁽³⁾, after subsection (6) insert—

⁽¹⁾ 1998 c.46. There are amendments to section 104 which are not relevant to this Order.

⁽²⁾ 1968 c.27.

⁽³⁾ There are amendments to section 3 which are not relevant to this Order.

“(7) It is an offence for a pawnbroker to take in pawn an air weapon within the meaning of section 1 of the Air Weapons and Licensing (Scotland) Act 2015(4).

(8) Subsection (7) applies to Scotland only.”.

(3) In the table in Part 1 of Schedule 6 (prosecution and punishment of offences)(5), after the entry for section 3(6) insert—

“Section 3(7)	Pawnbroker taking air weapon in pawn (Scotland only).	Summary	3 months or a fine of level 3 on the standard scale; or both. ”	
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Forfeiture and disposal of firearms and cancellation of certificates

3. In section 52 of the Firearms Act 1968 (forfeiture and disposal of firearms; cancellation of certificate by convicting court)(6), after subsection (1) insert—

“(1ZA) Where—

- (a) a person is convicted as mentioned in subsection (1)(a) by or before a court in England and Wales, or
- (b) an order of the kind mentioned in subsection (1)(b) or (c) is made in relation to a person by a court in England and Wales,

the court may cancel any air weapon certificate granted to the person under section 5 of the Air Weapons and Licensing (Scotland) Act 2015 which has not expired or been revoked or cancelled.

(1ZB) Where a person is convicted of an offence under Part 1 of the Air Weapons and Licensing (Scotland) Act 2015, the court by or before which the person is convicted may make such order as to the forfeiture or disposal of any firearm (other than an air weapon within the meaning of section 1 of that Act) or ammunition found in the person’s possession as the court thinks fit.”.

Dover House,
London
Date

Name
Secretary of State
Scotland Office

(4) 2015 asp 10.

(5) There are amendments to the table in Part 1 of Schedule 6 which are not relevant to this Order.

(6) Section 52 was modified by the Criminal Justice Act 1988 (c.33), section 170(2), Schedule 8, paragraph 1 and Schedule 16; the Criminal Justice and Public Order Act 1994 (c.33), Schedule 10, paragraph 24(3); the Crime and Disorder Act 1998 (c.37), Schedule 8, paragraph 15; the Criminal Justice Act 2003 (c.44), Schedule 32, paragraph 13; and the Violent Crime Reduction Act 2006 (c.38), section 50(3) and (5). Section 52(1A) was inserted by the Criminal Justice Act 2003, Schedule 32, paragraph 13(3), and amended by the Criminal Justice and Immigration Act 2008 (c.4), Schedule 4, paragraph 7 and the Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), schedule 2, paragraph 30(3).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends certain provisions of the Firearms Act 1968 (“the 1968 Act”) in consequence of the provisions in Part 1 of the Air Weapons and Licensing (Scotland) Act 2015 (“the 2015 Act”).

Part 1 of the 2015 Act makes it an offence for a person to use, possess, purchase or acquire an air weapon without holding an air weapon certificate. It also makes it an offence to fail to comply with the restrictions placed on transactions involving air weapons (including the manufacture, sale, transfer, repair and testing of air weapons). These offences are subject to certain exemptions.

Article 1 of the Order makes provision as to citation, commencement and extent.

Article 2 of the Order amends section 3 of the 1968 Act to make it an offence in Scotland for a pawnbroker to take in pawn an air weapon. It also amends Part 1 of Schedule 6 to the 1968 Act so that the maximum penalty for this offence, on summary conviction, is 3 months’ imprisonment and/or a fine of level 3 on the standard scale.

Article 3 of the Order amends section 52 of the 1968 Act. Section 52 allows a court, in certain circumstances, to order the forfeiture or disposal of any firearm or ammunition found in the possession of a person convicted before it, and to cancel any firearm certificate or shot gun certificate that the person holds. Article 3 extends the power in section 52 of the 1968 Act to provide that—

- (a) a court in England and Wales may also cancel any air weapon certificate granted to the person under section 5 of the 2015 Act; and
- (b) where a court in Scotland convicts a person of an air weapon offence under the 2015 Act, it may (in addition to its powers under sections 28 and 29 of that Act) order the forfeiture or disposal of any firearm (other than an air weapon) or ammunition found in the person’s possession.

A full regulatory impact assessment has not been produced for this instrument as no, or no significant impact on the private or voluntary sectors is foreseen.