

## Air Weapons and Licensing (Scotland) Bill

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Bill Number:	SP Bill 49
Introduced on:	14 May 2014
Introduced by:	Kenny MacAskill (Government Bill)
Passed:	25 June 2015
Royal Assent:	4 August 2015

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### Passage of the Bill

The [Air Weapons and Licensing \(Scotland\) Bill](#) was introduced in the Parliament on 14 May 2014. The Parliament's Local Government and Regeneration Committee ("the LGR Committee") was designated as lead committee for the purposes of parliamentary consideration. Its [stage 1 report was published in March 2015](#). The Scottish Government produced [a written response](#) to that report in April 2015, and the Bill completed stage 1 proceedings following a parliamentary debate later the same month. Stage 2 consideration of the Bill was carried out by the LGR Committee at two meetings in May 2015.

The Bill was passed following the [stage 3 parliamentary debate in June 2015](#) and became the [Air Weapons and Licensing \(Scotland\) Act 2015](#) following Royal Assent on 4 August 2015.

### Purpose and objectives of the Bill

The Bill sought to amend the licensing regime in Scotland across three broad areas to improve and strengthen the licensing system with the objectives of:

- (a) preserving public order and safety; (b) reducing crime; and (c) advancing public health policy.

The Bill sought to achieve this by doing the following. First, to establish two new licensing regimes in Scotland:

- (i) a new licensing regime for owning and using an air weapon in Scotland;
- (ii) a new licensing regime for the operation of sexual entertainment venues in Scotland.

Secondly, the Bill sought to amend the current licensing regime under the Licensing (Scotland) Act 2005 to make it an offence to supply alcohol to people under 18 for consumption in a public place. The Bill also took forward a number of technical changes to the licensing system for alcohol sales.

Thirdly, the Bill sought to amend the existing civil licensing regime in relation to the licensing of taxis and private car hires, scrap metal dealerships and public entertainment venues.

## **Parliamentary consideration**

There was broad support for the Bill's objectives as set out by the Scottish Government, and the LGR Committee reported that it was content with the general principles of the Bill as introduced.

The [stage 1 debate took place on 23 April 2015](#).

In relation to air weapons, many speakers highlighted the dangers such weapons posed. However, there was a call from Tavish Scott MSP to consider the proportionality of the proposed approach and the Conservatives indicated that they would abstain in the vote on the general principles of the Bill because they did not support the air weapons provisions.

The main issues highlighted in relation to other aspects of the Bill were:

- the wide-ranging nature of the Bill, with some contributors expressing concern that this hindered effective scrutiny
- whether a more fundamental review of the Civic Government (Scotland) Act 1982 was needed
- the impact of metal theft on communities; the importance of public safety in relation to the licensing of taxis and private hire cars; and
- concerns about the licensing of sexual entertainment venues, particularly that they encouraged unhealthy attitudes to women and therefore damaged society as a whole.

A number of amendments on all aspects of the Bill were brought forward at stage 2. Some of the most significant amendments are discussed below.

### *Air weapons*

With regard to the provisions on air weapons, opinion amongst stakeholders was clearly divided between those who saw no good reason to introduce a licensing regime and those who considered a licensing regime to be a sensible and measured approach to ownership and use of such weapons.

The Scottish Government brought forward an amendment to ensure that a young person's certificate would prevent 14 to 17 year olds from purchasing, hiring, accepting a gift of, or owning, an air weapon (in line with the Firearms Act 1968).

Section 24 of the Bill would allow air weapons to be sold to people who lived outside Great Britain who did not hold an air weapon certificate. However, the Gun Trade Association raised concerns that the Bill made no provision for the sale of air weapons to people resident outside Scotland but within Great Britain. The LGR Committee recommended that the Bill should not prevent sales of air weapons to customers in the rest of Great Britain. To address this, the Scottish Government brought forward an amendment which would enable air weapons to be sold to people in England and Wales, provided they are delivered to a registered firearms dealer for collection. This would ensure compliance with section 25 of the Bill and section 32 of the Violent Crime Reduction Act 2006.

### *Alcohol licensing*

The Committee heard evidence that the current licensing regime was being abused. Key concerns included:

- that major events were taking place under occasional licences, thus avoiding public entertainment licence requirements; and
- that some members' clubs operated like pubs without having to meet the same licensing criteria.

The Scottish Government agreed to consider concerns around public entertainment licensing in more detail and brought forward an amendment which would require those holding an occasional licence to also apply for a public entertainment licence if they intended to put on any licensable forms of public entertainment. Holders of premises licences to sell alcohol would remain exempt from the requirement to hold a public entertainment licence. The amendment was agreed to.

### *Taxi and Private Hire Car Licensing*

The Bill would empower licensing authorities to limit the number of private hire cars where there was "overprovision". There is currently no limit on the number of private hire car vehicle licences a licensing authority can grant and licensing authorities can choose to limit the number of taxi vehicle licences. Practitioners were concerned that the overprovision test was different from the current "unmet demand" test for taxis. There was also a fear of legal challenge as the new system bedded in.

Amendment 94, in the name of Colin Keir MSP, sought to require the Scottish Government to prescribe the methodology for calculating overprovision in secondary legislation. Mr Keir withdrew his amendment having received an assurance from the Cabinet Secretary that the Scottish Government would issue guidance on this matter. Cameron Buchanan MSP's amendment 91

sought to remove the section creating overprovision powers from the Bill altogether on the basis that it was anti-competitive. Mr Buchanan's amendment was disagreed to.

### *Sexual entertainment licensing*

At stage 2, amendments were brought forward by Cara Hilton MSP which sought to require local authorities to publish a policy statement in relation to sexual entertainment venue licensing whereby local authorities would be required to state how their approach would address violence against women.

Amendment 97, also in the name of Ms Hilton, sought to require local authorities to consult with violence against women partnerships when dealing with applications.

The Cabinet Secretary expressed support for the broad intentions of the amendments while outlining practical concerns. The amendments were withdrawn after the Cabinet Secretary agreed to bring forward amendments at stage 3 which would require local authorities to consider the wider policy context.

Consequently, the Cabinet Secretary brought forward an amendment at stage 3 which would require specific notification to particular bodies that will have an interest in the licensing of sexual entertainment venues. He also stated that there was a practical advantage in ensuring that important stakeholders, including violence against women partnerships and community councils, are notified of applications early, so that they have sufficient time to consider applications and to make such representations to the authority as they consider appropriate.

Rather than identifying particular bodies in primary legislation, the Scottish Government's preference was for each local authority to identify which organisations in its area should be notified of applications, because local authorities are best placed to make that judgement. To that end, statutory guidance following the passing of the Bill will indicate the types of bodies and organisations that should be considered, and the intention is that they will include bodies such as violence against women partnerships. Local authorities will have to take that guidance into consideration when compiling their list of recipients. Local authorities will also have to have regard to their sexual entertainment venue licensing policy statement and the full range of objectives that are set out in that document.

The amendment was agreed to.