Air Weapon and Licensing (Scotland) Bill: Assessment of proposed Licensing Bill and summary of unintended consequences

The proposal is unsound as it fails to meet the five principles of better regulation:

**Proportionality**

No. Regulators should intervene only when necessary. Remedies should be appropriate to the risk posed, and costs identified and minimised.

Air weapon licensing would not be proportionate since there are at least 500,000 air weapons in Scotland and there were only 171 recorded offences involving air weapons in 2012-13. Offences have fallen by 75% in recent years (ten year peak at 683 offences in 2006-07). This reduction has been attributed to education (by Scottish Government and shooting organisations) and enforcement of existing legislation by the Police. The 5 principles of Better Regulation require that regulators “think small first” and consider all options, not just prescriptive regulation. Therefore, it would be better for public safety, and cheaper, to continue with this successful strategy rather than involving a significant police resource in unnecessary administration.

The Justice Secretary supports “education and enforcement” for reducing knife crime in Scotland and this fits with the requirement that “enforcers should consider an educational, rather than a punitive approach, where possible”.

**Accountability**

No. Regulators should be able to justify decisions and be subject to public scrutiny.

Public consultation showed that an overwhelming majority of respondents were opposed to air weapon licensing. A petition opposing air weapon licensing, and presented to the Public Petitions Committee, was signed by 24,000 people. Furthermore, there would not be a “fair and effective appeals procedure” due to the requirements for the Chief Constable to only give 7 days’ notice of revocation.

**Consistency**

No. Government rules and standards must be joined up and implemented fairly.

There are already regulations (about 30) in place to control the use of low-powered air weapons in Scotland. The proposed licensing of air weapons in Scotland is, in many ways, more restrictive than existing licensing arrangements in place for both shotguns and firearms.

**Transparency**

No. Regulators should be open, and keep regulations simple and user-friendly.

The proposed legislation is neither simple nor user-friendly, and with air gun crime falling the need for further regulation is not apparent. There will be a significant cost of compliance for those to be regulated, including loss of application fee even if application is unsuccessful.

There should be an “effective consultation…before proposals are developed…to ensure that stakeholder’s views and expertise are taken into account”. The views of stakeholders have been sought, and ignored.

**Targeting**

No. Regulation should be focused on the problem and minimise side effects.

It is clear that under the proposed licensing system only existing law-abiding citizens will apply for an air weapon certificate, meaning that “those whose activities give rise to the most serious risks” (i.e. those who are already behaving illegally) won’t be affected. This is the opposite of targeting the problem and will result in a “scattergun approach” with unintended consequences.
UNINTENDED CONSEQUENCES

1. The requirement to obtain an air weapon certificate will encourage many people to get rid of their air weapon. Some will be surrendered, some will be sold but many could be otherwise disposed of (very few have serial numbers and could not be traced), leading to a possible increase in offences involving air weapons in the coming years.

2. The requirement to obtain an air weapon certificate will be the incentive for many to decide to apply for a shot gun or firearms certificate instead. The process may be easier (there is no need for good reason for a shot gun certificate and no conditions can be attached, for example) and possibly cheaper, and if the application is unsuccessful the fee will be returned.

3. It would be impossible for a registered firearms dealer in Scotland to sell an air weapon to a resident of England or Wales unless the air weapon was sent out with Great Britain first. (Sect. 24 (2))

4. It would become almost impossible to appeal against the Chief Constable’s decision to revoke an air weapon certificate. The Chief Constable need only give 7 days’ notice of revocation, which is not long enough to lodge an appeal in a Sheriff Court. (For revocation of shot gun and firearm certificates a certificate holder has 21 days to lodge an appeal from receipt of notification.)

5. The Bill refers to applicants being required to demonstrate “good reason”. This is defined as “pest control, sporting target shooting, or being a collector” in the Explanatory Notes (Sect. 18). However, the Policy Memorandum is clear that Ministers do not believe that “plinking” in gardens “should generally be acceptable”. This is the most common use for air weapons in Scotland. Many applications for an air weapon certificate could therefore be rejected due to advice in the Policy Memorandum rather than what is in the Bill itself. This will deprive a large number of air weapon shooters their sport.

ADDITIONAL OBSERVATIONS

6. “Shooting at properly operated and approved air weapon clubs will be encouraged.” There are currently no such clubs in Scotland.

7. Young people under 18 (those resident in Scotland and visitors) may only shoot live quarry with an air weapon for purposes associated with agriculture. They would be unable to shoot grey squirrels, mink, magpies etc. for conservation purposes. They would be able to do this if they applied for and were granted a shot gun or firearm certificate.

8. The definition of “air weapon” (Explanatory Notes 9) excludes those powered by compressed carbon dioxide, meaning that many existing owners of such air weapons would have to apply for a Firearms Certificate.

9. Air weapons will become the first commonly held item that can be held and used in England without a licence but must be licenced in Scotland. It would be an offence to bring an air weapon into Scotland without having a licence, permit or visitor’s permit.