These documents relate to the Air Weapons and Licensing (Scotland) Bill (SP Bill 49) as introduced in the Scottish Parliament on 14 May 2014

AIR WEAPONS AND LICENSING (SCOTLAND) BILL

EXPLANATORY NOTES

(AND OTHER ACCOMPANYING DOCUMENTS)

CONTENTS

As required under Rule 9.3 of the Parliament’s Standing Orders, the following documents are published to accompany the Air Weapons and Licensing (Scotland) Bill introduced in the Scottish Parliament on 14 May 2014:

- Explanatory Notes;
- a Financial Memorandum;
- a Scottish Government statement on legislative competence; and
- the Presiding Officer’s statement on legislative competence.

A Policy Memorandum is printed separately as SP Bill 49–PM.
EXPLANATORY NOTES

INTRODUCTION

1. These Explanatory Notes have been prepared by the Scottish Government in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by the Parliament.

2. The Notes should be read in conjunction with the Bill. They are not, and are not meant to be, a comprehensive description of the Bill. So where a section or schedule, or a part of a section or schedule, does not seem to require any explanation or comment, none is given.

PURPOSE

3. The Bill introduces a system of licensing for air weapons in Scotland. The Bill creates a number of new offences related to possession, use and acquisition of air weapons by persons who do not hold a licence or do not act in accordance with the licensing regime. The Bill also sets out the framework through which the Police Service of Scotland may grant an air weapon licence to appropriate individuals.

4. The Bill will give local communities the power to regulate sexual entertainment venues in their areas. The Bill also amends the licensing regimes in relation to alcohol licensing, taxis and private hire cars, metal dealers, as well as making systematic changes across the civic licensing regimes contained within the Civic Government (Scotland) Act 1982 (“the 1982 Act”).

5. A more detailed explanation of the Bill’s purpose can be found in the Policy Memorandum, which also explains the thinking and policy intentions that underpin it.

STRUCTURE AND SUMMARY OF THE BILL

6. The Bill is in four parts:

- **Part 1 Air weapons** sets out a new licensing system for air weapons administered by the Police Service of Scotland. Specific provisions include:
  - a definition of the air weapons that will be subject to licensing;
  - a requirement for air weapon certificates and the process for applications, grants (including conditions and duration) variations, renewal and revocation of these;
  - a system of police permits, visitor permits and event permits;
  - restrictions on the commercial sale, sale for delivery outwith Scotland, manufacture, repair, testing of air weapons and the operation of recreational shooting facilities;
  - Enforcement powers and offences;
  - Power to set fees and provide guidance;
  - Air gun clubs;
Exemptions from the licensing regime.

- **Part 2 Alcohol licensing** amends the existing licensing regime for alcohol licensing included within the Licensing (Scotland) Act 2005 (“the 2005 Act.”) Specific provisions include:
  - Amendment of the licensing objective in relation to children to also include young persons;
  - Amendment of the duration of a licensing policy statement to align with the term of Local Government elections;
  - Inserting a fit and proper person test in relation to the issue or continued holding of a premises or a personal licence;
  - Removal of the automatic requirement for a hearing to be held where a Licensing Board is notified of a relevant or foreign offence in relation to a premises or personal licence;
  - Amendment of the definition of relevant offences and foreign offences to no longer disregard a matter that is spent for the purposes of the Rehabilitation of Offenders Act 1974;
  - Creation of new offences of giving, or making available, alcohol to a child or young person for consumption in a public place;
  - Inclusion of the flavouring angostura bitters in the definition of alcohol for the purposes of the Act;
  - Clarification that for an overprovision assessment, the whole Board area may be considered as an area of overprovision;
  - For an overprovision assessment allow Boards to take account of licensed hours, among other things;
  - A duty on Boards to prepare an annual financial report in respect of their licensing activities;
  - Removal of the requirement for a premises licence holder to notify a change in interested parties and amendment of the definition of an “interested party” to remove premises managers;
  - Changes to the personal licence holder requirements including removal of the five year restriction on re-applying for a licence revoked on grounds of failing to undertake refresher training or notifying the board of such, and other changes to the personal licence holder requirements;
  - A requirement for a Licensing Board to issue an acknowledgement of complete applications, unless the Board does not consider that it would be appropriate to do so;
  - Automatic grant of a licence where a Licensing Board has failed to determine an application within the required period or the extended period as granted by a sheriff. This clarifies compliance with the EU Services Directive.
• **Part 3 Civic Licensing** amends the existing licensing regimes included within the 1982 Act:

**Sexual entertainment venues**

Sets out a new licensing system for sexual entertainment venues administered by local authorities. Specific provisions include:

- The definition of sexual entertainment venues;
- The power for local authorities to license sexual entertainment venues according to the existing structure set out in Schedule 2 of the 1982 Act;
- The power for local authorities to determine the number of sexual entertainment venues in their area.

**Metal dealers**

Amendments to the metal dealer regime. Specific provisions include:

- Removal of the exemption warrants system that allowed a metal dealer with a larger turnover to be exempted;
- Limit payment for metal by metal dealers or itinerant metal dealers to prescribed methods i.e. bank transfer or cheque;
- Amended standards for identification of customers;
- Amended standards of record keeping;
- Removal of mandatory requirement that metal dealers should not process metal for 48 hours after receiving it.

**Taxis and private hire cars**

Amendments to the taxis and private hire cars regime. Specific provisions include:

- The power to refuse to grant private hire car licences on grounds of overprovision;
- The extension of taxi driver testing to include private hire car drivers;
- Removal of the contract exemptions to the licensing and regulation of taxis and private hire cars, bringing hire cars used on contracts into the regime.

**Public entertainment venues**

Abolish ‘theatre licences’ as currently required under the Theatres Act 1968 and instead regulate theatres through the existing public entertainment licencing regime provided for in the 1982 Act.

**Miscellaneous and general**

Amendments to the operation of all civic government licensing regimes. Specific provisions include:

- Power for Scottish Ministers to make provision for the procedure to be followed at or in connection with hearings;
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- Introduction of a new role, Civic Licensing Standards Officer;
- Where it has not already been provided for, the deemed grant of a licence where the Local Authority has failed to determine an application within the required period or the extended period granted by a sheriff.

- **Part 4 General Provision** sets out general provisions, such as for the making of ancillary provision by regulations. It also contains definitions, the short title and provisions for commencement of the Act by order.

**PART 1 – AIR WEAPONS**

7. The provisions in this Part establish a licensing regime in relation to air weapons.

*Meaning of air weapon*

**Section 1 – Meaning of “air weapon”**

8. Section 1 defines the term “air weapon” for the purposes of the Part. Subsection (2) adopts the definition from section 1(3)(b) of the Firearms Act 1968 (“the 1968 Act”). Section 1(3)(b) of the 1968 Act provides that an air weapon is an air rifle, air gun or air pistol which does not fall within section 5(1) of the 1968 Act and which is not of a type declared by the Secretary of State by rules to be “specially dangerous”. The Firearms (Dangerous Air Weapons) (Scotland) Rules 1969 (S.I. 1969/270) as amended are the applicable rules made by the Secretary of State.

9. The effect of this is that the Part applies to air weapons capable of a muzzle energy equal to or lower than 12 foot pounds (ft/lb), or 6 ft/lb for an air pistol (approximately 16.27 joules and 8.13 joules respectively). Air weapons above these thresholds or those that come within section 5(1) of the 1968 Act, for example by being disguised as another object, or designed or adapted to use a self-contained gas cartridge system – will continue to require to be held on a Firearms Certificate issued under the 1968 Act. Note that section 48 of the Firearms (Amendment) Act 1997 provides that any reference to an air rifle, air pistol or air gun in the Firearms Acts 1968 to 1997 includes a reference to any such rifle, pistol or gun which is powered by compressed carbon dioxide and therefore such weapons also fall to be licensed by the Part.

10. Subsection (4)(a)(i) adds a lower power threshold of one joule (approximately 0.74 ft/lb) to this definition, so that air weapons with a muzzle energy of one joule or below do not require to be held on an air weapon certificate. Subsection (4)(a)(ii) also excludes air weapons designed for use only underwater, for example spear guns, from requiring a certificate. Such weapons are excluded from existing UK firearms legislation by regulation 2 of the Firearms (Dangerous Air Weapons) (Scotland) Amendment rules 1993 (S.I. 1993/1541).

11. Subsection (3) sets out that component parts and sound moderators for air weapons are included in the definition of “air weapon”, and require to be held on an air weapon certificate.
Air weapon certificates

Section 2 – Requirement for air weapon certificate

12. This section makes it an offence for a person to use, possess, purchase or acquire an air weapon (as defined in section 1) without holding a valid air weapon certificate or otherwise than in accordance with the Part. Subsection (2) specifies that this offence is triable summarily or on indictment, and sets out the maximum penalties for both. The offence attracts strict liability. A “person” includes non-natural (e.g. corporate bodies) as well as natural persons.

13. Subsection (3) introduces schedule 1, which sets out a number of exemptions from the requirement to hold an air weapon certificate, and certain other offences created by the Part. Commentary on schedule 1 begins at paragraph 222 of this paper. Subsection (4) provides the Scottish Ministers with the power to add, remove or modify exemptions in schedule 1 by regulations. Such regulations are subject to the affirmative procedure in the Scottish Parliament.

Section 3 – Application for grant or renewal of air weapon certificate

14. This section sets out the process by which an individual can apply for an air weapon certificate, or the renewal of a certificate which has previously been granted. Subsection (1) states that applications must be made to the Chief Constable of the Police Service of Scotland, and sets a lower age limit of 14 for applicants.

15. Subsection (2) provides that applications for an air weapon certificate must be made in the form specified in regulations issued under section 37 and must be verified as set out in section 4. Additionally, applicants below the age of 18 must provide information specified in section 7. If an application is not accompanied by the required information it cannot be considered by the Chief Constable. Separately, section 36(3) has the effect that where an application is made in compliance with the application processes it still cannot be considered by the Chief Constable until the fee is paid.

16. Subsection (3) requires the Chief Constable to keep a register of all applications for a new or renewed air weapon certificate, even if the application is ultimately unsuccessful.

Section 4 – Verification of applications

17. This section, combined with section 3(2)(a), requires an application for a new or renewed air weapon certificate to be verified by an appropriate individual before it can be considered by the Chief Constable. Subsection (2) sets out who can verify an application but subsection (2)(c) lists those who can never verify an application, and subsection (3) requires the verifier to confirm the accuracy of any information supplied with the application. In every case the verifier must have known the applicant personally for at least two years, but not be related to them (see the definition of “relative” in section 40) or be ordinarily resident outside the United Kingdom, or be a Registered Firearms Dealer or be a constable or member of police staff of the Police Service of Scotland or a member or employee of the Scottish Police Authority. The Chief Constable must also be satisfied that verifiers are of good standing in the community. Further detail on who can verify an application will be provided in guidance published by the Scottish Ministers under section 39.
Section 5 – Grant or renewal of air weapon certificate

18. This section allows the Chief Constable to issue a new or renewed air weapon certificate provided that the applicant is fit to be entrusted with an air weapon; is not prohibited from possessing any firearms by section 21 of the 1968 Act (which makes provision to prohibit for life or 5 years possession of firearms, including air weapons, by persons who have been convicted and sentenced to specified terms of imprisonment); has a good reason to use, possess, purchase or acquire an air weapon (for example, pest control, sporting target shooting, or being a collector); and in all the circumstances can do so without danger to the public safety or the peace (this last test is intended to allow account to be taken of factors not only directly about the applicant but beyond, such as the applicant’s wider domestic situation or acquaintances). Further clarity on how the Chief Constable should test applicants against these criteria will be provided in guidance published by the Scottish Ministers under section 39.

19. Subsection (2) allows the Chief Constable to consider applicants who already hold a firearm or shotgun certificate issued under the 1968 Act to have met the “fit” and “not prohibited” criteria without further enquiry, on the grounds that these tests will already have been met for the grant of the firearm or shotgun certificate.

20. Subsection (3) allows the police to visit an applicant’s home, or any other place where air weapons are intended to be stored or used, and conduct enquiries relating to the criteria in subsection (1) before granting or renewing an air weapon certificate.

Section 6 – Air weapon certificate: conditions

21. This section relates to conditions which are applied to air weapon certificates. Conditions are defined in section 40(1) as including requirements and restrictions and may comprise positive or negative obligations. Conditions may therefore place restrictions on the way that the certificate holder stores or uses their weapons, or may require the holder to carry out certain administrative functions (for example, informing the Chief Constable if they change address).

22. Subsection (1) sets out that all air weapon certificates will carry certain mandatory conditions, which will be specified in regulations issued under section 37. Subsection (2) allows the Chief Constable to attach additional conditions to certificates as required, and to change a certificate’s conditions at the time of renewal.

23. Subsection (3) specifies that conditions attached by the Chief Constable must not be inconsistent with or undermine the effect of any of the mandatory conditions (as required by subsection (1)), or any other condition attached as a requirement of this Part (for example, the conditions for 14-17 year olds required by section 7(3)).

24. Subsections (4) and (5) create the offence of non-compliance with any conditions attached to an air weapon certificate, and set out the maximum penalty available respectively. This offence attracts strict liability.
Section 7 – Special requirements and conditions for young persons

25. This section sets out additional requirements for applications and certificates granted where the applicant is aged under 18. When combined with the minimum age for applicants at section 3(1), this section applies to applicants aged 14-17.

26. When read with section 3(2)(b), subsection (2) of this section requires that applications for an air weapon certificate from an individual aged 14-17 must contain a statement of consent from the applicant’s parent or guardian in the form and manner prescribed by regulations under section 37. The term “guardian” is defined at section 40(1).

27. Subsections (3) to (5) set out mandatory conditions for air weapon certificates granted to 14-17 year olds. The condition in subsection (4) prohibits a 14-17 year old with an air weapon certificate from purchasing or owning an air weapon, meaning that they may only use borrowed or hired air weapons. This condition applies to all air weapon certificates granted to young persons. Subsection (5) lists the specific activities for which a 14-17 year old might be granted an air weapon certificate. The Chief Constable must apply one or more of the conditions listed at subsection (5) to the young person’s air weapon certificate, as appropriate.

28. Subsection (6) disapplies the requirement that a young applicant need satisfy the Chief Constable that the applicant has a good reason for purchasing or acquiring an air weapon because an air weapon certificate granted to a young person will not permit them to purchase or own such a weapon and therefore that aspect of the test for grant or renewal is not relevant.

29. Subsection (7) defines agriculture for the purposes of this section, specifically subsection (5)(d). The definition used at section 85 of the Agricultural Holdings (Scotland) Act 1991 is adopted, which refers to “horticulture, fruit growing; seed growing; dairy farming; livestock breeding and keeping; the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds; and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes: and “agricultural” shall be construed accordingly”.

Section 8 – Duration of air weapon certificate

30. Subsection (1) sets the normal duration of air weapon certificates at five years, except in the case of a certificate issued to a 14-17 year old, where the certificate expires on the holder’s 18th birthday. At this point the young person’s air weapon certificate can be renewed and the conditions required by section 7 may be removed (for example, the prohibition on purchasing a weapon).

31. Subsection (2) provides that an air weapon certificate will remain valid beyond its stated expiry date, provided that the holder has applied to the Chief Constable for a renewal before that expiry date and the Chief Constable has not yet approved or rejected that renewal. The renewal application must be valid, i.e. comply with the requirements in section 3 and section 36, for this subsection to apply. The effect of this section is that the holder neither has to surrender the holder’s weapons nor commits the offence at section 2(1) when the original certificate expires, provided that renewal is being actively considered by the Chief Constable.
32. Subsection (3) provides the Scottish Ministers with the power to change the duration of air weapon certificates other than those in relation to young people. The regulations will be subject to the affirmative procedure in the Scottish Parliament.

Section 9 – Alignment of different types of certificate

33. This section allows air weapon certificates to be made co-terminous with firearm or shotgun certificates issued under the 1968 Act. This allows for all certificates to be due for renewal at the same time, minimising the workload for the applicant and the Chief Constable. Regulations under section 36 are expected to make provision for a proportionately lowered fee where such air weapon certificates are granted or renewed for significantly shorter duration. This section does not affect the duration of firearm or shotgun certificates.

34. Subsections (1) and (2) allow an applicant who already holds a valid firearm and/or shotgun certificate to request that the expiry date on an air weapon certificate – if granted or renewed – match the expiry date on their existing firearm and/or shotgun certificate(s). Because the standard duration for firearm, shotgun and air weapon certificates are all set at five years, an air weapon certificate issued in this way will necessarily have a shorter than normal duration when it is first granted.

35. Subsections (3) and (4) allow an applicant who already holds a live air weapon certificate to request that that certificate be renewed before it has run its full five year lifespan, and re-issued on the same date that a new or renewed firearm and/or shotgun certificate is granted, so that the expiry dates on all certificates are aligned. This will necessarily mean that the air weapon certificate which they originally paid for on a five year basis will not have lasted for its full duration.

Section 10 – Variation of air weapon certificate

36. This section allows the Chief Constable to vary any of the details on an air weapon certificate after it has been granted or renewed, including adding, amending or removing conditions on the certificate (except the mandatory conditions required by section 6, and, if applicable, section 7). The Chief Constable may vary a certificate at any time, but is obliged to notify the certificate holder of the changes made.

37. Subsection (2)(a) separately allows the holder of an air weapon certificate to request that the Chief Constable make such a variation, for example to provide an updated contact address, or to request the removal or amendment of an outdated condition. Decisions whether to grant such variations are made at the Chief Constable’s discretion.

38. Subsection (3) specifies that conditions attached by the Chief Constable must not be inconsistent with or undermine the effect of any of the mandatory conditions (as required by section 6(1)), or any other condition attached as a requirement of this Part (for example, the conditions for 14-17 year olds required by section 7(3)).
39. Subsection (4) allows the Chief Constable to require an air weapon certificate holder to relinquish their certificate within 21 days, for the purpose of varying the physical certificate in any way. Failure to do so may result in revocation of the certificate under section 11(2)(c).

Section 11 – Revocation of air weapon certificate

40. This section deals with revocation of an air weapon certificate. Subsection (1) requires the Chief Constable to revoke an air weapon certificate if satisfied that there is a danger to public safety or the peace if the certificate holder continues to possess an air weapon, or that the certificate holder is prohibited from possessing firearms under section 21 of the 1968 Act. These tests reflect those at sections 5(1)(d) and 5(1)(b) respectively.

41. Subsection (2) separately provides – but in contrast with subsection (1) does not require – the Chief Constable with discretion to revoke an air weapon certificate where the Chief Constable has reason to believe that the certificate holder is no longer a fit person to possess an air weapon (for example, if the holder was convicted of a crime of violence, or there is evidence of drug or alcohol abuse that meant that they could no longer be trusted with a firearm), or that they no longer have a good reason to hold a certificate (for example, if the holder had been a member of an airgun club but had not renewed membership of it). These tests reflect those at sections 5(1)(a) and 5(1)(c) respectively.

42. Subsections (2)(b) and (2)(c) provide the Chief Constable with discretion to revoke an air weapon certificate where the holder has failed to comply with a condition on that certificate, or has failed to surrender the certificate to the police for the purpose of a variation (as required by Section 10(4)). As with subsection (2)(a), in these circumstances the Chief Constable has the power to revoke but is not required to do so.

43. Subsections (3) to (6) set out the process for the revocation of an air weapon certificate. The Chief Constable must provide at least seven days’ advance notice of a revocation, within such time the certificate holder must relinquish the certificate and any air weapons or commit an offence (unless a reasonable excuse, for example illness, prevents them from doing so). Subsection (7) provides that, should the certificate holder make an appeal against the decision of the Chief Constable to revoke under section 35, the notice period will be suspended until such time as the appeal is disposed of or abandoned. However, subsection (7)(b) requires that the certificate holder must still surrender their certificate and weapons. If an appeal is successful then the court will quash the notice. If the appeal is rejected then the notice continues to run its remaining period from the date it was suspended.

Permits

Section 12 – Police permits

44. This section makes provision for police permits, which are distinct from air weapon certificates and are intended for use in transient situations where an individual may find themselves in possession of an air weapon, but grant of an air weapon certificate would not be appropriate (for example, where the executor of an estate takes possession of an air weapon when ingathering the deceased’s property). In this respect this section is intended to perform a similar function to that of section 7 of the 1968 Act, which allows the police to issue similar
permits to allow the temporary possession of a firearm covered by section 1 of that Act. This section should be read in conjunction with the exemption at paragraph 8 of schedule 1 to the Bill.

45. Subsection (1) sets out that the Chief Constable may issue a permit to allow an individual to possess or acquire and/or sell an air weapon in the course of business without requiring an air weapon certificate (or, in the case of sale in the course of business, being a Registered Firearms Dealer). These permissions may be applied or omitted from the permit at the Chief Constable’s discretion. Subsection (2) states that a police permit must not be granted to anyone prohibited from possessing firearms under section 21 of the 1968 Act, which is explained in more detail at paragraph 20 of this paper.

46. Subsection (3) allows police permits to have variable durations, set at the discretion of the Chief Constable in each case but, as reflects the transient situation for which a permit is to cater, the duration of a permit is not intended to be of the order of that for an air weapon certificate.

47. Subsection (4) provides that applications for a police permit must comply with the requirements set out in regulations made under section 37 or the application will not be treated as having been made. The effect is that an application for a permit cannot be considered by the Chief Constable if the application processes set out in the regulations are not followed. Separately, section 36(3) has the effect that where an application is made in compliance with the application processes it still cannot be considered by the Chief Constable until the fee is paid.

Section 13 – Visitor permits

48. This and the following related sections provide for a system whereby visitors to Scotland may apply to the Chief Constable for a permit to use, possess, purchase or acquire air weapons while in Scotland, without holding an air weapon certificate. This section should be read in conjunction with the exemption at paragraph 9 of schedule 1.

49. Subsection (4) sets out the criteria for grant of a visitor permit. For individual visitors, subsection (4)(a) requires the applicant to have a good reason, and subsection (4)(c) provides that the visitor must not be prohibited from possessing firearms, nor should their possession of an air weapon present a danger to the public. These requirements match those for applicants for an air weapon certificate in section 5, with the omission of the ‘fit person’ test which would be difficult to apply effectively to visitors from abroad.

50. Subsections (2) and (3) allow for applications by groups of two to 20 people to be made on behalf of the group. The Chief Constable does not have to grant or refuse every member of the group a permit en bloc and can reject some while accepting others. Subsection (4)(b) provides that the Chief Constable must be satisfied that each member of the group individually is to use and possess an air weapon only for one of the listed activities. Each member of the group individually must also not be prohibited from possessing firearms, nor should their possession of an air weapon present a danger to the public. Subsection (5) permits the Chief Constable to require proof from the person applying on behalf of the group that the group has the permission of the owner or occupier of the land in question for the activities mentioned in subsection (4)(b)(i) and (ii).
51. Subsection (6) requires the Chief Constable to attach a condition to a visitor permit granted as part of a group application which restricts the permit holder to taking part in the activity or activities listed in subsection (4)(b) for which the permit has been granted. However, subsection (6) does not apply to a visitor who is part of a group but is aged 14-17, who will be subject to the separate restrictions under section 14.

52. Subsection (7) allows visitor permits to have variable durations, set at the discretion of the Chief Constable, although subsection (8) sets a maximum duration of 12 months.

53. Subsection (9) requires that an application for a visitor permit must comply with the requirements set out in regulations issued under section 37 or it will not be regarded as having been made. The effect is that an application for a permit cannot be considered by the Chief Constable if the application processes set out in the regulations are not followed. Separately, section 36(3) has the effect that where an application is made in compliance with the application processes it still cannot be considered by the Chief Constable until the fee is paid.

54. Subsection (10) provides definitions, including specifying that applicants for a visitor permit must be aged 14 or over, and must live outside Scotland but intend to visit (or, be visiting at the time of application).

Section 14 – Visitor permits: young persons

55. This section makes provision where applications for visitor permits are from people under 18 years of age. When read with the definition of “qualifying visitor” in section 13(10) the effect is that this section applies to applicants aged 14 to 17 years.

56. Subsection (2) requires that applications for a visitor permit from an individual aged 14 to 17 years must contain a statement of consent from the applicant’s parent or guardian, set out in a form to be specified in regulations made under section 37. The term “guardian” is defined at section 40(1) and should be construed in light of the relevant jurisdiction of the applicant.

57. Subsections (3) and (4) provide that certain mandatory conditions set out in section 7 must be applied to visitor permits granted to young people, either individually or as part of a group. This means that young people with a visitor permit are subject to equivalent conditions as a young person residing in Scotland who holds an air weapon certificate.

58. Subsection (5) makes equivalent provision to that in section 7(6) as a young person with a visitor permit will not be able to purchase or acquire an air weapon while in Scotland. Subsection (6) makes it clear that a group of young visitors will not be granted a permit for the purpose in section 13(4)(b)(i) – that is for sporting purposes (including shooting live quarry) on private land, which a 14-17 year old holder of an air weapon certificate could not be permitted to do under sections 7(3) and (5).

Section 15 – Police and visitor permits: conditions

59. This section relates to conditions that are applied to police and visitor permits which have been granted under section 12 or section 13 respectively. Conditions will have the same effect as
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described in section 6. Subsection (1) sets out that all such permits will be subject to any mandatory conditions, which will be specified in regulations issued under section 37. Subsection (2) allows the Chief Constable to attach additional conditions to police and visitor permits as required.

60. Subsection (3) specifies that conditions attached by the Chief Constable must not be inconsistent with or undermine the effect of any of the mandatory conditions required by subsection (1), or any other condition attached as a requirement of this Part (for example, by virtue of the visitor’s age (under section 14) and/ or their being part of a group (under section 13)).

61. Subsections (4) and (5) make it an offence for the permit holder to contravene any condition attached to a permit under this section, and set out the penalty. This offence attracts strict liability.

Section 16 – Police and visitor permits: variation and revocation

62. This section relates to variation and revocation of police permits or visitor permits which have been granted under section 12 and section 13 respectively.

63. Subsection (1) allows the Chief Constable to vary any details on a police permit or a visitor permit after it has been granted, including adding, amending or removing conditions, except any mandatory condition required by section 15(1), or any conditions which must be attached to a visitor permit by virtue of the visitor’s age (under section 14) and/ or their being part of a group (under section 13). Subsection (2) provides that a variation may occur either on the application of the permit holder, or at the Chief Constable’s discretion although the Chief Constable is obliged to notify the permit holder of the changes made. Subsection (4) allows the Chief Constable to require a permit holder to relinquish their permit within 21 days, for the purpose of varying it in this way. Guidance is expected to set out that failure to surrender a permit in this way would be grounds for the permit to be revoked.

64. Subsection (3) specifies that conditions attached by the Chief Constable must not be inconsistent with or undermine the effect of any of the mandatory conditions required by section 15(1), or any other condition attached as a requirement of this Part (for example, by virtue of the visitor’s age (under section 14) and/ or their being part of a group (under section 13)).

65. Subsection (1)(d) allows the Chief Constable to revoke a police or visitor permit at any time, at the Chief Constable’s discretion. The Chief Constable must notify the permit holder of the revocation, and subsection (5) requires this notification to provide at least seven days’ notice of revocation, within which time the permit holder must relinquish the revoked permit and any air weapons possessed.

66. Subsections (6) and (7) make it an offence for a permit holder to fail, without reasonable excuse, to relinquish a permit for the purpose of revocation within the timescale specified by the Chief Constable.
67. Subsection (8) provides that when a permit holder appeals against a decision to revoke a permit, the notice period for that revocation is put on hold until the outcome of the appeal is known. However, by virtue of subsection (8)(b) the holder must still surrender the permit and any weapons to the Chief Constable. This mirrors the provision at section 11(7).

Section 17 – Event permits

68. This section provides for air weapon event permits. These are distinct from other permits as they are to be required where an event is to take place at which people may borrow, hire use or possess an air weapon for a short timescale, without holding individual air weapon certificates. Examples of situations where an event permit might be granted would be a Highland Games with an air weapon shooting component, or a variant of modern biathlon or pentathlon. This section should be read in conjunction with the exemption at paragraph 10 of schedule 1.

69. Subsection (1) sets out that applications for an event permit should be made to the Chief Constable, by a person responsible for the event. A “person” here includes non-natural (e.g. corporate bodies) as well as natural persons. Event permits are granted at the Chief Constable’s discretion, and permit the borrowing, hiring, possessing and/ or using of air weapons at a specified time and place, for the purpose of participating in a planned event activity as defined at subsection (7). Subsection (2) adds that the Chief Constable may attach conditions to an event permit as required.

70. Subsection (3) requires that an event permit – or a copy thereof – be displayed at the event to which it pertains. This requirement allows a participant at the event to confirm that a permit is in place and the exemption therefore applies when handling air weapons.

71. Subsections (4) and (5) create the offence of failing to comply with any condition attached to an event permit, or failing to display the permit as required by subsection (3) without a reasonable excuse. In either case the offence is committed by the event organiser named on the permit. The offence in subsection (4)(a) attracts strict liability.

72. Subsection (6) states that applications for an event permit cannot be considered unless they comply with the requirements set out in regulations to be made under section 37. Separately, section 36(3) has the effect that where an application is made in compliance with the application processes it still cannot be considered by the Chief Constable until the fee is paid.

Air weapon clubs and recreational shooting facilities

Section 18 – Approval of air weapon clubs

73. This section sets out the process by which an air weapon club can be approved by the Chief Constable, to allow its members to benefit from the exemption at paragraph 1 of schedule 1, as well as allowing members to put forward their club membership as evidence that they meet the ‘good reason’ criteria required by section 5(1)(c) for the grant of an individual air weapon certificate.
74. Subsection (1) states that the Chief Constable may, at the Chief Constable’s discretion, approve an air weapon club on receipt of an application from a club. Subsection (2) states that an application for an air weapon club approval cannot be considered unless it complies with the requirements set out in regulations to be made under section 37. Separately, section 36(3) has the effect that where an application is made in compliance with the application processes it still cannot be considered by the Chief Constable until the fee is paid.

75. Subsection (3) allows the Chief Constable to withdraw a club approval at any time, by giving notice to the club to that effect.

76. Subsection (4) states that all club approvals will be subject to mandatory conditions, which will be specified in regulations issued under section 37. Subsection (5) provides for the Chief Constable to attach other conditions to air weapon club approvals, which may place positive or negative obligations on the club’s secretariat and membership. But, in accordance with subsection (6), the Chief Constable may not attach any conditions which are inconsistent with any mandatory conditions.

Section 19 – Variation of approval

77. This section allows the Chief Constable to vary any of the details on an air weapon club approval after it has been granted or renewed, including adding, amending or removing conditions on the approval (except the mandatory conditions required by section 18(4)). The Chief Constable may vary an approval at any time, but is obliged to notify the club of the changes made.

78. Subsection (2)(a) separately allows the club to request that the Chief Constable make such a variation, for example to provide an updated contact address, or to request the removal or amendment of an outdated condition. Decisions whether to grant such variations are made at the Chief Constable’s discretion.

79. Subsection (3) specifies that conditions attached by the Chief Constable must not be inconsistent with or undermine the effect of any of the mandatory conditions (as required by section 18(4)).

Section 20 – Duration of approval

80. Subsection (1) sets the duration of air weapon club approvals at six years, which is consistent with approvals issued to rifle or muzzle-loading pistol clubs under section 15 of the Firearms (Amendment) Act 1988 (“the 1988 Act”).

81. Subsection (2) provides that an air weapon club approval will remain valid beyond its stated expiry date, provided that the club has applied to the Chief Constable for a renewal before that expiry date and the Chief Constable has not yet approved or rejected that renewal. The effect of this subsection is that club members can continue to benefit from the exemption at paragraph 1 of schedule 1 when the original approval expires, provided that renewal is being actively considered by the Chief Constable.
82. Subsection (3) provides the Scottish Ministers with the power to change the duration of air weapon club approvals. The regulations will be subject to the affirmative procedure.

Section 21 – Alignment of club approvals

83. This section allows air weapon club approvals to be made co-terminous with a rifle club approval issued by the Scottish Ministers under section 15 of the 1988 Act. This allows for both approvals to be due for renewal at the same time, minimising the workload for the applicant and the Chief Constable. Regulations under section 36 are expected to make provision for a proportionately lowered fee where such air weapon club approvals are granted or renewed for significantly shorter duration. This section does not affect the duration of rifle club approvals.

84. Subsections (1) and (2) allow an air weapon club which already holds a valid rifle club approval to request that the expiry date on an air weapon club approval – if granted or renewed – matches the expiry date on their existing rifle club approval. Because the standard duration for rifle and air weapon club approvals are both set at six years, an air weapon club approval issued in this way will necessarily have a shorter than normal duration when it is first granted.

85. Subsections (3) and (4) allow a club that already holds a live air weapon club approval to request that that approval be renewed before it has run its full six year lifespan, and re-issued on the same date that a new or renewed rifle club approval is granted, so that the expiry dates on both approvals are aligned. This will necessarily mean that the air weapon club approval which was originally paid for on a six year basis will not have lasted for its full duration.

86. References in this section to “rifle club approvals” include clubs approved for the use of small-bore rifles, full-bore rifles and/or muzzle-loading pistols, all of which are approved under section 15 of the 1988 Act.

Section 22 – Power to enter and inspect club premises

87. This section empowers the Chief Constable – or a delegated officer not below the rank of inspector – to authorise a police constable or member of police staff to enter and inspect any approved air weapon club premises, other than a private dwelling, to ensure that the requirements in this Part are being complied with. Subsection (3) provides that the inspection should, where possible, take place at a reasonable time, which may be any time that the club is operating including in the evenings or at weekends. Subsections (1)(b) and (2) set out that the police constable or member of police staff can inspect anything on the club premises, including requiring electronic information to be reproduced in a way that can be removed from the premises. However inspection should only be of those things for the purpose of ascertaining whether the provisions of the Part or any conditions attached to a club’s approval are being complied with.

88. Subsection (4) requires that the police constable or member of police staff must produce their authorisation if asked before entering a club premises to inspect it in accordance with this section.
89. Subsections (6) and (7) set out the offence of intentionally obstructing a police constable or member of police staff from carrying out their duties when authorised under this section – for example, by refusing them access to the club premises, or by concealing evidence from them.

Section 23 – Requirements for recreational shooting facilities

90. This section and the exemption in paragraph 12 of schedule 1 set out arrangements for commercial recreational shooting facilities where individuals who do not hold air weapon certificates will be able to borrow or hire air weapons for short durations, for a specific purpose – for example, a paintball venue.

91. Subsection (1) sets out that the operator of such a facility (or, where the operator is a non-natural person, must ensure that an individual responsible for the management and operation of the facility) must hold a valid air weapon certificate granted for this purpose, and must display this certificate (or a copy) at the venue. This requirement allows users of the facility to confirm that a certificate is in place and the exemption in paragraph 12 of schedule 1 therefore applies to them.

92. Subsections (2) and (3) make it an offence for anyone to operate a recreational shooting facility without either holding a valid air weapon certificate or ensuring that an individual responsible for the management and operation of the facility holds one for that purpose, or to fail to display that certificate at the facility without a reasonable excuse. The offence in subsection (2)(a) attracts strict liability.

93. Subsection (4) defines a recreational shooting facility for the purposes of the section as a shooting range or gallery, or a facility for combat games (such as paintball), where air weapons are used and which is run for the purpose of making a profit. Subsection (5) makes it clear that approved air weapon clubs are not subject to the requirements of the section.

Transactions involving air weapons and commercial matters

Section 24 – Restrictions on transactions involving air weapons

94. Subsection (1) makes it an offence for any person except a Registered Firearms Dealer under section 33 of the 1968 Act to manufacture, sell, transfer, expose for sale or transfer, repair or test an air weapon by way of trade or business, or to possess an air weapon for one of these purposes. This subsection makes analogous provision to that in section 3(1) of the 1968 Act and adds manufacture, repair and test of air weapons to the activities limited to Registered Firearms Dealers. This offence only applies to sales, transfers etc. by way of trade or business, and does not prohibit private sales between individuals. “Person” here includes non-natural persons (e.g. corporate bodies) as well as natural persons. The offences in this section attract strict liability.

95. Subsection (2)(a), (b) and (d) makes it an offence for anyone to sell or transfer an air weapon (including private sales) without first confirming that the recipient is entitled to have the air weapon by: showing a valid air weapon certificate; demonstrating that the recipient does not need to have a certificate; or, by virtue of being a Registered Firearms Dealer.
96. Subsection (2)(c) specifically allows a Registered Firearms Dealer to sell an air weapon to someone without requiring to see an air weapon certificate or evidence that an exemption applies, provided that the air weapon in question will be sent out of Great Britain without first coming into the possession of the purchaser. Where the purchaser is an individual (as opposed to, for example, a corporate body) the individual must also be aged 18 or over for this paragraph to apply. For example, an overseas visitor to Scotland who does not hold a visitor permit allowing purchase might have a Registered Firearms Dealer export an air weapon directly to their home country.

97. Subsection (3) broadly reflects subsection (2), and makes it an offence to manufacture, repair or test an air weapon for anyone without confirming that they hold a valid air weapon certificate or are a Registered Firearms Dealer or do not need to have a certificate.

98. Subsection (4) sets out the penalties for any of the offences committed in this section.

Section 25 – Requirement for commercial sales of air weapons to be in person

99. This section requires that commercial sales of air weapons are done face-to-face, and is intended to make analogous provision to section 32 of the Violent Crime Reduction Act 2006. Subsection (1) sets out that this section applies to all sales by way of trade or business except those between two Registered Firearms Dealers, and to those where the sale is concluded outside Great Britain (for example mail order sales).

100. Subsection (2) requires that, at the point at which possession of the air weapon(s) is/ are transferred to the purchaser, both the purchaser and the seller – or their representative – must be physically present, otherwise the seller commits an offence. Subsection (3) sets out different categories of person who may act as a representative of the seller for the purposes of this section. A “person” here means a non-natural (e.g. corporate bodies) as well as a natural person. This offence attracts strict liability.

Section 26 – Requirement to notify chief constable of certain sales

101. Subsection (1) sets out that this section applies to sales made under section 24(2)(c), where an air weapon is sold to someone who does not hold an air weapon certificate, to be sent out of Great Britain without coming first into the purchaser’s possession. Subsections (2) and (3) require the Registered Firearms Dealer who made the sale to notify the Chief Constable with the details of the sale entered into the dealer’s register, within 48 hours of the sale being made. Subsections (4) and (5) make it an offence for a Registered Firearms Dealer to fail to provide such notification. This offence applies to all types of “person” and attracts strict liability.

Enforcement

Section 27 – Power of search with warrant

102. This section relates to search warrants issued where there is a reasonable ground to suspect that an air weapon offence has been, is being or is about to be committed or there is a danger to the public safety or the peace involving an air weapon. Subsection (1) sets out that such a warrant may be granted by a sheriff on application by a constable or member of police
staff. Subsections (2) and (3) set out what a constable or member of police staff may do under such a warrant – that is, enter and search premises and seize or detain anything found there in relation to the commission of an air weapon offence. This includes anything in the possession of a person on those premises, and includes the power to require that any electronic information to be reproduced in a way that can be removed from the premises.

103. Subsections (4) and (5) make it an offence for any person to obstruct intentionally a police constable while carrying out a search under this section, and set out the attached penalty. “Person” includes both natural and non-natural persons.

Section 28 – Production of air weapon certificate

104. Subsection (1) empowers a constable to require the production of an individual’s air weapon certificate, or proof that the person does not require to hold a certificate, if the constable believes that an air weapon is in that person’s possession. “Person” in this section includes both natural and a non-natural persons. Subsection (2) allows the constable to seize any air weapons held and require the person’s name and address if a certificate or exemption is not provided.

105. Subsections (3) and (4) make it an offence to fail to provide a name and address, or to provide a false one, when required by this section. This offence attracts strict liability.

Section 29 – Cancellation of air weapon certificate

106. This section allows a court to order the cancellation of an individual’s air weapon certificate when that individual is convicted of one or more of the offences, or is subject to one of the other orders, set out in subsection (1). Orders may make provision about any type of firearm as well as air weapons.

107. Subsection (3) requires the court to notify the Chief Constable of a cancellation made under this section, at which point the Chief Constable must notify the certificate holder and allow 21 days for surrender of the certificate.

108. Subsections (4) and (5) make it an offence for an individual to fail to surrender the certificate within 21 days when required by subsection (3)(b), without reasonable excuse (for example, if they were unable to comply because they were serving a prison sentence).

Section 30 – Forfeiture and disposal of air weapons

109. This section allows a court to order the forfeiture or disposal of any air weapon in the possession of someone who has been convicted of any offence introduced by this Part. Subsection (3) allows a police constable to seize the weapon(s) in question, and subsection (4) allows the Chief Constable to apply to a sheriff to dispose of the weapon(s) in any manner the Chief Constable sees fit, for example by sale at auction, destruction by scrap metal dealer, or transfer to a museum if the weapon is of historic or other significance.

110. Subsection (5) provides that a court may not order the forfeiture or disposal of an air weapon which is possessed by a museum following a conviction for an air weapon offence or
where it was seized or detained by a constable. This provides for situations where, for example, a person is convicted of possession of an air weapon where he or she has stolen it from a museum, or a member of museum staff commits an offence with a museum weapon, so that the court does not inadvertently order forfeiture and thereby prevent the museum from getting return of an air weapon which may be of historic or other significance.

111. Subsections (6) and (7) set out what happens to air weapons where the Chief Constable has revoked an air weapon certificate, police permit or visitor permit on which they are held, but the holder appeals against that revocation. If the appeal is successful then the air weapons must be returned to their owner, and if it is not then the court may order their disposal as the Sheriff considers appropriate.

112. Subsections (8) and (9) set out what happens to air weapons where the air weapon certificate, police permit or visitor permit on which they are held has been revoked and the holder does not appeal, or withdraws their appeal. In such a case the Chief Constable and the owner of the weapon should seek to agree arrangements for disposal (for example, transfer to someone permitted to possess air weapons, or sale through a Registered Firearms Dealer). If an agreement cannot be reached then the Chief Constable may dispose of them as he or she sees fit, which may be by one of the methods outlined in paragraph 111 above. In such a circumstance subsection (10) requires the Chief Constable to notify the owner of the method of disposal, who may then appeal against the Chief Constable’s decision under section 35(2)(n).

**Offences**

**Section 31 – Failure to keep air weapons secure or to report loss to police**

113. This section makes it an offence for a person in possession of an air weapon to fail to take reasonable precautions for its safe custody, or to fail to immediately report the loss or theft of the air weapon to the Chief Constable. This offence applies to any person who possesses an air weapon and applies to natural and non-natural persons. The offence attracts strict liability.

**Section 32 – False statements, certificates and permits**

114. This section creates two offences around providing false information in order to obtain an air weapon certificate, permit, or approval, or producing a falsified or improperly altered certificate or other information in order to obtain the repair or testing of an air weapon.

115. Subsection (1) makes it an offence to knowingly or recklessly make a statement which contains false information in order to procure an air weapon certificate, police permit, visitor permit, event permit, or club approval. This could include, for example, providing a false name, or declining to disclose a criminal history when asked. This offence may also be committed by the person verifying the application, if the verifier knew that the information was incorrect or was reckless in verifying false information.

116. Subsection (2) makes it an offence to produce a false or improperly altered air weapon certificate, police permit or visitor permit, or to provide any other false information, in order to purchase or acquire an air weapon, or to have one repaired or tested. This could include, for
example, impersonating an air weapon certificate holder, or amending the details on an expired certificate so that it appeared to still be live.

Section 33 – Time limit for offences

117. This section provides that anyone committing a summary-only air weapon offence could have proceedings brought against them up to three years after that offence has been committed. Section 136 of the Criminal Procedure (Scotland) Act 1995 normally sets a time limit of six months after the offence has been committed. This only applies to summary-only offences, which is all of the offences in this Part except the ones at section 2 and section 24.

Section 34 – Offences by bodies corporate etc.

118. This section provides for cases where there may be an offence committed by a non-natural person such as a body corporate, partnership or unincorporated association (e.g. an auctioneer, carrier firm, operator of a recreational shooting facility etc.). Subsection (2) states that both the individual who committed the specific offence, as well as the corporate entity on whose behalf the criminal act was done, can be proceeded against for the purpose of that offence.

General

Section 35 – Appeals

119. This section allows persons to appeal against various decisions made by the Chief Constable in administering the air weapon licensing regime. Subsection (2) lists the decisions that can be appealed.

120. Subsections (1) and (3) set out that appeals must be made to the appropriate sheriff, as defined by subsection (8), within 21 days of the decision being appealed against. Subsections (4) and (5) state that the sheriff should undertake a full consideration of the merits of the Chief Constable’s decision of new, including considering any evidence that the Chief Constable may not have been aware of at the time.

121. Subsection (6) allows the sheriff hearing the appeal either to dismiss it or to direct the Chief Constable to take whatever action the sheriff sees fit to resolve the matter under appeal (for example, ordering the Chief Constable to grant a refused certificate, or not to revoke a certificate).

122. Subsection (7) states that the decision of the sheriff may only be appealed on point of law. The effect of this is that appeals may be made on point of law ultimately to the Inner House of the Court of Session. The “appropriate sheriff” is defined as being the sheriff of the sheriffdom where the appellant resides or, where the appellant resides outside Scotland, the sheriff at Lothian and Borders. The latter is necessary because in certain circumstances an appellant may reside outside of Scotland, for example where a visitor permit has been refused.
Section 36 – Fees

123. This section allows the Scottish Ministers to set out fees for various aspects of the air weapon licensing regime in secondary legislation. Regulations under this section will be subject to the negative procedure in the Scottish Parliament. Subsection (1) provides that a fee can be set in relation to any application for a certificate, permit etc. under this Part, or to any other service provided by the Chief Constable in relation to the Chief Constable’s performance of functions under the Part. Subsection (2) provides that the Scottish Ministers may set out a range of fees taking into account different circumstances – for example, lower fees for co-terminous certificates – as well as situations where a fee may be waived entirely. Subsection (2)(c) allows fees to be raised or reduced by reference to factors specified in the regulations, such as inflation.

124. Subsection (3) provides that until the appropriate fee is tendered with an application it is not valid and this means the Chief Constable cannot consider any application under the Bill until the appropriate fee has been paid.

Section 37 – Power to make further provision

125. This section allows the Scottish Ministers to make regulations via secondary legislation setting out detailed provisions regarding the application and grant process for air weapon certificates, police permits, visitor permits, event permits, or club approvals. This would include, for example, setting out templates for application forms, granted certificates, and specifying the conditions referred to in section 6. Regulations under this section will be subject to the negative procedure in the Scottish Parliament.

Section 38 – Transitional arrangements for existing certificate holders

126. This section introduces a temporary exemption that applies to persons who are aged 14 years or over and already hold a firearm and/ or shotgun certificate issued under the 1968 Act at the point when the section 2 offence is brought into force. Under subsection (2) such persons can possess and use (but not purchase or acquire) air weapons without holding an air weapon certificate, until their existing firearm and/ or shotgun certificate expires or is renewed. When renewing the firearm or shotgun certificate the individual should apply to the Chief Constable for first grant of an air weapon certificate if it is desired to continue to possess or use an air weapon.

127. This section also applies to firearm and shotgun certificates issued in the rest of Great Britain, so someone from England or Wales who holds valid a firearm and/ or shotgun certificate could visit Scotland with an air weapon without requiring to apply for a visitor permit, subject to the restrictions set out below.

128. Subsection (3) requires that a person making use of this exemption must nonetheless comply with the mandatory conditions for air weapon certificates to be specified in regulations issued under Section 37 – and, in the case of an individual aged below 18, can only use the air weapon for of the purposes mentioned in section 7(5). Subsections (4) to (6) set out the offence, exception and penalty related to non-compliance with the conditions mentioned in subsection (3). This offence attracts strict liability.
129. Subsection (7) sets out that this transitional exemption applies from the day that the offence at section 2 comes into effect, and ends on the day that the individual’s firearm and/or shotgun certificate is renewed or expires. Subsection (7)(b)(ii) provides that should the firearm and/or shotgun certificate be surrendered, cancelled or revoked before its stated expiry date, the transitional exemption will also end.

130. Subsections (8) and (9) apply where the individual holds both a firearm and shotgun certificate, which are not co-terminous. Subsection (8) states that the transitional exemption ends on the later of the two certificate expiry dates. Subsection (9) states that should either certificate be surrendered the transition exemption continues in force until the remaining one expires or is surrendered, while if either certificate is cancelled or revoked then the transitional exemption ends immediately. Subsection (10) ensures that those making use of the exemption are also able to make use of the exemption in paragraph 16 of schedule 1.

**Section 39 – Guidance**

131. This section allows the Scottish Ministers to publish, revise and revoke guidance on any aspect of the air weapon licensing regime. Subsection (1) obliges the Chief Constable to take account of this guidance when carrying out his or her duties. Guidance will also be publicly available so that all stakeholders are aware of the Scottish Ministers’ view on application of the regime.

**Section 40 – Interpretation of Part 1**

132. This section provides definitions for various terms used throughout the Part.

133. Subsections (4) and (5) provide that where terms used in the Part are the same as those used in existing UK firearms legislation then the jurisprudence of the courts on interpretation of those terms in the existing UK firearms legislation applies equally to those terms when used in the Bill. The effect of this is to ensure that common terms are interpreted consistently across the Bill and the wider corpus of firearms legislation.

**PART 2 – ALCOHOL LICENSING**

134. The provisions in this Part amend the licensing regime for alcohol licensing within the Licensing (Scotland) Act 2005.

**Licensing objectives**

**Section 41 – Licensing objectives: protecting young persons from harm**

135. Section 41 amends the licensing objective at section 4(1)(e) of the 2005 Act to include young persons. The term young person is defined at section 147 of the 2005 Act and means a person aged 16 or 17. Under the current legislation, Boards must ensure that their decision making is underpinned by the five licensing objectives, including the objective “to protect children from harm”. This amendment expands this requirement so that Boards must also consider protecting ‘young people’ from harm.
Statements of licensing policy

Section 42 – Statements of licensing policy: licensing policy periods

136. Section 42 amends section 6 of the 2005 Act in relation to statements of licensing policy. A statement of licensing policy will generally have effect from 18 months after a local government election until 18 months after the next local government election. For example, the next local government elections are scheduled for May 2017 and May 2021 with the result that, in the usual case, the statements of licensing policy would last November 2018 until November 2022.

137. It is possible for the Licensing Board to decide that a statement of licensing policy should come into effect earlier than it otherwise would, and if they do so, then they must publish the licensing policy statement and publicise the date on which the licensing policy statement is to come into effect.

Fit and proper person test

138. The Bill introduces a ‘fit and proper person test’ into the processes for obtaining, reviewing and revoking licenses under the 2005 Act by virtue of sections 45 to 53. In each of these sections, the fit and proper test is considered with regard to the licensing objectives. It also makes some associated changes to the handling of information relating to relevant offences and foreign offences.

Section 43 – Premises licence application: ground for refusal

139. Section 43 amends section 23 of the 2005 Act in relation to the grounds of refusal for a premises licence application. Section 43 provides that it is a ground for refusal at a hearing when determining premises licence applications in section 23 of the 2005 Act, if the Licensing Board considers that, having regard to the licensing objectives, the applicant is not a fit and proper person to be the holder of a premises licence. An amendment is also made to section 23(8) so that, where the Licensing Board refuses a licence on the fit and proper person ground, the Board must state the licensing objective that the ground relates to.

Section 44 – Application to transfer premises licence: ground for refusal

140. Section 44 amends section 33 and 34 of the 2005 Act in relation to grounds for refusal for an application to transfer a premises licence (whether on the application of the current licence holder or someone else). Section 44 provides that it is a ground for refusal at a hearing when determining applications to transfer premises licences under section 33 or 34 of the 2005 Act if the Licensing Board considers that, having regard to the licensing objectives, the transferee is not a fit and proper person to be the holder of a premises licence. This section also expands the information that can be provided to the Licensing Board by the Chief Constable upon receiving notice of a transfer of a premises licence. If information is provided, the Licensing Board must hold a hearing to determine the application.
Section 45 – Ground for review of premises licence

141. Section 45 makes amendments with regards to review of a premises licence (both on an application by a third party for a review and on a proposal for a review initiated by the Licensing Board itself). Section 45 provides that it is a ground for review of a premises licence, if having regard to the licensing objectives, the licence holder is not a fit and proper person to be the holder of a premises licence. If a review is based on this ground, the review application or proposal must include a summary of the information on which the applicant or the Board based its view that the alleged ground applies.

142. If at the review hearing the Licensing Board is satisfied that the fit and proper person ground for review is established, the Board must revoke the licence. Thereafter the Board must provide notification of its determination to the licence holder and where the decision is taken in connection with a premises licence review application, the applicant. A decision to revoke the licence is added to the list of decisions in schedule 5 to the 2005 Act that are appealable to the sheriff principal.

Section 46 - Personal licence applications and renewals: ground for refusal

143. Section 46 makes amendments to sections 73, 74 and 78 of the 2005 Act in relation to personal licence applications and renewals. Section 46 provides that it is a ground for refusal at a hearing when determining personal licence application or personal licence renewal application under section 74 of the 2005 Act if the Licensing Board considers that, having regard to the licensing objectives, the transferee is not a fit and proper person to be the holder of a personal licence.

144. Subsection (2) provides that on giving a notice under subsection (3)(a) or (b) of section 73 of the 2005 Act, the Chief Constable may also provide to the Licensing Board any information in relation to the applicant that the Chief Constable considers may be relevant to consideration of the application by the Board.

145. Section 46 also inserts a new section 73A into the 2005 Act to provide that where a Licensing Board receives a personal licence application, the Board must give notice of it, together with a copy of the application, to a Licensing Standards Officer for the Board’s area. A Licensing Standards Officer may, within 21 days of the date of receipt of this notice, respond to the notice by giving the Licensing Board any information in relation to the applicant that the Officer considers may be relevant to consideration of the application by the Board. If information is supplied to the Board by the Chief Constable or by a Licensing Standards Officer, the Board may hold a hearing.

Section 47 – Personal licence holders: procedure on receipt of notice of conviction

146. Section 83 of the 2005 Act provides the procedure that a Licensing Board must follow where they receive notice of a conviction (or otherwise become aware of a conviction) of a personal licence holder. The Board must notify the Chief Constable of the conviction and, where the existence of the conviction is confirmed by the Chief Constable, the Board must hold a hearing to review the licence.
147. Section 47 of the Bill amends section 83 to enable a Licensing Board to consider at such hearings whether the licence holder is a fit and proper person to hold a personal licence. Where the Board are satisfied the person is not a fit and proper person to hold a personal licence, they must make an order revoking the licence. A decision to make such an order is added to the list of decisions in schedule 5 to the 2005 Act that are appealable to the sheriff.

Section 48 – Personal licence holders: conduct inconsistent with the licensing objectives

148. Section 84 of the 2005 Act provides the procedure that a Licensing Board must follow when, in the course of reviewing a premises licence under section 38 of the 2005 Act, they find that a personal licence holder was acting on the premises in a manner not consistent with the licensing objectives. Where the Licensing Board makes such a finding a hearing must be held where the Board can revoke, suspend or endorse the licence if they believe it necessary to do so.

149. Section 48 of the Bill amends section 84 to enable a Licensing Board to consider at such hearings whether the licence holder is a fit and proper person to hold a personal licence. Where the Board are satisfied the person is not a fit and proper person to hold a personal licence, they must make an order revoking the licence. A decision to make such an order is added to the list of decisions in schedule 5 to the 2005 Act that are appealable to the sheriff.

Relevant offences and foreign offences

Section 49 – Premises licences: procedure in relation to relevant offences or foreign offences

150. Section 49 amends section 44 of the 2005 Act so that when a Licensing Board receives a notice of conviction in relation to a premises licence holder (or a person connected to the premises licence holder) they must initiate a review of the premises licence and hold a hearing only where the Chief Constable has made a recommendation under section 44(5), namely that having regard to the conviction specified in the notice, it is necessary for the purposes of any of the licensing objectives that the premises licence should be varied, suspended or revoked. Where the Chief Constable has not made such a recommendation then the Board may either make a premises licence review proposal, (and hold a hearing), or decide to take no further action in relation to the conviction.

Section 50 – Personal licences: procedure in relation to relevant offences or foreign offences

151. Section 50 amends section 83 of the 2005 Act so that when a Licensing Board receives notice of a conviction in relation to a personal licence they must hold a hearing only where the Chief Constable has made a recommendation under section 83(5), namely that having regard to the conviction specified in the notice it is necessary for the purposes of any of the licensing objectives that personal licence should be varied, suspended or revoked. Where the Chief Constable has not made such a recommendation then the Board may either hold a hearing, or decide to take no further action in relation to the conviction.
Section 51 – Relevant offences and foreign offences: spent convictions

152. Section 51 repeals section 129(4) of the 2005 Act which prohibits any consideration of a conviction for a relevant offence or foreign offence if it is spent for the purposes of the Rehabilitation of Offenders Act 1974. This amendment will make it possible for spent convictions to be brought to and considered by Boards as part of their decision-making.

Supply of alcohol to a child or young person

Section 52 – Offences of supplying alcohol to a child or young person

153. Subsection (1) of this provision inserts section 104A into the 2005 Act making it a criminal offence for a person, other than a child or young person, to buy or attempt to buy alcohol for or on behalf of a child or to give or otherwise make available alcohol to a child.

154. It also inserts a new section 104B which makes it a criminal offence for a person, other than a child or young person, to buy, attempt to buy, give or otherwise make alcohol available, to a young person. “Young person” is defined in section 147 of the 2005 Act as a person who is 16 or 17 years of age.

155. It is not an offence under either section however to buy alcohol for, or give alcohol to, a child or young person, a) for consumption other than in a public place or b) for the purposes of religious worship.

156. In addition, it is not an offence under section 104B – if beer, wine, cider or perry is bought, given or made available to the young person along with a meal to be consumed in relevant premises.

157. These exceptions do not apply to the offences of buying alcohol on behalf of a child or young person.

158. There is also a defence to the section 104B offence if the person who bought or gave the alcohol did not know the young person was under 18 years.

159. A person convicted of either offence may receive a fine, not exceeding level 5 on the standard scale, imprisonment for up to three months, or both.

160. In both sections, “public place” is defined as relevant premises, any place to which public have access to at the relevant time (on payment or not), and any place to which the public do not have access but which the child or young person unlawfully gains access to. The term “relevant premises” is defined in section 122 of the 2005 Act.

161. Subsection (2) repeals subsections (4), (5) and (7) of section 105 of the 2005 Act (and consequentially renames that section), as the substance of those subsections is replicated in new sections 104A and 104B.
Miscellaneous

Section 53 – Meaning of “alcohol”: inclusion of angostura bitters

162. This provision amends section 2 of the 2005 Act to include angostura bitters within the definition of “alcohol”. Angostura Bitters were exempt from Excise and were excluded from the 2005 Act definition of alcohol. However, they are now liable for Excise duty and have been brought into the definition of alcohol.

Section 54 – Overprovision

163. Section 54 amends section 7 of the 2005 Act which deals with the duty of Licensing Boards to assess overprovision, and provides that where a Board determines the “localities” for the purposes of the Act then it may determine that the whole of the Board’s area is a single locality.

164. Section 7 is further amended so that the Board may have regard to (among other things) the number, capacity and licensed hours of licensed premises in the locality. Amendments are also made to allow these wider factors to be taken into account at:

- section 23(5)(e) (refusal of a premises licence on grounds of overprovision), and;
- section 30(5)(d) (refusal to vary premises licence on grounds of overprovision).

Section 55 – Duty of Licensing Boards to produce annual financial report

165. This provision inserts section 9A into the 2005 Act requiring Licensing Boards to produce an annual financial report on their alcohol licensing activities.

166. Section 9A(1), (2) and (3) place a duty on Licensing Boards to prepare and publish the annual financial report no later than three months after the end of the financial year. It should contain details of relevant income received by the Licensing Board during the financial year; details of relevant expenditure incurred in respect of the Board’s area during the year; and an explanation of how the amounts in the report were calculated. The Board is required to break down its figures into the component sources of relevant income and expenditure. Relevant income for example would be premises licence application fees, personal licence fees or fees charged in respect of an application to vary a premises licence and relevant expenditure would for example be the salary cost of a Licensing Standards Officer in respect of his duties under the alcohol licensing regime or the costs for the Board in administering the alcohol licensing regime.

167. Section 9A (4) and (5) provide that the aforementioned annual financial report may also include such other information about the performance of the Licensing Board’s functions as they consider appropriate, and that at the request of the Licensing Board the relevant council must provide the Board with such information as the Board may reasonably require for the purpose of preparing a report under this section. Subsection (6) gives the Scottish Ministers an order making power to make further provision about reports under this section, including provision about the form and content of reports; further details on what constitutes relevant income and relevant expenditure; and the publication of reports.
Section 56 – Interested parties

168. This provision amends section 40A (Connected persons and interested parties: licence holder’s duty to notify changes,) to remove the references to interested parties, including within the section title. It also removes a requirement to notify changes of interested parties. The licence holder now only requires to provide notification in respect of connected persons.

169. It also amends the definition of an interested party at section 147(5) by permitting that a premises manager can be an interested party. This has the effect of allowing the premises manager to be subject to vicarious liability for offences under s141B.

Section 57 – Personal licences: grant, duration and renewal

170. This provision amends section 74 of the 2005 Act regarding the determination of a personal licence application. Section 74(3) provides conditions which must be met before an application can be granted. This provision amends section 74(3)(c) which currently states a personal licence cannot be granted if one has been revoked in the last five years. This provision amends section 74(3)(c) to provide that the provision is not applicable to persons who have had a personal licence revoked under section 87(3) of the 2005 Act. Accordingly, if a personal licence is revoked under section 87(3) the person will no longer have to wait for five years to elapse before applying for a new personal licence.

171. This provision also amends section 77(8) of the 2005 Act to increase the length of time prior to the expiry date of a personal licence that the relevant Licensing Board must give notice to the licence holder that the licence will cease to have effect on the expiry date unless renewed. The period of time is increased to nine months before the expiry date of a personal licence.

172. The provision amends section 78 of the 2005 Act to increase the length of the time period in which a personal licence holder may apply to the relevant Licensing Board for renewal of the licence, as well as to increase the length of the period provided for the Licensing Board’s consideration of this application. The period of time to submit an application under section 78(1) is now within the nine months period beginning 12 months before the expiry date of the licence.

173. Finally section 84A of the 2005 Act is amended to provide that if a Chief Constable reports conduct inconsistent with the licensing objectives to the relevant Licensing Board, the whole of section 84(8) now applies in relation to an order made under subsection (2) of this section as opposed to only section 84(8)(a). This means that the Board making the order must now notify the order to the licence holder, the Board who gave the original notice and the Board who issued the licence, if these are different Boards.

Section 58 – Processing and deemed grant of applications

174. Section 58 inserts a requirement for Licensing Boards to issue an acknowledgement for relevant applications, where the application meets the requirements. The requirements for an application form are those imposed under the 2005 Act or any other relevant enactment in respect of the type of application.
175. The acknowledgement must amongst other things inform the applicant of the timescale within which the application must be decided. The acknowledgement must be issued as soon as is practicable.

176. Where an application does not meet the requirements, the Licensing Board must give notice to the applicant that they are treating the application as incomplete and as not having been made, along with their reasons.

177. A Licensing Board must determine accepted applications within nine months of the date of receipt, as recorded in the letter of acknowledgement. This period of nine months can be extended, once, on application to the sheriff. The sheriff may extend the period for determining the application only if it appears to them, that there is a good reason for doing so. The applicant is entitled to be a party to proceedings to consider such an extension.

178. The Licensing Board is not required to issue an acknowledgement where it would not be appropriate to do so, however this would not alter the requirement to determine an application within nine months unless an extension has been granted by the sheriff. A Board may for example decide to grant a minor variation under subsection 30(2) without first issuing an acknowledgement.

179. If the Licensing Board fails to determine the application in this period then the licence will be deemed to have been granted and the Licensing Board must issue the licence to the applicant as soon as practicable. The Licensing Board must apply the relevant mandatory conditions, under schedule 3, or 4, including, where applicable, the Late Opening Premises Conditions, as set out in The Licensing Conditions (Late Opening Premises)(Scotland) Regulations 2007, but at time of issue, may not apply pool conditions or local conditions to a licence granted in this way.

Section 59 – Form etc. of communications under the 2005 Act

180. Section 59 expands the order making power provided at section 134 of the 2005 Act in relation to the form etc. of applications, proposals and notices to also include other communications. This means, for example, that the Scottish Ministers may make regulations expressly facilitating the use of email or other internet based systems for any type of application, notice, proposal or communication required under the 2005 Act.

PART 3 – CIVIC LICENSING

181. This Part of the Bill makes a number of amendments to the licensing provisions in the Civic Government (Scotland) Act 1982.

Taxis and private hire cars

Section 60 – Refusal to grant private hire car licences on grounds of overprovision

182. Section 60 amends section 10 of the 1982 Act. This enables (but does not require) the licensing authority to refuse a private hire car licence application on the grounds of overprovision of private hire car services in a given locality or localities. It allows the licensing
authority to determine the localities within their area, allowing them to either treat the whole licensing authority area as one locality or sub-divide it. The section also provides that when assessing overprovision the licensing authority must have regard to the number of private hire cars operating in the locality and the demand for private hire car services in the locality.

Section 61 – Testing of private hire car drivers

183. Section 61 amends section 13 of the 1982 Act to allow licensing authority to require testing of applicants for a private hire car driver licence, as per the current ability to do so for a taxi driver’s licence. Licensing authorities will be able to require the same testing of both taxi and private hire car drivers or different elements of testing (or no testing) of one set of drivers.

Section 62 – Exemptions from requirements of sections 10 to 21 of 1982 Act

184. Section 62 amends section 22 of the 1982 Act to remove the exemption at subsection (c) which applies to ‘any vehicle while it is being used for carrying passengers under a contract for its exclusive hire for a period of not less than 24 hours’. This brings vehicles that are being used on contract in this manner into the licensing regime for taxis and private hire cars. Examples of the type of service that could potentially be brought within the licensing regime for taxi and private hire cars are: executive hire work – where a car is hired to transport an individual between meetings over the course of a day; airport transfers – where a car is hired to transport customers on longer journeys (meaning the car can only do one job in the 24 hour period) e.g. collecting from Glasgow Airport and taking a group to Iona.

185. Subsection (4) gives the Scottish Ministers the power to specify by order further exemptions from taxi and private hire car licensing. It is assumed the definition of a hire car within the 1982 Act makes clear the type of operation that should covered: ‘…“hire car” means a motor vehicle with a driver…which is, with a view to profit, available for hire by the public for personal conveyance.’ However, if it becomes clear types of service not intended to be covered are being swept up in taxi and private hire car licensing, this power could be used e.g. where a service is providing some kind of transport as an ancillary part of the wider service, not the main focus. An example could be if child-minders are being expected to be licensed as private hire car drivers and their vehicles licensed for collecting children in their care from school by car. The power could be used to make explicit that this type of operation is not intended to be covered.

Metal dealers

Section 63 – Removal of exemption warrants for certain metal dealers

186. This section amends section 28 of the 1982 Act and repeals section 29 of the 1982 Act to remove the current provisions that allow a metal dealer with an audited turnover in excess of a figure specified by order (currently £1 million) to be exempted from licensing requirements. This will have the effect of ensuring that all dealers are subject to licensing requirements.
Section 64 – Abolition of requirement to retain metal for 48 hours

187. This section repeals section 31 of the 1982 Act to remove the mandatory requirement that metal dealers should not process metal for 48 hours after receiving it. This would allow a dealer to process metal quickly (which may be required for the safe operation of the site).

Section 65 – Acceptable forms of payment for metal

188. This section creates a new section 33A in the 1982 Act. This specifies acceptable forms of payment that may be accepted by a metal dealer or itinerant metal dealer. The acceptable forms of payment are a cheque or electronic transfer. Cash is not an acceptable form of payment. A dealer who makes payment in a method not specified commits an offence. The offence extends to a person with day to day management responsibilities and the person who makes the payment. The metal dealer and manager are provided with a defence that they have made arrangements to ensure that payment is made by the specified methods and have taken all reasonable steps to ensure compliance. Subsection (7) gives Scottish Ministers the power by regulation to add or remove forms of payment that are acceptable.

Section 66 – Metal dealers and itinerant metal dealers: records

189. This section amends the record keeping requirements for metal dealers and itinerant metal dealers. A new section 33B is inserted into the 1982 Act and provides the details that must be recorded by a dealer when metal is acquired or disposed of and supports the separate provisions stipulating acceptable forms of payment by requiring dealers to keep copies of documentation evidencing the form of payment used. Subsection (6) of section 33B provides the Scottish Ministers the power by regulation to amend the record keeping requirement.

190. The section also inserts a new section 33C into the 1982 Act to stipulate how records should be stored and a new section 33D to require records to be kept for each place of business a dealer operates from.

191. The section also creates an offence in relation to a failure to comply with the new requirements in relation to record keeping and amends the existing offence in relation to providing false or misleading information.

Public entertainment venues

Section 67 – Licensing of theatres etc.

192. This section repeals existing licensing requirements in the Theatres Act 1968 (“the 1968 Act) and supporting provisions in the 1968 Act that allow for powers of entry and inspection and prevent licensing being used to censor the content of plays.

193. The section also removes the exemption for premises licensed under the 1968 Act from the 1982 Act thereby allowing plays to fall into the activities that may be licensed under public entertainment licensing arrangements. An equivalent of the anti-censorship provisions in the 1968 Act is inserted into the 1982 Act.
Sexual entertainment venues

Section 68 – Licensing of sexual entertainment venues

194. The Section creates a new licensing regime for sexual entertainment venues.

195. This is achieved by amending the existing licensing scheme for sex shops found in Part 3 and Schedule 2 of the 1982 Act, such that it applies to sexual entertainment venues also, with modifications as necessary. The following paragraphs explain the key features of the new regime as modified.

196. The section amends section 41(2) of the 1982 Act to preclude a sexual entertainment venue from being licensed under public entertainment licences.

197. The section creates a new section 45A which establishes for the purposes of the legislation what is meant by a sexual entertainment venue and provides definitions of ‘audience’, ‘financial gain’, ‘organiser’, ‘premises’, ‘sexual entertainment’ itself and ‘display of nudity’.

198. A power is provided by the section to allow the Scottish Ministers to prescribe types of premises that are not sexual entertainment venues. Sex shops are specifically identified as not being sexual entertainment venues.

199. A further power is provided to allow the Scottish Ministers to prescribe descriptions of performances or displays of nudity that are not to be treated as sexual entertainment for the purposes of the legislation.

200. The section specifies that a venue hosting sexual entertainment very occasionally (defined as three occasions or less) would not be treated as a sexual entertainment venue.

201. A new section 45B is created which requires a resolution by a local authority in order for sexual entertainment venue licensing to have effect in their area. The section requires that a resolution under the section would not have effect until a specified date (which cannot be less than one year after the resolution is passed). A resolution must be publicised either electronically or in a local newspaper.

202. The section also allows a local authority to determine an appropriate number of sexual entertainment venues for their area. The appropriate number so determined must be publicised then the determination much be publicised in a manner considered appropriate by the local authority.

203. Section 45B also clarifies that a licence for a sexual entertainment does not have to be granted even when a premises licence under Part 3 of 2005 Act (an alcohol licence) is in place.

204. Unlike sex shops, it will be permissible for a person under 18 to enter a sexual entertainment venue or be employed by such a venue but only at times when sexual entertainment is not taking place.”
These documents relate to the Air Weapons and Licensing (Scotland) Bill (SP Bill 49) as introduced in the Scottish Parliament on 14 May 2014

205. Section 45B also provides that local authorities must have regard to any guidance issued by the Scottish Ministers.

Miscellaneous and general

Section 69 – Deemed grant of applications

206. The section modernises and expands the requirement for licensing authorities to deal with matters expeditiously. Failure to do so has the result that the application will be deemed to have been authorised. The expanded requirement also includes applications for variations to a licence so that a failure to take a decision within the specified timescale would have the effect that the variation would be deemed to have been agreed.

207. Section 3 of the 1982 Act is amended to modernise the language to provide greater clarity of the requirement to consider an application within three months and then reach a final decision within a further six months.

208. Section 3(4) is amended to include variations and to clarify the language used to describe the effect of a failure of a licensing authority to reach a decision.

209. A new subsection (4A) is inserted in section 3 of the 1982 Act to specify the duration of a licence or temporary licence granted under the ‘deemed grant provisions’.

210. A new subsection (4B) is inserted in section 3 of the 1982 Act to clarify that a licence issued under these provisions is not immune to the separate powers of a licensing authority to vary, suspend or revoke licences or to consider renewal.

211. A new section 45C is added to the 1982 Act to replicate these provisions in relation to sex shops and sexual entertainment venues.

Section 70 – Procedure for hearings

212. Section 70 amends the 1982 Act by inserting paragraph 18A, in Schedule 1 and inserting paragraph 24A in Schedule 2. The new paragraphs create an order-making power to allow the Scottish Ministers to make provision about hearings in relation to activities licensed under Part 1 to 3 of the 1982 Act. The regulations may cover notice of hearings, rules of evidence, representation, timescales for steps in the procedure, and liability for expenses. The regulations may differentiate between different purposes, for example, different types of licence.

Section 71 – Conditions for Part 3 licences

213. This section recreates powers that allow the Scottish Ministers to set mandatory conditions that would apply to all licences issued under Part 3 of the 1982 Act. The condition setting power is broad, would be specified by Order and could encompass different licences and particular purposes and sets of circumstances or cases.
214. The section also allows local licensing authorities to produce standard conditions to which licences issued by them under this Part would be subject. The conditions would have no effect until they are published and cannot be inconsistent with the mandatory conditions. Standard conditions can be varied or dis-applied for particular applications, although a variation could also not be inconsistent with a mandatory requirement.

Section 72 – Civic licensing standards officers

215. Section 72 inserts a new Part 3A into the 1982 Act. This introduces a statutory requirement for a local authority or licensing authority to appoint an individual or individuals in a new role, referred to as a ‘Civic Licensing Standards Officer’. These new Civic Licensing Standards Officers will have the same powers and duties as an ‘authorised officer’ within the 1982 Act but will also have specific functions in relation to providing information and guidance, checking compliance, providing mediation and taking appropriate action on perceived breaches of conditions to a licence provided under the 1982 Act.

Section 73 – Electronic communications under the 1982 Act

216. The section amends Schedule 1 of the 1982 Act to permit a licensing authority to determine to receive electronic communications for a variety of matters. The matters are:

   (a) applications for the grant or renewal of a licence under paragraph 1,
   (b) objections or representations under paragraph 3,
   (c) notifications of a change to a licence under paragraph 9.

217. Where a licensing authority makes a determination to receive electronic communications they must specify the form of electronic communication, the address to be used and any means of authentication that may be used in addition to an electronic signature.

218. The section clarifies that an electronic communication meeting the requirements set out will meet any requirement under schedule 1 for a communication to be in writing and signed.

219. A licensing authority may also determine to make communications in respect of the giving of notices or the giving of reasons electronically. The giving of reasons or notices electronically would only be acceptable if the intended recipient has agreed to receive communications in such a form and has specified an address. If the requirements are satisfied then any requirement for a notice or reasons to be given in writing will be met.

220. Determinations in relation to electronic communications may be made for different purposes and for different licences.

221. Similar amendments regarding electronic communications are made to Schedule 2 in respect of sex shops and sexual entertainment venues.
PART 4 – GENERAL

Section 74 – Interpretation

222. Section 74 defines various expressions used in the Bill.

Section 75 – Regulations

223. Section 75 provides procedural requirements for orders and regulations made under the Bill.

Section 78 – Commencement

224. Section 78 provides that the provisions of the Bill (except those which come into force at the beginning of the day following the day on which the Bill receives Royal Assent) will come into force on a date or dates determined by order, made by Ministers.

Section 79 – Short title

225. Section 79 gives the short title of the Bill.

SCHEDULE 1: EXEMPTIONS

Paragraph 1 – Approved air weapon clubs

226. This paragraph exempts members of an air weapon club approved by the Chief Constable under section 18 from the requirement to hold an air weapon certificate, for the purpose of possessing or using an air weapon for target shooting at that club. The air weapon in question may be owned by the club and held on an air weapon certificate issued to the club secretary, or borrowed from elsewhere (for example another club member who holds their own air weapon certificate).

227. Sub-paragraph (b)(i) sets out that this exemption applies while the member is target shooting at other approved air weapon clubs, or at an event or competition, provided that the shooting is in connection with their club membership. Sub-paragraph (b)(ii) also allows possession and use of an air weapon in connection with club target shooting, for example to allow a club member to transport an air weapon owned by the club between shooting venues.

228. Sub-paragraph (c) requires that, where an air weapon club member is aged below 14, they must be supervised by another club member aged 21 or over for this exemption to apply. There is no lower age limit to the application of this exemption.

Paragraph 2 – Registered firearms dealers and their employees

229. This paragraph exempts firearms dealers who are registered with the Chief Constable under section 33 of the 1968 Act from requiring to hold an air weapon certificate when carrying out their business.
230. Sub-paragraph (1)(b) extends this exemption to the Registered Firearms Dealer’s employees, and sub-paragraph (2) allows this exemption to apply anywhere (i.e. not just at the dealer’s usual place of business). Sub-paragraphs (3) and (4) allow for an individual to borrow an air weapon from a Registered Firearms Dealer and use it on land the dealer occupies provided the individual is supervised by the dealer or an employee of the dealer. Where the individual is under 14 then the supervisor must be aged 21 or over.

231. Sub-paragraph (1)(b) extends this exemption to the Registered Firearms Dealer’s employees, and sub-paragraph (2) allows this exemption to apply anywhere (i.e. not just at the dealer’s usual place of business).

**Paragraph 3 – Auctioneers**

232. This paragraph exempts auctioneers and their employees from requiring to hold an air weapon certificate when carrying out their business. This exemption only allows the possession, acquisition and purchase of air weapons, not their use.

233. Sub-paragraph (2) extends this exemption to allow an auctioneer to sell an air weapon by way of trade or business without committing the offence at section 24, provided that the auctioneer holds a police permit issued under section 12.

**Paragraph 4 - Carriers and warehouse keepers**

234. This paragraph exempts carriers and warehouse keepers, and their employees, from requiring to hold an air weapon certificate when carrying out their business. This exemption only allows the possession of air weapons, not their use, acquisition or purchase.

**Paragraph 5 – Artistic performers**

235. This section allows an individual taking part in a theatrical performance, a rehearsal, or a film production – as defined by sub-paragraph (2) – to possess and use an air weapon without holding an air weapon certificate. This exemption only applies to the performer involved, and only for the duration of the performance. This exemption does not permit purchase or acquisition of an air weapon.

**Paragraph 6 – Cadet corps**

236. This paragraph exempts members of a cadet corps approved under section 54(5)(b) of the 1968 Act, and their instructors, from requiring to hold an air weapon certificate for the purposes of drilling and target shooting with air weapons.

**Paragraph 7 – Bodies corporate etc.**

237. This paragraph exempts corporate bodies from possessing, purchasing or acquiring an air weapon provided that a natural person who is an officer of the body listed in sub-paragraph (2) has an air weapon certificate.
Paragraph 8 – Holders of police permits

238. This paragraph sets out the specific exemption that applies to a holder of a permit issued under section 12. Sub-paragraph (2) extends this exemption to allow a permit holder to sell an air weapon by way of trade or business without committing the offence at section 24.

Paragraph 9 – Holders of visitor permits

239. This paragraph sets out the specific exemption that applies to a holder of a permit issued under section 13.

Paragraph 10 – Authorised events

240. This paragraph sets out the specific exemption that applies to attendees at an event covered by a permit issued under section 17. Sub-paragraph (1)(b) specifies that the attendee must be using the air weapon to engage in an activity at the event for the exemption to apply. Use of an air weapon at an event when not engaging in event activities is therefore not exempted from the section 2(1) offence.

Paragraph 11 – Supervised use of air weapons on private land

241. This paragraph allows a person without an air weapon certificate to borrow an air weapon from an individual who holds a valid air weapon certificate, and to possess and use it while on private land and under the supervision of the certificate holder, or their employee. Any use must be in line with the conditions attached to the relevant air weapon certificate.

242. Sub-paragraph (2)(d) provides that if the borrower is younger than 14, then the supervisor must be aged 21 or over. There is no lower age limit to the application of this exemption.

Paragraph 12 – Use of air weapons at recreational shooting facilities

243. This paragraph sets out the specific exemption that applies to participants at a commercial recreational shooting facility which complies with the requirements at section 23. Sub-paragraph (1)(b) specifies that this exemption only applies while the user is on site – thus they cannot remove air weapons from the premises. Sub-paragraph (2) extends this exemption to apply to employees working at the recreational shooting facility.

Paragraph 13 - Museums

244. This exemption relates to museums which hold air weapons as part of their collection. Sub-paragraph (1)(b) sets out that, for this exemption to apply, the museum must either be approved by the Scottish Ministers under Schedule 1 to the 1988 Act (which will be the case if it already holds section 1 or 2 firearms), or, if the only firearms held by the museum are air weapons to which section 1 of the 1968 Act does not apply, a responsible person as defined by sub-paragraph (2) must hold an air weapon certificate.
245. Provided that either of these requirements is met the employees of the museum are exempted from requiring individual air weapon certificates to possess, purchase or acquire air weapons in the course of their duties at the museum.

Paragraph 14 - Air weapons on ships

246. This exemption applies to the possession and use of air weapons while on board a ship, provided that the air weapons are part of the ship’s equipment. This might cover, for example, air weapons for pest control, or an air weapon range on a cruise liner. An air weapon certificate or police permit would be required to remove an air weapon from the ship, or to purchase or acquire new air weapons for it.

Paragraph 15 – Purchase of air weapons for delivery outwith Great Britain

247. This paragraph sets out the specific exemption that allows someone who does not hold an air weapon certificate to purchase an air weapon in the manner set out in section 24(2)(c), without committing the offence at section 2(1) of purchasing an air weapon without a valid air weapon certificate.

Paragraph 16 – Loaning of air weapons for exempted purposes

248. This exemption allows the holder of an air weapon certificate (or a person who does not hold a certificate but is entitled to possess or use an air weapon without committing an offence by virtue of another exemption) to loan an air weapon by way of trade or business to another individual who does not hold an air weapon certificate, and to possess air weapons for the purpose of loan by way of trade or business, without committing the offences at section 24(1) and (2). Section 24 otherwise limits such transactions to Registered Firearms Dealers. This exemption only applies provided that the recipient of the loaned air weapon will possess or use the air weapon in accordance with one of the exemptions in schedule 1. For example, this would allow an operator of a recreational shooting facility to loan weapons for the exemption at paragraph 12, or a theatrical armourer to loan weapons for the exemption at paragraph 5.

Paragraph 17 – Public servants carrying out official duties

249. This paragraph exempts various categories of public servants listed at sub-paragraph (3) from requiring an air weapon certificate. This exemption relates to members of the police or armed forces who may be required to use or take possession of air weapons in connection with their duties (for example, a police constable seizing an air weapon, or a police forensic examiner testing its muzzle energy). This exemption only applies while the individual is carrying out their role as a public servant, and only when they are required to handle an air weapon in the fulfilment of their duties.

Paragraph 18 – holders of certificates or permits with conditions

250. This paragraph allows an air weapon certificate, visitor or police permit holder to make use of the exemptions in the schedule notwithstanding any condition which may be attached to the certificate or permit. This means that a person who holds, for example, a visitor permit that permits use and possession, can take advantage of the exemption in paragraph 15 to purchase an
air weapon for delivery to that person’s home country. Or, an air weapon certificate holder whose certificate has a condition limiting them to shooting for pest control purposes could separately be a member of an approved air weapon club, and shoot at the club under the exemption in paragraph 1.

SCHEDULE 2: MINOR AND CONSEQUENTIAL AMENDMENTS AND REPEALS

PART 1 – AMENDMENTS AND REPEALS RELATING TO PART 1

Paragraph 1 – Firearms Act 1968 (c.27)

251. This paragraph amends various provisions of the Firearms Act 1968 as it applies in Scotland. Sub-paragraph (2) repeals the offence limiting sales of air weapons to Registered Firearms Dealers, as this requirement is recreated by section 24 of the Bill. Sub-paragraph (8)(b) also extends the definition of Firearms Dealer to include anyone who manufactures, repairs or tests air weapons by way of trade or business. This brings the definition of Firearms Dealers in Scotland in line with the commercial offences being introduced at section 24 of the Bill. Sub-paragraphs (3) to (8) amend and repeal various provisions relating to use of air weapons by young people, as these provisions are superseded by the creation of an air weapons licensing regime. Sub-paragraph (9) amends the table of offences and penalties in the 1968 Act accordingly.

Paragraph 2 – Violent Crime Reduction Act 2006 (c.38)

252. This paragraph repeals section 32 of the Violent Crime Reduction Act 2006 in Scotland, which is restated by section 25 of the Bill.
FINANCIAL MEMORANDUM

INTRODUCTION

1. This document relates to the Air Weapons and Licensing (Scotland) Bill (“the Bill”) introduced in the Scottish Parliament on 14 May 2014. It has been prepared by the Scottish Government to satisfy Rule 9.3.2 of the Parliament’s Standing Orders. It does not form part of the Bill and has not been endorsed by the Parliament.

2. The Policy Memorandum, which is published separately, explains in detail the background to the Bill and the policy intention behind the Bill. The purpose of this Financial Memorandum is to set out the costs associated with the measures introduced by the Bill, and as such it should be read in conjunction with the Bill and the other accompanying documents.

3. The purpose of the Bill is to protect public safety by creating a new licensing regime for air weapons and to improve aspects of locally led alcohol and civic government licensing in order to preserve public order and safety, reduce crime, and to advance public health. It will give local communities the power to regulate sexual entertainment venues in their areas.

4. This Financial Memorandum sets out the costs and savings associated with the Bill under the following headings:
   - Air weapons
   - Alcohol licensing
   - Civic licensing:
     - Taxis and private hire cars
     - Metal dealers
     - Public entertainment venues
     - Sexual entertainment venues
     - Miscellaneous and general.

5. Under each of these headings substantive costs are then reported against the different bodies involved.

Air weapons

6. The Bill introduces a licensing regime for air weapons, which will be administered by the Police Service of Scotland (Police Scotland).

7. The Bill sets out a licensing regime, which aims to be appropriate, recognisable and practicable both for the police, who will be the licensing authority, and for those in the legitimate shooting community.
These documents relate to the Air Weapons and Licensing (Scotland) Bill (SP Bill 49) as introduced in the Scottish Parliament on 14 May 2014

8. The overarching policy objective of this Part of the Bill is not to ban air weapons, but to ensure that only those people who have a legitimate reason for owning and using one should have access to them.

9. There will be a long lead-in time to full commencement of the measures in Part 1 to ensure as many people as possible are aware of the new regulations in relation to air weapons and to allow for a hand-in period before the primary criminal offence comes into force. There will be no compensation scheme for old or unwanted weapons which are handed in. Once the Bill is fully in force it will be an offence to have an air weapon without a certificate or an exemption and the police will seize weapons as and when offences are detected.

Alcohol licensing

10. Alcohol licensing, along with Minimum Unit Pricing and NHS investment in prevention, treatment and support measures, is part of the broader Government Strategy “Changing Scotland’s Relationship with Alcohol (2009)”. There is a significant social and financial cost of problem drinking. It is estimated that alcohol misuse costs the Scottish economy around £3.6 billion every year particularly in terms of alcohol related crime, mortality and hospital admissions.¹

11. It is vital that police and Licensing Boards have the powers they need to reduce crime and preserve public order so that people can lead productive lives within safe and secure communities.

12. Alcohol licensing is not however intended to prohibit responsible consumption nor to undermine the economic interests of the alcohol trade.

13. The Bill seeks to improve the effectiveness of the alcohol licensing regime set out in the Licensing (Scotland) Act 2005 (“the 2005 Act”) as added to by the Criminal Justice and Licensing (Scotland) Act 2010, the Alcohol etc. (Scotland) Act 2010 and the Alcohol (Minimum Pricing) (Scotland) Act 2012, as well as secondary legislation.

Summary of provisions

14. Under the current licensing regime, it is not an offence for adults to supply alcohol to someone under the age of 18 outwith a licensed premises. This allows outdoor drinking dens of young people where those in the group who are aged 18 or over buy alcohol for younger members. The Bill closes this loophole and gives the police the powers they need to disrupt these drinking dens. This fulfils a manifesto commitment.

15. The Bill will provide Licensing Boards with powers to consider a broader range of information when making licensing decisions. It will re-introduce a ‘fit and proper’ test into alcohol licensing. This is intended to give Boards a greater ability to tackle crime, particularly serious organised crime, by allowing the consideration of a wider range of information including police intelligence. The 2005 Act currently focuses on the use of relevant offences and foreign offences to assess the suitability of applicants and licence holders. It will also, in time, allow Boards to consider spent convictions although the existence of spent convictions would not

necessarily bar an applicant from being granted a licence. The Boards will consider each case on its own merits as they currently do with unspent convictions for relevant offences.

16. Licensing Boards charge fees for a range of services such as applications for premises licences, payment of annual fees for premises licences, applications for personal or occasional licences, and transferring or varying existing licences. Some of these are set by local Licensing Boards and others are centrally set by the Scottish Ministers.

17. The fees regime is intended to reflect the Scottish Government’s intention to make the system self-funding. There is, however, currently no transparent accounting statement of the direct and indirect costs of Licensing Boards and the level of fees have therefore been a source of dispute with the trade. The Alcohol Fees Review Group, including representatives of both the trade and Licensing Boards, recommended in 2013 that Boards should be under a duty to produce an annual financial report. The Bill includes provision for this. Boards should be transparent about these costs to demonstrate that the fees they set are based upon cost recovery (unless they choose to operate to a deficit). As Licensing Boards are already under an obligation to ensure their fee income is broadly equivalent to their costs, this duty will simply require them to make public the calculations that are already being carried out.

18. The Bill will also take forward a range of technical recommendations to clarify and improve the operation of the current alcohol licensing legislation to ensure effective regulatory processes and to reduce unnecessary burdens on business. Included in this is the automatic granting of an application that has not been considered within a set period. This confirms compliance with the EU Services Directive2.

Civic licensing

19. The Bill seeks to improve the effectiveness of the civic government licensing regimes administered by local authorities, adjusting the regimes for taxi and private hire cars and metal dealers, addition of theatre licensing to the public entertainment venue licensing regime and the creation of a new licensing regime for sexual entertainment venues.

Sexual entertainment venues

20. There are a number of concerns around venues offering sexual entertainment such as lap dancing. There has been some suggestion that sexual entertainment may be associated with a risk of criminality and, as with other forms of public entertainment (licensed under a separate regime), there are also risks of adverse impacts on neighbours and general disorder. There is also concern regarding the working conditions in sexual entertainment venues and the possible financial exploitation of dancers. Finally, there is the view of violence against women stakeholders that sexual entertainment is a form of commercial sexual exploitation and is, therefore at odds with the Scottish Government’s position on violence against women.

21. A specific system of licensing for sexual entertainment was considered by the Scottish Parliament as part of the Criminal Justice and Licensing (Scotland) Act 2010, through an amendment proposed by Sandra White MSP. Whilst the Scottish Government supported these proposals, they were rejected by the Scottish Parliament due to concerns around the effect of operating a dual licensing system, with sexual entertainment being regulated under a regime of its own as well as under the alcohol licensing system. In addition, there was concern that as the proposals were introduced late in the Bill process they had not had the opportunity for appropriate scrutiny.

22. However, since 2010, court judgements have called into question the ability of Licensing Boards to set conditions beyond the tight focus on the sale of alcohol. This leaves uncertainty in the regulation of sexual entertainment, with many Licensing Boards believing that the alcohol licensing system is not, as currently constructed, able to provide adequate control, and that there is no effective alternative in place.\(^3\)

23. A specific licensing regime for sexual entertainment venues offers local licensing authorities the ability to consider local circumstances and develop approaches appropriate to those circumstances. This would include the ability to set a desired number of sexual entertainment premises for their area (and for that number to be zero). It would also include the ability to set conditions that control the conduct of activities on premises in their area.

24. The Bill creates a new licensing regime for sexual entertainment venues. The new regime falls into the civic licensing arrangements under the Civic Government (Scotland) Act 1982 (“the 1982 Act”) and uses, in part, the architecture of existing provisions for the control of sex shops.

25. The provisions of the Bill require a licence for premises operated as sexual entertainment venues for financial gain. Definition is provided as to what is meant by sexual entertainment both to capture what is intended to be licensed, such as lap dancing, strip shows, peep shows, live sex shows, but to avoid licensing what is not, such as artistic performances. Powers are included to specify exceptions from the licensing requirement to remedy any unanticipated activity falling within the licensing ambit.

**Metal dealers**

26. Metal theft has been a growing problem in recent years. A variety of measures have been taken to tackle the problem including a dedicated task force which has been established by The British Transport Police, the announcement of a tougher prosecution policy by the Crown Office and Procurator Fiscal Service and the establishment of a national metal theft working group to co-ordinate action against metal theft.

27. An important feature of metal theft is that the consequences of a metal theft are out of all proportion to the scrap value of the metal stolen. The costs of metal theft include the cost of replacement and repair, wider economic costs through delay and disruption to business and

\(^3\) Brightcrew Ltd v City of Glasgow Licensing Board [2011] CSIH 46

members of the public and in some cases there are emotional costs. At the extreme, metal thefts have resulted in loss of life and serious injury.

28. Scrap metal dealers provide a valuable service to the community by providing a means for unwanted metal to be recycled into a useful raw material for manufacturers. Nevertheless the scrap metal industry does provide a route by which a metal thief can convert stolen goods into cash.

29. The Bill seeks to improve the current regulation of metal dealers under the 1982 Act as part of the broader strategy to combat the significant disruption, danger and costs associated with metal theft, whilst supporting the legitimate scrap metal trade.

30. The Bill removes the exemption warrant system that exempted dealers with a larger turnover from the licensing requirements. It will limit payment for metal by metal dealers to prescribed methods i.e. bank transfer or cheque. By removing the option of paying in cash it seeks to ensure that a metal thief is not attracted by the possibility of being paid in an anonymous fashion. Instead, transactions will be traceable and auditable. It also makes provisions designed to improve standards for identification of customers and record keeping.

31. The Bill also removes the mandatory requirement that dealers should not process metal for 48 hours after receiving it. It is felt that this step is impractical for many dealers and should not be a compulsory requirement (though local licensing authorities could impose it on a case by case basis).

Taxis and private hire cars

32. Taxis and private hire car services are licensed to preserve public safety and order and to prevent crime. Local authorities are responsible for the taxi and private hire car licensing regimes following the framework provided for in the 1982 Act. They have discretion in applying a local regime that best meets the specific requirements of their local area and can take account of the views of both customers and trade.

33. The Bill aims to bring greater consistency between and within taxi and private hire car licensing regimes as well as expanding the scope of the licensing regime and tightening the regulation. This is with a view to addressing concerns that the legitimate trade is being unfairly challenged in some areas by businesses and individuals circumventing the current licensing regime with a consequential effect on public safety.

34. The provisions of the Bill will give local authorities the power to refuse to grant private hire car licences on grounds of overprovision. It extends taxi driver testing to include private hire car drivers and removes the ‘contract exemption’, bringing hire cars used on contracts into the licensing regime. These provisions, in part, acknowledge that in parts of the country, taxis, private hire cars and contract hire cars are essentially operating in a very similar market. Some of the distinctions between their mode of operation - for example pre-booking versus ranks and hailings – have been blurred with changes in technology.
Public entertainment venues

35. The Bill abolishes ‘theatre licences’ as currently required under the Theatres Act 1968 and instead regulates theatres through the existing public entertainment licensing regime provided for in the 1982 Act. This simplification intends to see theatres transferred to a lighter touch licensing regime which still ensures public safety.

36. Currently theatre licensing (under the 1968 Act) is a mandatory licence that requires all premises at which public performances of a play are staged to hold a licence. No allowance is made for the size of the premises or the potential audience. This contrasts with other forms of public entertainment (licensed under the 1982 Act) which is a flexible system that allows local licensing authorities to determine in a local context how licensing should be regulated in their area. By bringing theatre under the public entertainment licensing arrangements greater flexibility will be allowed. It will be open to a local licensing authority to exclude premises offering plays only to very small audiences from the licensing requirement. It also allows greater consistency and legislative clarity by bringing theatres within the same public entertainment licensing arrangements as other forms of the arts such as concerts and comedy shows.

Miscellaneous and general

37. The Bill includes a number of provisions aimed at improving the operation of all civic government licensing regimes. This includes the power for the Scottish Ministers to make provision for the procedure to be followed at or in connection with hearings. This power will provide Ministers with the ability, if considered necessary and appropriate, to bring a level of consistency in the way hearings are conducted both across local licensing authorities and across civic and alcohol regimes. The Bill also includes a new role of civic licensing standards officer (CLSO) with specific functions in relation to providing guidance and checking compliance. This is modelled on the successful licensing standards officer (LSO) role within the 2005 Act and is intended to ensure a statutory minimum in the support local authorities provide in relation to licensing regimes under the 1982 Act. The Scottish Government is aware that many local licensing authorities already have in place high quality support of this kind and the Scottish Government’s intention is to not disrupt good practice where it is happening.

38. The Bill adds to the situations where an application for variation of a licence is deemed to be granted in circumstances where the local authority has not decided on an application or sought an extension from the sheriff within a set period. This is intended to ensure compliance with the EU Services Directive.

PART 1 – AIR WEAPONS

INTRODUCTION

39. Part 1 of the Bill makes provision for a licensing and regulatory regime for the acquisition, possession, use and disposal of low-powered air weapons in Scotland. These weapons have not previously been subject to licensing in Scotland or the rest of Great Britain. However, the scheme to be introduced follows, to a broad extent, the existing systems for licensing more powerful firearms under the Firearms Acts. That legislation, and responsibility for policy and legislation on the majority of firearms, remains reserved to the UK Parliament. Air weapons in Northern Ireland are licensed as part of the separate firearms regime in that country.
40. Given that the provisions in this Part of the Bill are broadly based on existing legislation and systems, it is important to emphasise that much of the infrastructure, knowledge and experience required to set up and administer air weapons licensing is already in place. This is true not only of Police Scotland, but amongst established shooting organisations and members of the legitimate shooting community. This part of the Memorandum is largely concerned with setting out estimates of the new or additional costs which will fall to agencies or individuals as a result of the licensing regime.

Where the costs will fall

41. The licensing authority for air weapons, as for the majority of firearms and shotguns, will be the chief constable of Police Scotland. Day-to-day responsibility for managing and administering the service is delegated to firearms licensing officers and staff across Scotland. As such, the majority of the costs involved in setting up and maintaining the licensing service will fall to Police Scotland.

42. Certain central costs will fall to the Scottish Administration. It is anticipated that these will fall into two broad areas: firstly, providing funding to help to meet initial set up costs; and secondly, to promote information and education, both in Scotland and further afield, on the new licensing requirement for air weapons. In addition, there will be costs to the Crown Office and Procurator Fiscal Service, Scottish Court Service, Scottish Prison Service and other agencies, arising from the enforcement of the new provisions. Costs at a lower level will also fall on a number of other government departments and agencies, other stakeholders and businesses including registered firearms dealers.

43. The Bill also provides powers for a tariff of fees to be charged at the point at which a person applies for an air weapons certificate (AWC) or, in certain cases, for a permit or other approval. Fees will be collected by Police Scotland and will help to offset the costs of providing the service. The fees will be payable by the individual applying for a certificate or, as appropriate, by air weapons clubs or other corporate bodies. Unlike other firearms applications, the fee will be charged whether the application is successful or not. The broad structure of the fee tariff will follow that in place for other firearms and shotguns. The actual fee amounts payable in each case will be set out in secondary legislation.

Consultation and source of figures

44. In November 2011 the Cabinet Secretary for Justice convened the Scottish Firearms Consultative Panel (SFCP) to discuss and advise on developing the new regime. Following the work of the Panel, the Government undertook a public consultation exercise on the principles of the proposed licensing regime between December 2012 and March 2013.

45. The Government has discussed the costs which may arise as a consequence of the licensing scheme with key stakeholders to prepare this Memorandum. The estimates of the numbers of weapons and owners, the value of weapons and business transactions, and the costs of the new system used throughout this part of the Memorandum are therefore based on estimates made by the Scottish Government, informed by discussions with stakeholder individuals and organisations. In particular, the Scottish Government has developed these estimates in discussion with representatives of Police Scotland and the Scottish Police Authority, the Crown Office and Procurator Fiscal Service (COPFS), the Gun Trade Association / Airgun
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Manufacturers and Traders Association, and other members of the SFCP. The figures provided below do not, however, represent the views of those organisations, which may wish to comment separately.

**General assumptions made**

**Number of air weapons currently held in Scotland**

46. Given that air weapons have not previously been subject to licensing in Scotland it has been difficult to make an accurate assessment of the number of air weapons currently held.

47. The issue of the number of weapons was raised again during meetings of the SFCP during 2011 and 2012. It was agreed by the Panel that there was no definitive count of air weapons held, nor any way of assessing that number completely accurately. However, work done by the member from the Gun Trade Association on behalf of the Panel examined sales figures for air guns over a 20-year period to 2011. This confirmed a sales pattern which was broadly consistent with an overall estimate of some 500,000 weapons in circulation.

48. A number of stakeholders who are opposed to the principle of licensing have argued that a much higher figure, perhaps as many as 700,000 air weapons, would be a more appropriate estimate. The Scottish Government has not, however, seen or been provided with any objective evidence to support a significantly higher figure than the 500,000 weapons discussed by the SFCP.

49. Given these discussions the Scottish Government has adopted the figure of 500,000 air weapons as the core estimate for the purposes of this memorandum and other calculations.

**Estimated number of certificate applications**

50. Taking a base estimate of 500,000 air weapons in Scotland it is accepted by all parties to the discussions and consultation that there will, in fact, be a much lower level of applications for AWCs. There are a number of reasons for this including:

- A significant number of air weapons are likely to be inoperative or broken, or may have been disposed of by the owners already.

- A large number are likely to be held unused. This may be because a person no longer shoots, because the weapon has been inherited and held as a family item, or simply because they have been put aside at some stage in the past and left unwanted or, in many cases, forgotten.

- A significant number of people in possession of an air weapon are likely to possess more than one. This may arise as a result of shooting over a long period and purchasing newer or better guns over time, owning a variety of weapons for different purposes, or because air weapons are used by more than one member of the household. An AWC will be valid for any number of air weapons held by the certificate holder.

- As of December 2012 there were some 60,000 holders of firearm or shotgun certificates in Scotland, who possess approximately 213,000 weapons. Many of these existing certificate holders will also hold and wish to retain air weapons. The Bill includes, as a transitional measure, provision for those people to continue to possess and use those air weapons, subject to conditions, until such time as their existing certificate expires. At
that stage it will be open to them to seek to obtain co-terminous certificates for all of the guns they possess.

51. Alongside all of these factors, the Scottish Government accepts that there will be a number of air weapons in circulation which do not, at least in the short term, come to the attention of the licensing regime. This will occur for a number of reasons. For example, a number of people may not be aware of the new legislation from the outset. In addition, it is possible that a number of people will seek to avoid or ignore the new requirements. Such a decision would represent an offence in terms of the legislation and the Bill empowers the police to seize any unlicensed weapons discovered and charge the person with the relevant offence(s).

52. Given the above, it is impossible to provide any firm number of applications which are likely to be received by Police Scotland. In discussions around the SFCP and elsewhere with stakeholders, estimates range from a very small number of “new” applications (i.e. from individuals without an existing firearm or shotgun certificate) to around 75% of air weapon owners.

53. The Scottish Government believes that the figures above are likely to be at the extremes of the range of actual applications, and that it is appropriate to set out the main estimates of costs based on a range of potential new applications – that is, applications from those who hold only air weapons and are currently unknown to police firearms licensing departments. Following discussions with Police Scotland and others the Scottish Government considers that a range of 10,000, 20,000 and 30,000 new applications provides a suitable estimate of such applications in the first licensing round. The costs and fee income figures below are calculated on this basis.

54. As noted above, it is accepted that there is likely to be a large number of existing firearm and/or shotgun certificate holders who wish to obtain an AWC. The Government estimates that this could be in the region of 40,000 existing certificate holders. Furthermore, as serious competitive or professional shooters, many of these individuals are likely to own several air weapons meaning that they will account for a considerable portion of the estimated 500,000 air weapons in circulation. The costs of processing applications from existing certificate holders will, however, be relatively small as the necessary background checks on such applicants will already have been carried out. It is envisaged that a lower fee for such applications should be sufficient to cover such costs, making the processing of these applications cost-neutral.

COSTS ON THE SCOTTISH ADMINISTRATION

Scottish Government

55. Air weapons licensing will be administered by Police Scotland alongside the existing licensing systems for more powerful firearms and shotguns. However, it is anticipated that some costs will be borne centrally by the Scottish Administration.

Guidance

56. The Scottish Government is mindful of the need to support the legislation with detailed guidance for the police, for registered firearms dealers and others affected by the changes and for owners and users of air weapons. That guidance will follow the terms of the legislation and the aim is to draw on the existing, recently reviewed Home Office Guide on Firearms Licensing
These documents relate to the Air Weapons and Licensing (Scotland) Bill (SP Bill 49) as introduced in the Scottish Parliament on 14 May 2014

Law, which was published in full in November 2013, as well as consolidated guidance for police and shooters in Scotland currently being prepared by Police Scotland, and on existing material produced by the shooting organisations. All of the main shooting organisations, and other stakeholders, have expressed their willingness to work with the Government to ensure as many people as possible are aware of the new requirements.

57. The preparation of the guidance will be a matter for the Scottish Government as part of the normal business of the Safer Communities Directorate.

Public information

58. The Scottish Government has given a firm commitment, throughout the discussions and consultation on the air weapons provisions of the Bill, to ensuring that as many people as possible are aware of the new licensing requirements. It is anticipated that there will be a substantial lead-in period to full commencement of Part 1 of the Bill, to allow people to take decisions on whether they intend to apply for an AWC or dispose of weapons they hold. As part of this, the Government will undertake a high-profile media campaign to explain the new legislation. This will draw on the experience of the highly successful 2009 campaign to raise awareness of the danger of air weapons and is likely to use printed materials, the internet and possibly local radio to ensure the information reaches a wide audience. As noted above, all of the main shooting organisations have committed to working with the Government to ensure as many people as possible are aware of the new requirements.

59. The Government has estimated that the initial costs of such a campaign would be in the region of £225,000, spread over two years. Ongoing costs would be met from within existing resources.

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<tbody>
<tr>
<td>Media Campaign</td>
<td>£150,000</td>
<td>£75,000</td>
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Police Service of Scotland and Scottish Police Authority

60. The cost estimates set out below are, as far as possible, expressed in terms of the cost per certificate application process. The figures are drawn from three main sources:

- Knowledge of the costs of operating the existing firearms licensing service. These costs were provided by the former Scottish police forces, prior to April 2013, as part of the discussions at the SFCP and from additional, more recent material from Police Scotland;

- Figures provided by Police Scotland in an internal briefing paper dated September 2013, and shared to inform discussions with the Scottish Government; and

- Figures under discussion between the Association of Chief Police Officers (ACPO) Firearms and Explosives Licensing Working Group (FELWG) and the Home Office, in the context of revising the existing fee tariff. A Home Office working group, which includes a representative from Police Scotland, is currently examining this issue in detail. While no firm decisions are expected for some time, both Police Scotland and the Scottish Government have been kept informed of progress and of the assumptions used.
These documents relate to the Air Weapons and Licensing (Scotland) Bill (SP Bill 49) as introduced in the Scottish Parliament on 14 May 2014

Set up costs

61. Police Scotland’s Licensing and Violence Reduction Division is well established and includes trained, experienced officers and police staff who operate the existing firearms licensing function. The new air weapons regime will build on this function and should be capable of being introduced without significant disruption. There are, however, likely to be some set up costs associated with introducing the new regime. The Scottish Government’s best estimates of these costs are set out below.

62. Staffing - The current licensing service employs some 66 administrative staff and 25 police officers, in order to service the 60,000 certificate holders. The Government proposes that the new system will not be unduly burdensome in terms of the application process, background checks on the applicant, home visits, etc. (see below). In addition, the provisions include transitional measures which will allow an existing certificate holder to “delay” application for an AWC until their existing certificate expires. Given this, the Scottish Government does not believe that there will be a need for significant additional staffing to process new applications. It is acknowledged, however, that staffing may be subject to the normal peaks and troughs of the certification cycle, and that there is likely to be a particular impact in the first 12 to 24 months of the licensing process. The calculations on application processing costs set out below reflect the anticipated staff time involved in each of the main processes, and therefore translate to staffing impacts.

63. Training – As noted above, Police Scotland already operates a full licensing service. The air weapons regime is based on the current firearms regime and will use the same or familiar forms, processes and considerations. The additional training of staff for the new legislation is therefore expected to be relatively low impact and will, over time, be built into the current training programme. Following discussions with Police Scotland, it is anticipated that it will be possible to absorb any additional training requirement within existing resources.

64. ICT – Police Scotland uses the SHOGUN IT system for processing and recording firearms and shotgun applications, certificates and other information. The system was used by several of the legacy forces prior to April 2013 and is expected to be fully rolled out across Scotland by the second half of 2014, under a five-year maintenance and development contract. Discussions with Police Scotland indicate that it will be possible to build onto the existing systems to include air weapons certification within SHOGUN and Police Scotland have confirmed this in principle with the software contractor. This allows for familiarity in the processing function, and ensures that all certification and related systems – such as the Criminal History System – will operate smoothly together. At this stage, no formal discussions have taken place with the company responsible for SHOGUN and it is not possible to state likely development costs with any certainty. However, initial discussions indicate that the costs of software development built on existing systems and any additional hardware capacity should not be high. An allowance of up to £50,000 has been made at this stage.

65. A summary of anticipated set up costs is therefore:

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<tbody>
<tr>
<td>ICT costs</td>
<td>£50,000</td>
<td></td>
<td></td>
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</tbody>
</table>
Processing costs

66. The main costs falling to Police Scotland will arise from the initial certification of air weapons holders, and ongoing checks and renewals of certificates once the main regime is in place. To a great extent all of the main elements of the regime are already in place, so that the impact of any new work and costs will be reduced as far as possible. In addition, it is not the intention to repeat or duplicate background and other checks unnecessarily where a firearms or shotgun certificate is already held. More generally, it is expected – and has been agreed with Police Scotland - that extensive, detailed background checks and home visits will be necessary only in a very small proportion of cases. This is reflected in the calculation of costs below.

67. Work done by ACPO in 2012, to inform fee discussions with the Home Office, suggested that processing of the grant of a firearms or shotgun certificate could involve more than five hours of a police enquiry officer’s time, with almost two further hours of administrative officer time for each process, on average. This level of resource would lead to a total cost of some £196 per certificate granted. Timings and charges at this level were not agreed by the shooting lobby or by the Home Office at the time. Further work has been done since, and is continuing, to reassess these workloads, and to estimate processes and timings involved in a system which could operate through an online regime, and which draws out greater efficiencies in the service overall.

68. For the purposes of the air weapons regime, the Scottish Government believes that an appropriate level of checking and processing could be achieved at significantly lower costs than the figures set out above. Experience of “disclosure” style background checks under other legislation – for example, when dealing with the protection of vulnerable groups – has shown this to be both achievable and successful. In discussion, Police Scotland agrees that this level of check would be appropriate for air weapons in the vast majority of cases. Relatively few air weapons applications would require a significantly higher level of background check and inquiry, perhaps including a home visit for the purposes of checking location, security, etc..

69. Drawing all of these considerations together, and taking into account latest (March 2014) ACPO/Home Office discussions around processing times for online applications, the Scottish Government believes that the tables below represent a reasonable estimate of the costs of processing new air weapons applications. The unit staff costs used are those set out in a Police Scotland briefing paper dated 11 December 2013 and are derived from unit costs currently being used to inform the wider examination of firearms fees by the Home Office.

<table>
<thead>
<tr>
<th>Staff type</th>
<th>Average salary per annum 2013</th>
<th>On costs</th>
<th>Indirect overheads</th>
<th>Total cost per annum for 2013</th>
<th>Hourly</th>
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<tbody>
<tr>
<td>Enquiry officer</td>
<td>£27,000</td>
<td>£5,670</td>
<td>£9,801</td>
<td>£42,471</td>
<td>£28.30</td>
</tr>
<tr>
<td>Administrative officer</td>
<td>£19,300</td>
<td>£4,053</td>
<td>£7,006</td>
<td>£30,359</td>
<td>£20.10</td>
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</table>
These documents relate to the Air Weapons and Licensing (Scotland) Bill (SP Bill 49) as introduced in the Scottish Parliament on 14 May 2014

<table>
<thead>
<tr>
<th>Process</th>
<th>Enquiry Officer Hrs</th>
<th>Admin officer Hrs</th>
<th>Enquiry Officer @£28.30 / Hr</th>
<th>Admin Officer @£20.10 / Hr</th>
<th>Background checks</th>
<th>Mileage (visit)</th>
<th>Total £</th>
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</thead>
<tbody>
<tr>
<td>98% (Standard process)</td>
<td>0.00</td>
<td>1.20</td>
<td>£0.00</td>
<td>£24.15</td>
<td>£60.00</td>
<td></td>
<td>£84.15</td>
</tr>
<tr>
<td>2% (Detailed process incl home visit)</td>
<td>1.75</td>
<td>1.20</td>
<td>£49.50</td>
<td>£24.15</td>
<td>£60.00</td>
<td>£20.00</td>
<td>£153.65</td>
</tr>
<tr>
<td>Average</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Approx. £85.55</td>
</tr>
</tbody>
</table>

70. This results in total estimated processing costs of new applications (i.e. from individuals without an existing firearm or shotgun certificate):

- 10,000 applications - £855,500
- 20,000 applications - £1,711,000
- 30,000 applications - £2,566,500

71. These costs would be spread across the normal five-year licensing period but it is intended that air weapons holders will be able to apply for their first licence in advance of full commencement. Transitional arrangements also mean that existing firearm or shotgun certificate holders do not have to apply for a new AWC until their existing certificate is being renewed. For the purposes of this memorandum it is anticipated that commencement of the main provisions of Part 1 would come into effect on 1 April 2016. Given this, the estimated profile of application costs is set out in the following table:

<table>
<thead>
<tr>
<th>No. of applications</th>
<th>Year 0 (2015-16) 20%</th>
<th>Year 1 (2016-17) 30%</th>
<th>Year 2 (2017-18) 20%</th>
<th>Year 3 (2018-19) 10%</th>
<th>Year 4 (2019-20) 10%</th>
<th>Year 5 (2020-21) 10%</th>
</tr>
</thead>
<tbody>
<tr>
<td>10,000</td>
<td>£171,100</td>
<td>£256,650</td>
<td>£171,100</td>
<td>£85,550</td>
<td>£85,550</td>
<td>£85,550</td>
</tr>
<tr>
<td>20,000</td>
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<td>£513,300</td>
<td>£342,200</td>
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<td>£171,100</td>
<td>£171,100</td>
</tr>
<tr>
<td>30,000</td>
<td>£513,300</td>
<td>£769,950</td>
<td>£513,300</td>
<td>£256,650</td>
<td>£256,650</td>
<td>£256,650</td>
</tr>
</tbody>
</table>

72. In addition to the above, there will be a significant number of existing holders seeking co-terminous certificates. The costs of processing such certificates will be greatly reduced, as much of the required information and checking will already have been done for the firearms or shotgun process. The Scottish Government estimates that the additional costs involved would amount to some £10 per certificate. It is assumed, for the purposes of this memorandum, that there would be some 40,000 such applications over the period. This would amount to some £400,000 over the five-year licensing period, averaged out to £80,000 per year. However, it is anticipated that these costs could be fully recovered by way of a fee charged for the co-terminous procedure. The net financial impact on Police Scotland is therefore nil.
These documents relate to the Air Weapons and Licensing (Scotland) Bill (SP Bill 49) as introduced in the Scottish Parliament on 14 May 2014

Other processes

73. The above estimates relate to the initial five-year period when almost all applications will be for new AWCs. For Year 6 onwards, many of the certificate applications will relate to renewals of existing authorities and processing costs should generally be lower as much of the data would already exist and Police Scotland would have knowledge and experience of the applicant at that stage. While this memorandum does not detail estimates beyond the first five-year cycle, the relevant costs for processing a renewal application could be estimated at:

<table>
<thead>
<tr>
<th></th>
<th>Enquiry Officer Hrs</th>
<th>Admin officer Hrs</th>
<th>Enquiry Officer @£28.30 / Hr</th>
<th>Admin officer@£20.10/Hr</th>
<th>Mileage (visit)</th>
<th>Total £</th>
</tr>
</thead>
<tbody>
<tr>
<td>Renewal</td>
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<td>1.00</td>
<td>£0.00</td>
<td>£20.10</td>
<td></td>
<td>£20.10</td>
</tr>
</tbody>
</table>

74. Similar estimates have been made for the other main applications processes set out in Part 1 of the Bill:

<table>
<thead>
<tr>
<th></th>
<th>Enquiry Officer Hrs</th>
<th>Admin officer Hrs</th>
<th>Enquiry Officer @£28.30 / Hr</th>
<th>Admin officer@£20.10 / Hr</th>
<th>Mileage (visit)</th>
<th>Total Cost £</th>
</tr>
</thead>
<tbody>
<tr>
<td>Police Permit</td>
<td>0.50</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>£10.05</td>
</tr>
<tr>
<td>Visitor Permit</td>
<td>0.00</td>
<td>1.00</td>
<td>£0.00</td>
<td>£20.10</td>
<td></td>
<td>£20.10</td>
</tr>
<tr>
<td>Events Permit</td>
<td>1.00</td>
<td>1.00</td>
<td>£28.30</td>
<td>£20.10</td>
<td></td>
<td>£68.40</td>
</tr>
<tr>
<td>Air Weapons Club approval</td>
<td>2.00</td>
<td>1.75</td>
<td>£56.60</td>
<td>£35.18</td>
<td></td>
<td>£111.78</td>
</tr>
</tbody>
</table>

75. As there has been no previous experience of licensing such weapons, or of issuing permits for specific activities, it is not possible to provide any robust estimates of the numbers of applications likely to be received and processed. However, the Scottish Government considers that the fee to be charged for these processes can and should be set at a cost-recovery level, offsetting the costs of each process – see table of potential fees at paragraph 104. Fees set at these levels should not be prohibitive when measured, in the case of visitor permits for example, against the costs of travel to or holidaying in Scotland, or could be recovered by the applicant through entrance or membership fees. The fee tariff will be set in secondary legislation and detailed discussion of the potential fee levels is set out at paragraph 101 below.

Compliance costs

76. In line with the Scottish Government approach to regulating air weapons, the Scottish Government envisages that the majority of existing firearm and shotgun certificate holders will properly apply for a new AWC at the appropriate point in time. For those not already within the firearms licensing systems, it is not the intention that Police Scotland should pursue unlicensed air weapons as a significant new priority. Rather, the regime will allow the police to identify and regulate legitimate air weapons holders, and to identify and seize unlicensed weapons as part of
Their wider responsibility for policing. Detection and enforcement of the new provisions will, therefore, form part of existing operations in the majority of cases. In line with this approach, no additional police officers should be required as a consequence of the new legislation.

77. Police Scotland and the Head of Firearms at the Scottish Police Authority have sought to estimate the costs involved in recording and reporting cases where an air weapon is retrieved by officers in the course of their investigation, and the costs of testing any such weapon to assess its specification, power, etc. The Scottish Government accepts their stated estimate that each case would involve an average of around two hours of work, costing some £180 per case, if a full court report is required. The Government also noted that the development and use of a simpler, standardised reporting format could reduce this unit cost to as low as £100.

78. As above, it is difficult to make any firm estimate of how many air weapons would fall to be tested as a result of the new legislation. However, taking account of the 171 offences involving air weapons recorded in 2012-13 and allowing for new cases and seizures arising from the new provisions Police Scotland considers that some 500 new tests could be needed each year – broadly 10 cases a week.

79. The estimated maximum additional enforcement, testing and reporting costs are therefore:

500 cases @ £180 per case = £90,000 per annum.

Hand-ins and disposals

80. One of the effects of the introduction of the new legislation will be to encourage people to consider whether they wish to license weapons held, or to dispose of them. Many such disposals could be through sales, etc., but it is anticipated that many old or unwanted air weapons could be handed in to the police for disposal and destruction. Police Scotland would collect such weapons and make arrangements, either locally or nationally to have them held securely then destroyed. This would build on existing arrangements for the handling of firearms generally.

81. As with other aspects of the proposals, it is not possible to estimate accurately how many such air weapons could be involved, nor what the disposal arrangements are likely to cost in total. The Scottish Government notes, however, that a long lead-in period is anticipated before the licensing provisions are fully commenced, and that Police Scotland already has in place arrangements to dispose of firearms. Such arrangements include “no cost” agreements with companies to securely destroy the weapons with the private company benefitting from any scrap value resulting. At this stage, the Government’s best estimate of the additional hand-in and disposal costs arising from the Bill provisions is some £30,000 spread over the initial years of the licensing regime. Thereafter, it is believed that the costs of ongoing disposals, forfeitures, etc. would be absorbed within existing resources.

82. A summary of the additional ongoing costs anticipated is:

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Weapons testing</td>
<td></td>
<td>£90,000</td>
<td>£90,000</td>
<td>£90,000</td>
<td>£90,000</td>
<td>£90,000</td>
</tr>
</tbody>
</table>
These documents relate to the Air Weapons and Licensing (Scotland) Bill (SP Bill 49) as introduced in the Scottish Parliament on 14 May 2014

| Hand-ins & disposals | £20,000 | £10,000 |

Scottish Court Service / Scottish Prison Service

83. As noted above, it is not the intention that Police Scotland should pursue unlicensed air weapons as a significant new priority. Prosecutions for licensing offences are therefore likely, in the majority of cases, to be pursued in parallel with other offences, whether these relate to offences of assault, vandalism, threatening behaviour, animal cruelty etc.. There were some 171 offences involving air weapons in the year 2012-13 and the additional costs of reporting and pursuing any associated licensing offence in such cases would, for the most part, represent a marginal addition to the policing and prosecution costs involved. This memorandum is therefore mainly concerned with estimating the number and costs of new, stand-alone licensing offences under Part 1 of the Bill, as unlicensed air weapons are identified and seized in the course of other investigations and police operations.

New cases

84. Given this background, the Scottish Government anticipates that the new measures will lead to a very small additional number of the most serious licensing offences, for example in relation to repeat offenders, being prosecuted in the sheriff courts under solemn procedure, with the expectation that a custodial sentence and/or substantial fine would be imposed on conviction. It is difficult to predict exact levels of activity at this stage, but the Scottish Government estimates that between two and five additional cases would be tried each year in solemn proceedings in the sheriff court.

85. There will also be a higher number of less serious cases, for example failure to comply with conditions on an AWC. In addition, Police Scotland has stated that it currently encounters a large number of low-value air weapons in the course of its operations which it would be likely to seize once the new legislation comes into force. Such cases would most probably be dealt with by way of summary procedures. The Scottish Government considers that a realistic estimate of new summary prosecutions under the licensing provisions of the Bill would, in the early years of the regime, lie between 50 and 100 additional cases detected per annum. Given that the majority of such cases would relate to licensing offences, it is estimated that a very small proportion would result in custodial sentences, perhaps as low as 2%, with an assumed sentence length of six months (with three months served).

Costs arising

86. Estimates have been made about the “unit costs” associated with pursuing prosecutions through both the solemn and summary court procedures. These estimates are based on assumed average costs in each case and have been calculated by the Scottish Government in consultation with stakeholders. Similarly, assumptions about potential disposals, whether custodial or by fine have been estimated, based on existing experience of court disposals.

87. In summary, the assumptions made in the relevant sections below are:
These documents relate to the Air Weapons and Licensing (Scotland) Bill (SP Bill 49) as introduced in the Scottish Parliament on 14 May 2014

<table>
<thead>
<tr>
<th>Costs</th>
<th>Solemn cases</th>
<th>Summary cases</th>
</tr>
</thead>
<tbody>
<tr>
<td>Legal Aid costs per case</td>
<td>£1,900</td>
<td>£660</td>
</tr>
<tr>
<td>(Source: Scottish Legal Aid Board Annual Report 2012-2013)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Prosecution costs per case</td>
<td>£8,000</td>
<td>£400</td>
</tr>
<tr>
<td>(Estimate)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Court costs per case</td>
<td>£1,850</td>
<td>£335</td>
</tr>
<tr>
<td>(Estimate)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Annual cost per prison place</td>
<td>£42,620</td>
<td>£42,620</td>
</tr>
<tr>
<td>(Source: Scottish Prison Service Annual Report and Accounts 2012-13)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

| Disposals                                  |              |               |
| % custodial                                | 50%          | 2%            |
| Sentence length                            | One year     | six months    |
| Actual time served                         | six months   | three months  |
| % fine/other disposal                      | 50%          | 98%           |

88. Using the assumptions above, a summary of the projected costs is shown below. Costs have been assumed at the mid-point of estimates for the purposes of this Memorandum.

<table>
<thead>
<tr>
<th>Solemn</th>
<th>Range</th>
<th>Selected</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2</td>
<td>5</td>
</tr>
<tr>
<td>cost per case</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Legal Aid</td>
<td>£1,900</td>
<td>£3,800</td>
</tr>
<tr>
<td>Prosecution</td>
<td>£8,000</td>
<td>£16,000</td>
</tr>
<tr>
<td>Court costs</td>
<td>£1,850</td>
<td>£3,700</td>
</tr>
<tr>
<td></td>
<td>£23,500</td>
<td>£58,750</td>
</tr>
<tr>
<td>Prisons</td>
<td>2</td>
<td>5</td>
</tr>
<tr>
<td>% custodial</td>
<td>50%</td>
<td>1</td>
</tr>
<tr>
<td>Sentence length</td>
<td>One year</td>
<td></td>
</tr>
<tr>
<td>Actual time served</td>
<td>six months</td>
<td>0.5</td>
</tr>
<tr>
<td>Annual cost of prison places</td>
<td>£42,620</td>
<td>£21,310</td>
</tr>
</tbody>
</table>
These documents relate to the Air Weapons and Licensing (Scotland) Bill (SP Bill 49) as introduced in the Scottish Parliament on 14 May 2014

### Summary

<table>
<thead>
<tr>
<th></th>
<th>Range</th>
<th>Selected</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>50</td>
<td>100</td>
</tr>
<tr>
<td>cost per case</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Legal Aid</td>
<td>£660</td>
<td>£33,000</td>
</tr>
<tr>
<td>Prosecution</td>
<td>£400</td>
<td>£20,000</td>
</tr>
<tr>
<td>Court costs</td>
<td>£335</td>
<td>£16,750</td>
</tr>
<tr>
<td></td>
<td>£69,750</td>
<td>£139,500</td>
</tr>
<tr>
<td>Prisons</td>
<td>50</td>
<td>100</td>
</tr>
<tr>
<td>% custodial</td>
<td>2%</td>
<td>1</td>
</tr>
<tr>
<td>Sentence length</td>
<td>six months</td>
<td></td>
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<tr>
<td>Actual time served</td>
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<tr>
<td>Annual cost of prison places</td>
<td>£42,620</td>
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### Summary of selected costs

<table>
<thead>
<tr>
<th></th>
<th>Legal, prosecution and court costs</th>
<th>Scottish Service</th>
<th>Prison</th>
<th>Total</th>
</tr>
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<tbody>
<tr>
<td>Solemn (3pa)</td>
<td>£35,250</td>
<td>£31,965</td>
<td></td>
<td>£67,215</td>
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<tr>
<td>Summary (75pa)</td>
<td>£104,625</td>
<td>£15,985</td>
<td></td>
<td>£120,610</td>
</tr>
<tr>
<td></td>
<td>£139,875</td>
<td>£47,950</td>
<td></td>
<td>£187,825</td>
</tr>
</tbody>
</table>

89. In each case, the estimated number of new cases arising directly from the provisions of Part 1 of the Bill, and the costs associated with such cases, do not translate to any significant new burden on the courts or prison services. The Scottish Court Service Annual Report 2011-12 showed that there were some 1,128 solemn trials and 6,846 summary trials where evidence was led. In addition, the average daily prison population in Scotland in 2012-13 was 8,014. The likely impacts of air weapons licensing, therefore, represent a very small percentage of the total costs of these organisations and should be accommodated within existing workloads and likely fluctuations therein. The relevant costs have, therefore, been classed as opportunity costs.

### COSTS ON LOCAL AUTHORITIES

90. The licensing authority for air weapons in Scotland will be Police Scotland. The Scottish Government does not propose any formal role for local authorities within the new regime. This is in line with the present firearms and shotgun licensing arrangements. As a result, the Scottish Government does not anticipate any new costs falling on local authorities as a result of Part 1 of the Bill.
COSTS ON OTHER BODIES, INDIVIDUALS AND BUSINESSES

Registered firearms dealers

91. The Gun Trade Association Ltd (GTA) is the UK’s officially recognised body representing the legitimate sporting, recreational and professional gun trade. It has over 700 members and its mission is to promote and protect the industry at all levels. The GTA (and the Airgun Manufacturers & Trade Association Ltd (AMTA)) were represented on the Scottish Government’s SFCP and provided or confirmed a number of the main figures and assumptions used in developing this memorandum.

92. Scottish Government statistics showed that there were 353 registered firearms dealers (RFDs) in Scotland at December 2012. Many of these are involved in trading air weapons, with GTA/AMTA servicing around 114 air weapon outlets. Figures provided by the GTA/AMTA in October 2012 (and confirmed in March 2014) estimated that retail sales of air weapons at that time amounted to approximately three guns per week per outlet, with a total estimated retail value of some £2.4 million per annum. An additional £2 - 3 million per year was estimated as being attributable to “related” products and sales, including clothing, targets, scopes, etc..

93. The Scottish Government understands that GTA/AMTA members at the time reported a small downturn in sales in the period 2010 to 2012, against a background of the general economic downturn, as well as unfounded speculation about an “air weapons ban” in Scotland. However, this had to be seen against a longer term trend of a rise in sales over a nine- or ten-year period. This rise has occurred despite the introduction of greater controls over the possession and sale of air weapons in the Anti-social Behaviour Act 2003, the Violent Crime Reduction Act 2006 and the Crime and Security Act 2010.

94. Overall, the Scottish Government accepts that there may be an adverse impact on sales figures as a result of this legislation coming into force. However, this is not expected to be large. The licensing regime is designed to ensure that a reasonable person with a legitimate reason for possessing an air weapon should be able to obtain a certificate and continue to shoot. Gun sales to this customer base will, in many cases, be focused at the higher value end of the market, along with sales of related products. Sales of lower powered weapons are, therefore, likely to reduce as a proportion of all sales and the Government believes that such a reduction is justified in terms of the wider benefits to public safety.

95. In terms of ongoing costs, the new legislation places two main responsibilities on air weapons traders. Firstly, the dealer will be required to ensure that a person buying an air weapon holds a valid AWC. That check should be relatively simple and builds on existing requirements with regard to the conduct and recording of air weapons sales, introduced by the Violent Crime Reduction Act 2006. Secondly, dealers will be required to notify the chief constable of any air weapon sold for delivery outwith Great Britain. Again this builds on existing procedures for firearms and shotguns and will not represent any significant new burden for RFDs.

Shooting clubs

96. There is already a small network of air weapon clubs across Scotland, many of which are affiliated with recognised shooting organisations such as the Scottish Air Rifle and Pistol Association (SARPA), UK Association for Hunter Field Target (UKHAFT), and National Small-
bore Rifle Association (NSRA). Such clubs should have appropriate premises which can be inspected and approved by Police Scotland. The Bill sets a framework for such an approval process and the Scottish Government will supplement this with detailed guidance, following the model of the current Home Office guidance on the approval of rifle clubs and muzzle-loading pistol clubs, which are governed under section 15 of the Firearms (Amendment) Act 1988.

97. A fee will be payable by the club to help meet the costs of this approval process. While such fees will represent a cost to the club and to members, the Scottish Government believes that the overall impact should be very small when viewed against the overall costs of providing suitable premises or a shooting range, and the wider costs involved in air weapon shooting.

**Shooting organisations**

98. As with air weapons clubs, the Scottish Government does not consider that there will be any significant impact on shooting organisations. It is likely that the majority of existing legitimate and serious air weapons shooters are, and will continue to be, members of or subscribe to one or more of the main organisations. Conversely, those who should not possess weapons or who possess them with the aim of causing mischief are unlikely to be members of shooting organisations.

**Tourism**

99. The Bill provides for a system of visitor permits for those who wish to visit Scotland with their own air weapons, or to shoot in Scotland, for example on private land or at an organised event. This will draw on the well-established system of visitor permits for firearms and shotguns under the current firearms legislation. The applicant for such a permit will be required to pay a fee at the point of application. The exact level of fees has not yet been set: the current fee for a firearms visitor permit is set at £12, whereas the estimates of processing costs set out above suggest that a fee of around £20 may better reflect the actual costs of dealing with an application. In any event, a fee set at or close to this level would represent a small addition to the costs of a visit to Scotland, particularly where that visit includes significant travel and accommodation costs. The Scottish Government considers that such additional costs are not material and would be unlikely to lead to any significant impact on tourism in Scotland.

**Recreational shooting**

100. The Bill also provides for event permits, to allow the applicant to organise and promote specific events at which air weapons shooting is to take place. Such events could, for example, include fairs and other situations where it is possible for those who do not normally shoot in a competitive environment to hire or borrow air weapons; specific shooting competitions; or other events which include recreational shooting. The costs of processing an application for a permit to operate such an event are estimated at paragraph 74 above and may amount to some £60 - £70 per event. Such a cost is likely to be small in comparison to the overall costs of staging and promoting such events and could be recouped by the organisers through entry fees or other remuneration. The Scottish Government considers that any impact on the costs of organising recreational shooting events is, therefore, likely to be marginal.
Fees

101. As noted above, the Bill enables a tariff of fees to be charged at the point at which a person applies for an AWC, a permit or for other approvals. The fee will be payable regardless of whether or not a certificate is granted. Fees will be collected by Police Scotland and will help to offset the costs of providing the service. The fees will be payable by the individual applying for a certificate or, as appropriate, by air weapons clubs or other corporate bodies.

102. The broad structure of the tariff will follow that in place for other firearms and shotguns. Those fees are set by the UK Government under reserved legislation. The actual fee amounts payable in each case will be set out in secondary legislation and are likely to be set at levels which strike a balance between the current tariff for firearms, at least in the initial years of the regime, and the estimated average costs of processing each application. The Scottish Government believes it would be inequitable to set an air weapons fee tariff which is greater than that for other guns. This could also encourage ownership of more powerful weapons. The Scottish Government’s aim, however, is to move towards a level of fees set at full cost recovery levels.

103. The following table sets out the current (March 2014) fee levels for firearms and shotguns, and shows indicative fees for the equivalent main air weapons processes. The proposals are set at different levels for the purposes of illustrating potential impacts on overall costs. It is also important to note a number of general points:

- Firstly, the existing tariff charges fees for the grant of the certificate. The Scottish Government proposes that it is more appropriate to require payment of a fee at the point of application, and that the fee is not returnable in the event of a refusal of the application. This better reflects the true costs of running the licensing service, as the processing checks and administration have to be carried out regardless of the final decision made;

- Secondly, there are a number of processes (police permits and events permits) where the Scottish Government intends to set a fee, which have no direct equivalent in the current firearms legislation; and

- Thirdly, much of the current tariff has been in place since 1 January 2001 (fees for clubs and museums have been unchanged since 1988). There has been considerable pressure from a number of stakeholders, in particular the police, calling for fees to be increased in line with inflation and to better represent the costs of providing the licensing service. As noted above, work is currently underway in a Fees Working Group, convened by the Home Office and including representation from Police Scotland, to consider an increase in the firearm and shotgun tariff. This work is not yet complete, and it is unclear as to whether a full cost recovery fee level is likely to be set, either from the point of change or on a phased basis.

104. In the table below, two indicative fee levels have been shown, for estimation purposes. These are:
These documents relate to the Air Weapons and Licensing (Scotland) Bill (SP Bill 49) as introduced in the Scottish Parliament on 14 May 2014

Level 1 – Fee levels set at or close to current firearms/shotgun fee levels, where fees are in place

Level 2 – Indicative fee levels based on the estimates of the full cost of processing each type of air weapons case, as set out above

Fees

<table>
<thead>
<tr>
<th>Process</th>
<th>Current firearms / shotgun fee</th>
<th>Air weapons fee (Level 1)</th>
<th>Air weapons fee (Level 2)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Grant of certificate</td>
<td>£50</td>
<td>£50</td>
<td>£85</td>
</tr>
<tr>
<td>Co-terminous certificate</td>
<td></td>
<td>£10</td>
<td>£10</td>
</tr>
<tr>
<td>Renewal of certificate</td>
<td>£40</td>
<td>£40</td>
<td>£20</td>
</tr>
<tr>
<td>Police permit</td>
<td></td>
<td>£10</td>
<td>£10</td>
</tr>
<tr>
<td>Visitor permit</td>
<td>£12</td>
<td>£15</td>
<td>£20</td>
</tr>
<tr>
<td>Event permit</td>
<td></td>
<td>£50</td>
<td>£65</td>
</tr>
<tr>
<td>Air weapons club</td>
<td>£84</td>
<td>£85</td>
<td>£110</td>
</tr>
</tbody>
</table>

OVERALL COSTS OF PART 1

105. Drawing together all of the above information and given the assumptions made, the following sets out the Scottish Government’s best estimates at this stage of the potential costs arising from the air weapons provisions as set out in Part 1 of the Bill.

106. As noted at paragraph 53 the Government estimates that the number of new applications for AWCs will fall in the range 10,000, 20,000 or 30,000 with the mid-range estimate of 20,000 new applications considered the most likely scenario. Applications will be spread in the run up to full commencement and over the first five-year licensing period. Many applications are likely to arise in the first years, but transitional measures and other factors mean that the application rate is likely to be spread over the whole period. The estimated profile is set out in the table at paragraph 71 above. The costs of new applications on this basis are set in the table below. Assumed fee levels are calculated at Level 1 (i.e. existing fee tariff).

Processing Costs to Police Scotland

<table>
<thead>
<tr>
<th>No. of new applications</th>
<th>Year 0 (2015-16)</th>
<th>Year 1 (2016-17)</th>
<th>Year 2 (2017-18)</th>
<th>Year 3 (2018-19)</th>
<th>Year 4 (2019-20)</th>
<th>Year 5 (2020-21)</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>10,000</td>
<td>£71,100</td>
<td>£106,650</td>
<td>£71,100</td>
<td>£35,550</td>
<td>£35,550</td>
<td>£35,550</td>
<td>£355,500</td>
</tr>
<tr>
<td>20,000</td>
<td>342,200</td>
<td>513,300</td>
<td>342,200</td>
<td>171,100</td>
<td>171,100</td>
<td>171,100</td>
<td>1,711,000</td>
</tr>
</tbody>
</table>

Fee income

<table>
<thead>
<tr>
<th>No. of new applications</th>
<th>Year 0 (2015-16)</th>
<th>Year 1 (2016-17)</th>
<th>Year 2 (2017-18)</th>
<th>Year 3 (2018-19)</th>
<th>Year 4 (2019-20)</th>
<th>Year 5 (2020-21)</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>10,000</td>
<td>£200,000</td>
<td>£300,000</td>
<td>£200,000</td>
<td>£100,000</td>
<td>£100,000</td>
<td>£100,000</td>
<td>£1,000,000</td>
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<tr>
<td>20,000</td>
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</tbody>
</table>
These documents relate to the Air Weapons and Licensing (Scotland) Bill (SP Bill 49) as introduced in the Scottish Parliament on 14 May 2014

<table>
<thead>
<tr>
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<tr>
<td>Scottish Government (Media)</td>
<td>59</td>
<td>150,000</td>
<td>75,000</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>£225,000</td>
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<td>Police Scotland</td>
<td>106</td>
<td>142,200</td>
<td>213,300</td>
<td>142,200</td>
<td>71,100</td>
<td>71,100</td>
<td>71,100</td>
<td>£711,000</td>
</tr>
<tr>
<td>Net processing cost</td>
<td>82</td>
<td>0</td>
<td>90,000</td>
<td>90,000</td>
<td>90,000</td>
<td>90,000</td>
<td>90,000</td>
<td>£450,000</td>
</tr>
<tr>
<td>PS/SPA - Weapons testing and reporting</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>ICT costs</td>
<td>65</td>
<td>50,000</td>
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<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>£50,000</td>
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<tr>
<td>Hand-in and Disposals</td>
<td>82</td>
<td>20,000</td>
<td>10,000</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>£30,000</td>
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<tr>
<td>COPFS/Courts (Mid-level estimates)</td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Solemn (three pa)</td>
<td>88</td>
<td>0</td>
<td>35,250</td>
<td>35,250</td>
<td>35,250</td>
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<td>£176,250</td>
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<tr>
<td>Summary (75pa)</td>
<td>88</td>
<td>0</td>
<td>104,625</td>
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<td>104,625</td>
<td>104,625</td>
<td>104,625</td>
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<td>Scottish Prison Service</td>
<td>88</td>
<td>0</td>
<td>£47,950</td>
<td>£47,950</td>
<td>£47,950</td>
<td>£47,950</td>
<td>£47,950</td>
<td>£239,750</td>
</tr>
<tr>
<td>Total</td>
<td>362,200</td>
<td>576,125</td>
<td>420,025</td>
<td>348,925</td>
<td>348,925</td>
<td>348,925</td>
<td>348,925</td>
<td>£2,405,125</td>
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</tbody>
</table>

107. Taking the mid-range estimates shown above the following table seeks to summarise the full costs arising from Part 1 of the Bill. A number of other costs are considered to be “up-front costs” and are shown in the table accordingly. The ongoing costs for other agencies are shown per annum.
PART 2 - ALCOHOL

INTRODUCTION

108. There are nineteen separate provisions in relation to alcohol licensing in the Bill. The main amendments are listed below it is believed that their overall financial impact is likely to be close to neutral. The more significant financial impacts on stakeholders are described throughout this section of the Financial Memorandum

109. Part 2 of the Bill amends the system of alcohol licensing by:

- The creation of a new offence of supplying alcohol to children or young people for consumption in a public place. This fulfils a manifesto commitment;
- Amendment of the licensing objective in relation to children to also include young persons;
- Amendment of the duration of a licensing policy statement to better align with the term of Licensing Boards;
- Inserting a fit and proper person test in relation to the issue or continued holding of a premises or a personal licence;
- Removal of the automatic requirement for a hearing where a Licensing Board is notified of a relevant or foreign offence in relation to a premises or personal licence;
- Amendment of the definition of relevant offences and foreign offences to no longer disregard a matter that is spent for the purposes of the Rehabilitation of Offenders Act 1974;
- Inclusion of the flavouring angostura bitters in the definition of alcohol for the purposes of the Act;
- Clarification that for an overprovision assessment, the whole Board area may be considered as an area of overprovision, and allow Boards to take account of licensed hours, among other things;
- Imposition of a duty on Boards to prepare an annual financial report;
- Removal of the requirement for a premises licence holder to notify a change in interested parties and removal a premises manager from the definition of interested party;
- Removal of the five-year restriction on re-applying for a licence revoked on grounds of failing to undertake refresher training and other changes to the personal licence holder requirements;
- Introduction of a requirement for a Licensing Board to issue an acknowledgement, unless it would be impractical;
- Provision for the automatic grant of a licence (or its variation) where a Licensing Board has not either decided on an application or sought an extension from the sheriff within a set period. This clarifies compliance with the EU Services Directive.
COSTS ON THE SCOTTISH ADMINISTRATION

Scottish Government

110. Alcohol licensing will continue to be administered locally by local authority Licensing Boards so centrally borne costs will continue to be minimal.

111. The Scottish Government already produces and updates guidance in relation to alcohol licensing. The production of guidance on the alcohol licensing aspects of the Bill, would form part of this existing work and, therefore, be met from within existing budgets. No additional costs to the Scottish Government have been identified in respect of Part 2 of the Bill.

Police Service of Scotland

112. In 2007, the overall estimate for the cost of alcohol-specific offences and alcohol-specific crimes and offences was estimated £727.1 million.\(^4\)

113. Police Scotland is very supportive of these measures in the Bill, which will improve departmental effectiveness with no anticipated impact on policing demands or financial outlay. Police Scotland has stated that the measures may actually save money and prevent it having to manage particular problems in certain premises which is a time-consuming and more expensive option.

114. Under the Bill, police responsibility will remain broadly the same with responsibility for conducting checks on licence holders, enforcement and offering views on complaints. However with the introduction of the ‘fit and proper’ test and the consideration of spent convictions, the police will have powers to provide a wider range of information to Boards.

115. No additional police costs are anticipated in this regard. The background work is already carried out for every new applicant and/or transferee and in response to incidents occurring which are linked to licensed premises and holders of personal licences. Spent convictions are automatically checked when the police undertake background checks in their role as statutory consultee so there will be no additional burden in this regard.

116. Police Scotland has welcomed the new offence of supplying alcohol to young people/children for consumption in a public place. It is not clear that policing the offence would be an additional cost to Police Scotland as the police are already committing resource to dealing with the behaviour to which it relates. Police Scotland feels that this offence will prove to be a deterrent and useful preventative measure as well as an additional tool to tackle the source of alcohol to young persons, underage drinking, and associated antisocial behaviour and disorder. Ultimately, these changes should reduce the pressure on police resource caused by this behaviour which has come to blight the evening economies of towns and cities, especially at the weekend.

117. In common with similar offences under the 2005 Act, the Scottish Government anticipates that Police Scotland will use it to encourage compliance, with only a relatively small number of prosecutions being taken where necessary to protect public safety. The actual number

of prosecutions under this offence would, however, depend on the approach taken by Police Scotland. The estimated cost involved in processing a summary case from the point at which the crime is committed to the point at which a suspect is charged is £439. A similar offence under section 105 of the 2005 Act was the basis of 50 prosecutions in 2012/13. Together these provide a possible indicative cost to Police Scotland of around £21,950 per annum for this offence although, as noted above, a proportion of this cost is already spent in policing the behaviour to which it relates.

**Scottish Court Service / Scottish Prison Service**

118. It is anticipated that the majority of disposals for incidents of supplying alcohol to a child or young person in a public place will be through early intervention or by means of fixed penalty notices, and as such it is less likely that there will be a significant impact on procurators fiscal or indeed custody provision.

119. The alcohol licensing regime relies on Licensing Boards, made up by local authority councillors. In the main, any punitive action is taken in relation to the relevant licence. The 2005 Act provides a right of appeal for certain Licensing Board decisions. It is not anticipated that the Bill will make significant changes to the number of appeals that are made.

120. There are, however, also a number of existing offences within the legislation, and this Bill provides an additional offence in relation to the supply of alcohol to a child or young person in a public place. It is not anticipated that this new offence will lead to substantial numbers of additional prosecutions. A person who commits this offence is liable on summary conviction to a fine not exceeding level 5 on the standard scale, imprisonment for a term not exceeding three months or both.

121. The average estimated cost of a summary case is £2,148. This figure includes not just prosecution costs, but also police costs and court costs involved in a case being taken through Scottish summary courts. Excluding the costs incurred up to the point that the suspect is charged, which will fall largely to the police, the average estimated cost of a summary case is £1,709.

122. As set out above in paragraph 117, in common with similar offences under the 2005 Act, the Scottish Government anticipates that Police Scotland will use it to encourage compliance, with only a relatively small number of prosecutions being taken where necessary to protect public safety. Nevertheless, on the basis of the number of prosecutions under section 105 of the 2005 Act in 2012/13, a possible indicative cost of about £85,450 per annum can be derived.

**COSTS ON LOCAL AUTHORITIES**

123. The alcohol licensing regime is administered at local authority level by Licensing Boards. The Bill will not change this. Local authorities will continue to bear the costs of administering the licensing process, and they recoup their costs through the licensing fees.

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124. The Licensing (Scotland) Act 2005 section 136 enables the Scottish Ministers to make provision for the charging of alcohol licensing fees by Licensing Boards in a range of situations such as applying for premises licences/paying annual fees, applying for personal licences, occasional licences, and transfer or variation of licences.

125. Licensing Boards are empowered to set their own fees as long as they do not exceed the maximum limits, where appropriate, outlined in the Licensing (Fees) (Scotland) Regulations 2007 (“the 2007 Regulations”). The fees are intended to reflect the Scottish Government’s intention to make the system self-funding i.e. to cover both direct and indirect costs incurred by Licensing Boards. As stated in the 2007 Regulations, regulation 13:

“a Board is to have regard to the desirability of ensuring that the total fees payable under these Regulations to that Board in respect of any period are likely to be broadly equivalent to the expenses incurred by the Board and the council for the area of that Board, in administering the Act generally during that period.”

126. Most of these fees, such as those charged for occasional licences or variations, are the same for all licensees regardless of the size of their business. Premises applications/annual fees are linked to the business’s rateable value, with a number of exceptions such as members clubs, visitor attractions etc., detailed in the 2007 Regulations.

127. In addition to the payment for premises licence applications, personal licence holder applications etc., it is a mandatory condition of the premises licence that holders pay an annual fee to ensure that the system is sufficiently resourced. Licensing Boards are empowered to set their own annual fees for premises licences, as long as they do not exceed the maximum limits outlined in the 2007 Regulations. Licensing Boards will be put under a statutory duty to report their income and expenditure. This will provide a better understanding of their costs and, if demonstrated to be necessary, the maximum limits within the 2007 Regulations will be amended.

### Alcohol licensing fee structure

<table>
<thead>
<tr>
<th>Category of licence</th>
<th>Application fee</th>
<th>Annual fee</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Category 1</strong> – not entered on valuation roll, no rateable value, nil rateable value, visitor attractions, clubs, provision of accommodation only</td>
<td>£200</td>
<td>£180</td>
</tr>
<tr>
<td><strong>Category 2</strong> – rateable value between £1 and £11,500</td>
<td>£800</td>
<td>£220</td>
</tr>
<tr>
<td><strong>Category 3</strong> – rateable value between £11,501 and £35,000</td>
<td>£1,100</td>
<td>£280</td>
</tr>
<tr>
<td><strong>Category 4</strong> – rateable value between £35,001 and £70,000</td>
<td>£1,300</td>
<td>£500</td>
</tr>
<tr>
<td><strong>Category 5</strong> – rateable value between £70,001 and £140,000</td>
<td>£1,700</td>
<td>£700</td>
</tr>
<tr>
<td><strong>Category 6</strong> – rateable value over £140,000</td>
<td>£2,000</td>
<td>£900</td>
</tr>
</tbody>
</table>
These documents relate to the Air Weapons and Licensing (Scotland) Bill (SP Bill 49) as introduced in the Scottish Parliament on 14 May 2014

<table>
<thead>
<tr>
<th>Application to vary premises licence under 31 (1)</th>
<th>Statutory</th>
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</thead>
<tbody>
<tr>
<td>£31</td>
<td>n/a</td>
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<tr>
<td>Application to vary premises licence – minor variation</td>
<td>£20</td>
</tr>
<tr>
<td>Occasional licence</td>
<td>£10</td>
</tr>
<tr>
<td>Extended hours licence</td>
<td>£10</td>
</tr>
<tr>
<td>Personal licence</td>
<td>£50</td>
</tr>
</tbody>
</table>

Review of alcohol licensing fees

128. It is for local Licensing Boards to determine the level of appropriate fees, subject to any prescribed level, and to ensure that the licensing regime is self-funding. The recent Review of Alcohol Licensing Fees carefully considered these issues but determined that there was insufficient information to determine whether Licensing Boards were recovering their costs, or making a surplus/deficit, and therefore it was not possible to make firm recommendations on the level of fees. The review, therefore, recommended that Licensing Boards be put under a statutory duty to report on their income and expenditure. The lack of transparency as to Licensing Board costs has also significantly restricted the possibility of accurate costs being developed for the purpose of this memorandum.

129. To increase transparency, this Bill, therefore, puts a duty on Licensing Boards to provide an annual report of their income and expenditure from the fees regime so it is clear that the fees are being set at appropriate levels to cover the Board’s costs.

130. The ultimate fees regime in an area will, therefore, reflect the unique circumstances faced in the local authority, and the impact of many factors such as demography, geography and health of the local economy, it is inevitable that there is variation between the licensing fees charged in different local authorities.

<table>
<thead>
<tr>
<th>Premises licences in force on 31 March 2013</th>
<th>Scotland</th>
</tr>
</thead>
<tbody>
<tr>
<td>16,237</td>
<td></td>
</tr>
<tr>
<td>Personal Licences in force on 31 March 2013</td>
<td>52,794</td>
</tr>
<tr>
<td>Number (full-time equivalent) of licensing standards officers employed</td>
<td>61.6</td>
</tr>
</tbody>
</table>

Licensing objectives and statements of licensing policy

131. The Bill amends the licensing objective ‘protecting children from harm’ to ‘protecting children and young people from harm’. There will be administration costs associated with updating written materials, websites, training materials etc. The bulk of these materials is online and subject to periodic review. The Scottish Government would, therefore, expect such costs to be low.

132. The Licensing (Scotland) Act 2005 requires Licensing Boards to produce and consult on a statement of policy every three years regarding licensing within their areas, as well as creating an overprovision assessment. This process prompts Boards to pro-actively assess what policies
are suitable for their area and provides the licensed trade with a visible record of the Board’s planned approach which helps them to plan over a three-year period.

133. Creating robust, evidence-based licensing policy statements and overprovision assessments imposes an administrative cost on Licensing Boards and their consultees such as police and health bodies. The amount of time spent on work related to policy statements varies between Boards, some of which spend hundreds of staff hours on the accompanying processes such as engagement, Board meetings, liaising with Licensing Forums, sending letters etc.

134. The Bill amends the 2005 Act to require these policy statements within 18 months of an ordinary election of councillors from local government areas which takes place under section 5 of the Local Government etc. (Scotland) Act 1994. In practice this will usually mean every five years. Reducing the frequency of licensing policy statements will reduce costs for some local authorities. Some Boards may wish to update their policy statements more regularly and they will be able to do by preparing a supplementary policy statement.

135. Reducing the frequency of reviewing the Licensing Policy Statement from every three years to better align with local government electoral terms will potentially result in a 40% saving from existing costs in relation to reviewing their Licensing Policy Statement for Licensing Boards. It will be for individual Boards to determine whether a five-year review is appropriate, and certain Boards may wish to review their Licensing Policy Statement more frequently. It is, therefore, impossible to arrive at an accurate estimate of savings, but the Scottish Government would expect many Boards to find a five-yearly review more proportionate.

Greater powers for Licensing Boards and the police

136. The Bill provides greater powers for Licensing Boards to consider whether applicants or licence holders are ‘fit and proper’ persons, as well as allowing them to consider spent convictions.

137. It is difficult to estimate any additional costs for Boards because it largely depends on the manner in which they deploy these powers within the exercise of their existing functions. While it is possible that these greater powers could result in more reviews by Licensing Boards and a more detailed consideration of applications, these functions will form part of the business conducted at the regular Board meetings. It is, therefore, anticipated that any additional cost is likely to be minimal. If their fees are below the maximum levels, Licensing Boards could cover any additional costs by raising their alcohol licensing fees.

138. A more detailed consideration of individual licences and applications will improve the existing licensing regime and improve compliance over the long term.

Relevant offences and foreign offences

139. Under the current regime, Licensing Boards are compelled to review a premises licence if they receive a notice from the chief constable confirming that the premises licence holder or connected person has gained a conviction for a relevant or foreign offence. The current regime also compels Boards to hold a hearing if they receive a notice or become aware that a personal licence holder has gained a conviction for a relevant or foreign offence.
140. Many licensed premises have outlets across the whole of Britain. Under the current legislation, if a premises licence holder or connected person is convicted of an offence, for example, in England, there must be a hearing in every Board area in which the person has a premises. This may be appropriate if the offence is sufficiently severe, but Boards do not currently have the power to make that decision and must hold a hearing for every offence no matter how minor.

141. Hearings are usually dealt with as part of the regular business at Licensing Board meetings held monthly or quarterly.

142. The Bill allows Boards to determine whether a review/hearing is necessary, and provides them with the power to take no further action. This will provide Boards with some cost and time savings. Anecdotal evidence and consultation responses suggest that a significant number of such hearings currently take place across Scotland, serving little purpose. Removing the automatic requirement for such hearings will lead to ongoing resource savings for Boards.

**Duty of Licensing Boards to produce annual financial report**

143. The Bill requires each Licensing Board to prepare and publish an annual financial report setting out their income and expenditure from the alcohol licensing fees regime. As set out in paragraphs 128 and 128 above, Licensing Boards are already required to base their fees on cost recovery but there is a lack of clarity as to what these costs are. While in theory publishing these calculations should not require significant additional resource, it is recognised that some changes may need to be made to some Boards’ financial and accounting practices to enable this. It is anticipated that any additional costs arising from this should be minimal. The annual financial reports will inform the Scottish Government on appropriate maximum fee levels.

**COSTS ON OTHER BODIES, INDIVIDUALS AND BUSINESSES**

**Trade**

144. The 2005 Act only came into force in September 2009 and the regime is still settling in. It is the Scottish Government’s view that in the main it is working well. Therefore, rather than proposing any radical overhauls of the regime, the Bill is intended to improve the existing system and reduce burdens on trade.

145. As explained in paragraphs 139 to 142 above, when a Licensing Board receives notice or becomes aware of the existence of a conviction for a relevant or foreign offence in relation to a premises licence holder or a connected person, they must hold a hearing. For businesses who operate in multiple local authorities, this means that for a relatively minor conviction, they may have to attend many different Licensing Board reviews as there is at least one Board in every local authority. Some businesses may be represented by legal agents at these hearings with associated costs.

146. This is considered to be a disproportionate burden on businesses, so the Bill amends the 2005 Act to allow individual Boards to determine whether a review is necessary. This will save money and time for those businesses which may be affected by this, but the extent of this saving
These documents relate to the Air Weapons and Licensing (Scotland) Bill (SP Bill 49) as introduced in the Scottish Parliament on 14 May 2014

to each of these will depend, amongst other things, on the number of local authority areas the business operates in. Cost savings by the Board should result in lower alcohol licensing fees.

147. The 2005 Act provides that if a personal licence holder does not meet the deadline for providing evidence to the relevant Licensing Board that the holder has undergone the refresher training, the holder’s personal licence must be revoked. Once revoked, a person cannot apply for another personal licence for five years. The consequences of the revocation of a personal licence could include the sale of alcohol no longer being permitted in the holder’s premises, unless appropriate steps are taken to name an alternative personal licence holder as the designated premises manager. In addition, personal licence holders who have their licences revoked will no longer be allowed to authorise sales of alcohol or conduct the mandatory staff training and will be unable to obtain another personal licence for a period of five years.

148. The cost for some businesses and individuals could be disproportionate. The Bill amends the legislation so that if a personal licence is revoked for failure to meet this deadline under s87(3) of the 2005 Act, the person can apply for another licence again immediately. As the circumstances which this provision seeks to address have not yet arisen, it is difficult to quantify possible savings to businesses and individuals. However, substantial business disruption will be avoided, and individuals who might otherwise have had to lose their employment will be able to sit refresher training and remain in the sector.

PART 3 – CIVIC LICENSING

TAXIS AND PRIVATE HIRE CARS

149. There are three provisions in relation to taxi and private hire car licensing. The provisions in the Bill are part of a larger body of work which aims to create greater consistency as well as widening and tightening the licensing regime. Specific provisions include:

- The power to refuse to grant private hire car licences on grounds of overprovision;
- The extension of taxi driver testing to include private hire car drivers;
- Removal of the contract exemptions to the licensing and regulation of taxis and private hire cars, bringing hire cars used on contracts into the regime.

150. The anticipated financial impacts on stakeholders are detailed below. As general background, according to the most recently published figures\(^6\), there are 10,603 taxis and 10,208 private hire cars licensed in Scotland. There are also 24,600 licensed taxi drivers and 11,349 licensed private hire car drivers. Figures are not collected for booking office licences. However, according to an informal request for snapshot figures (completed by 23 out of 32 local authorities), there were 224 booking offices licenced in the period October/November 2013.

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REFUSAL TO GRANT PRIVATE HIRE CAR LICENCES ON GROUNDS OF OVERPROVISION

Costs on the Scottish Administration

Scottish Government

151. There will be a nil to minimal additional cost in terms of providing guidance on this provision to local licensing authorities. The Scottish Government already publishes guidance and a more general update of this will be due once the Bill is law.

Costs on local authorities

152. This provision is discretionary and will not result in any automatic costs to local authorities. However, if a local licensing authority introduced an ‘overprovision’ policy in relation to private hire car services, there will be associated costs. As there is no previous experience of this specific power, the Scottish Government has based some costs on an equivalent power available to local licensing authorities to limit numbers of taxi vehicle licences. This power allows a taxi vehicle licence to be refused on the basis that there is no significant demand for taxi services that is unmet. Based on recent research, cited above, approximately 44% of local licensing authorities who responded currently limit taxi vehicle licence numbers. Indicative costs for the provision in relation to private hire car services will include the costs described in paragraphs 153-155 below.

Costs to assess the current provision of private hire car services

153. The legislation does not prescribe a method to assess provision and establish overprovision. The method used for assessing ‘unmet demand’ has largely been settled by practice over the years. Local licensing authorities can contract out these assessments and a figure of £15,000 to £20,000 has been quoted for the cost by the Transport Research Institute at Napier University, Edinburgh. However, authorities can also conduct an assessment using internal resources. There is also no legislative basis for the frequency with which such assessments should take place, but guidance from the Scottish Government in relation to taxis states that ‘licensing authorities should carry out a survey sufficiently frequently to be able to respond to any challenge to the satisfaction of a court’. This follows various cases where a licensing authority has been challenged on the accuracy of its assessment in relation to the application being currently considered. A policy of restriction cannot be inflexible and each application should be assessed on its own merits and in reference to the current context. It is difficult, therefore, to establish exactly how often a licensing authority should conduct an assessment but may be approximately every three years. If a licensing authority chose to carry out an assessment of private hire car services, then the costs would be in the region of £15,000 to £20,000 every three years. These costs would be recovered through licence fees. It would be reasonable to assume that the bulk of licensing authorities will not choose to carry out such an assessment, only carrying one out where they perceive problems arising from the overprovision of private hire car services.

Developing a policy on overprovision

154. Licensing authorities will develop a policy in relation to overprovision which will require input from officials as well as time of elected members considering and agreeing to the policy. There will likely be a need to conduct a public consultation on any proposed policy. The cost of
a public consultation could vary significantly depending on the detail it covers and the methodology used. As an indicative figure, a recent Scottish Government policy consultation on a civic licensing regime cost in the region of £10,000.

Defending refusals

155. It is currently the case that where a licensing authority refuses a licence application, this can be challenged by the applicant in court. The cost of defending such a case varies depending on the facts of the case. While the Bill will provide licensing authorities with an additional ground for possibly refusing applications and this may in turn result in more appeals, it is not anticipated that this will be a significant number.

156. Scottish Government would expect any costs on local authorities to be met by the fees recovered from licence holders. Section 12 of the 1982 Act empowers local licensing authorities to charge fees that are sufficient to meet their expenses in carrying out their functions in relation to taxi and private hire car licensing under the 1982 Act. The overall cost impact for local authorities as a result of this proposal should, therefore, be neutral.

157. There would also be potential savings for local licensing authorities in being able to better manage the trade and a reduction in complaints related to issues with an overprovision of private hire car services.

Costs on other bodies, individuals and businesses

158. There will be potential costs on licence holders (both individuals and businesses) if fees are increased as a result of the increased costs on local authorities detailed above. As the new provision will only be applied to new applications, an existing licence holder could not lose a licence on renewal as a result of this provision. However, new licence applicants will lose any money spent on the application if it is refused and they may face additional costs if they chose to challenge this refusal. Costs would include any legal advice obtained and representation if appearing at court.

159. It is assumed that if a licensing authority introduces an overprovision policy, it has recognised that the current market for private hire car services in its area is not functioning effectively. Evidence of over-supply might include private hire cars attempting to work illegally either out of area or by picking up passengers without a pre-booking. In such situations it is likely that a viable, legal livelihood may be difficult to achieve for all private hire service providers and, therefore, a refusal would be in the interests of the applicant as well as others already providing the service. The quality of service for the consumer may also suffer as a result of overprovision. The potential for an increase in illegal activity alongside a drop in quality both have clear public safety risks attached. The Scottish Government believes that, although this measure might restrict new entrants to the private hire car trade, it would ensure that those within the trade can operate a viable business while complying with laid down requirements.
TESTING OF PRIVATE HIRE CAR DRIVERS

Costs on the Scottish Administration

Scottish Government

160. The production of guidance on testing of private hire car drivers would form part of the Scottish Government’s existing work and would, therefore, be met from within existing budgets.

Costs on local authorities

161. This provision is discretionary and there are, therefore, no automatic costs to local authorities. If a local licensing authority decides to introduce testing of private hire car drivers, there could be costs associated with:

- Developing a policy on the testing of private hire car drivers;
- Developing or adapting an appropriate test and any associated training materials;
- Administering tests and associated training.

162. The extent of these costs would depend entirely on the design and detail of testing regime but the licensing authority would be able to recover them from fee income. Section 12 of the 1982 Act empowers local licensing authorities to charge fees that are sufficient to meet their expenses in carrying out their functions in relation to taxi and private hire car licensing under the 1982 Act. Any overall increase in costs for local authorities as a result of this proposal, therefore, should be capable of being recouped through fees.

163. If a local licensing authority decides to require testing of private hire car drivers, the Scottish Government would assume this is as a result of a concern at the level of skills and knowledge of the trade. The costs will, therefore, be offset by an improvement in the service provided to customers and an increase in the professionalism of the trade. Introducing a requirement for testing of private hire car drivers may also be introduced as a first step to tackle concerns with an overprovision of vehicles, prior to the use of the power to limit discussed above. This could therefore save the local licensing authority from the costs associated with that provision. There will also be potential cost savings from a reduction in complaints against the trade that need to be addressed by the local licensing authority. The Scottish Government would only expect a local licensing authority to introduce testing of private hire car drivers where they believed that there was a need or that it would make a positive impact on the trade. It would be possible for licensing authorities to draw upon existing training for taxi drivers, or work jointly with other licensing authorities to reduce the costs of developing new materials.

Costs on other bodies, individuals and businesses

164. There may be a cost attached to taking a test, particularly if an applicant needs to re-take a test. These will vary between local authorities but may be in the region of £50. Any new requirement for testing may also result in existing licence holders having to take time off from work to take the test.

165. Private hire car drivers are often seen as being less professional than their taxi driver counterparts in some areas due to the lack of a testing requirement. Licence holders who are
required to undergo any testing may benefit from the improvement in perception of their professionalism.

EXEMPTION FROM REQUIREMENTS OF SECTIONS 10 TO 21 OF 1982 ACT

Costs on the Scottish Administration

Scottish Government

166. The costs associated with updating guidance and potentially making regulations in relation to further exemptions forms part of the Scottish Government’s existing work and will be met within existing budgets.

Costs on local authorities

167. There will be costs for local licensing authorities in terms of preparation for the licensing of a new set of drivers, vehicles and booking offices and then the processing and ongoing administration of the increased number of licences. The current cost of existing taxi and private hire car licenses, which should represent the costs incurred in administering those licences, give an indication of what these costs might be.

168. Section 12 of the 1982 Act empowers local licensing authorities to charge fees that are sufficient to meet their expenses in carrying out their functions in relation to taxi and private hire car licensing under the 1982 Act. Any overall increase in costs for local authorities as a result of this proposal therefore should be minimal.

Costs on other bodies, individuals and businesses

169. There will be costs for the individuals and businesses who currently work under the contract exemption. As this is an area that is currently unlicensed, there are no figures on numbers of operators in Scotland. The potential range of services affected will be wide – from individual operators, e.g. working as part of a council contract to transport school pupils, to large executive hire firms with a fleet of luxury vehicles offering high-end chauffeur services.

170. The cost of driver, vehicle and booking office licences vary according to the local licensing authority. There may also be additional costs for testing vehicles and testing drivers, as well as various fees for approving signage, substituting vehicles, approving wheelchair accessible vehicles etc. In order to give an indicative value of the cost to driver, vehicle and booking offices, examples of the fees associated with the three levels of licence in five licensing authority areas are outlined below:
These documents relate to the Air Weapons and Licensing (Scotland) Bill (SP Bill 49) as introduced in the Scottish Parliament on 14 May 2014

<table>
<thead>
<tr>
<th>Local authority</th>
<th>Driver licence (both taxi and private hire car unless otherwise stated)</th>
<th>Vehicle/operator licence (both taxi and private hire car unless otherwise stated)</th>
<th>Booking office licence</th>
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<tr>
<td>Aberdeen</td>
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<td>Grant (one year) £395</td>
<td>Grant (three years) £218</td>
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<td>Renewal (three years) £105</td>
<td>Renewal (one year) £215</td>
<td>Renewal (three years) £191</td>
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<td>Highland</td>
<td>Grant/renewal (three years) £247</td>
<td>Grant/renewal (three years) £384</td>
<td>£306 (three years)</td>
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<td>Edinburgh</td>
<td>Grant, private hire (one year) £72</td>
<td>Grant (one year) £1567</td>
<td>Grant/renewal (one year) £500</td>
</tr>
<tr>
<td></td>
<td>Grant, taxi (one year) £91</td>
<td>Renewal (private hire/taxi, three years) £156</td>
<td>Renewal (one year) £267</td>
</tr>
<tr>
<td>Glasgow</td>
<td>Grant (one year) £68; (two years) £120; (three years) £162</td>
<td>Grant (one year) £168; (two years) £301; (three years) £402</td>
<td>Grant/renewal (three years) £298</td>
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<tr>
<td></td>
<td>Renewal (two years) £120; (three years) £162</td>
<td>Renewal (two years) £301; (three years) £402</td>
<td></td>
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<tr>
<td>Dumfries and Galloway</td>
<td>Grant/renewal (three years) £100</td>
<td>Grant/renewal (three years) £329</td>
<td>Grant/renewal (three years) £329</td>
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</tbody>
</table>

**METAL DEALERS**

171. The Bill contains proposals for the reform of licensing arrangements for metal dealers. These proposals are aimed at reducing levels of metal theft by tightening the existing licensing regime for metal dealers that operates under the 1982 Act. The measures include steps to tighten record keeping and customer identification requirements. In addition exemptions are removed that allowed some larger dealers to avoid licensing requirements. A new prohibition is created that would prevent a dealer from paying for metal in cash – thus removing the incentive of ready cash for a potential metal thief.

**Costs falling on the Scottish Administration**

*Scottish Government*

172. No costs are anticipated. Once enacted, the costs of administering the licensing regime will fall on local authorities.

**Costs on local authorities**

173. Paragraph 15 of Schedule 1 to the 1982 Act empowers local authorities to charge reasonable fees - they must seek to ensure that the fees are sufficient to meet their expenses in carrying out their functions under the 1982 Act. The overall impact on local authorities of the proposal in relation to metal dealer licensing therefore should be neutral. Costs are explored
These documents relate to the Air Weapons and Licensing (Scotland) Bill (SP Bill 49) as introduced in the Scottish Parliament on 14 May 2014

further below but, given that the number of metal dealers is not especially large and given that the current fees for a metal dealer’s licence and an exemption warrant are not dissimilar, the impact on licensing authorities should be manageable. The best estimate of the actual costs incurred can be provided by reference to the fees that are charged by licensing authorities for metal dealer and itinerant metal dealer licences. These are detailed in the costs on business section below and range from just over £100 for a three-year licence to as much as £500 a one-year licence.

Costs on other bodies, individuals and businesses

174. The cost to the UK economy of metal theft has been estimated in a report commissioned by the ACPO at £220 million to £260 million per annum. Higher figures have been suggested but it is very hard to measure the consequential costs of many of these thefts. The figure of £220 million to £260 million suggests about £100 million of direct costs to conduct repair and replacements and a further £120 million to £160 million of indirect costs through, for example, commuters being delayed and businesses losing internet connections. Specific data for Scotland is more limited, though it is clear that the cost to Scotland amounts to many millions. A more recent study was conducted by the Association of Chief Police Officers in Scotland and for the first time looked at the situation specifically in Scotland. It estimated the value of metal theft in Scotland at £6.9m for 2011/12 and a further £4.1m for 2012/13. These figures relate purely to the value of the metal stolen and do not look at the indirect costs and collateral damage of these thefts. The measures in the Bill are aimed at bearing down on these costs.

175. There are believed to be 142 metal dealers in Scotland (around 280 licences exist but about 130 of these have ceased trading or are not actively dealing / processing scrap metal despite being in receipt of the relevant licence to do so). The Scottish Government believes around half of these are currently licensed with the remainder exempt from licensing requirements by being in possession of an exemption warrant granted because they are higher turnover businesses. The Bill proposes the abolition of the exemption warrant system so, therefore, around 72 additional businesses will fall into the licensing regime. A further 146 itinerant metal dealers licences are believed to be in existence.

176. The costs to these businesses will vary depending upon the approach taken by the local licensing authority. Dealers would be required to pay a licensing fee (although they will already be paying a fee for an exemption certificate) and to face costs required in order to comply with licensing conditions. The licensing fee is hard to predict since variations in licensing fees and structures from local authority area to local authority area are common. Local licensing authorities operate on a cost recovery basis so that fee income should cover the cost of licensing, without making a profit. Currently the fee for a metal dealers licence for one year in Edinburgh is £504 (the fee for exemption is £1500 for three years). Glasgow City Council charges £124 for one year and £298 for three years (an exemption warrant is £121). Angus Council is £83 for a new application and £69 for renewal. Dumfries and Galloway Council charges £390 for an annual licence and £205 for an annual exemption. North Ayrshire Council’s charge is £105 for a three-year licence. Whilst fees will vary, in most cases the change from paying for an exemption warrant to paying for a full licence will not result in significant extra costs.

177. The costs that may be incurred in complying with licensing conditions could also vary considerably depending upon the nature of the conditions imposed. Conditions that affect hours of operation could potentially have a serious impact. Potentially cost requirements could also

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include CCTV requirements and improved security. These costs could vary widely depending upon the exact specification. For example CCTV ranges from as little as £200 to several thousand for more extensive and sophisticated systems that may be required for larger premises.

178. Whilst there will be variation due to differences in how licensing is administered locally, many of the costs will be evenly applied due to mandatory requirements being introduced by the Bill. Foremost of these will be the requirement that payment for metal can only be made by prescribed means (these being cheque or bank transfer).

179. With cash no longer being an acceptable form of payment, this will have significant impact on all dealers. England and Wales, amongst several other countries, have already gone ‘cashless’ although it is still too early to consider all the impacts. An informal industry assessment from the British Metals Recycling Association (BMRA) of the impact in England and Wales commented,

“There are many variables at play (e.g. scrap supply/demand, scrap prices, seasonality, merchant geography and outreach, currency fluctuations etc.) that will have an effect on the amount of trade a merchant will have. Therefore it is very difficult to say precisely what changes to a merchant’s business can be attributed to the ban on cash for scrap metal purchases. However, merchants of varying sizes report a loss of around 20% of their previously-cash trade. For small merchants where perhaps 80% of their business was cash-based this equates to 16% of the total (20% of 80%). Larger merchants where fewer cash transactions were made – around 20% - this equates to 4% of the total. Moreover, speaking to the very largest operators, it is apparent that the materials are not coming in to their businesses via alternate routes (e.g. civic amenity contracts etc.) but ‘lost’ in their entirety. However, what cannot be determined is whether this loss of business can be attributed solely to the cash ban or wider market forces (scrap supply has been weak for the past few months despite high prices, tradesmen stockpiling scrap for fewer, larger deliveries etc.). There have been some gains for merchants, particularly from the small factories/engineering works that previously sold materials for cash to the ‘highest bidder’ now moving to reputable dealers for payment using electronic or cheque-based means. Despite these gains, business does appear to be depressed for the majority of merchants.

Overall, we believe there has been a reduction in trade of around 5%. Were this to be replicated in Scotland, total potential business loss could be £25 million (assuming total value of the industry in Scotland is around £470 million).”

180. It is clear that there may be serious impacts, particularly falling on the generally smaller dealers, who are trading to a significant degree in cash currently.

181. Costs associated with removing cash would include start-up costs such as installing card readers and increased banking costs in writing cheques more frequently. A 2012 estimate suggested that two-thirds of industry transactions were already cashless. Within that figure there are wide variations from business to business in what proportion is cashless. As noted in the industry assessment above, some smaller dealers may be conducting 80% of their business in cash.
182. It should be noted that, apart from the main focus of these measures which is tackling metal theft, HM Revenue and Customs considers the scrap metal industry to contain an unidentified “tax gap” – driven in large part by the use of cash.

183. Dealers will also be faced with costs in relation to meeting the record keeping and identification of customer requirements that are being proposed in the Bill. Of themselves, the Scottish Government does not believe that the changes being rolled out to all dealers will result in significant costs. Some smaller dealers may be impacted by the costs of, for example, obtaining photocopiers, scanners and computers. Nevertheless these may be regarded as one-off costs. There is concern that the additional measures may result in businesses being adversely affected by the time needed for compliance.

184. In relation to this aspect of the changes, the BMRA said,

“We estimate there to be around 180,000 cash transactions taking place in Scotland per year.

The amount of time each transaction would take to complete with ID checks and enhanced record keeping on the weighbridge would increase by around 10%. Based on an informal survey of salaries, we predict this additional time would add around £1.40 cost per transaction.

In addition, if a cheque is raised there is a cost of, on average, £0.40 per transaction. There is also a material cost to recording and/ or photocopying ID we estimate to be around £0.30.

Therefore, we predict a total additional cost per transaction to be £2.10 or £378,000 for all currently-cash transactions in Scotland.”

185. It should be noted that dealers in precious metals, e.g. cash-for-gold businesses, are also affected by the changes within the Bill. These types of businesses are already within the definition of a metal dealer so to that extent they are no more affected than any other dealer. Given the proposed change to ensure that all dealers are licensed, there may be higher turnover businesses of this type brought within licensing for the first time.

186. Clearly the costs to industry need to be seen in the context of the very substantial costs to society of metal theft.

PUBLIC ENTERTAINMENT VENUES

187. The Bill will abolish ‘theatre licences’ as currently required under the Theatres Act 1968 and instead regulate theatres through the existing public entertainment licensing regime provided for in the 1982 Act.

Costs on the Scottish Administration

Scottish Government

188. No costs are anticipated. Once enacted the costs of administering the licensing regime will fall on local authorities
Costs on local authorities

189. Paragraph 15 of Schedule 1 to the 1982 Act empowers local authorities to charge reasonable fees - they must seek to ensure that the fees are sufficient to meet their expenses in carrying out their functions under the 1982 Act. The overall impact on local authorities of the proposal in relation to theatres, therefore, should be neutral. The actual cost of dealing with an application can best be estimated with reference to the fees currently charged. These vary widely depending on the size of the venue (details provided in section on costs on business below).

Costs on other bodies, individuals and businesses

190. There will be some local variation in how the changes to licensing of plays impact upon individual theatre groups. The proposal represents a decrease in regulatory burden overall as it replaces a mandatory regime which required all performances of a play to be licensed with a discretionary regime which would allow a flexible approach to be taken. For example, a licensing authority could determine to exempt all performances of free-to-enter plays or plays with a potential audience of under a specified level. This would allow smaller-scale performances to avoid having to pay licensing fees and also avoid any costs that may be required to ensure compliance with licensing conditions.

191. As there is wide variation in licensing fees from one authority to another, it may be that any theatrical performances that are subject to public entertainment licensing requirements may find themselves subject to fees that differ significantly from those paid in a neighbouring authority (although that is not different to the current situation). It is also possible that the cost of a licence for public entertainment may be less or more than that currently paid.

192. Current theatre licence fees vary widely. For example, Edinburgh City Council already operates a sliding scale depending on the size of capacity with, at the maximum, venues operating commercially with a venue size of over 1000 facing fees of £2,702 for a new application followed by £1,801 for a renewal. A charitable/community organisation pays a fee of £112 a year. Glasgow City Council charges a flat fee of £597. Argyll and Bute Council charges a fee of £139.90. In Clackmannanshire the application fee payable is £85, with no fee payable on an application for grant or transfer of an occasional theatre licence if the play(s) to be performed is/ are of an educational or similar character or are to be performed for a charitable or similar purpose. There is, therefore, a wide variety of fee levels and approaches. It would be for licensing authorities to integrate their current fee charging structure into their public entertainment regime.

SEXUAL ENTERTAINMENT VENUES

193. The Bill contains proposals for the establishment of a licensing regime for sexual entertainment venues.
Costs on the Scottish Administration

Scottish Government

194. No costs are anticipated. Once enacted, the costs of administering the licensing regime will fall on local authorities.

Costs on local authorities

195. Paragraph 18 of Schedule 2 to the 1982 Act empowers local authorities to charge reasonable fees - they must seek to ensure that the fees are sufficient to meet their expenses in carrying out their functions under Schedule 2 to the 1982 Act. The overall impact on local authorities, therefore, should be neutral. The actual cost to the local authority of dealing with an application can best be estimated with reference to the fees currently charged. These do vary significantly from a few hundred to over a thousand pounds, with one authority charging in excess of £12,000 (details in the cost on businesses section below).

196. A particular issue for local authorities is that there is a risk that a decision to refuse a licence, particularly in the case of an application from an operator already working in the sector, may result in costly legal challenge. This would raise particular issues given the very limited number of premises operating in this area. Were a local authority to set the appropriate number of premises for an area as zero, then there would be no fee income from which to recoup the costs of any legal challenges. The costs of a legal challenge would vary significantly depending upon how far a challenge was taken through the legal process but costs of tens of thousands of pounds could reasonably be expected.

Costs on other bodies, individuals and businesses

197. The proposed regime is discretionary, relying upon a resolution of a local authority for it to have effect in a particular local authority area. That being the case it is hard to estimate with confidence how many premises might be subject to licensing. The Scottish Government would anticipate that those urban authorities that have existing lap dancing bars are likely to contemplate a licensing scheme for their areas. Whilst the licensing requirement is wider than lap dancing it would, therefore, expect that at a minimum around twenty premises would be subject to licensing.

198. The costs to these businesses could vary dramatically depending upon the approach taken by the local licensing authority. At the most extreme possibility, as the Bill includes a power for a local authority to set an appropriate number of premises for its area (and for that number to be zero) then potentially existing premises could be closed. Short of that, venues would be required to pay a licensing fee (in addition to the fee already payable for an alcohol premises licence) and to face costs required in order to comply with licensing conditions. The licensing fee is hard to predict since wide variations in licensing fees from one local authority area to another are common. Local licensing authorities operate on a cost recovery basis so that fee income should cover the cost of licensing without making a profit. The closest current equivalent licence is for sex shops. A one-year sex shop licence is £1,329 in Edinburgh. The fee for the same period in Glasgow is £12,798. In Dundee the equivalent fee is £235. The costs that may be incurred in complying with licensing conditions would also vary considerably depending upon the nature of the conditions imposed. Conditions that affect hours of operation could potentially have a serious impact. Potentially costs requirements could also include required CCTV, door security and
These documents relate to the Air Weapons and Licensing (Scotland) Bill (SP Bill 49) as introduced in the Scottish Parliament on 14 May 2014

improved facilities for workers such as changing and rest areas. These costs could vary widely depending upon the exact detail and specification. For example CCTV ranges from as little as £200 to several thousand for larger more sophisticated systems.

199. Changes to working conditions enforced through licensing are likely to be beneficial to dancers who are currently regarded as self-employed contractors and do not benefit from employment protections. Clearly, if the licensing scheme results in the closure of premises then the resultant loss of employment would be severe for the individuals involved.

200. There may be some economic impact as a result of fewer premises operating although this may be mitigated by the possibility of premises converting to other uses within the night-time economy.

MISCELLANEOUS AND GENERAL

201. There are five provisions, namely:

- Where it has not already been provided for, the deemed grant of a licence where the local authority has failed to determine an application within the required period or the extended period granted by a sheriff;
- Allow a licensing authority to determine to receive electronic communications for a variety of matters.
- Powers in relation to licence conditions in Part 3 of the 1982 Act to clarify that mandatory and standard licence conditions can be set by the Scottish Ministers and local licensing authorities respectively in relation to licences under this part of the Act;
- Power for the Scottish Ministers to make provision for the procedure to be followed at or in connection with hearings;
- Introduce a new role, civic licensing standards officers (CLSOs);

202. The Scottish Government believes that additional costs in relation to the first three provisions will be nil or minimal. Commentary is provided below on the last two provisions.

Procedure for hearings

Costs on the Scottish Administration

Scottish Government

203. Were the Scottish Government to decide to use this power, the costs associated with updating guidance and preparing regulations would form part of the Scottish Government’s existing work and would be met within existing budgets.

Police Service of Scotland

204. There may also be costs for Police Scotland if regulations instigate any changes to its procedures. The extent of these would depend on the detail of the regulations. A key aim of any new requirements on the system would be to bring a consistent approach across Scotland, potentially leading to a simplification of police involvement in hearing processes and, therefore, savings to Police Scotland.
These documents relate to the Air Weapons and Licensing (Scotland) Bill (SP Bill 49) as introduced in the Scottish Parliament on 14 May 2014

Costs on local authorities

205. Any changes to local practice that result from new regulations will incur costs in relation to changes to policies and updating processes. The extent of these will depend on the detail of the regulations. These costs can be met from fee income. There is a possibility that, after initial costs to change processes, over time processes become more efficient as a result of regulations brought in. There is, therefore, a potential for longer-term savings.

206. Paragraph 15 of Schedule 1 and paragraph 18 of Schedule 2 to the 1982 Act empowers local authorities to charge reasonable fees – they must seek to ensure that the fees are sufficient to meet their expenses in carrying out their functions under the 1982 Act. Any overall increase in costs for local authorities as a result of this proposal, therefore, should be minimal as it can be recouped from fee income.

Costs on other bodies, individuals and businesses

207. Any changes to local licensing authority costs as a result of changes brought in will affect fees paid by applicants and licence holders. This will depend on the detail of the regulations and could vary between local licensing authorities. However, there are consistent calls from legal agents and trade representatives for more consistency and greater standardisation of local authority procedures. The Scottish Government, therefore, believes that ultimately this provision will lead to savings for legal agents and the trade as it becomes more straightforward to operate across different licensing authority areas.

Civic licensing standards officers

Costs on the Scottish Administration

Scottish Government

208. Costs associated with updating guidance will form part of the Scottish Government’s existing work and will be met within existing budgets. The provisions do not include powers for the Scottish Ministers to set any requirements for training or to make any further regulations in relation to CLSOs. The Scottish Government does not, therefore, anticipate any ongoing costs for the Scottish Administration in relation to CLSOs.

Costs on local authorities

209. Costs in relation to meeting this requirement will depend on the current provision of this kind of support within the local authority.

210. While the Bill introduces a statutory requirement for a local authority or licensing authority to appoint CLSOs, some local authorities will already have officers employed in similar roles. Their costs will therefore relate to amending job descriptions and providing appropriate training for any additional duties and functions. It is anticipated that this cost is likely to be minimal.

211. Where there is a requirement to recruit new officers, additional costs will be incurred for advertising the post and the total pay package. A similar role was brought in for alcohol licensing under the Licensing (Scotland) Act 2005, the licensing standards officer. Current job advertisements for this type of role offer a salary of £30,000-£35,000 per annum.
212. While some local licensing authorities and COSLA have expressed concern at the possible impact on resourcing, the Bill is sufficiently flexible to allow a local authority to meet the requirement in a manner that best meets its needs and circumstances. In general, local licensing authorities have been supportive of the creation of such a role.

213. Paragraph 15 of Schedule 1 and paragraph 18 of Schedule 2 to the 1982 empowers local authorities to charge reasonable fees – they must seek to ensure that the fees are sufficient to meet their expenses in carrying out their licensing functions under the 1982 Act. Any overall increase in costs for local authorities should, therefore, be minimal as they can be recouped from fee income.

Costs on other bodies, individuals and businesses

214. Any changes to local licensing authority costs as a result of changes brought in will affect fees paid by applicants and licence holders. This will vary between local licensing authorities and could lead to an increase in fees. There should, however, be a benefit to applicants and licence holders in receiving a consistent level of support and scrutiny under the local licensing regime.
<table>
<thead>
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<th>Paragraph reference</th>
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<td><strong>Scottish Government</strong></td>
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<td>Air weapons</td>
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<td>59</td>
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<td>Alcohol</td>
<td>111</td>
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<td>Taxis and private hire cars</td>
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### Alcohol

**Offence of supplying alcohol to a child or young person in a public place** – In common with similar offences under the 2005 Act, the Scottish Government would expect Police Scotland to use it to encourage compliance, with only a relatively small number of prosecutions being taken where necessary to protect public safety. Actual costs would depend on the approach taken by Police Scotland. On the basis of the number of prosecutions under section 105 of the 2005 Act in 2012/13, a possible indicative cost of about £21,950 per annum can be derived.

### Scottish Court Service / Scottish Prison Service

On the basis of the number of prosecutions under section 105 of the 2005 Act in 2012/13, a possible indicative cost of about £85,450 per annum can be derived.

### Air weapons

A variety of costs have been identified over the first five years. These are broken down as follows:

- For solemn cases, £176,000;
- For summary cases, £523,000;
- For Scottish Prison Service £240,000.

### Local authorities

#### Air weapons

No additional costs identified.

#### Alcohol

**Licensing objectives and statements of licensing policy** – reducing the frequency of Boards reviewing their Licensing Policy Statement, could potentially result in a 40% saving from existing costs. It will be for individual Boards to determine whether to review their licensing policy statement more often than every five years.

**Greater powers for Licensing Boards and Police** – it is difficult to estimate any additional costs for Boards because it largely depends on the manner in which they deploy these powers within the exercise of their existing functions. It is anticipated that any additional cost is likely to be minimal. A more detailed consideration of individual licence and applications will improve the existing licensing regime and improve compliance over the long term.

**Relevant offences and foreign offences - removal of automatic requirement for a hearing** – Removing the requirement will lead to ongoing savings to Boards.
| 143 | **Duty of Licensing Boards to produce annual financial reports** – Boards already base their fees on cost recovery so publishing these calculations should not require significant additional resource. It is anticipated that any additional costs arising from this should be minimal. |

| Taxis and private hire cars | 152 - 157 | **Refusal to grant private hire car licences on grounds of overprovision** – no automatic costs, but where used, an assessment is likely to cost in the region of £15,000 to £20,000 each three years. There would also be costs in developing and considering a policy and defending decisions. Costs could be recovered through fees. |

| 163 | **Testing of private hire car drivers** – the Scottish Government would only expect a local licensing authority to introduce testing of private hire car drivers where they believed that there was a need or that it would make a positive impact on the trade. It would be possible for licensing authorities to draw upon existing training for taxi drivers, or work jointly with other licensing authorities to save on the costs of developing new materials. |

| 168 | **Exemption from requirements of section 10 to 21** – the costs of processing additional applications would be recouped from the fees. |

| Metal dealer | 173 | The overall impact on local authorities of the proposal in relation to metal dealer licensing should be neutral. The best estimate of the actual costs incurred can be provided by reference to the fees that are charged by licensing authorities for metal dealer and itinerant metal dealer licences. These range from just over £100 for a three-year licence to as much as £500 a one-year licence. |

| Public entertainment venues | 189 | The overall impact on local authorities of the proposal in relation to theatre licensing should be neutral. The actual cost of dealing with an application can best be estimated with reference to the fees currently charged. These vary widely depending on the size of the venue from as little as under £100 to £2,700 for a venue with a capacity of over 1,000. |

<p>| Sexual entertainment venues | 195 - 196 | The overall impact on local authorities of the proposal in relation to sexual entertainment venue licensing should be neutral. The actual cost to the local authority of dealing with an application can best be estimated with reference to the fees currently charged. These do vary significantly from a few hundred to over a thousand pounds, with one authority charging in excess of £12,000. There may be costs if it is decided to refuse a licence, and this is appealed, particularly if the limit is set at zero and there is no fee income. The costs of a legal challenge would vary significantly depending upon how far a challenge was taken through the legal process but costs of tens of thousands of pounds could reasonably be expected. |</p>
<table>
<thead>
<tr>
<th>Miscellaneous and general</th>
<th>205</th>
<th><strong>Procedure for hearings</strong> – any initial additional costs can be met from fee income, but procedures should become more efficient thus reducing costs.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>209 - 213</td>
<td><strong>Civic licensing standards officers</strong> - any additional costs should be minimal and could be recovered from fee income.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Other bodies, individuals and businesses</strong></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Air weapons</strong></td>
<td><strong>Registered firearms dealers</strong> – there may be an impact on sales figures but this is not expected to be large.</td>
</tr>
<tr>
<td></td>
<td><strong>Shooting clubs</strong> – a fee will be payable by clubs to help meet the costs of the approval process. The Scottish Government believes that the overall impact should be very small when viewed against overall costs.</td>
</tr>
<tr>
<td></td>
<td><strong>Shooting organisations</strong> – the Scottish Government does not consider that there will be any significant impact on shooting organisations.</td>
</tr>
<tr>
<td></td>
<td><strong>Tourism</strong> – The Bill provides for a system of visitor permits for those who visit Scotland with their own air weapons or to shoot in Scotland. The exact level of fees has not yet been set, the current fee for a firearms visitor permit is set at £12, whereas processing costs are for an air weapons visitor permit are likely to be around £20. Cost of this level would have little material impact on visitors to Scotland.</td>
</tr>
<tr>
<td></td>
<td><strong>Recreational shooting</strong> – the Bill provides for event permits, to allow the applicant to organise and promote specific events at which air weapons shooting is to take place. The costs of processing an application for a permit to operate such an event are estimated to amount to some £60-£70 per event. Such a cost is likely to be small in comparison to the overall cost of staging and promoting such an event.</td>
</tr>
<tr>
<td></td>
<td><strong>Fees</strong> – the Bill provides for a tariff of fees to be charged at the point at which a person applies for an air weapons certificate, permit or for other approvals. The fee will be payable regardless of whether or not a certificate is granted. For the grant of a certificate, the current firearms / shotgun fee is £50, while the estimated cost of</td>
</tr>
<tr>
<td>Topic</td>
<td>Pages</td>
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<td>------------------------------</td>
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</tr>
<tr>
<td>Alcohol</td>
<td>146</td>
</tr>
<tr>
<td><strong>Relevant offences and foreign offences - removal of automatic requirement for a hearing</strong> – For a national business, this could remove a requirement to attend hearings at every Board within Scotland. Many businesses choose to have legal representation for such hearings, so the potential cost saving could be significant for larger businesses but the extent of this saving to each of these will depend, amongst other things, on the number of local authority areas the business operates in.</td>
<td></td>
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<tr>
<td></td>
<td>148</td>
</tr>
<tr>
<td><strong>Removal of the five-year bar on re-applying for a personal licence that has been revoked for failure to submit evidence of refresher training</strong> – Whilst it is difficult to quantify the savings to businesses and individuals, substantial disruption and additional training will be avoided for businesses, and individuals.</td>
<td></td>
</tr>
<tr>
<td>Taxis and private hire cars</td>
<td>158 - 159</td>
</tr>
<tr>
<td><strong>Refusal to grant private hire car licences on grounds of overprovision</strong> – there may be additional costs for licence holders if fees are increased. The provision will not apply to existing licence holders, and it is only envisaged that it would be used where there might not be a viable business for new entrants.</td>
<td></td>
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<tr>
<td></td>
<td>164</td>
</tr>
<tr>
<td><strong>Testing of private hire car drivers</strong> – there may be a cost of undertaking a test, likely to be in the region of £50 and the time taken to study and take the test.</td>
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<tr>
<td></td>
<td>170</td>
</tr>
<tr>
<td><strong>Exemption from requirements of sections 10 to 21 of 1982 Act</strong> – costs for new entrants of obtaining a licence and meeting requirements.</td>
<td></td>
</tr>
<tr>
<td>Metal dealer</td>
<td>174 - 186</td>
</tr>
<tr>
<td>Costs for those now required to pay a licence fee, although they will already be paying for an exemption certificate, complying with the new requirements, and a possible reduction in trade of</td>
<td></td>
</tr>
<tr>
<td>Category</td>
<td>Reference</td>
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<td>--------------------------------</td>
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</tr>
<tr>
<td>Public entertainment venues</td>
<td>190-192</td>
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<tr>
<td>Sexual entertainment venues</td>
<td>197-200</td>
</tr>
<tr>
<td>Miscellaneous and general</td>
<td>207</td>
</tr>
<tr>
<td></td>
<td>214</td>
</tr>
</tbody>
</table>
SCOTTISH GOVERNMENT STATEMENT ON LEGISLATIVE COMPETENCE

On 14 May 2014, the Cabinet Secretary for Justice (Kenny MacAskill MSP) made the following statement:

“In my view, the provisions of the Air Weapons and Licensing (Scotland) Bill would be within the legislative competence of the Scottish Parliament.”

PRESIDING OFFICER’S STATEMENT ON LEGISLATIVE COMPETENCE

On 14 May 2014, the Presiding Officer (Rt Hon Tricia Marwick MSP) made the following statement:

“In my view, the provisions of the Air Weapons and Licensing (Scotland) Bill would be within the legislative competence of the Scottish Parliament.”
These documents relate to the Air Weapons and Licensing (Scotland) Bill (SP Bill 49) as introduced in the Scottish Parliament on 14 May 2014

AIR WEAPONS AND LICENSING (SCOTLAND) BILL

EXPLANATORY NOTES

(AND OTHER ACCOMPANYING DOCUMENTS)

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SP Bill 49–EN