

# Air Weapons and Licensing (Scotland) Bill: Introductory Questions



The Scottish Parliament  
Pàrlamaid na h-Alba

Thank you for responding to the Local Government and Regeneration Committee's Call for Evidence on the Air Weapons and Licensing (Scotland) Bill. All submissions will be examined and considered as part of the Committee's scrutiny of the Bill.

Please be aware that questions marked with an asterisk (\*) require an answer before you can submit the form.

Follow the Local Government and Regeneration Committee's Twitter feed - all Committee tweets on this Bill will have the hashtag #aw&lbill.

## \*1. Please supply your name and contact details:

Name:

ACC Wayne Mawson

Organisation:

Police Scotland

Address 1:

Randolphfield Police Office

Address 2:

City/Town:

Postcode:

Country:

Email address (if no email  
leave blank):

Phone Number:

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SUBMISSION ID  
NUMBER

135

**\* 2. Please confirm that you have read and understood the Scottish Parliaments [“Policy on the treatment of written evidence by subject and mandatory committees”](#):**

Yes

**\* 3 Please confirm whether you are content for your name to be published with your submission:**

Yes

No

**\* 4. Which of the three categories below best describes your interest in the Bill (please tick only one)?**

Personal

Professional

Commercial

**\* 5. Do you wish your email to be added to the Committee’s distribution list for updates on progress of the Bill:**

Yes

No

**\* 6. Invitations to give oral evidence to the Committee on the Bill will be based on the submissions received. If you wish your submission to be included amongst those considered for possible invitation to give oral evidence, please indicate here.**

X Yes

No

**\* 7. You may answer questions on the entire Bill, or on any part of the Bill. Please indicate which parts of the Bill you are responding to? (You may select as many options that apply).**

All of the Bill

Equalities, climate change and other Scottish Government objectives

X Air Weapons

X General licensing issues

X Alcohol licensing

X Civic licensing – taxi/private hire car licensing

X Civic licensing – scrap metal dealers

Civic licensing – theatre licensing

X Civic licensing – sexual entertainment venues

Police Scotland

Name/Organisation:

## 6. Civic Licensing – Sexual Entertainment Venues

You may respond to all questions or only those you have a specific interest in.  
(Text boxes have no word limit, they will increase in size accordingly).

### 50. What are the consequences of operating the new licensing regime using the definitions set out at section 68 of the Bill?

- 'sexual entertainment venue'
- 'audience'
- 'financial gain'
- 'organiser'
- 'premises'
- 'sexual entertainment', and
- 'display of nudity'

### **Sexual Entertainment Licence**

If enacted there will be a dual licensing for sexual entertainment venues and (alcohol) licensed premises, however this could address the subsequent developments in case law (namely Brightcrew) that has restricted LB's capability to specifically address issues within licensed premises relating to the sale and supply of alcohol only and not any other activity ongoing on those premises. It may be necessary for a premises licence's operating plan to make reference to the sexual entertainment however it would be for the SEV licence to regulate how that activity is carried out.

The conditions sought on any SEV licence may need to make reference to the alcohol licence and vice versa and any issues encountered would technically be dealt with by two separate bodies within the Local Authority (Liquor licensing board and the Regulatory Functions committee.) Whilst there is a need for dual licence arrangements, there may be technical difficulties encountered with separating the requirements of the two issuing authorities and there may be a need to ensure that terminal times for both licences are commensurate and that 'activities' licensed by the Local Authority only take place within mutually licensed times. There may be separate inspection regimes for both licences held and the Scottish Government needs to ensure that the powers conferred to Local Authority Officers are cross transferable. Typically the Local Authority licensing Standards Officer (LSO) works in tandem with civic enforcement officers, however their respective 'powers' of entry and inspection will require to be the same in order to overcome potential legal challenge.

In the event of a suspension or revocation of an alcohol licence, there needs to be a consideration that licensed activities may still continue, where alcohol is not sold, but "bring your own bottle" could technically continue within the premises until a hearing by the other committee can be concluded.

### **Audience**

An audience of one should be applied. Many premises regularly referred to as 'lap dancing' venues operate private booths that facilitate titillation on a one to one basis.

Local Authorities should not be given the opportunity to decide whether they wish a regulatory regime for sexual entertainment venues, they should be required to have one. Given the diverse approach regarding local authorities management of SEV's under public entertainment or alcohol licences there should be little discretion in any new regulatory regime.

Furthermore, national consideration as to what does and does not define adult entertainment needs to be established (as the legislation covering licensing is a national statute and should not be subject to regionalisation). It is clear that any developments may be subject to litigation and we may find further complications in case law, with different interpretations of local authority policy being tested in appeal courts with contrasting outcomes (see *Tesco v Aberdeen and Glasgow*) Ministers should consider comprehensive mandatory conditions in order to ensure a consistency of approach across the entire country rather than leaving the majority of conditions within the discretion of Local authorities to appoint local conditions. A policy document along similar lines to the Home Office Sexual Entertainment Venues Guidance for England and Wales would also be welcomed

Advertising including flyers / bill posters /online advertising for any licensed premises shall not portray any sexualised image, nakedness of any figure or any other image that any reasonable person would find inappropriate etc., or alternatively, any promotional advert shall consist of text only, the only advertising image being permissible being any commercial logo of the licence holder. Any advertisement will clearly indicate the licence number of the premises.

In line with other aspects of the Civic Gov legislation, SG should strongly consider that ‘individuals’ taking part in a performance or working within the venue as a performer (whether for payment or not) shall apply for and be granted a personal licence and be licensed by the Local Authority, in addition to the venue being licensed. This will enable greater protection to performers /patrons as well as deter human trafficking which this area has allegedly occurred previously. A ‘personal licence’ will ensure participants are:

- fit and proper
- have a right to work in UK
- identity confirmed
- permit cross reference with other Local Authority data sets

This will ensure that the same protections are in place as taxi drivers, window cleaners etc.

Recommended mandatory conditions that provide consistency re the following would also be welcome:

### **1. External Appearance of the Premises and Public Displays of Information**

**2. Control of Entry to the Premises**

**3. Conduct of performers and Rules relating to performances of sexual entertainment and nudity permitted**

**4. The protection of performers and the prevention of crime on the premises**

**5. Record Keeping and Management**

**6. CCTV**

**51. The Bill specifies that a venue hosting sexual entertainment on three occasions or less within a 12 month period would not be treated as a sexual entertainment venue: does this have any unintended consequences?**

A similar system to occasional licences for alcohol should be prescribed for premises wishing to only operate on one or two occasions. There is also the potential that this may be open to exploitation by performers (such as touring production) who may conduct a performance for one night only, but may perform on town and cities on consecutive nights across the country.

**52. Local licensing authorities will be able to set the number of sexual entertainment venues in their area to below the existing level, or zero: are there any advantages or disadvantages to this approach?**

Local Authorities should be allowed to decide how many premises are allowed in a given area including a figure of zero. However they should be required to publish a policy for sexual entertainment venues outlining their rationale for each element of the policy.

Each local authority should have a requirement to produce a 'Statement of SEV' policy, which will provide the evidential basis underpinning their policy. Any presumption of rebuttal will be open to challenge and may potentially be counter productive / open to protest unless it is published with a statement of reasons and with transparency. Local Authorities that seek to grant SEV licences should include detail of any areas where applications are acceptable/tolerated and where provision of a SEV would not be permissible (e.g. within radius of schools, vulnerable locations etc) This will also inform the community / local residents of what can be expected within an area

Any policy decision to remove Adult entertainment from a local authority area will require transitional arrangements within a reasonable time frame.

**53. The Bill relies mainly on the existing licensing regime for sex shops as set out in**

**section 44 and Schedule 2 of the Civic Government (Scotland) Act 1982 (application, notification, objections and representations, revocation of licences etc., enforcement and appeals): is this mechanism adequate for the licensing of sexual entertainment venues - if not, please explain why?**

See response to Q 50.

**54. Are there any barriers to licensing authorities operating the new licensing regime?**



## **55. Civic Licensing**

**Do you have any other comments to make on the civic licensing aspects of the Bill?**