

# 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:	<input type="text" value="COLIN WILKINSON"/>
Organisation:	<input type="text" value="THE SCOTTISH LICENSED TRADE ASSOCIATION"/>
Address 1:	<input type="text"/>
Address 2:	<input type="text"/>
City/Town:	<input type="text"/>
Postcode:	<input type="text"/>
Country:	<input type="text"/>
Email address (if no email leave blank):	<input type="text"/>
Phone Number:	<input type="text"/>

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44

**\* 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.**

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

Air Weapons

General licensing issues

Alcohol licensing

Civic licensing – taxi/private hire car licensing

Civic licensing – scrap metal dealers

Civic licensing – theatre licensing

Civic licensing – sexual entertainment venues

Name/Organisation:

THE SCOTTISH LICENSED

### 3. General Licensing Issues

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).

**23. Is the current Scottish licensing regime, as set out in the Civic Government (Scotland) Act 1982 and the Licensing (Scotland) Act 2005, fit for purpose?**

The Scottish Licensed Trade Association has never been supportive of a licensing system governed by Local Authority Licensing Boards. In our opinion, such a system, solely administered by Local Councillors, continues to lead to rife inconsistencies, political “point scoring” and confusion, not just for the trade, but the customers it serves. The Scottish Licensed Trade Association is of the opinion that this fundamental flaw does not make the current licensing system in a general context fit for purpose and reiterates the need to change this inept and inefficient system and calls for a non-political National Government Licensing body to be set up. At local level/regional level there should be a group looking at local/regional issues. Such groups should consist of representatives from the trade, health organisation, community groups, the legal fraternity, police, in fact anyone deemed to be interested in the Licensed Trade. Perhaps these groups could be made up in a similar way to Local Licensing Fora. Alternatively a national independent adjudicator or an independent conciliation/arbitration body should be formed. With the need for the Scottish Government to currently consider separate legislation in respect of Tenant Licensees and the relationship they have with their Pubco/landlords, such an arbitrary system would be opportune to extend to cover all Licensing matters.

**24. Should a licensing system seek to regulate individual behaviour or communities of space (eg. ‘city space’ etc.)?**

**25. In what way should the licensing system in Scotland interact with the support the land use planning system, community planning and regeneration?**

**26. How does the licensing system in Scotland assist with the delivery of sustainable development and economic balanced areas?**

**27. In what way does the licensing system in Scotland support health and planning, addressing health inequalities and public health wellbeing outcomes?**



**Name/Organisation:**

#### **4. Alcohol Licensing**

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).

**28. In what ways will the Bill’s provisions on alcohol licensing allow for reductions in crime and the preservation of public order?**

The Association supports the additional new offence regarding the supply of alcohol to a child or young person in a public place and sees this as a resolution to ceasing outdoor “drinking dens” and strengthening the fifth licensing objective.

**29. Are there any other measures which should be taken to assist in the reduction of crime and the preservation of public order?**

Further action should be taken with regard to irresponsible promotions in the off trade. Despite some lenient mandatory conditions extended to off-sales premises in respect of controlling irresponsible promotional activity having been introduced, such activity still continues.

The SLTA recognises that The Scottish Executive is currently carrying out research into the link between binge/excessive drinking and promotions in Off-sales, and that, if necessary, further regulations can be introduced. However, in our opinion, it is within the Off-sales sector, particularly supermarkets, where the greatest problem exists. When you consider that 62% of all alcohol sold is sold through the Off-sales sector and 72.5% of that is sold through the top five supermarket chains, greater action needs to be taken.

More and more people are buying cheap drink from the Off-sales sector and consuming it at home. We have become a nation of home drinkers and evidence shows that violent domestic incidents are increasing and are a greater problem for police to deal with.

We know from other jurisdictions, who have a very high proportion of alcohol sales from the off-trade, that they have very high alcohol abuse problems as well. There are very many well-run responsible off-sales operators in this country, however there are also some who are totally irresponsible. The prices charged, especially in the supermarkets, are quite often invitations to abuse alcohol. Irresponsible drinks promotion regulations should be standardised for all retailers of alcohol.

**30. In what ways will the provisions in the Bill enhance the licensing objectives set out in the Licensing (Scotland) Act 2005?**

**31. In what ways will the re-introduction of the “fit and proper person” test assist with the implementation of the licensing objectives set out in the 2005 act?**

The SLTA has for many years advocated that the Rehabilitation of Offenders Act should not apply to prospective new licence-holders. Our views have slightly changed on this in recent times to the effect that there should perhaps be some flexibility, at the discretion of the police, dependent on the severity of the crime previously committed. The 2005 Act narrowed the Police’s authority which was deeply concerning to the Licensed Trade and the Association was against limiting the Chief Constable’s ability to object on the grounds of an applicant’s involvement in serious organised crime. The Association welcomes the reintroduction of “fit and proper person” legislation enabling the Police to impart intelligence on an individual to the board.

With the reintroduction of “fit and proper person” legislation, Police powers of objection will no longer be restricted to only issues of “serious organised crime”, and will fit in, with not only the Licensing (Scotland) Act’s philosophies “to protect children and young persons from harm”, but also preventing crime and disorder, and securing public safety.

We are pleased to see that the ridiculous situation whereby the Police only had a very restrictive area of objection, yet any individual could object to a licence will be removed.

**32. Have there been any unintended consequences arising from the 2005 Act, for example, in rural areas or the economic regeneration of areas?**

**33. Which, if any, types of spent relevant offences should be required to be disclosed and what do you think the benefits of disclosure will be?**

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

Overprovision

The SLTA disagrees with the changes proposed in the bill referring to overprovision. In our considered opinion the definition of overprovision has always been a contentious issue and is constantly challenged. In 2010, West Dunbartonshire Licensing Board was the first local authority to declare it was overprovided with all licensed premises and it initially appear that this policy was working. The City of Edinburgh Licensing Board declared in 2012 that Edinburgh had “reached saturation point” as regards the provision of off-sales, and changed its policy statement to the effect that new applications for off-sales licences would be refused. However, when a new Licensing Board was formed in both areas, following council elections, both board’s reversed its predecessor’s policies on overprovision.

Whilst this proposals would be a step further in combating overprovision, the practicalities of using the entire jurisdiction of a licensing board in the assessment of overprovision would no doubt be challenged, particularly in large rural areas. The proposal to use trading hours will only generate confusion and no doubt further challenges will be made, particularly by the large operators. The SLTA has great concerns already over the inaction of licensing boards due to fears their decisions could be challenged in court, leading them to face large legal costs. This often precluded boards from making decisions against bigger operators, especially supermarkets, because they know an appeal is a distinct possibility. Boards have already admitted that there is a two-tier licensing system. It has even been suggested that licensing boards would be more willing to pursue an action against individual operators as the chance of appeal was more remote and this situation will only continue.

In our opinion there is only one solution to the problem of overprovision of liquor licences and that is a moratorium on the number of licensed premises.

*Licensing Policy Statements*

Whilst the proposed alignment of licensing policy statements to council terms is welcomed, the introduction of an ouster clause, similar to the Town and Country Planning (Scotland) Act 1997, should be introduced. This gives parties six weeks to challenge an adopted local plan with no further challenges being allowed. We see this as strengthening board policy, particularly on overprovision. This would also in some way stop boards deviating from their own policy statement, as has been evident in the Shetland Isles and West Lothian, particularly on the issue of opening hours.

*Licensing Boards Financial Reports.*

With regard to Licensing Boards Financial Reports we understand that legislation will necessitate Licensing Boards to be transparent about their costs to demonstrate that the fees they set are based upon cost recovery, unless they choose to operate to a deficit. However we see no provision made for potential recovery of costs to the licensed trade for any excess income generated by local licensing fees and this must be addressed.

Name/Organisation:

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## 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'

### 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?

Whilst appreciating that the venue concerned would have to be hosting such an event, we are concerned with the definition of “host” does this mean organised by the venue or simply the venue allows such an entertainment being allowed on its premises, but organised by a third party, whether known or unknown by the premises. For example a licensed premises entertaining a stag or hen night finds that, with out their knowledge, a “stripogram” has been booked. If this was to happen on more than three occasions, would the premises be deemed to be a sexual entertainment venue? Clarification is required on this potential situation.

**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?**

**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?**

**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?**