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: Niamh Hegarty
Organisation: Network Rail Infrastructure Limited
Address 1: 
Address 2: 
City/Town: 
Postcode: 
Country: 
Email address (if no email leave blank): 
Phone Number: 

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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.

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
6. Scrap Metal Dealer 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).

40. Taking the proposals in sections 63 to 66 of the Bill together, how will they have the desired effect of strengthening the metal dealers' licensing regime to the extent that metal theft and related criminal activity is reduced?

Network Rail, along with a wide coalition of companies across the economy, has been campaigning for several years to tackle metal theft. We welcome the proposed tightening of the law in Scotland.

Broadly we believe that the law in Scotland should be as close as possible under Scottish law to that passed recently for England and Wales, to minimise any attempts to take advantage of differing legislation either by organised crime groups which are able to coordinate and understand the law and exploit this or opportunistic thieves. These amendments will help to achieve this outcome.

41. In your view, could the Bill be further strengthened in any way, for example, by including an accreditation scheme for metal dealers?

While we would support an accreditation scheme, but this should not be seen as an alternative to legislation.

As has been pointed out elsewhere, the definition of a dealer and itinerant dealer contains a requirement that they “buy and sell metal”. This does not take into account parts of the market, such as itinerant dealers, who collect metal door to door. We would recommend that the definitions underpinning the legislation capture all metal dealing.

We would support the proposals from the British Transport Police and Police Scotland to introduce a national register of metal dealers (including itinerant metal dealers) which could be accessed by enforcement agencies.

42. Removal of exemption warrant - do you wish to comment on the proposal to remove the exemption warrant system?
43. Removal of requirement to retain metal on-site - what impact will the proposal to remove the retention of metal requirement have on the enforcement of the licensing regime and prevention of criminal activities?

We support the view that retaining metal for a period of 48 hours will be of assistance to law enforcement and should have a limited impact on trade.

44. Forms of payment - what is your view on the proposal to go 'cashless' and is there merit in considering whether metal dealers could be allowed to operate using cash for only very small transactions, which could be limited to a certain number per month?

Network Rail supports the proposal to have a “cash-less” system and does not agree that there would be merit in allowing any transactions, no matter how small, to be carried out by cash. On the contrary, with the cash ban in place in England and Wales allowing cash sales in small volume would simply present a loophole for cross-border sales of stolen metal and undermine efforts to tackle thefts in Scotland.
45. Forms of identification and record keeping:

In line with the Scrap Metal Dealers Act 2013, the Bill adds additional record keeping requirements to a metal dealer's licence including recording the means by which a seller's name and address was verified and retaining a copy of the document, and the method of payment and a copy of the payment document. The Bill will also require a metal dealer to record information in books with serially numbered pages or by means of an electronic device, and to keep separate records at each place of business. Such information and documents are to be kept for three rather than the current two years.

How important is it that the record keeping requirements reflect those in the Scrap Metal Dealers Act 2013, and do you agree with the Scottish Government that the proposed record keeping requirements are not unduly burdensome?
All dealers should face the same requirements. These should be proportionate but also sufficiently rigorous to strongly discourage dealers from risking dealing in stolen metal.

With the change in the law in England and Wales, the requirements for records in Scotland should aim to be as close as possible under Scottish law to eliminate any potential for criminals to take advantage of laxer rules on one side of the border, and of course to not unduly burden dealers on one side or the other of the border.

The period for retaining records should be long enough to provide evidence of regular breaches of the law. The law in England and Wales requires records to be kept for three years, which seems enough to detect patterns of wrongdoing but not unduly burdensome for businesses.

In addition, Network Rail considers that record keeping requirements which reflect those in the Scrap Metal Dealers Act 2013 would be preferable to having two potentially different record-keeping systems as many businesses and organisations, including Network Rail, operate both within Scotland and in England and Wales. Therefore, having a common system will lead to more consistency in the records being kept which may make it easier to track metal which has moved from one country to another.

46. Mandatory and discretionary licensing requirements:

The Scottish Ministers can impose mandatory licensing requirements, such as those included in the Bill relating to record keeping and the identification of customers. In addition, local authorities can also
attach discretionary requirements to licences in their areas.

Does the Bill get the balance right between mandatory and discretionary licensing requirements? Should the Bill include other mandatory conditions for obtaining a metal dealer’s licence, such as installing CCTV at metal dealers’ premises or in relation to labelling of metal and 'forensic coding’?

All mandatory conditions should be consistent with those contained within the Scrap Metal Dealers Act 2013.