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: 
Organisation: 
Address 1: 
Address 2: 
City/Town: 
Postcode: 
Country: 
Email address (if no email leave blank): 

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FOR OFFICE USE ONLY SUBMISSION ID NUMBER 33,34,35,36,37,38
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
1. Equalities, Climate Change and other Scottish Government objectives

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

8. Do you consider that the Bill has any implications for meeting Scotland’s climate change commitments? Please explain.

No comment

9. Do you consider that the Bill has any implications for meeting Scotland’s equality and/or human rights commitments? Please explain.

No comment

10. Do you consider that the Bill has any implications for preventative spending and/or public services reform? Please explain.

No comment

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11. Do you consider that the Bill has any implications in relation to European Union issues? Please explain.

The 1982 Act is now long past its sell by date and is not compatible with the EUSD for several reasons.

Electronic communications is being addressed but the issue of fees and enforcement has not been addressed.

12. Do you have any other comments on the impact of the proposals contained in the Bill relation to Scottish Government objectives?

No comment
2. Air Weapons Licensing

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

13. In what ways will the creation of an air weapons licensing system in Scotland contribute to preserving public order and safety, reducing crime and advancing public health policy?

14. Is there sufficient provision, or sufficient capacity to provide, suitable numbers of air weapons clubs across all areas of Scotland for use by registered air weapons owners/users?

15. How will the air weapons licensing system affect those using air weapons for personal/recreational use?
16. How will the air weapons licensing system affect those aged 14 to 17 who use air weapons?

17. How will the air weapons licensing system affect those using air weapons for commercial/professional reasons (for example: for pest control; as part of the tourist/hunting season; as part of fairs, paintballing centre, entertainment sector etc.)?

18. How will the air weapons licensing system affect those using air weapons for competitive sporting purposes?

19. Is it equitable for those applying for an air weapons certificate to pay a fee which cannot be refundable irrespective of whether a certificate is granted or not?
20. Will the air weapons licensing system have a positive or negative impact on other areas of the public sector in Scotland (eg. The work of local government, public agencies etc.)?

21. What, if any, might the unintended consequences of introducing an air weapons licensing system in Scotland be?

22. Do you have any other comments to make on air weapons licensing aspects of the Bill?
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?

No.

Our detailed answers to specific questions in this document will refer.

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

Civic licensing relates to licensing both in the public interest and for reasons of public safety. This relates both to the behaviours of individuals and the impact on communities of space.

Liquor licensing is similar based on the 5 statutory licensing objectives.

25. In what way should the licensing system in Scotland interact with the support the land use planning system, community planning and regeneration?
The European Services Directive promotes freedom of movement of business within Europe. Currently, not all licensing provisions reflect these provisions.

Community Planning can be reflected in policy decisions both by licensing boards and licensing authorities.

Case law suggests that licensing and planning regimes are separate entities.

At the present time, neither the liquor nor civic regime specifically address the issue of community regeneration.

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

See our response to Question 25 above.

Further, the 1982 Act in particular, requires updating to allow a more flexible approach in this area.

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

The existing legislation is weak in this area.

Licensing Boards require to take account of the 4th licensing objective in relation to policies and decision-making.

The 1982 Act makes no such reference.
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?

We consider that there are a number of technical inconsistencies, which will make the application of the provisions, if enacted, difficult for Boards and licensing authorities. These include –

- Fit and proper person test linked to licensing objectives
- Lack of consistency across the provisions
- Not applied to occasional licences
- Transfer – fitness of the transferee is relevant not the fitness of the Applicant

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

The Relevant Offences provisions in relation to liquor should be removed and a similar system to that provided in the 1982 regime established.

30. In what ways will the provisions in the Bill enhance the licensing objectives set out in the Licensing (Scotland) Act 2005?
The addition of young persons to the licensing objective currently relating to children is welcomed.

We welcome the return of the fit and proper ground of refusal subject to the technical concerns outlined earlier.

Clarification on overprovision localities is welcome.

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?

We are of the view that this should be a separate ground of refusal, the licensing objectives being adequately addressed.

If it stands alone, it widens the scope of the issues that Boards can take into account in making decisions.

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

Yes. As referred to earlier, the liquor legislation makes no reference to economic regeneration.

Anecdotal evidence and numbers of licensed premises suggest a downturn in the number of businesses selling alcohol.

The whole system of obtaining a licence is now much more complex.

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?
See answer to Question 29 above. A similar system to the 1982 Act should be put into place.

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

We have the following additional comments –
- Constant amendment of the provisions leads to an increasingly complex system with a significant number of grey areas where procedures differ across the country. Such as -
  - Major Variations
  - Transfers
  - Occasional Licences
  - Reviews
- There needs to be a detailed specification in relation to Annual reports which Boards can comply with.

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5. Taxi and Private Hire Car 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).

35. What benefits should the licensing of taxis and private hire cars deliver for customers?

Public safety – suitable drivers and safe vehicles.

36. In what ways do customers, providers of taxi/private hire car services and local authorities benefit from the two-tier licensing regime for taxis and private hire cars?
Anecdotal evidence suggests that the public do not know the difference between the two.

The current system allows local authorities to attach greater restrictions to taxis than private hire cars

37. The Government states that a radical overhaul of the current two-tier licensing regime would “clearly require a very high level of resource and would cause significant disruption for the trade, local authorities, the police and ultimately the travelling public”. What are your views on this and would the potential costs and disruptions outweigh any potential benefits of a unified system?

It will cause disruption.

Local Authorities have well established licensing schemes for both.

38. Do the changes made by sections 60 (overprovision of private hire car licences) and 61 (testing of private hire car drivers) of the Bill strike the right balance in terms of introducing greater consistency while maintaining justifiable differences?

No. There will be practical difficulties in implementing two different quantity restrictions with significant associated costs for local authorities.

The power for local authorities to introduce such tests is welcome, however, it should be left to local authority discretion as to whether the power should be implemented.

39. Do you have any views on the section 62 provisions bringing vehicles contracted for exclusive use for 24 or more hours within the licensing regime for taxis and private hire cars, and should any exemptions be
included in the Bill?

SOLAR welcomes this.
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?

SOLAR welcomes these provisions

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

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?

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?
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?
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'?
7. **Civic Licensing – Theatre Licensing**

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

47. **Will there be any impacts during the transitional period between ending the current theatre licence and starting the public entertainment licence?**

Where local authorities have not included theatres in their resolution for public entertainment provision there will be a lengthy period of time to get these amended, therefore the transitional period should have regard to this.

48. **Are there additional costs or resource implications on theatres or licensing authorities?**

There will be conversions costs to theatres in obtaining new licences and costs associated with updating resolutions for licensing authorities.

49. **How should licensing authorities integrate their current fee charging structure into their public entertainment regime?**

The whole question of fees relating to the 1982 Act needs to be reviewed and updated.
8. 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'

In order to avoid confusion, all references to adult entertainment should be removed from the liquor legislation provisions.

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?

We would question how this may be enforced? Such an exemption may dilute the positive impact of the proposed legislation.
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?

We agree this decision should be left to local authorities

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?

We would reference our earlier comments in relation to the 1982 Act requiring to be overhauled and modernised.

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

Until these provisions are enacted it is difficult to foresee what the barriers will be beyond earlier general comments made relating to the legislation.
55. Civic Licensing

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

We would re-iterate that the Act is now over 30 years old and it is becoming increasingly difficult to address modern business activity within the structure of the Act.

In addition, penalties for civic offences are not generally commensurate with other licensing regimes e.g. liquor, private landlord registration, HMO licensing.