The Scottish Parliament’s Local Government & Regeneration Committee has called for written evidence from interested parties as part of Stage 1 consideration of the Air Weapons and Licensing (Scotland) Bill.

The Gun Trade Association (GTA), which represents 700 members of the UK sporting, recreational and professional gun trade, is such an interested party in this exercise, having been a member of the Scottish Firearms Consultative Panel and having provided substantial evidence for both the impact assessment for the Bill and the Consultation exercise which preceded the Bill. The GTA submits the following evidence to the Scottish Parliament, setting out its views on the provisions of the Bill.

It is of particular note that this is the first Bill which addresses air weapon licensing in the UK with all the complexities involved. The regulation of air weapons was devolved to Scotland from Westminster in the Scotland Act 2012 (at Section 10). Significantly, the powers devolved to Scotland only addressed air weapons and not other similar items such as ‘specially dangerous’ air weapons or air weapons ‘disguised as other objects’.

The definitions which will be used to control the use, possession, purchase and acquisition of air weapons in Scotland, as outlined in Section 1 of the Bill, merit special scrutiny as the rest of the Bill will be entirely dependent on the definition of the air weapon itself.

**Section 1 – Meaning of an Air Weapon**

In 1(3) Component parts in (a) and accessories in (b).

The inclusion of component parts in the Bill is complicated by the lack of definition in the Firearms Act, 1968.

The Violent Crime Reduction Act, 2006, gives some assistance in this regard, wherein component parts are considered to be solely those parts that are pressure bearing. For air weapons, these include cylinders, air reservoirs, barrels, et cetera, but crucially not screws, stocks, springs, and any parts that are not directly pressure bearing.
It would seem both sensible and pragmatic to adopt this approach and we suggest that allowing possession of component parts of air weapons, in Scotland, should be addressed through appropriate wording on the Air Weapon Certificate. (e.g. ‘may possess air weapons and component parts thereof’).

Accessories; for the most part these are detachable sound moderators (silencers) which have never been controlled for air weapons. Moderators for Section 1 firearms are listed on Firearms Certificates.

We suggest that detachable sound moderators for air weapons are addressed in the same manner as component parts and certificates are worded; ‘may possess air weapons and accessories’. These provisions will allow RFDs to determine, at point of sale, the purchasers’ rights to acquire and allow the police and firearms licensing the necessary controls through clear wording on certificates.

We believe that Section 1(4) of the Bill is potentially legally contradictory.

To be an “air weapon” as defined by Section 1(3)(b) of the Firearms Act 1968 it must be sufficiently powerful to be potentially lethal, but not sufficiently powerful to be specially dangerous as defined by the Specially Dangerous Air Weapons (Rules) 1969. By any reasonable definition, an “air gun” incapable of discharging a missile with a muzzle energy in excess of 1 joule does not meet these criteria and is de facto not an “air weapon” as defined by section 1 (3) (b).

To avoid ambiguity we suggest the wording be altered as follows;

(4) But the expression does not include—

a) an air gun, air rifle or air pistol which is incapable of discharging a missile with a kinetic energy in excess of one joule as measured at the muzzle of the weapon.

b) an air weapon that is designed to be used only when submerged in water or the component parts of any such weapon.
The effect of this is to establish a clear lower limit by which air weapons may be judged.

The GTA is firmly of the opinion that a definition of a lower limit of muzzle energy will help the Scottish police to positively differentiate between airsoft and air weapons. Furthermore a definition, such as 1 joule, will limit the danger to public safety as airsoft type items will have a lower level of muzzle energy and the possession of air weapons will be controlled through certification.

The protection of public safety is a police issue and not that of Firearms Licensing who do not deal with ‘non-lethal’ and/or other ‘unlicensed weapons’.

**Section 2 – Requirement for air weapon certificate**

Clarification is required as to the definition of both the words ‘use’ and ‘possess’. The Firearms Act 1968, at Section 57, does not define possession or use but it is often taken that possession encompasses use. (‘Possession’ does not necessarily imply ‘ownership’).

The Policy Memorandum makes it clear that air weapon certificates will licence individuals rather than weapons. Thus the quantity of air weapons held will not be registered on the certificate.

*Should this important definition be stated on the face of the Bill?*

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

(3) The Chief Constable must maintain a register containing the details of each application made under this section (whether or not the application results in an air weapon certificate being granted or renewed). *If a certificate is not granted is the Chief Constable in breach of the Data Protection Act if he keeps the data?*

**Section 4 – Verification of applications**

*Will there be a lower age restriction for a ‘verifier’?*

**Section 5 – Grant or renewal of air weapon certificate**
The requirements or tests for the grant are, as is stated in the Policy Memorandum, broadly in line with those for more powerful weapons under Section 1 of the Firearms Act 1968. We believe that is disproportionate and unnecessarily burdensome. We suggest the approach taken in the 1968 Act to the grant and renewal of shotgun certificates is more appropriate and proportionate and should be adopted. As a consequence the Chief Constable would need to have good reason \textit{not} to issue a certificate, as is the case for shotgun certificates.

We are awaiting 'Guidance' (under Section 39), as to definitions of ‘fit person’ and ‘good reason’. \textit{Will these mirror the definition used for current UK Firearms Legislation (as in 5(2))?}

The Policy Memorandum states that there will be further discussions with stakeholders on the above questions. The GTA awaits the response before any secondary legislation is drafted

\textbf{Section 6 – Air weapon certificate: conditions}

Awaiting definitions of conditions.

The Policy Memorandum makes specific mention of ‘Plinking’ in gardens and/or other urban or highly populated settings. Plinking is in effect informal target shooting and it is extremely well established that the majority of young people start their air weapon shooting safely and under supervision, in that environment. The GTA considers it unreasonable to overly restrict this type of shooting and we believe that clear definitions of “gardens”, “other urban” and “highly populated settings” will be needed to avoid this.
Conditions, although necessary, must make allowances for safe informal target shooting or “plinking”.

Section 7 – Special requirements and conditions for young persons

In sub-section (5) there is no provision in the conditions for a young person to posses/use an air weapon for ‘sporting purposes’ (i.e. for shooting live quarry), but they are allowed, in (5)(d), ‘to use and possess only for the purposes of protecting livestock, crops or produce on land used for or in connection with agriculture’. Further, in (5)(e), ‘the holder may use and possess an air weapon while carrying on business as a pest controller or acting as the employee of a pest controller.

This definition presents the young person, who holds an air weapon certificate, with a potential difficulty; Whilst using a borrowed air weapon, and shooting rabbits for crop protection, or pest control, how could the young person justify to a constable that the shooting was not ‘for sporting purposes’?

Clarification is required. Why should a young person, who has satisfied the requirement of ‘fit person’ and has ‘good reason’ for using an air weapon, not be allowed to use the air weapon for ‘sporting purposes’? We suggest that (5)(a) be amended to include ‘sporting purposes’.

Section 8 – Duration of air weapon certificate

Sub-section (2) is pragmatic and practical, and should be extended to firearm and shotgun certificates.

Section 9 – Alignment of different types of certificates

A pragmatic solution for alignment of certificates.

Section 10 – Variation of air weapon certificate

The Chief Constable has the right to issue a notice to the certificate holder requiring the certificate for variation. A list of conditions, as mentioned in Section 6, is required.
Section 11 – Revocation of air weapon certificate

In the event of the notice of revocation and the surrender of air weapons, the police must give assurances that the air weapons will be held securely and without any damage being caused to the items in their care.

Section 12 – Police permits

In (1)(b) On the face of the Bill private persons must also be permitted to sell air weapons held under a police permit.

Section 13 – Visitor permits

Clarification will be required in Guidance as to whether visitor permits will have to be applied for through a ‘sponsor’ resident in Scotland.

In (4)(c). A qualifying visitor from outside the UK will not be subject to the terms of Section 21 of the Firearms Act 1968 when the application is made.

Section 14 – Visitor permits: young persons

As per Section 7 where young persons may not possess an air weapon for ‘sporting purposes’ (shooting live quarry), young persons, who visit Scotland on a visitor permit, will not be permitted to shoot live quarry.

The same arguments for changing this condition apply. (see Section 7, above).

Sub-section 14(6) appears to be contradictory. Must the Chief Constable be satisfied that the visitor permit does not allow young persons to shoot live quarry or not?

Section 15 – Police and visitor permits: conditions

Definitions of mandatory conditions are awaited in Guidance.

Section 16 – Police and visitor permits: variation and revocation

Definitions of mandatory conditions are awaited in Guidance.

Section 17 – Event permits
It is not clear whether the ‘organiser’ (who may not own air weapons and thus not have an air weapon certificate), may borrow or hire air weapons from an RFD, or a private air weapon certificate holder, and then lend/hire to the participants of the event.

Sub-section (7). A fuller description of ‘activity’ will be required in Guidance.

Section 18 – Approval of air weapon clubs
Section 19 – Variation of approval
Section 20 – Duration of approval
Section 21 – Alignment of club approvals
Section 22 – Power to enter and inspect club premises

The GTA has no comment to make on air weapon clubs.

Section 23 – Requirements for recreational shooting facilities

Sub-sections (1)(2) and (3); It is presumed that an RFD may possess air weapons without holding a specific air weapon certificate. An RFD who owns a miniature rifle range or a facility for combat games may therefore loan/hire air weapons, in the normal course of his business, to someone who does not hold an air weapon certificate. Conditions of age and supervision will apply.

Sub-section (4)(b); Combat games. Air weapons will have a muzzle energy of more than 1 joule. The GTA believes that the use of ‘air weapons’ at recreational facilities would be a danger to public safety. (See proposed revised definition of ‘air weapon’ at Section 1(4)).

It is also important to bear in mind is that the airsoft community in England (UKARA), consider that a range of muzzle energies from 1.3-2.5 joules is acceptable before the item should be defined as an air weapon.

Section 24 – Restrictions on transactions involving air weapons

Sub-section (2)(c)(i); There will be some countries that do not limit the purchase of air weapons to 18 years of age. Is it therefore correct to limit the age for purchase to a young person under 18 who may legitimately make the
same purchase in his own country of residence, especially if, as in (2)(c)(ii), he may not take possession in Scotland?

Sub-section (2)(c)(ii); ‘Outwith Great Britain’ precludes England and Wales. This would prevent potentially considerable sales to those who visit Scotland from England and Wales and wish to purchase air weapons whilst visiting. This is a serious restriction of trade.

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

Sub-section (2) contradicts Section 24 sub-section (2)(c)(ii) where it states that possession may only be transferred by being ‘delivered outwith Great Britain’, without coming into the purchaser’s possession.

Section 26 – Requirement to notify Chief Constable of certain sales

Sub-section (1)(b); see Section 24 and comments on sub-section (2)(c)(ii).

Section 27 – Power of search with warrant

No comment.

Section 28 – Production of air weapon certificate

Sub-section (1)(a); it would practical to allow also the production of a photocopy of the air weapon certificate.

Section 29 – Cancellation of air weapon certificate

Sub-sections (2) and (3); Is there the right of appeal as in the case of revocation?

Section 30 – Forfeiture and disposal of air weapons

Sub-section (5); should also include ‘or part of a collection of antique air weapons’.

Section 31 – Failure to keep air weapon secure or report loss to the police
Sub-section (b); a time limit should be prescribed in Guidance as to ‘immediately’. A person might return to where the air weapon is normally kept after a holiday, or other absence, to find their air weapon missing.

Section 32 – False statements, certificates and permits

No comment.

Section 33 – Time limit for offences

No comment.

Section 34 – Offences by bodies corporate

If the body corporate forms a part of an English body corporate (e.g. a subsidiary of an English company), it must be established as to where any prosecution is brought.

Section 35 – Appeals

No comment.

Section 36 – Fees

Awaiting secondary legislation and guidance to determine the level of fees.

Section 37 – Power to make further provisions

Awaiting secondary legislation and guidance.

Section 38 – Transitional arrangements for existing certificate holders

Awaiting further guidance, especially in the case where a young person may have been ‘gifted’ an air weapon.

Section 39 – Guidance

It is imperative that sufficient public funds are made available to ensure that any guidance is published as widely as possible.
Section 40 – Interpretation of Part 1

It is essential that the definitions in Section 1 are clarified as to the meaning of ‘air weapon’.

Sub-section (5). The GTA believes that reference should also be made to the Violent Crime Reduction Act 2006.

Additional points that need to be considered:

- We feel that it is important to note that the GTA has been responsible for considerable input into the Financial Memorandum. The Scottish Government has accepted the figure of 500,000 air weapons, provided by the GTA, as the core estimate of numbers for the Bill. (See Explanatory Notes Paragraphs 44 – 49).

- Confirmation is required as to exactly what details will be required for entries into the Registers of Registered Firearms Dealers (RFDs).

- England and Wales will introduce electronic RFD Registers on the 31st December 2014. Will Scotland be included in the requirements of the EU Firearms Directive?

- Regarding RFD Registers: Will storage and repair of air weapons be a requirement in the register?

- Regarding internet sales: How will internet sales be dealt with under the air weapons Bill?

- Will remote sales be permitted between dealers in Scotland and those in the rest of the UK?

- Regarding firearms offences and the requirements for air weapon certificates: What will be the lead time period for ‘hand-in’ before an offence is committed?