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: Tony Glover
Organisation: Energy Networks Association
Address 1: 
Address 2: 
City/Town: 
Postcode: 
Country: 
Email address (if no email leave blank): 
Phone Number: 

Submission Number: 78
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.

[Text box for response]

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

[Text box for response]

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

[Text box for response]
11. Do you consider that the Bill has any implications in relation to European Union issues? Please explain.

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

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?


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?

[Text box]

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

[Text box]

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

[Text box]
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?

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?
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?

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?

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?
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?

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?
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?

Energy Networks Association (ENA) represents the “wires and pipes” transmission and distribution network operators for gas and electricity in the UK and Ireland.

ENA led the campaign in England and Wales for a change to the Scrap Metal Dealers Act and have lobbied for similar legislation in Scotland and Northern Ireland. We support the broad objectives of the Bill and welcome the Scottish Government’s commitment to amending the law in this area.

ENA has also maintained an ongoing lobbying campaign as organisers of the Westminster Parliament All-Party Group on Combating Metal Theft which brings together Network Rail and BT as well as the War Memorials Trust, the Church and a range of other organisations affected.

Metal theft is a serious problem for electricity and gas network operators. Its cost cannot just be counted in monetary terms or even the impact it has on people’s energy supplies but also the serious danger it exposes the public to. That is why we have campaigned for legislative change. It is clear that if you remove the means of disposal of stolen metal you impact on the crime itself.

This has been illustrated in England and Wales. According to figures from the Health and Safety Executive, in the year following the introduction of the Scrap Metal Dealers Act incidents of theft and interference with electricity network assets fell by 25%. Over the same year incidents of theft and interference in Scotland increased by 62%. We believe this illustrates that England and Wales have exported the thieves to Scotland. That is why it is vital that the legislation is passed as quickly as possible.

The English and Welsh scrap metal industry has almost completely reformed its practises as a result of the legislation and the main trade association for the industry, the British Metals Recycling Association has strongly welcomed the legislation and believes it has removed the rogue element and cleaned up the sector.
41. In your view, could the Bill be further strengthened in any way, for example, by including an accreditation scheme for metal dealers?
Yes we believe there are and these are set out below. The comments below address not only the content of the Air Weapons and Licensing (Scotland) Bill, but also the consequences of leaving certain other elements of the Civic Government (Scotland) Act 1982 (“CGSA”) unamended.

**Production of licences**
There is no requirement for a metal dealer or itinerant metal dealer to display a copy of a licence within the Bill. CGSA S5(4) allows a person who may be carrying on an activity which requires licensing five days to produce the licence. We believe it is essential to place an obligation on metal dealers to display copies of their licence on their premises, and for itinerant metal collectors to display their license/s on their collection vehicles. This will ensure effective enforcement of the new regime.

**Verification of identity**
CGSA (as amended) S33B(5)(c) says that a dealer must “keep a copy of any document produced by a person to verify that person’s name and address”. However, there is no requirement placed on a dealer to verify the identity of a person supplying or receiving metal for recycling. We believe that this is essential and the form of acceptable documents, is set out clearly and unambiguously.

**Metal dealer definition**
The Bill’s definitions of a metal dealer and an itinerant metal dealer in the CGSA S37 are not changed by the new Bill and require a person both to buy and to sell metal before they qualify.

One significant implication is that a typical itinerant who collects from households without making payment for the items or materials he collects would not require a licence, and would thus remain outside the scope of the Bill. Furthermore, there is scope for a person collecting general waste and other materials, but actually earning a substantial proportion of his income from separating out and selling scrap metal, to escape the licensing regime. Similarly, skip hire operators and demolition contractors generating a substantial amount of their revenue from sale of scrap metal could escape the definition and need for licensing. Furthermore car breakers are not covered by the definition, a situation exacerbated by the absence of a definition of scrap.

We note that CGSA S37(2) excludes manufacturers’ buying of scrap for manufacture of other articles from the definition of metal dealer, providing scope for creative interpretation of both “manufacture” and “other articles” to evade licensing. For example a metal dealer who has a small furnace for the manufacture of aluminium ingot would fall outside the scope of the Bill. We believe that the Bill should be amended to capture “all persons carrying out a business consisting of buying or selling scrap metal”, with some specific exemptions for manufacturers disposing of their own surplus materials or offcuts. A clear and comprehensive definition of metal dealer, to include vehicle dismantlers and other businesses generating a significant proportion of their income from sale of scrap metal is essential.
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?
We strongly support the introduction of a cashless regime. This has undoubtedly had a very positive effect in England and Wales, not least in helping to radically reform the sector.
However, we believe there are elements of the payment process that could be much better defined.

Electronic transfer definitions and associated record-keeping requirements are very poorly defined. Payment in kind is not addressed.

A notable weakness of the regime in England and Wales is a poor definition of acceptable payment methods. The payment mechanisms that would be permitted under the CGSA (as amended) S33A are equally unclear. For example, in S33A(2)(a) there is no restriction on the person to whom a non-transferrable cheque may be made out; it does not have to be the seller or any person whose identity has been verified (if indeed there is any requirement for verification of any person’s identity. Furthermore, S33A(2)(b) not only fails to link the seller and payee for electronic transfers, it also does not define “account”, nor does it set any parameters for traceability of transfer between an account and the seller.

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?

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

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

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?
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?