

## ANNEX C: RESPONDENT INFORMATION FORM: PROPOSALS FOR LICENSING AIR WEAPONS IN SCOTLAND



Please Note this form **must** be returned with your response to ensure that we handle your response appropriately

### **1. Name/Organisation**

Organisation Name

Scottish Target Shooting Federation

## ANNEX D: RESPONSE FORM: SUMMARY OF QUESTIONS

### PROPOSALS FOR LICENSING AIR WEAPONS IN SCOTLAND

**Question 1: Do you agree with the proposed types of weapons to be covered by the new regime?**

#### Introduction

By way of background, the Scottish Target Shooting Federation (“STS”) is the overall voice for target shooting in Scotland. STS comprises the four Scottish National Governing Bodies (NGBs) for target shooting, namely the Scottish Clay Target Association, the Scottish Pistol Association, the Scottish Rifle Association and the Scottish Smallbore Rifle Association. Each of the four NGBs runs its own affairs, but STS is the central link between the NGBs on matters which affect all of the shooting bodies and bodies such as sportscotland, the Commonwealth Games Council for Scotland, local authorities and government agencies, as well as UK national shooting bodies such as British Shooting, the British International Clay Target Shooting Federation, the Muzzle Loaders Association of Great Britain, the National Rifle Association and the National Smallbore Rifle Association. STS is responsible for the selection of teams to compete at the Commonwealth Championships, together with the nomination of athletes for participation in the Commonwealth Youth Games and the Commonwealth Games.

#### Overview

As an essential preliminary point, please note that STS consider there is no need whatsoever for a new regime governing airguns in Scotland. As shown by the Scottish Government’s own statistics, airgun crime is already at a long term low. The criminal use of airguns is adequately covered by existing legislation, which simply requires to be enforced. Indeed, those who commit crimes with airguns under the current legislation are already subject to severe sentences, since airgun offences are treated as firearms offences. STS are concerned that the proposed new regime will achieve little apart from (1) placing major demands on police resources that would be much better directed at other activities (e.g. combating illegal drugs and organised crime), (2) wasting large amounts of taxpayers’ money on licensing airguns that have long been recognised as not being especially

dangerous (apart from in very exceptional circumstances), and (3) restricting the flow of new entrants into a recognised sport that promotes personal responsibility, self discipline and respect for others.

Although STS have provided detailed responses below to Questions 1 to 18, these have been provided to highlight some of the main problems arising from the Scottish Government's licensing proposals and should not be construed as any endorsement by STS of the principle of airgun licensing. All of the detailed responses below should be read subject to the overriding proviso that STS do not consider that airgun licensing in Scotland is required at all.

STS understand that most airgun problems relate to individuals possessing airguns in a public place without good reason, or shooting at pets, property or people (including allowing pellets to go beyond property boundaries). All of these problems already constitute criminal offences, linked to potentially very severe penalties. In STS's view, the correct course of action is not to introduce a cumbersome, expensive and time-consuming licensing regime, but to properly enforce, to the full extent of the law, the numerous, existing legal controls on the misuse of airguns. In addition, at a practical level, it would be more productive to remind airgun users of their existing legal duties, e.g. by constructive advice at the point of sale and/or through airgun magazines, than to submerge them and the police in new bureaucracy.

#### Responses to Specific Queries

In relation to the specific point raised in Question 1 about the types of airgun to be covered by the proposed regime, STS do not have any particular issues about the general definition of an airgun, i.e. a lethal barrelled weapon that is not sufficiently powerful to be deemed "specially dangerous" in terms of the Firearms (Dangerous Air Weapons) (Scotland) Rules 1969.

In relation to the lower power limit of airguns that would be subject to the proposed regime, however, STS consider that the threshold of lethality has been set too low at 0.7 ft/lbs or 1 joule. We refer the Scottish Government to the response by the British Association for Shooting and Conservation (BASC) on this particular point, where BASC propose a lower limit of around 3.7 ft/lbs. STS endorse BASC's proposal that the lower limit should be around 3.7 ft/lbs.

STS also consider that antique airguns should remain exempt from any licensing regime. Antique airguns are already exempt from firearms licensing by virtue of section 58(2) of the Firearms Act 1968. Home Office Circular 12/2007 notes that the Home Office's view is that any airgun manufactured before 1939 should normally be regarded as an antique. It would seem logical for any airgun that is already exempt from firearms licensing to be exempt from airgun licensing too.

STS note in passing that paragraph 21 of the consultation paper is somewhat misleading in that it suggests that high powered airguns in terms

of the Firearms (Dangerous Air Weapons) (Scotland) Rules 1969 are subject to section 5 of the Firearms Act 1968 (as amended). Whilst that is true in relation to air pistols, air rifles would be covered by section 1 of the 1968 Act and could therefore be held on a Firearms Certificate.

**Question 2: Should any other weapons be covered?**

No.

**Question 3: Is there any type of air weapon ammunition which should be covered?**

No – the Violent Crime Reduction Act 2006 already restricts the sale of airgun ammunition to persons under the age of eighteen. It would be totally disproportionate to introduce additional controls on airgun ammunition.

**Question 4: Are there other forms of air weapon use which should be considered as “legitimate”?**

As a general comment, STS note the Scottish Government’s statement in paragraph 23 of the consultation paper that, “... *there is a clear policy imperative to restrict the casual and unnecessary ownership and use of potentially lethal weapons in Scotland. There is no “right to bear arms” in modern Scotland.*” STS also note the Scottish Government’s comment in paragraph 28 that, “*The sight of guns in residential areas is no longer acceptable*”. STS are greatly concerned by these comments, which suggest that - despite statements to the contrary - the Scottish Government is fundamentally prejudiced against legitimate shooters. The reference to the absence of a “right to bear arms” is particularly unhelpful, since it relates to the use of firearms for self defence or the defence of the nation in the United States, and has been taken entirely out of context in relation to low-powered airguns for target and sport shooting in Scotland. The Scottish Government’s comment about “the sight of guns in residential areas” is also of serious concern to STS, not least because it suggests that airgun shooting only takes place in rural areas. It is commonplace for people to use airguns in urban and suburban areas, as well as rural areas - and provided that their projectiles do not go beyond the boundaries of their property, there is nothing wrong with such usage. If shots do go beyond those boundaries, this is already prohibited by law, while if using an airgun close to a public road causes concern, this too is covered by existing legislation.

As regards the forms of airgun use which should be considered as “legitimate”, in STS’s view, any use of airguns that does not currently constitute a criminal offence should be treated as legitimate. This applies in particular to “plinking” e.g. in one’s own back garden (subject to the provisos noted above whereby projectiles should not go beyond the boundaries of the property). Plinking is an excellent and enjoyable way of learning the basics of safety and marksmanship and has been a feature of many

shooters' lives for generations. If plinking were not treated as good reason to own and use airguns, this would have a seriously detrimental effect on the entry of new shooters into the sport of target shooting. STS note the Scottish Ministers' view that *"the unrestricted practice of "plinking" should come to an end .... Shooting should only take place on land that is suitable, provides a safe shooting environment and does not pose a risk to the public, and ideally at licensed target shooting clubs"*. To STS, this suggests that those who framed this policy have no real, in depth understanding of shooting, and may be proposing controls as a personal reaction to their lack of knowledge. To those in the Scottish community who have grown up with shooting throughout their whole lives, the proposal to restrict plinking with low-powered airguns, that for decades have *not* been treated as sufficiently dangerous to justify licensing, is totally disproportionate. Even a brief consideration of the numerous existing controls on firearms in Scotland (including airguns) shows that any harmful behaviour is *already* a criminal offence, ranging from firing airgun pellets beyond land boundaries to having an airgun in a public place without lawful excuse. Accordingly, in STS's view, the substantial existing controls on the use of airguns are more than adequate to ensure public safety, and simply need to be enforced.

If additional airgun controls are to be introduced in Scotland, STS do not consider the "good reason" requirement is the right approach. If the Scottish Government's real underlying concern is that the "wrong type" of person may misuse airguns, then an alternative approach – which would completely avoid the need to expend large amounts of money and police time on a disproportionate and damaging licensing system – would be to prohibit individuals with a certain type of criminal record from possessing airguns. Section 21 of the Firearms Act 1968 already covers this subject area and one option would be to simply extend its ambit, so that e.g. sentences for youth offenders *shorter* than three months could disqualify them from possessing an airgun for a specified number of years. STS strongly suspect that the type of person who is likely to misuse an airgun will in many instances be known to the police already, and indeed will have a criminal record. Why not simply prohibit those individuals from possessing airguns? The nature of criminal offences that should disqualify a person from possessing an airgun is beyond the scope of this response, but STS's initial view is that crimes involving violent behaviour, being drunk and disorderly etc would be a starting point – whereas more "technical" regulatory offences such as driving with a broken tail light ought not, of themselves, disqualify a person from possessing an airgun. (This could of course be dealt with on a blanket basis by considering the sentencing period, as referred to in relation to section 21 of the 1968 Act.) Rather than licensing airguns at great public expense, for a very limited return, this sort of approach would, in effect, "license" the owners (but without requiring any formal licences as such) – and would withdraw their entitlement to own airguns if they were involved in certain types of crime.

If, notwithstanding our comments above, the Scottish Government were to proceed with a licensing system for airguns based on a "good reason" requirement, then in STS's view, a "good reason" for possession should

include any reasonable purposes such as:

- target shooting in any form – NB including but not limited to any “plinking” that is not already prohibited by law, whether outdoors or indoors (e.g. air pistol competitors should be permitted to train indoors in their hall or garage too, as many top level shooters already do);
- vermin shooting;
- collecting (bearing in mind that airguns are an important part of the nation’s heritage);
- cadet corps;
- other organisations who undertake target shooting from time to time;
- theatrical purposes, including film productions;
- museums;
- re-enactment; and
- provision would also need to be made for e.g. auctioneers and authorised carriers, including the Royal Mail.

In relation to paragraphs 25 and 26 of the consultation paper, STS do not support the use of conditions, which would make the licensing process even more complicated.

Given that any holder of a Firearms Certificate or Shotgun Certificate is entitled to possess substantially more powerful firearms, any holder of such a Certificate should automatically be entitled to possess airguns, without having to apply for a separate airgun licence. The same applies in relation to approved target shooting clubs under existing legislation, and club members and guests should be entitled to use airguns without the requirement for a licence. It would be a complete waste of police resources to do otherwise. Similarly, the existing exemptions under the Firearms Act 1968 (as amended) should apply in relation to airguns, e.g. sections 11(1), 11(5), 16. Broadly speaking, in STS’s view, it is essential to allow people who do *not* hold a licence to have supervised possession of airguns, so that new entrants to the sport can be introduced to the sport - including not only target shooting but also e.g. vermin shooting under supervision.

**Question 5: Do you agree that greater restrictions should be placed on where air weapon owners can shoot?**

No – the current legislation is perfectly adequate, including in relation to the prohibition of shots going beyond boundaries, the requirement for the landowner’s permission etc. Plinking must continue to be permitted, subject to the existing legislation.

In STS’s view, it is for landowners to determine who they allow to use airguns on their private property and there is no need for government intervention in this regard. There is no meaningful evidence that plinking causes any real concern or any threat to public safety, and STS strongly support the continued right of people to engage in plinking. There is no

reason why people shooting responsibly in the privacy of their own gardens (or indeed inside their own homes) should lose the right to enjoy their property in this way, merely because of a small number of irresponsible criminals who come to the attention of the tabloid media. The reality is that in almost all cases, plinking *already* takes place (to quote paragraph 29 of the consultation paper) on “land that is suitable, provides a safe shooting environment and does not pose a risk to the public”.

Any formal requirement to join a club to plink or target shoot would constitute a disproportionate burden on airgun shooters and indeed on those who would have to run those clubs (the number of which would have to drastically increase to accommodate people who currently plink on private property).

**Question 6: Do you agree with these proposals for the application process?**

As is recognised in the consultation paper, the focus should be very much on licensing the person rather than the airguns; this is especially relevant to airguns which tend not to bear serial numbers (in contrast to e.g. section 1 firearms).

As noted above, anyone who holds a valid Firearms Certificate or Shotgun Certificate should automatically be entitled to possess airguns without having to hold an airgun licence.

Airguns have much less potential lethality than a shotgun and any airgun licensing system for airguns should be no more onerous than the current licensing system for shotguns.

In relation to paragraph 33 of the consultation paper, if registered firearms dealers are *not* required to verify that an airgun purchaser has an airgun licence before selling an airgun to that purchaser, the dealer should be expressly exempt from criminal sanction, e.g. on the basis of art and part liability because the dealer aided or abetted the unlawful acquisition of an airgun. Alternatively, it would seem simpler to just prohibit the sale of an airgun to someone who does not produce their airgun licence – otherwise, what would be the point of requiring a licence?

**Question 7: Do you think there are other issues we should consider around the application process?**

STS is conscious that some firearms licensing departments under the current police force structure are not sufficiently resourced to deal promptly even with the existing licensing requirements for section 1 firearms and shotguns. If the Scottish Government is to proceed with airgun licensing – which as stated at the outset of this response is considered wholly unnecessary and disproportionate – then it is imperative that the licensing departments are properly resourced to deal with the new regime. This will

involve a substantial increase in staffing.

STS also consider that the Scottish Government should consider:

- the extent of staff training required to implement the proposed new regime;
- the additional costs of preparing suitable guidance and publicity materials regarding the licensing process itself;
- how to deal with airguns which their owners decide to deactivate, rather than dispose of;
- whether Firearms Certificate and Shotgun Certificate holders from elsewhere in the UK should automatically be entitled to possess airguns within Scotland without the need for a separate airgun licence (which would seem sensible);
- the procedures to deal with airguns found in people's homes following the death of the owner;
- the various parallel arrangements that would be required for airgun licences in the same way as Firearms Certificates (e.g. section 7 temporary permits, possession of a club firearm whilst in transit with the authority of a club official etc);
- Crown exemptions, including cadets and their instructors;
- whether the licensing process could be wholly automated e.g. by linking into the police database to check for criminal convictions, rather than tying up considerable police resources in relation to the 500,000 airguns estimated to be in circulation; and
- dropping the proposal in paragraph 52 to visit applicants' homes to check security – this is wholly disproportionate and is already covered by existing legislation.

Any licensing system involves considerable complexity and the list above is likely to be a small fraction of the many issues that would require to be addressed. This again brings into question the wisdom of licensing airguns that for decades have not been licensed at all, and which will continue to be unlicensed elsewhere in the UK mainland.

The proposed airgun licensing regime will inevitably result in substantial non-compliance by people who would not otherwise be considered as criminals, e.g. because of lack of knowledge of the new regime, but who will find themselves guilty of firearms offences, with damaging consequences for themselves, their families and their employers. It is highly regrettable that the Scottish Government's proposals will have this effect, when the whole regime relates to low-powered airguns that no previous administration on the UK mainland has felt it necessary to license.

**Question 8: Do you agree that there should be a lower age limit of 18 for those seeking an air weapon certificate, and that use by those younger than 18 should be appropriately supervised by a licensed adult?**

On the basis that airgun licensing would follow a similar procedure to

shotgun certificates (as noted in paragraphs 32 and 35 of the consultation paper), STS consider that, as for Shotgun Certificates, there should be no lower age limit. The use of airguns by people under the age of 18 is already the subject of various legal controls.

STS are especially concerned that many young people (in both a family setting and in the context of organised groups such as the Scouts or Guides) will wish to use airguns, with the support (and under the supervision of) their parents, guardians or older relatives. This will often occur where the supervising person has only a limited interest in shooting sports, but is nevertheless sufficiently responsible and knowledgeable to supervise the use of a low-powered airgun. In such circumstances, STS would not wish the parents, guardians etc to themselves have to apply for and hold an airgun licence. The possession of a single airgun licence by the junior shooter should constitute sufficient authority both for the junior shooter and for the supervising adult, provided that the adult is not otherwise legally prohibited e.g. because of prior criminal convictions.

**Question 9: Do you agree that a fee should be charged for each air weapons application, whether successful or not?**

STS do not consider that a fee should be charged where an application for an airgun licence is refused.

**Question 10: Do you have a view on an appropriate fee to be charged for new or renewed applications?**

As noted above, STS consider that all Firearm and Shotgun Certificate holders should automatically be entitled to possess airguns without the need for a separate airgun licence; accordingly no fee should be chargeable for existing certificate holders (not least because there would be no need for any additional administration in relation to those individuals).

STS would wish the fee for an airgun licence to be at a sufficiently low level that will not deter either incoming entrants to the sport of target shooting, nor existing airgun users. From a regulatory perspective, there is also the point that if the fee is set at too high a level, many airguns will simply “disappear” and will in effect be illegally held. With this in mind, in STS’s view, the initial fee upon introduction of the new regime should ideally be set at nil, to ensure that the maximum number of airguns is brought into full legal ownership. As a fallback, STS consider that the fee should not exceed £20 for the initial grant of an airgun licence and no more than £15 for renewal. In view of the low level of lethality of airguns compared with e.g. shotguns, it would seem unnecessary to limit the duration of an airgun licence to five years. Bearing in mind the amount of administration that would be involved in the renewal process, we suggest a duration of ten to twenty years.

**Question 11: Do you agree with the proposed levels of checks on applicants for a visitor's permit?**

On the basis that any current airgun problems relate to individuals shooting at pets, property or people (all of which constitute criminal offences), STS find it somewhat improbable that the type of overseas visitor who would bring an airgun to Scotland e.g. on holiday would engage in this type of criminal activity. Given the absence of border controls between Scotland and the rest of the UK, we also query the usefulness of introducing an airgun licensing system for overseas visitors. As noted above, STS consider the whole of the proposed airgun licensing regime to be unjustified and disproportionate, and overseas visitors are likely to be astonished that any formal requirements at all would be required. As is noted in paragraph 48 of the consultation paper, airguns are not generally licensed in other countries; in STS's view, this speaks volumes about the proposed licensing regime in Scotland.

As regards visitors from within the rest of the UK, the requirement for an airgun licence is likely to deter those visitors from bringing an airgun at all – or indeed from visiting Scotland – unless the primary purpose of their visit is to compete in a target shooting event or for specific vermin control purposes e.g. on a friend's farm. For those UK visitors who do wish to possess an airgun in Scotland, the checks required should be minimal and should focus on criminal records. Where a visitor has a Firearms Certificate or a Shotgun Certificate issued elsewhere in the UK, or indeed in the Channel Islands or the Isle of Man, STS consider that such a Certificate should automatically entitle the holder to possess an airgun in Scotland. The same should apply in relation to the holder of a European Firearms Pass (or equivalent).

STS do not consider there should be any requirement for a visitor to be sponsored by someone resident in Scotland. We do not see how this would improve public safety and it is likely to deter tourists.

**Question 12: Do you agree with the proposal to adopt a system of time-limited visitor permits and do you agree with the proposed duration of such permits?**

As noted above, STS consider it improbable that visitors who bring airguns to Scotland e.g. on holiday would engage in the sort of criminal activity that has attracted the attention of the tabloids. Those who do would be committing a criminal offence anyway (as is already the case). On the bases that (a) the proposed airgun licensing system regime is really aimed at Scottish citizens, and (b) the consequent need to deal with visitors is a rather awkward consequence of the Scottish Government's measures, STS consider that if there are to be visitor permits, these should be made as streamlined as possible, and should last for at least two years (and preferably five years), so as not to deter regular visitors to Scotland.

**Question 13: Do you agree that a separate, longer term permit should be available to competition shooters and other regular visitors?**

Please see our response above. STS see a benefit in regular visitors and competition shooters etc being able to seek a longer term licence of at least five years. We do not however see much benefit in charging a significantly higher fee, because (a) there would be no additional administration in processing a longer term licence and (b) those visiting Scotland on a regular basis will no doubt contribute to the wider Scottish economy in terms of tourism and spending patterns.

**Question 14: Do you agree that there should be an appropriate hand in period for currently held weapons, in advance of the new legislation taking effect?**

If the proposed new licensing regime is to be implemented, STS consider it essential that there should be a hand in period for airguns that are currently held. It should also be possible, however, for people to transfer their airguns to airgun licence holders under the new regime, as opposed to handing them into the police or to registered firearms dealers - so there must be a period of overlap. It is important to ensure that historic airguns are not lost forever as the result of this process and this should be facilitated, not only by way of transfers within Scotland, but also to the rest of the UK and/or to overseas collectors. Adequate publicity should be given to any such hand in period.

Where airguns are handed in, STS consider that compensation must be payable, as a matter of right, having regard to Article 1 of the first Protocol of the European Convention on Human Rights.

**Question 15: Do you agree that it should be a matter for the police and prosecution services to take a view on air weapons handed in at a later date?**

STS consider it essential that no obstacles should be placed in the way of anyone who hands in an airgun at a later date. (In any event, it is highly unlikely that the type of person who would hand in an airgun is the type of person who would engage in truly criminal activity in the first place.)

**Question 16: Do you agree that it should be open to the police to issue a permit to allow the person to deal with “forgotten” air weapons or, in appropriate cases, to apply for an air weapons certificate?**

In relation to airguns that are “forgotten”, STS are very concerned that the holders of those airguns could find themselves prosecuted for what would be classified as a firearms offence, with potentially very severe consequences. The police and the Procurator Fiscal should be specifically encouraged not to prosecute if it is in the public interest not to do so, and the police should be entitled to issue an airgun licence to the holder in such circumstances and/or should allow the transfer of the airgun to a licence holder or registered firearms dealer. Whilst airguns are indeed covered by

the Firearms Acts, possession of low-powered airguns has not previously required a licence under section 1 of the 1968 Act for a very good reason – i.e. they are low-powered and are of low lethality. It is important that those who fall foul of the new regime should not be treated as severely as those who are found in illegal possession of e.g. an AK47.

**Question 17: Do you agree that penalties should be set at the same level as for shotgun offences?**

As noted in our response to Question 16 above, low-powered airguns are precisely that – they are not high-powered firearms. This explains why very few countries have chosen to license them at all, in contrast to the Scottish Government’s proposed course of action. It would therefore be wholly unreasonable for penalties to be set at the same level as shotgun offences. Leaving aside matters such as assault using an airgun, for regulatory matters such as possession of an airgun without an airgun licence, STS consider that a monetary fine should be sufficient, and that custodial sentences should not be permitted. It would seem unduly harsh for a person to be deprived of their liberty for possessing an airgun which is of low lethality and which very few other countries in the free world have chosen to bring into a licensing regime at all.

**Question 18: How else might the message be spread?**

In order for the message to reach casual shooters, a large scale TV and radio campaign, running for a period of some weeks or months, would be essential.

[Please send any responses, along with a completed Respondent Information Form, to either:

[AirWeaponLicensing@Scotland.gsi.gov.uk](mailto:AirWeaponLicensing@Scotland.gsi.gov.uk)

or

Police Powers Unit  
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