

Air Weapons and Licensing (Scotland) Bill: Introductory Questions



The Scottish Parliament
Pàrlamaid na h-Alba

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:

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FOR OFFICE USE ONLY SUBMISSION ID 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.**

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

Name/Organisation:

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.

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

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

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?

Name/Organisation:

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?

Name/Organisation:

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?

Name/Organisation:

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?

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

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

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?

Name/Organisation:

CMA

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?

The Office of Fair Trading (OFT) conducted a market study in 2003¹ on the regulatory framework affecting licensed taxi and private hire vehicles (PHVs) across the UK. The report found that consumers value quality and safety controls for vehicles and drivers, and licensing addresses these issues which might be difficult for them to judge when hiring a vehicle (for example the technical safety of the vehicle and the competence of the driver). Quality and safety controls and licensing are therefore necessary to ensure passenger safety and security.

However, using licensing to limit the number of new taxis and PHVs may lead to an increased demand for illegal taxis where neither the driver nor the vehicle has been subject to appropriate quality and safety checks. We believe this could expose consumers to greater safety threats. Limited supply of taxis could also contribute to difficulties faced by the police in clearing city centres or public places in the evenings.

In 2003 the OFT said that licensing authorities should consider the needs of consumers and the effect of the proposed specifications on the availability of taxis and PHVs. Limiting the number of PHVs should be a last resort and licensing authorities should try to ensure that any quality and safety specifications do not go beyond what is required to achieve this policy aim.

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?

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http://webarchive.nationalarchives.gov.uk/20140402142426/http://www.offt.gov.uk/shared_offt/reports/comp_policy/oft676.pdf

In the 2003 report the OFT found that the two tier system of taxis and PHVs worked well and benefited both consumers and licensing authorities. The main benefits being:

- It provides a degree of choice for the consumer in terms of vehicle type. This is particularly important for disabled and older consumers who will often require a particular type of vehicle, which is not necessarily the traditional, wheelchair accessible taxi.
- It increases choice and value for money for consumers living close to administrative borders. Taxis can take passengers from within their licensed area to other licensing authorities but can't accept bookings for passengers or ply for hire outside the area in which they are licensed. PHVs, on the other hand, can take passengers from any point to any other providing the PHV driver, vehicle and operator are licensed in the same area.
- It allows regulations to be targeted at the parts of the market where they are needed, without disrupting the market in sectors where such regulation is unnecessary. For example separate regulations for vehicles that only work in the phone booked or online sector of the market, where OFT research has shown competition and consumer protection issues are less of a problem, allow these vehicles to be subject to less regulation. In contrast, taxis plying on the street and at ranks, where there is more need to protect consumers, are subject to much tighter regulations. The reduced amount of regulation benefits both PHV providers and licensing authorities.
- It also provides for greater competition and choice, on both quality and price, in the telephone and online markets, and to a lesser extent, between rank/hail and telephone markets. Competition encourages taxi and PHV drivers to offer better value for money and better quality service to consumers.

The OFT did find that there are some drawbacks of the two tier system. The main issue being that consumers can find it hard to tell the difference between taxis and PHVs. This can mean that consumers may not be aware what regulation applies to the vehicle they are travelling in. It may be that this lack of consumer awareness impedes monitoring and enforcement in circumstances where some PHV operators may be illegally plying for hire. For example, in circumstances where taxis may not be able to meet all of consumer demand at certain peak times.

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?

The CMA’s view is that the current regime is fit for purpose and we have not seen any evidence that suggests that consumers are disadvantaged by it. A new system of licensing will require initial start-up costs which could be expected to be high and also ongoing costs to PHVs. Introducing these costs may impact on the supply of PHVs in a locality due to reduced incentives that result from lower profits.

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?

In relation to Section 60 of the Bill we believe that the market works better without quantity restrictions on taxis and PHVs. The OFT's market study found that the licensed taxi and PHV market is already highly regulated and that the overall quality of taxi services could be enhanced by reducing aspects of the regulatory framework. We found that quantity restrictions can actually have an adverse impact on both choice and price for consumers. The long term benefit to society of lifting quantity restrictions, in terms of lower waiting times, improved safety and lower costs of market entry outweigh the potential drawbacks. This would also introduce greater consistency between the two forms of transport.

We consider that the current two-tier system, provided it differentiates between the two regulatory regimes for taxis and PHVs on objective and proportionate criteria, is fit for purpose. The CMA recognises and understands that there are circumstances where it will be appropriate to have a quantity restriction for taxis, for example when there are concerns about public safety, congestion or pollution. We have not seen any objective evidence that suggests that similar circumstances might apply in respect of PHVs, given that they are demand-responsive. Without such evidence, it is difficult to see how local licensing authorities will be able to determine whether there is over-provision of PHVs in their areas. Private hire cars can only be pre-booked and therefore demand is not as easily measured in the same way as with taxis. Consideration will need to be given to ensuring that any policy on overprovision of PHVs is robust against challenge, given the difficult task of determining whether this is, in reality, causing actual consumer detriment. Local licensing authorities, in our view, would be advised to consider cautiously representations made by competitors of potential new entrants to the taxi/PHV market in this regard. We understand that the Scottish Government will be producing guidance to assist local licensing authorities. We believe that licensing authorities should be made to consider whether introducing licensing restrictions for PHVs are the most appropriate method of achieving the policy objective, and, for any given locality, whether quantity restriction is the most appropriate and proportionate response.

We would strongly encourage the Scottish Government to consider these points when preparing guidance for licensing authorities on measuring over provision and seek advice from the CMA on the potential risks of restricted competition and poorer outcomes for consumers.

We believe setting particular requirements for driver licensing including a geographical knowledge test can be a good way for licensing authorities to manage driver quality directly. Consumers are likely to expect both PHV and taxi drivers to have a level of geographical knowledge. When hiring a taxi or PHV they are unable to judge whether a driver has a good geographical knowledge or not. A test is an effective way of establishing a driver's level of knowledge. However, any tests need to be based on clear, objective and transparent criteria and be proportionate.

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?

The licensing of hire cars being used on contract for 24 hours or more was not covered in the OFT's 2003 Market Study. However, updating licensing conditions to ensure that there is consistency across local authority areas will help to create a 'level playing field' across the sector. This would ensure that competition is not distorted. We understand that one of the areas this will cover is voluntary transport arrangements that are run as a charitable activity. The provisions of competition law can also apply to operations that are run a not for profit basis.

Name/Organisation:

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?

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'?



Name/Organisation:

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?

Name/Organisation:

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?