

# **AIR WEAPONS AND LICENSING (SCOTLAND) ACT 2015**

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## **EXPLANATORY NOTES**

### **STRUCTURE AND SUMMARY OF THE ACT**

#### **Part 1 – Air Weapons**

##### **Air weapon clubs and recreational shooting facilities**

##### *Section 18 – Approval of air weapon clubs*

72. This section sets out the process by which an air weapon club can be approved by the Chief Constable, to allow its members to benefit from the exemption at paragraph 1 of schedule 1, as well as allowing members to put forward their club membership as evidence that they meet the ‘good reason’ criteria required by section 5(1)(c) for the grant of an individual air weapon certificate.
73. Subsection (1) states that the Chief Constable may, at the Chief Constable’s discretion, approve an air weapon club on receipt of an application from a club. Subsection (2) states that an application for an air weapon club approval cannot be considered unless it complies with the requirements set out in regulations to be made under section 36. Separately, section 35(3) has the effect that where an application is made in compliance with the application processes it still cannot be considered by the Chief Constable until the fee is paid.
74. Subsection (3) allows the Chief Constable to withdraw a club approval at any time, by giving notice to the club to that effect.
75. Subsection (4) states that all club approvals will be subject to mandatory conditions, which will be specified in regulations issued under section 36. Subsection (5) provides for the Chief Constable to attach other conditions to air weapon club approvals, which may place positive or negative obligations on the club’s secretariat and membership. But, in accordance with subsection (6), the Chief Constable may not attach any conditions which are inconsistent with any mandatory conditions.

##### *Section 19 – Variation of approval*

76. This section allows the Chief Constable to vary any of the details on an air weapon club approval after it has been granted or renewed, including adding, amending or removing conditions on the approval (except the mandatory conditions required by section 18(4)). The Chief Constable may vary an approval at any time, but is obliged to notify the club of the changes made.
77. Subsection (2)(a) separately allows the club to request that the Chief Constable make such a variation, for example to provide an updated contact address, or to request the removal or amendment of an outdated condition. Decisions whether to grant such variations are made at the Chief Constable’s discretion.

78. Subsection (3) specifies that conditions attached by the Chief Constable must not be inconsistent with or undermine the effect of any of the mandatory conditions (as required by section 18(4)).

### ***Section 20 – Duration of approval***

79. Subsection (1) sets the duration of air weapon club approvals at six years, which is consistent with approvals issued to rifle or muzzle-loading pistol clubs under section 15 of the Firearms (Amendment) Act 1988 (“the 1988 Act”).
80. Subsection (2) provides that an air weapon club approval will remain valid beyond its stated expiry date, provided that the club has applied to the Chief Constable for a renewal before that expiry date and the Chief Constable has not yet approved or rejected that renewal. The effect of this subsection is that club members can continue to benefit from the exemption at paragraph 1 of schedule 1 when the original approval expires, provided that renewal is being actively considered by the Chief Constable.
81. Subsection (3) provides the Scottish Ministers with the power to change the duration of air weapon club approvals. The regulations will be subject to the affirmative procedure.

### ***Section 21 – Alignment of club approvals***

82. This section allows air weapon club approvals to be made co-terminous with a rifle club approval issued by the Scottish Ministers under section 15 of the 1988 Act. This allows for both approvals to be due for renewal at the same time, minimising the workload for the applicant and the Chief Constable. Regulations under section 35 are expected to make provision for a proportionately lowered fee where such air weapon club approvals are granted or renewed for significantly shorter duration. This section does not affect the duration of rifle club approvals.
83. Subsections (1) and (2) allow an air weapon club which already holds a valid rifle club approval to request that the expiry date on an air weapon club approval – if granted or renewed – matches the expiry date on their existing rifle club approval. Because the standard duration for rifle and air weapon club approvals are both set at six years, an air weapon club approval issued in this way will necessarily have a shorter than normal duration when it is first granted.
84. Subsections (3) and (4) allow a club that already holds a live air weapon club approval to request that that approval be renewed before it has run its full six year lifespan, and re-issued on the same date that a new or renewed rifle club approval is granted, so that the expiry dates on both approvals are aligned. This will necessarily mean that the air weapon club approval which was originally paid for on a six year basis will not have lasted for its full duration.
85. References in this section to “rifle club approvals” include clubs approved for the use of small-bore rifles, full-bore rifles and/ or muzzle-loading pistols, all of which are approved under section 15 of the 1988 Act.

### ***Section 22 – Power to enter and inspect club premises***

86. This section empowers the Chief Constable – or a delegated officer not below the rank of inspector – to authorise a police constable or member of police staff to enter and inspect any approved air weapon club premises, other than a private dwelling, to ensure that the requirements in this Part are being complied with. Subsection (3) provides that the inspection should, where possible, take place at a reasonable time, which may be any time that the club is operating including in the evenings or at weekends. Subsections (1)(b) and (2) set out that the police constable or member of police staff can inspect anything on the club premises, including requiring electronic information to be reproduced in a visible and legible form. However inspection should only be of

those things for the purpose of ascertaining whether the provisions of the Part or any conditions attached to a club's approval are being complied with.

87. Subsection (4) requires that the police constable or member of police staff must produce their authorisation if asked before entering a club premises to inspect it in accordance with this section.
88. Subsections (6) and (7) set out the offence of intentionally obstructing a police constable or member of police staff from carrying out their duties when authorised under this section – for example, by refusing them access to the club premises, or by concealing evidence from them.

### ***Section 23 – Requirements for recreational shooting facilities***

89. This section and the exemption in paragraph 12 of schedule 1 set out arrangements for commercial recreational shooting facilities where individuals who do not hold air weapon certificates will be able to borrow or hire air weapons for short durations, for a specific purpose – for example, a miniature rifle range at a funfair.
90. Subsection (1) sets out that the operator of such a facility must hold (or, where the operator is a non-natural person, must ensure that an individual responsible for the management and operation of the facility holds) a valid air weapon certificate granted for this purpose, and must display this certificate (or a copy) at the venue. This requirement allows users of the facility to confirm that a certificate is in place and the exemption in paragraph 12 of schedule 1 therefore applies to them.
91. Subsections (2) and (3) make it an offence for anyone to operate a recreational shooting facility without either holding a valid air weapon certificate or ensuring that an individual responsible for the management and operation of the facility holds one for that purpose, or to fail to display that certificate at the facility without a reasonable excuse. The offences attract strict liability.
92. Subsection (4) defines “recreational shooting facility” for the purposes of the section as a miniature rifle range or a shooting gallery, or a facility for combat games, where air weapons are used and which is run for the purpose of making a profit. Subsection (5) makes it clear that approved air weapon clubs are not subject to the requirements of this section.