

AIR WEAPONS AND LICENSING (SCOTLAND) ACT 2015

EXPLANATORY NOTES

STRUCTURE AND SUMMARY OF THE ACT

Part 1 – Air Weapons

General

Section 38 – Transitional arrangements for existing certificate holders

125. This section introduces a temporary exemption that applies to persons who are aged 14 years or over and already hold a firearm and/ or shotgun certificate issued under the 1968 Act at the point when the section 2 offence is brought into force. Under subsection (2) such persons can possess and use (but not purchase or acquire) air weapons without holding an air weapon certificate, until their existing firearm and/ or shotgun certificate expires or is renewed. When renewing the firearm or shotgun certificate the individual should apply to the Chief Constable for first grant of an air weapon certificate if it is desired to continue to possess or use an air weapon.
126. This section also applies to firearm and shotgun certificates issued in the rest of Great Britain, so someone from England or Wales who holds valid a firearm and/ or shotgun certificate could visit Scotland with an air weapon without requiring to apply for a visitor permit, subject to the restrictions set out below.
127. Subsection (3) requires that a person making use of this exemption must nonetheless comply with the mandatory conditions for air weapon certificates to be specified in regulations issued under section 36 – and, in the case of an individual aged below 18, can only use the air weapon for of the purposes mentioned in section 7(5). Subsections (4) to (6) set out the offence, exception and penalty related to non-compliance with the conditions mentioned in subsection (3). This offence attracts strict liability.
128. Subsection (7) sets out that this transitional exemption applies from the day that the offence at section 2 comes into effect, and ends on the day that the individual's firearm and/ or shotgun certificate is renewed or expires. Subsection (7)(b)(ii) provides that should the firearm and/ or shotgun certificate be surrendered, cancelled or revoked before its stated expiry date, the transitional exemption will also end.
129. Subsections (8) and (9) apply where the individual holds both a firearm and shotgun certificate, which are not co-terminous. Subsection (8) states that the transitional exemption ends on the later of the two certificate expiry dates. Subsection (9) states that should either certificate be surrendered the transition exemption continues in force until the remaining one expires or is surrendered, while if either certificate is cancelled or revoked then the transitional exemption ends immediately. Subsection (10) ensures that those making use of the exemption are also able to make use of the exemption in paragraph 16 of schedule 1.