

2016 No. 130 (C. 13)

ARMS AND AMMUNITION

CRIMINAL LAW

**The Air Weapons and Licensing (Scotland) Act 2015
(Commencement No. 3 and Transitional Provisions) Order 2016**

Made - - - - - *24th February 2016*

Laid before the Scottish Parliament *26th February 2016*

Coming into force - - - *1st July 2016*

The Scottish Ministers make the following Order in exercise of the powers conferred by section 88(2) and (3) of the Air Weapons and Licensing (Scotland) Act 2015(a).

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Air Weapons and Licensing (Scotland) Act 2015 (Commencement No. 3 and Transitional Provisions) Order 2016 and comes into force on 1st July 2016.

(2) In this Order—

“advance application” means, in relation to an application for the grant of an air weapon certificate or a permit under Part 1 of the Act, an application made before 31st December 2016 (being the day appointed for the coming into force of the requirement for an air weapon certificate under section 2 of the Act);

“the Act” means the Air Weapons and Licensing (Scotland) Act 2015.

Provisions which come into force on 1st July 2016

2.—(1) 1st July 2016 is the day appointed for the coming into force of the provisions of the Act specified in column 1 of the table in the Schedule (the subject matter of which is described in column 2 of that table).

(2) Where a purpose is specified in column 3 of that table in relation to any provision specified in column 1, that provision comes into force on 1st July 2016 for that purpose only.

Provisions which come into force on 31st December 2016

3. 31st December 2016 is the day appointed for the coming into force of the following provisions of the Act—

(a) Part 1 (air weapons), including schedule 1 (exemptions), in so far as not already in force;

- (b) section 87 (minor and consequential amendments and repeals), but only for the purpose of giving effect to Part 1 of schedule 2; and
- (c) Part 1 of schedule 2 (which makes minor and consequential amendments and repeals relating to Part 1 of the Act).

Transitional provision: the requirement for an air weapon certificate

4.—(1) Despite article 3(a), it is not an offence under section 2(1) of the Act for a person on or after 31st December 2016 to possess (but not to use, purchase or acquire) an air weapon without holding an air weapon certificate if—

- (a) the person has, before 1st November 2016, made an application for the grant of an air weapon certificate under section 3 of the Act or (as the case may be) a police permit under section 12 of the Act; and
- (b) the application has, through no failure on the person's part, not yet been finally determined.

(2) For the purpose of paragraph (1)(b), an application is finally determined when—

- (a) it is granted;
- (b) it is withdrawn; or
- (c) it is refused and either—
 - (i) the time limit for appeal against refusal expires without an appeal having been made; or
 - (ii) an appeal against refusal is dismissed or withdrawn and there is no further right of appeal.

Transitional provision: certificates and permits granted before 31st December 2016

5. Where an air weapon certificate, a police permit, a visitor permit or an event permit is granted under Part 1 of the Act before 31st December 2016, it does not take effect until that date (except, where applicable, for the purpose of any earlier variation, revocation or cancellation of the certificate or (as the case may be) permit under that Part).

Transitional provision: certificates and permits revoked before 31st December 2016

6. If, before 31st December 2016, the chief constable gives notice under section 11(3) or 16(1)(d) of the Act that an air weapon certificate, a police permit or (as the case may be) a visitor permit is revoked, the date which may be specified in the notice for the purposes of section 11(4)(b) or (as the case may be) 16(5)(b) must be no earlier than 31st December 2016.

MICHAEL MATHESON
A member of the Scottish Government

St Andrew's House,
Edinburgh
24th February 2016

SCHEDULE

Article 2

PROVISIONS OF THE ACT WHICH COME INTO FORCE ON 1ST JULY 2016

<i>Column 1</i> <i>Provisions of the Act</i>	<i>Column 2</i> <i>Subject matter</i>	<i>Column 3</i> <i>Purpose</i>
Sections 3, 4, 5, 6(1) to (3), 7, 8(1), 9(1) and (2), 10 and 11(1) to (4) and (7)	Air weapon certificates	For the purposes of— (a) enabling advance applications for the grant of an air weapon certificate to be made, registered and determined; and (b) enabling such certificates to be granted (and, if required, to be subsequently varied or revoked) before 31st December 2016.
Sections 12, 13, 14, 15(1) to (3), 16(1) to (5) and (8) and 17(1), (2), (6) and (7)	Permits	For the purposes of— (a) enabling advance applications for the grant of a police permit, visitor permit or event permit to be made and determined; and (b) enabling such permits to be granted (and, if required in the case of any police permit or visitor permit, to be subsequently varied or revoked) before 31st December 2016.
Sections 18, 19, 20, 21 and 22	Air weapon clubs	
Section 28	Cancellation of air weapon certificate	
Section 31(1) and (3)	False statements, certificates and permits	
Section 32	Time limit for offences	
Section 33	Offences by bodies corporate etc.	
Section 34 (other than subsection (2)(n))	Appeals	
Section 35(3)	Fees	
Section 37	Crown application	
Section 39(1)	Guidance	

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force the provisions of the Air Weapons and Licensing (Scotland) Act 2015 (“the Act”) regarding the licensing and regulation of air weapons. It also makes related transitional provisions.

The Order brings the air weapons licensing regime under Part 1 of the Act partially into force on 1st July 2016, and fully into force on 31st December 2016. From 31st December 2016, it will be an offence under section 2 of the Act for a person to use, possess, purchase or acquire an air weapon without holding an air weapon certificate (unless any of the exemptions in schedule 1 to the Act apply).

Article 2 brings into force, on 1st July 2016, the provisions specified in the Schedule to the Order (some of which are brought partially into force for limited purposes only). These include provisions that enable applications for air weapon certificates, police permits, visitor permits and event permits to be made and determined, and for such certificates and permits to be granted, before 31st December 2016. They also provide for any such air weapon certificates, police permits and visitor permits to be subsequently varied or revoked, if required, before 31st December 2016. Other provisions coming into force on 1st July 2016 include those relating to air weapon clubs and cancellation of air weapon certificates, as well as certain offence-related and general provisions.

Article 3 brings into force, on 31st December 2016, Part 1 of the Act in so far as not already in force, as well as the minor and consequential amendments and repeals in Part 1 of schedule 2 to the Act.

Articles 4 to 6 make specific transitional provision so that –

- (a) a person who possesses an air weapon without holding an air weapon certificate, on or after 31st December 2016, does not commit an offence if the person has applied for an air weapon certificate or police permit, before 1st November 2016, but that application has not yet been finally determined by the time section 2 of the Act comes fully into force on 31st December 2016;
- (b) an air weapon certificate, police permit, visitor permit or event permit granted before 31st December 2016 does not take effect until that date (except for the purpose of any earlier variation, revocation or cancellation), ensuring that any conditions restricting a person’s possession and use (etc.) of an air weapon do not apply until section 2 of the Act comes fully into force on 31st December 2016;
- (c) the revocation of an air weapon certificate, police permit or visitor permit before 31st December 2016 does not result in the holder of the certificate or permit being required to surrender any air weapons that the holder possesses in advance of section 2 of the Act coming fully into force on that date (although, depending on the circumstances leading to the revocation, the enforcement powers under the Firearms Act 1968 (c.27) may still apply).

The Bill for the Act received Royal Assent on 4th August 2015. Sections 60(1) and (2), 84, 85, 86, 88 and 89 of the Act came into force on the following day.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The following provisions of the Act have been, or are due to be, brought into force by commencement orders made before the date of this Order.

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.S.I. No.</i>
Section 1	1st December 2015	2015/382
Section 2(4)	1st December 2015	2015/382

Sections 35(1), (2) and (4)	1st December 2015	2015/382
Section 36	1st December 2015	2015/382
Section 39(2) and (3)	1st December 2015	2015/382
Section 40	1st December 2015	2015/382
Section 56 (partially)	1st December 2015	2015/382
Section 65(1), (2), (4) and (5)	1st December 2015	2015/382
Sections 66 to 69	1st September 2016	2016/85
Section 70(1) and (3) (partially)	1st December 2015	2015/382
Section 70 in so far as not already in force	1st September 2016	2016/85
Section 72 (partially)	16th March 2016	2016/85
Section 72 in so far as not already in force	1st September 2016	2016/85
Section 73	1st December 2015	2015/382
Section 76(1) and (3) (partially)	1st December 2015	2015/382
Section 79	1st December 2015	2015/382
Section 80(1) and (2) (partially)	1st December 2015	2015/382

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