



Air Guns, the Law and How the Police Frequently Get it Wrong

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The Forensic Firearms Consultancy (FFC) Ltd is frequently instructed in cases involving air guns. Depending on the circumstances, somebody in possession of an air gun can be charged with a number of offences under the Firearms Act 1968. One such offence is the possession of a specially dangerous air weapon. This article explains what this means and how the police's approach in determining an air gun's status frequently ignores accreditation standards and results in an answer that is not scientifically supportable.

There are millions of air guns in circulation in the UK today; law-abiding citizens who use them for recreational purposes, target shooting or vermin control possess the vast majority. Most air guns that use a spring-piston or a pre-charge mechanism are "firearms". The definition of "firearm" is given in section 57(1) of the Firearms Act 1968, it states:

In this Act, the expression "firearm" means a lethal barrelled weapon of any description from which any shot, bullet or other missile can be discharged and includes—

- (a) any prohibited weapon, whether it is such a lethal weapon as aforesaid or not; and
- (b) any component part of such a lethal or prohibited weapon; and
- (c) any accessory to any such weapon designed or adapted to diminish the noise or flash caused by firing the weapon; and so much of section 1 of this Act as excludes any description of firearm from the category of firearms to which that section applies shall be construed as also excluding component parts of, and accessories to, firearms of that description.

The term “air weapon” is encountered throughout the 1968 Act, its definition within the Act might seem rather convoluted, and it is found in section 1(3)(b), which states: an air weapon (that is to say, an air rifle, air gun or air pistol) which does not fall within section 5(1) and which is not of a type declared by rules made by the Secretary of State under section 53 of this Act to be specially dangerous.

The upshot of this is that all air weapons capable of causing a fatal injury are firearms and they, and their component parts, are not subject to section 1 certificate control, provided they are not specially dangerous. You may think the phrase specially dangerous is a curious one, however it does have a precise definition in the Firearms (Dangerous Air Weapons) Rules 1969. In a nutshell these Rules give kinetic energy limits for pellets discharged from an air weapon; if an air weapon is capable of exceeding these limits then it is deemed specially dangerous. For air pistols the kinetic energy limit is 6 foot pounds and for air rifles it is 12 foot pounds. Consequently if an air rifle exceeds the 12 foot pound limit then it becomes a section 1 firearm and a Firearms Certificate is required to possess it, however if an air pistol which has a barrel less than 30cm or an overall length less than 60cm, exceeds the 6 foot pound limit then it becomes a prohibited weapon by virtue

of section 5(1)(aba) of the 1968 Act as amended by the Firearms (Amendment) Act 1997. Possession of a section 5(1)(aba) prohibited weapon carries a mandatory minimum sentence of 5 years imprisonment.

Despite there being no statutory quantitative definition of “firearm” the police tend to use a figure of 1 Joule in their assessment of what is or isn’t a firearm⁽²⁾. There is no scientific basis for using this figure.

Police Forces sometimes employ their own in-house armourers to classify air guns. The core duty of police armourers is to maintain and issue the weapons used by the Force’s armed response units. However in recent times armourers have been tasked to classify seized guns, including air guns, a job that would once have been done by trained firearms forensic scientists. When they determine the power of an air gun armourers tend to use unaccredited equipment and procedures, the former not having been calibrated to any traceable standards. FFC Ltd has been instructed in cases where police armourers have measured the output of air rifles as being between 12 and 13 foot pounds and a prosecution has ensued. This is the numerical equivalent of a motorist driving at a maximum speed of 32.5mph in a 30mph zone and then being



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Forensic Firearms Consultancy (FFC) Ltd is an innovative company led by two world-renowned experts.

During their time at the UK Forensic Science Service (FSS), Mark Mastaglio and Angela Shaw became the most senior scientists working in forensic firearms and gunshot residue (GSR) respectively. It is the only UK-based private consultancy offering this level of expertise, experience and worldwide reputation in firearms and GSR. FFC can undertake work at every level of forensic firearms and GSR examinations and has extensive experience of complex, sensitive cases from across the globe.

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FFC’s Expert Witness service includes:

- ❖ Examination of the full range of cases, from the alleged illegal possession of firearms and ammunition to complex interpretation of fatal shooting incidents
- ❖ In-depth knowledge of firearms legislation involving complex classification issues – an insider’s knowledge of firearms law policy
- ❖ Antique firearm evaluation
- ❖ Air gun classification
- ❖ Computer aided simulations of crime scenes and projectile trajectories”
- ❖ Potential for accidental discharge
- ❖ Trajectory reconstruction analysis, including scene visits
- ❖ Determination of the type of gun used
- ❖ Determination of how many guns used
- ❖ Range of fire determination
- ❖ Interpretation of autopsy findings, including autopsy examination attendance
- ❖ Interpretation of GSR findings (incorporating SEM-EDX results)
- ❖ Critical analysis of GSR contamination issues

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arrested by the traffic police and prosecuted for speeding. Worse still it is the equivalent of the traffic police using unaccredited processes and incorrectly calibrated radar speed guns!

The law concerning air guns and their classification is not straightforward. The police classification of air guns, using a definition of firearm that has no basis in law or science coupled with the use of unaccredited procedures and equipment not traceable to any national standards, has frequently been found to be wanting.

FFC Ltd has a huge amount of experience in determining whether or not the methodology used in air gun classification is fit for purpose. The use of improper methods by the police has been, and will continue to be, successfully challenged by FFC Ltd. ■

References

- 1 The foot pound is an imperial nomenclature unit of energy defined as the energy required to raise a 1lb mass a height of 1'.
- 2 The Joule is the SI nomenclature unit of energy defined as the energy required to raise a 1Kg mass a height of 1m.