

**Northern Ireland Office**

**EXPLANATORY DOCUMENT**

**Proposal for a draft  
Firearms (Northern Ireland) Order 2002**

**22 July 2002**

NORTHERN IRELAND OFFICE  
PROPOSAL FOR A DRAFT ORDER IN COUNCIL  
UNDER SECTION 85 OF THE NORTHERN IRELAND ACT 1998  
DRAFT FIREARMS (NORTHERN IRELAND) ORDER 2002

**EXPLANATORY DOCUMENT**

This Explanatory Document has been prepared by the Northern Ireland Office to assist the understanding of the proposed draft Firearms (Northern Ireland) Order 2002 and to help inform debate of the Proposal. It does not form part of the draft Order.

The Document should be read in conjunction with the Proposal. It is not meant to be a comprehensive description of the Proposal so when a draft article or part of a draft article does not require additional explanation or comment, none is given.

Comments on the Proposal are invited and should be forwarded to arrive at the address below no later than 31 December 2002.

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Comments may also be sent by e mail to [fe@nics.gov.uk](mailto:fe@nics.gov.uk)

**Unless respondents say otherwise, we may wish to make their comments public.**

Further copies of the Proposal and this Document may be obtained free of charge from the above address. They are also available on the Northern Ireland Office website: [www.nio.gov.uk](http://www.nio.gov.uk).

## **BACKGROUND AND SCOPE**

1. The Draft Order has been prepared following a detailed review of Northern Ireland's firearms legislation, principally the Firearms (Northern Ireland) Order 1981, by the Northern Ireland Office (NIO). The aim of the review was to assess whether the legislation remained relevant, effective and proportionate and whether it struck the right balance between the level of public safety demanded by modern society and the reasonable expectations of the shooting community and firearms trade.

2 The review also examined the proposals for the reform of firearms controls in Great Britain contained in Lord Cullen's report of his Inquiry into the fatal shootings at Dunblane Primary School on 13 March 1996, to assess whether similar reforms might be introduced in Northern Ireland. Much of what was recommended by Lord Cullen was accepted; indeed a number of his recommendations were already the practice in Northern Ireland.

3. The Government is committed under the terms of the Good Friday Agreement to continue its consultation on firearms regulation and control on the basis of the paper (Control of Firearms Proposals for Reform) published in April 1998.

4. The paper drew comment from a wide cross section of interested groups including district councils, Members of Parliament, local and national shooting organisations, firearms clubs and dealers, the police and the general public. Comments were generally supportive. Criticism of some proposals led to their being changed or dropped completely, most notably the proposal to bring those antique firearms which are capable of firing a shot under certificate control.

5. The Government's approach has been to reduce regulation where that could be done without compromising public safety. This is reflected in the proposals to remove from certificate control those air and CO2 guns, which operate at a kinetic energy of 1 joule or less, and also deactivated firearms. Similarly the Government proposes to relax controls to allow the possession and use of certain firearms without the need for a firearm certificate in specific circumstances, for example to provide for use of shotguns on private lands approved for the purpose. It also intends to provide for recreational combat games like paintball. This will benefit the

business and tourism sectors as well as the general shooting community.

6. The main consideration guiding the review was public safety and the enhancement, most notably the replacement of the existing system of renewal of firearm certificates with one of ongoing grants. This reflects the concerns of Lord Cullen that certificate renewals were routinely subjected to a lesser degree of rigour than the initial application for a grant. The new arrangements reinforce the need for comprehensive reassessment of certificate holders' circumstances.

7. The review concluded that a fundamental aspect of public safety should be whether an applicant could handle and use a firearm competently. Having considered the excellent safety record of firearms users in Northern Ireland together with the low incidence of misuse of legally held firearms the Government has decided that its initial proposal for all applicants to undergo a training course and test was disproportionate. It holds to the view, however, that there are certain fundamental protocols and practices which firearms owners should know and observe in the interest of public safety.

8. The Government has, therefore, included a provision to enable basic instruction in the safe handling and use of a firearm to be given to persons prior to purchase without the need for a firearm certificate. This instruction could be given by firearms dealers or qualified officials of firearms clubs and recognised shooting organisations and governing bodies. This requirement will be limited to those seeking an initial grant of a firearm certificate and those existing certificate holders seeking to acquire a firearm of a different type from that already held. Existing training arrangements governing the authorisation of full bore hunting rifles and target firearms will remain. Details of these together with the core competences, which the basic safety instruction will address, will be included in a guidance document which will be published and available to all.

9. Although not included in the published proposals, subsequent consideration of the implications of the Human Rights Act 1998 indicated that the present provisions for the determination of firearms appeals and applications for the removal of statutory prohibition by the Secretary of State were liable to challenge. In light of this, the Government proposes to transfer the responsibility for determining appeals and applications to the Courts, as is the case in Great Britain. For the same reasons it proposes to provide a right of appeal in some other decision-making areas where it does not presently exist.

## **THE PROVISIONS OF THE ORDER**

### ***INTRODUCTORY***

**Article 1** deals with the title and commencement of the Order on a day to be appointed by the Secretary of State.

**Article 2** attracts to the Order the provisions of the Interpretation Act (Northern Ireland) 1954 and provides additional interpretation of the draft.

### ***FIREARM CERTIFICATES, ETC.***

**Article 3** provides that a person shall be guilty of an offence if he possesses, purchases or acquires any firearm or ammunition without holding a firearm certificate. Schedule 1 sets out the exemptions to the requirement to hold a firearm certificate.

**Article 4** provides the procedure for applying to the Chief Constable for the grant of a firearm certificate. The option of renewal has been removed. It is an offence knowingly or recklessly to make any false statement to obtain a firearm certificate. The procedure includes new requirements for an applicant to provide the names of two referees and to permit the Chief Constable to approach the applicant's general practitioner to obtain medical information relevant to the application.

**Article 5** provides the criteria whereby the Chief Constable may grant a firearm certificate. These have been redrafted to give primacy to public safety.

**Article 6** provides that the Chief Constable may when granting a firearm certificate attach conditions to it and may at any time by notice in writing attach new conditions or vary them. It is an offence not to comply with the conditions.

**Article 7** sets out the conditions whereby the Chief Constable may grant a firearm certificate to young persons of 16 years to 18 years.

**Article 8** provides for the content of a firearm certificate and increases its duration from 3 years to 5 years.

**Article 9** provides that the Chief Constable may revoke, partially revoke or vary a firearm certificate, and sets out the conditions for doing so. It is an offence for any person to make a false statement to procure a variation of a firearm certificate.

**Article 10** sets out the actions that the Chief Constable and the holder of a firearm certificate must take as a consequence of revocation.

**Article 11** provides that the Chief Constable must grant and must not revoke or partially revoke a firearm certificate in respect of a prohibited weapon or ammunition if the applicant or holder is authorised by the Secretary of State to have the weapon or ammunition.

**Article 12** provides for the surrender or disposal of relevant firearms and ammunition on the expiration of a firearm certificate.

**Article 13** provides for visitors' permits, similar to the arrangements in GB, to replace the existing firearm certificate procedure for visitors who wish to bring their firearms to Northern Ireland.

**Article 14** provides for the holder of a firearm certificate or shotgun certificate granted in Great Britain to possess his firearms in Northern Ireland provided that he has obtained a certificate of approval from the Chief Constable.

**Article 15** provides that a Great Britain resident may possess an airgun without a firearm certificate in Northern Ireland if one is not required in Great Britain, provided that he has obtained a certificate of approval from the Chief Constable.

**Article 16** provides for the issue of a European firearms pass for persons wishing to take their legally held firearms to another member State and prescribes the particulars which the pass must contain.

**Article 17** provides for the duration of a European firearms pass.

**Article 18** provides for the renewal of a European firearms pass, and where it has expired without being renewed, for its surrender to the Chief Constable.

**Article 19** provides for the issue of an Article 7 Authority, which is a requirement of the European weapons directive whereby any EU resident

who wishes to buy or acquire certain firearms in another EU State must obtain the prior agreement of the authorities in his state of residence.

**Article 20** provides that a European firearms pass may be varied, revoked or cancelled by the Chief Constable. He may also revoke an Article 7 document. The Article sets out the procedure to follow in the event of the loss of a firearm recorded on a pass.

### ***FIREARMS DEALERS***

**Article 21** makes it an offence for any person to trade or operate as a firearms dealer without holding a firearms dealer's certificate issued by the Chief Constable.

**Article 22** details the procedure and requirements for making an application for the grant of a firearms dealer's certificate to the Chief Constable.

**Article 23** provides the criteria whereby the Chief Constable may grant a firearms dealer's certificate. In particular the Article brings the legislation into line with Great Britain by replacing the "need" criterion of the current Order with the requirement that the Chief Constable is satisfied that the applicant will engage in business as a firearms dealer to "a substantial extent or as an essential part of another trade or profession".

**Article 24** provides that the Chief Constable may, when granting a certificate, attach conditions to it and that subsequently he may, by notice in writing, vary or revoke them. It also gives the Secretary of State the power to give directions to the Chief Constable as to the conditions to be imposed, varied or revoked.

**Article 25** provides for the content of a firearms dealer's certificate, and extends its duration from 3 to 5 years.

**Article 26** provides for the revocation and variation of a firearms dealer's certificate by the Chief Constable and sets out the conditions for doing so. It also sets out the actions that the Chief Constable and the holder of a firearm certificate must take as a consequence of revocation and appeal.

**Article 27** provides that when a firearms dealer's certificate has expired and a new one has not been granted, the Chief Constable may by notice in

writing require the surrender of the certificate, and any records of transactions, his stock of firearms and ammunition, and their disposal.

**Article 28** provides for a firearms dealer to apply for a new place of business to be added to his certificate and specifies the procedure.

**Article 29** provides for the removal of a place of business from a firearms dealer's certificate by the Chief Constable.

**Article 30** makes it an offence to make a false statement to procure the grant or variation of a firearms dealer's certificate or the addition of a place of business. Any firearms dealer who carries on business at a place not entered on his certificate also commits an offence.

**Article 31** provides for the consequences where a firearms dealer is convicted of an offence either under this Order or under the law relating to the import and export of firearms or ammunition, also in the event of an appeal.

**Article 32** provides an exemption from the requirement of a firearms dealer's certificate for an auctioneer where he has a permit from the Chief Constable.

**Article 33** provides for the issue of an occasional permit by the Chief Constable to allow a firearms dealer to trade at a place not specified on his certificate.

**Article 34** provides for the revocation or variation of an occasional permit.

### ***FIREARMS CLUBS***

**Article 35** provides for a number of changes in relation to the authorisation of firearms clubs. The Article transfers responsibility for authorising clubs from the Secretary of State to the Chief Constable. It also introduces a fee for the grant of an authorisation as is the practice in Great Britain, and extends the duration of the period of authorisation from 3 to 5 years.

**Article 36** provides for the revocation of an authorisation of a firearms club.



**Article 37** provides a power of entry for a constable or a member of the police support staff to enter and inspect a firearms club.

### ***CONTROL OF TRANSACTIONS***

**Article 38** provides for business and other transactions with firearms and ammunition. In particular it makes it an offence for a person to sell or transfer any firearm or ammunition to any other person in the United Kingdom other than a firearms dealer, unless that other person produces a firearm certificate authorising his purchase or acquisition or he shows that he is permitted by this order to do so without holding a certificate.

It is not an offence for carriers and warehouseman or their employees to deliver any firearm or ammunition in the course of their business or employment as such. It is an offence for a pawnbroker to take in firearms or ammunition as pawn.

**Article 39** requires firearms dealers to keep records of transactions and to retain all relevant documents for 2 years. The Article also specifies the information to be kept in the records, when they are made and for how long they are to be kept, including provision for them to be kept in electronic form, if desired. The Article also provides for a constable or a member of the police support staff to enter a dealer's premises and inspect his stock, records and relevant documents.

**Article 40** provides for the procedure and requirements in Northern Ireland for transfers of firearms and ammunition between one person and another person. In particular it provides for the transfer to be in person. This brings Northern Ireland into line with in Great Britain.

**Article 41** provides that, where in Northern Ireland a firearm is sold, let on hire, lent or given, the parties involved must notify the Chief Constable within 72 hours.

**Article 42** provides that where in Northern Ireland a firearm is lost the certificate holder must notify the Chief Constable immediately. Where a firearm is repaired or altered the certificate holder must notify the Chief Constable within 72 hours. If a firearm is destroyed or deactivated, the Chief Constable must be informed within 7 days.

**Article 43** provides that where outside Northern Ireland any firearm is sold or otherwise disposed of or is deactivated, destroyed or lost or any

ammunition is lost (whether by theft or otherwise), the transferor or the certificate holder must notify the Chief Constable within 7 days.

**Article 44** sets out the circumstances and requirements for notifying the Chief Constable of a purchase or acquisition of a firearm, falling within Category C (firearms subject to declaration) for the purposes of Annex 1 of the European weapons directive in another member State.

**Article 45** provides for a person to purchase a firearm from a firearms dealer, without holding a firearm certificate, for export from Northern Ireland. In particular it sets out the conditions for the purchase of a firearm falling within Category B (firearms subject to authorisation) for the purposes of Annex 1 to the European weapons directive

### ***PROHIBITION OF CERTAIN WEAPONS AND CONTROL OF ARMS TRAFFIC***

**Article 46** lists the categories of weapons which are prohibited and provides for the Secretary of State's written authorisation as a requirement for their possession, purchase, acquisition, manufacture, sale or transfer.

**Article 47** sets out the conditions under which it would not be necessary for a person to obtain the Secretary of State's authorisation. In particular it provides an exemption for a prohibited weapon designed or adapted for the purpose of tranquillising or otherwise treating animals, which brings Northern Ireland into line with Great Britain.

**Article 48** allows a person under the supervision of a member of the armed forces to have in his possession a firearm and ammunition on service premises without the need for a firearm certificate or, in the case of a prohibited weapon, the authority of the Secretary of State. The exemption extends to a person undergoing training and assessment under the supervision of a member of the Ministry of Defence police.

**Article 49** gives the Secretary of State the power to prohibit by order the removal of a firearm or ammunition from one part of Northern Ireland to another, to Great Britain or for export unless it is authorised by the Chief Constable and any conditions imposed by the Secretary of State are met.

## ***ENFORCEMENT AND OFFENCES***

**Article 50** provides that if a Justice of the Peace is satisfied that there is reasonable ground for suspecting either that an offence under the Order is being or is about to be committed or there is a danger to public safety or the peace posed by a firearm or ammunition, he may issue a warrant authorising the police to search any place and seize and detain anything or any person in connection with those suspected offences.

**Article 51** empowers a constable to stop any person whom he has reasonable cause to suspect of having a firearm or ammunition in a public place or to be committing or about to commit the offence of either carrying a firearm with criminal intent or trespassing with a firearm, and require the person to hand over any firearm or ammunition for examination. In exercise of his powers under this Article a Constable may search any person and stop and search any vehicle.

**Article 52** provides that the Chief Constable may require the production of any firearm for the purpose of ballistic or other tests. The ballistic testing requirement in the current Order does not apply to shotguns and air guns but they are now included.

**Article 53** provides that a constable may, if he believes that a person has a firearm or ammunition, demand that he produces his firearm certificate, or otherwise demonstrate that he has them lawfully. If a person fails to do so the Constable may seize and detain the firearm or ammunition and require the name and address of the person.

**Article 54** provides that a constable may search for and seize any firearms or ammunition which he has reason to believe are being moved either in contravention of an order made under Article 49 or an order made by the Home Secretary prohibiting the removal of firearms or ammunition from Great Britain to Northern Ireland.

**Article 55** provides that in addition to any other powers conferred by this Order a constable may seize and detain any firearms or ammunition in the possession of a person whom he believes to have them in breach of any of the provisions of this Order.

**Article 56** makes it an offence for any person to have in his possession a firearm or ammunition with intent to endanger life or cause serious damage to property or to enable another person to do so, whether or not any injury or damage is actually caused. It also makes it an offence for any person

who has in his possession a firearm or imitation firearm with intent to cause or enable another person to cause any other person to believe that unlawful violence will be used against him or another person.

**Article 57** makes it an offence for a person to use in any way a firearm or imitation firearm with intent to resist or prevent the arrest or detention of either himself or another person. It is also an offence if a person is in possession of a firearm at the time of committing, or being arrested for, an offence specified in Schedule 3.

**Article 58** makes it an offence to carry a firearm or imitation firearm with intent to commit an indictable offence or to resist arrest or to prevent the arrest of another.

**Article 59** makes it an offence for a person to have in a public place a loaded shotgun or loaded airgun, or any other firearm whether loaded or not, or to discharge a firearm in a public place unless he has lawful authority or a reasonable excuse.

**Article 60** makes it an offence to trespass with a firearm or imitation firearm without reasonable excuse.

**Article 61** provides that certain persons convicted of a crime and sentenced to a period of imprisonment of 3 months or more or detention, are prohibited from possessing a firearm for a period of either 8 years or life depending on the length of sentence. A person prohibited under this Article may make application to a county court for its removal. Under the current Order such an application is considered by the Secretary of State.

**Article 62** makes it an offence for a person to have a firearm or ammunition in his possession in suspicious circumstances, unless he can show that he has it for a lawful purpose.

**Article 63** makes it an offence for a person to have a loaded firearm in his possession while drunk or under the influence of drugs.

**Article 64** makes it an offence to sell or transfer any firearm or ammunition to a person who is drunk or under the influence of drugs or is suffering from a mental disorder.

**Article 65** makes it an offence for a person other than a firearms dealer to shorten the barrel of a shotgun to a length less than 60.96 centimeters or to

convert into a firearm anything which, though having the appearance of a firearm, is incapable of discharging a missile.

**Article 66** provides for the manner in which offences under this Order are punishable on conviction and it is set out in Schedule 4.

**Article 67** provides for the forfeiture and disposal of firearms, the cancellation of a firearm certificate by a court and for the right of appeal in certain circumstances against the court's order.

### ***MISCELLANEOUS AND GENERAL***

**Article 68** provides for appeals against certain decisions of the Chief Constable specified in Schedule 5 to be heard in a county court.

**Article 69** gives effect to the fees payable in relation to any matter specified in Schedule 6. It also provides for certain exemptions from the payment of a fee. The fees mirror those in Great Britain, where there is an equivalent one.

**Article 70** applies the provisions of the Order (with certain exemptions) to imitation firearms which are readily convertible into firearms.

**Article 71** provides for the application of the Order to Crown servants. In particular it provides an exemption from the requirement to hold a firearm certificate for persons in the service of the Crown, who either need to possess firearms in their capacity as such or who need to purchase firearms and ammunition for the public service.

**Article 72** provides an exemption from the requirement to hold a firearm certificate for members of the Police Service of Northern Ireland (PSNI), police support staff, police trainees and police reserve trainees, and members of the Harbour and Airport Police, in so far as it relates to possession of a firearm in their capacity as such. In addition it provides for the Chief Constable to purchase firearms and ammunition for police purposes, without the requirement of a firearm certificate.

**Article 73** provides that the Chief Constable may delegate in writing any of his functions under the Order to other members of the Police Service and the police support staff.

**Article 74** provides that the Secretary of State may make regulations as to the manner in which the Chief Constable is to carry out his duties under the Order or for generally carrying the Order into effect.

**Article 75** provides that the provisions of the Order will not apply to antique firearms. It also provides for the Secretary of State, by order, to make such other savings and transitional provisions as appear to him to be necessary or expedient. In addition it provides that the provisions of the Order shall be in addition to and not in derogation of legislation relating to the keeping and sale of explosives.

**Article 76** gives effect to the consequential amendments in Schedule 7 and repeals as set out in Schedule 8 of the Order.

## **ANTICIPATED IMPACT OF PROPOSAL**

### **Equality**

10. Section 75 of the Northern Ireland Act 1998 requires public authorities, in carrying out their functions relating to Northern Ireland, to have due regard to the need to promote equality of opportunity in the nine categories set out in the statute. No formal impact assessment has been carried out under section 75, as a screening exercise indicated no evidence of adverse or differential impact within any of the nine categories.

Section 85 (4) of the 1998 Act requires that the Proposal be laid before Parliament and referred to the Northern Ireland Assembly for consideration. The opportunity will also be used to consult on the impact of the Proposal not only with persons most likely to be directly affected but also with anyone who may have an interest.

### **European Convention on European Rights**

11. It is the Government's view that the provisions included in this Proposal are compatible with the rights set out in the Convention.

## **Business Compliance Cost Assessment**

12. The aligning of Northern Ireland's firearms fees to those in Great Britain will result in a single fee provision for both grant and variation of a firearms dealers certificate. The new fee of £150 will be less than the £185 currently charged for grant but it represents an increase in the current renewal fee of £65. The increase will be offset by the increased duration of the dealers certificate from three to five years which reflects in real terms an increase of approximately £8 per renewal. Northern Ireland's fees have not been increased since 1990.

## **Comparison with Law in Great Britain**

13. The Firearms (Northern Ireland) Order 1981 and the Firearms Act 1968 share the same origins in the Firearms Act 1920. Both have been variously amended since then and whilst they have retained many similarities they each have developed in a way to meet the needs of their respective jurisdictions. It was not an aim of the review to reconcile those differences but some of the changes contained in the draft Proposal will bring our firearms laws more into line. A number of key differences will remain.

14. Shotguns will continue to be regarded and controlled as firearms in Northern Ireland as will air guns except those which operate at or below a muzzle energy of 1 joule which we intend to de-certify. The Proposal will also exempt air gun ammunition and deactivated firearms from certificate control. We also intend to extend the duration of the firearm certificate from three to five years, in line with the position in Great Britain.

15. Age limits in Northern Ireland are generally more restrictive than Great Britain. Normally no one under the age of 18 years may purchase, acquire or be in possession of a firearm or ammunition. There is an exemption to this for 16 year olds who may:

- (a) hold and use a firearm for sporting purposes under supervision of the legal owner; or
- (b) purchase and use a shotgun or a .22 rimfire rifle unsupervised on agricultural lands either that he owns or on which he works and resides.

The Government does not intend to reduce the age at which a young person may possess a firearm. It has restricted the category of firearm at (a) to

shotgun and air gun and has increased the age of the person supervising to 21 years.

16. Firearms appeals and applications for the removal of statutory periods of prohibition are currently made to the Secretary of State. In England and Wales these are heard in a Crown Court and in a Sheriff's Court in Scotland. Under the proposal responsibility for appeals and applications will transfer to a County Court.

17. In Northern Ireland firearms may only be borrowed or lent by certificate holders on the basis of a formal 'on loan' arrangement sanctioned by the Chief Constable. In Great Britain rifles and shotguns may be borrowed from the occupier of private premises by non-certificate holders for use on those premises. The Government intends to relax the controls in Northern Ireland a little and accordingly there is a proposal for the borrowing of shotguns by non-certificate holders on private premises.

18. In Northern Ireland all bullet-firing firearms may be ballistically tested. This is unique to Northern Ireland and the draft Proposal extends the provision to all firearms.

19. The most significant difference between the two jurisdictions is the prohibition on the private holding of handguns in Great Britain which was implemented by the Firearms (Amendment) Acts 1997. At the time Ministers decided that there should not be a similar prohibition here for the time being. Most of such handguns in Northern Ireland are held as personal protection weapons and the firearm certificates on which they are held will be revoked as soon as the Chief Constable decides there is no longer a good reason for having them.