

# FCC

FIREARMS CONSULTATIVE COMMITTEE

## ELEVENTH ANNUAL REPORT

The Independent body established by an Act of Parliament to keep  
under review the working of the Firearms Acts.

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The Independent body established by an Act of Parliament to keep  
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*Presented pursuant to Act Eliz II 1988 c.45*

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**Annual Report of the  
Firearms Consultative Committee**

Sir

I have pleasure in submitting to you as required by Section 22(6) of the Firearms (Amendment) Act 1988 the Eleventh Annual Report of the Firearms Consultative Committee.

DAVID PENN  
Chairman

The Rt Hon David Blunkett MP  
Secretary of State for the Home Department



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# CHAPTER 1

## Introduction

We would like to thank Richard Worth who as the former Secretary to the FCC has provided many years of help, support and guidance to the Committee. We wish him well in the future and thank him for his invaluable contributions.

### The Committee

**1.1** The Firearms Consultative Committee is a statutory body set up under Section 22 of the Firearms (Amendment) Act 1988 (reproduced at **Annex A**). Members appointed to the Committee are chosen from those who appear to the Home Secretary to have knowledge and experience of either the possession, use (in particular for sporting or competition) or keeping of, or transactions in firearms or weapons technology or the administration or enforcement of the provisions of the Firearms Acts.

**1.2** Under Section 22 (8) of the 1988 Act the Committee initially existed for a period of five years from 1 February 1989. The life of the Committee has been extended several times since, most recently by two years to 31 January 2002. Paragraph 2 of the Firearms (Amendment) Act 1988 (Firearms Consultative Committee) Order 2000, which extended the Committee's life, is also included at **Annex A**. Mr. David Penn is the current chairman of the Committee, and this is his second year in the post.

**1.3** Members of the committee have been appointed for periods of up to two years, which may be renewed. There have been a number of changes to the Committee's complement over the past year and a list of members is at **Annex B**.

**1.4** The committee has concentrated this year on a number of substantive issues which might affect the way in which firearms are controlled in the future. The intention to publish a revised version of 'Firearms Law: Guidance to the Police' provided a welcome opportunity to discuss wider issues, which were not necessarily on the initial agenda for the year.

### Aims and Activities

**1.5** At the start of the working year the then Home Office Minister Charles Clarke MP wrote to the Chairman, David Penn, asking the FCC to consider a wide range of issues. These formed the basis of our work programme as follows:

- Administration of the Firearms Acts.
- Age limits and young shots.
- Air Weapons.
- Ammunition and its component parts.
- Deactivated firearms.
- Good reasons for shotguns.
- Guidance to the Police.
- Human Rights Act 1998.
- Illegal use of firearms and associated research.
- Lethality.

Long barrelled revolvers.  
Powerful rifles.  
Replica and Imitation firearms.  
Section 7(3) firearms and ammunition.  
Shooting disciplines.

### **Representations**

**1.6** A list of those who have made representations to the Committee this year is included at **Annex C**. Anyone wishing to draw to the attention of the Committee any issue, which is properly within its remit, should write to:

The Secretary  
Firearms Consultative Committee  
Room 510  
50, Queen Anne's Gate  
London SW1H 9AT

**1.7** We repeat our annual reminder that it is not the Committee's function to seek to intervene in, or comment on individual applications for the grant, or renewal of firearm or shotgun certificates. Nor would it be right for the Committee to endorse specific commercial products as this would go beyond our terms of reference.

### **The Future Role and Composition of the Committee**

**1.8** This year the FCC has looked again at its role with a view to assessing the need for it to continue.

**1.9** This Report will demonstrate that there remain a number of areas where the FCC would continue to have a strong contribution to make, for instance regarding procedures governing the reporting of injuries involving firearms by the NHS, the proposal that a 'tool kit' be put together to cover the normal parameters of target shooting disciplines, the way forward for improvements in safe handling and responsible use of air weapons, the proposed public safety campaign for imitation firearms or the future role of the referee.

**1.10** There continue to arise questions of interpretation as well as operational difficulties with the application and administration of the firearms legislation. The FCC has in the past been an ideal forum for debate and research into such difficult and often complex issues. In doing this it has always sought to resolve them in a practical way which has full regard to the considerations of public safety.

**1.11** The current remit for the FCC expires in January 2002. The Secretary of State will then have an opportunity to review the continuation and composition of the committee. We would argue strongly, for its retention in broadly the same form as present.

### **Sub Groups**

**1.12** This year the FCC has continued to benefit from the use of broad-based sub-groups. Apart from reducing the workload, they allow the FCC to bring in people from outside who have particular knowledge and experience. This lends further weight to any recommendations that the FCC makes. A full list of those from outside the FCC who have been members of sub-groups is attached at **Annex D**. The FCC also takes evidence from interested parties and outside bodies, giving it a broader basis of evidence from which to reach its conclusions.

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## CHAPTER 2

### Powerful rifles and long barrelled revolvers

**2.1** In recent years there has been some interest, albeit on a small scale, in target shooting with .50 calibre ‘materiel destruction’ rifles. Grave concerns have been expressed about the scope for misuse of weapons of such power, and the FCC was asked by Home Office Ministers, to explore as a matter of urgency, the implications of raising such weapons to prohibited status using the Secretary of State’s powers under section 1(4) of the 1988 Act. We were similarly asked to consider long barrelled revolvers, in particular those with ‘extensions’ and ‘wrist braces’ in view of their similarity to prohibited handguns. These two issues were considered separately although we adopted the same approach to both, viz:

- whether a prohibition of any sort was justified in principle or in practice; and
- if Ministers were minded to move towards a prohibition, what form it should take and what items should be included or excluded.

**2.2** Our Chairman wrote to the Minister in January with the results of our deliberations and offering advice on possible ways forward as set out below. In responding we were mindful that the Government has indicated that it has no immediate plans for primary legislation on firearms matters and that the provisions of section 1(4) have never previously been used. Although there was a strong case in principle for using these powers to ban both types of weapon, we strongly urged the Ministers to take thorough and detailed legal advice as to its likely scope and operation, bearing in mind our broad understanding that the power could not be used to address classes of weapon that were in circulation in moderate numbers prior to 1988.

#### Powerful Rifles

**2.3** The FCC appreciates the concerns expressed about the Barrett .50 calibre ‘materiel destruction’ rifle. These are modern military weapons designed for long range use against army materiel and lightly armoured vehicles. There was little support for the idea that weapons of this type, capable of discharging projectiles, with muzzle energies of some 12000 foot pounds (16269 J), were appropriate for civilian target shooting. In particular, the actual use of such weapons by terrorists in Northern Ireland takes these weapons a clear step beyond those items whose misuse is merely hypothetical.

**2.4** However, we understand the Barrett was not the only weapon of this type used in Northern Ireland and on this basis we would strongly advise the Government against simply banning a ‘brand name’ such as the ‘Barrett’. While superficially attractive, this would be akin to banning the ‘Rolls Royce’ while allowing drivers to switch to similar luxury limousines.

**2.5** The FCC would advise that ‘materiel destruction’ rifles are manufactured in a variety of calibres, such as .50 Browning Machine Gun (BMG), 15mm, 14.5mm and the 12.7mm. The muzzle energy of

projectiles fired from such weapons is 12,000 foot pounds (16269 J) or greater, considerably in excess of most target and military rifles and unsuitable for all but a handful of ranges in the UK. Based on these provisions, it should be possible to construct a workable ban on these items.

**2.6** The FCC would also draw the Government's attention to a number of classes of firearm which share some characteristics with 'materiel destruction' rifles but are in general considerably less dangerous. These items would probably not fall within the terms of section 1(4) of the 1988 Act and could not be banned quickly even if the case against them was made out. We thought it best to mention them here to warn the Government as to what any ban should avoid sweeping up by accident.

- Powerful big game rifles such as the Holland & Holland .700 Nitro. These weapons are generally double-barrelled, with high muzzle energies up to some 9000 foot pounds (12202 J), but are used for shooting large or dangerous game animals such as lion and elephant at relatively short ranges. London is one of the main world centres for the manufacture of such weapons by companies such as Purdeys and Holland & Holland. While the ethics of big game hunting is beyond the scope of this report, this is an established field, long accepted by the Home Office as 'good reason' to own such a rifle, and not open to amendment by section 1(4);
- Vintage anti-tank rifles such as the British .55" Boys. These weapons were considered by many to be largely obsolete by the middle of the Second World War, and survive in small numbers as collectors items, ammunition for these being in obscure calibres and not generally available. Similar arguments would apply to other vintage weapons such as field artillery and vintage tank guns used for museum display and similar purposes;
- Vintage guns used in target shooting such as the .577 Enfield Rifled Musket and the .577 Snider. While of a large bore, these are low-powered, single shot weapons of the Victorian era;
- Reproduction muzzle-loading muskets and cannon used by 'The Sealed Knot' and other historical re-enactment societies. These large-bored but long-obsolete weapons pose little realistic danger of misuse.

**2.7** The FCC has every sympathy with the Government's concerns, and does not wish to see any new provisions go awry and cause needless confusion and delay. Consequently we would advise against seeking to draw up a ban in haste that would either leave several types of 'materiel destruction' rifle untouched, or would sweep up other guns that would render the prohibition unlawful.

**2.8** Having considered this at length with police colleagues on the Committee, the FCC would advise that early steps should be taken to tackle this issue along the following lines. The Home Office should write forthwith to all chief officers of police, suggesting that as a matter of policy weapons of excessive power should not be permitted for target shooting. This would immediately curb the spread of these items and allow time for further consideration of how a ban might be drawn up long term. In broad terms, this should apply to weapons designed or adapted to fire ammunition with muzzle energies in excess of 10,000 foot pounds (13558 J) or those chambered for .50 BMG or 12.7 x 108 mm rounds. To avoid any scope for evasion of this prohibition, the Forensic Science Service will provide advice in the form of a list of the specific types and calibres to be included.

**2.9** Further, a majority of FCC members would *recommend* that the Government should take steps to prohibit these weapons altogether, either by the use of section 1(4) if considered practical, or through primary legislation.

### Long barrelled revolvers

**2.10** We are aware that present concerns about long-barrelled revolvers centre on the Taurus .357 Magnum, a long barrelled revolver with a wrist brace. However, as suggested above we are reluctant to recommend a ban on the basis of 'brand names'. The same importer offers for sale a '.44 Magnum Super Redhawk' revolver which has a shortened barrel and added wrist brace, and we cannot credibly advise that one of these should be singled out above the other for a ban.

**2.11** As a starting point, we considered whether it might be possible to use Section 1(4) of the 1988 Act to prohibit all revolver guns. However, there are vintage breech-loading revolver rifles and carbines available from Victorian times that place such a prohibition outside the scope of section 1(4). Likewise, the differences in practical performance between revolver action and manually operated bolt-and-lever-action rifles are marginal and the case that such weapons are 'specially dangerous' may be difficult to make out. Some modern designs such as the Millennium Arms Carbine might be held to resemble these sufficiently to fall outside the scope of Section 1(4).

**2.12** Long-barrelled revolver pistols have also been in circulation for many years, albeit in small numbers, the oldest common example being the 'Buntline special'. Even those guns with wrist supports such as the Taurus have predecessors, and indeed an English patent exists for such a device.

**2.13** It should be noted that some members of the Committee expressed reservations about seeking to ban long-barrelled revolvers. Such weapons had established a small but specialist niche for target shooting in recent years, they were larger and bulkier than the small, easily concealable handguns that Parliament had sought to ban in 1997, and there was no evidence of actual misuse of these weapons.

**2.14** However, a majority of members were in favour of the Government seeking to ban at least those revolvers that had wrist braces or similar extensions to the pistol grip. It was arguable that such a ban might be extended, albeit with less certainty, to all those revolver guns without a permanently attached shoulder stock. Such a ban might be carried forward by Section 1(4) of the 1988 Act, or, should this not be possible, through further legislation.

**2.15** As with the proposed ban on ‘materiel destruction’ rifles, there is scope for action in advance of a formal ban. It is understood that the popularity of long-barrelled revolvers for target shooting has peaked with a few hundred in circulation, and many shooters have found these to be clumsy and ponderous weapons in practice. One possible approach might be an announcement that the Government is minded to ban some or all of such weapons, coupled with an offer of *ex gratia* payments for those surrendered to the Government, might help to remove these weapons from circulation.

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## CHAPTER 3

### Replica and imitation firearms

**3.1** As part of our work programme for the year, we were asked by Ministers to consider controls over imitation and replica firearms and whether these should be strengthened. In asking us to take this forward, the Government was fully mindful of the concerns which had been expressed about the misuse of replicas, both in terms of public fear of armed violence and the problems attendant on an armed police response.

**3.2** We discussed the options in some depth at our first few meetings and considered a range of papers on the subject, including a review of overseas controls. Although we were unable to reach a consensus on the best overall approach to this issue, there was unanimous support in favour of one particular measure. In addition we were able to establish a broad overview of the various options available as well as a majority view on how best to tackle the problem. This is set out below and formed the basis on which the chairman wrote to the Minister of State with our views in July.

#### Imitation and replica firearms

**3.3** In broad terms an imitation or replica firearm may be held to be an item which is not a firearm, but looks sufficiently like a firearm to give possible cause for concern. However, when it comes to drawing up a specific definition, there are real difficulties.

**3.4** At one extreme, these may include close replicas of specific firearms designed to use blank ammunition and used in film and television work. Such items would be difficult for even an expert to distinguish from a real gun without close examination. A step down from these would be the imitation and replica guns available from hobby shops, some incapable of firing any missile or firing only plastic pellets. Such items are either intended to look like particular guns or types of gun and would probably appear to most observers to be a real gun. Apart from these, there are many items that are intended to look something like a gun, albeit loosely. Children's toy cap guns and water pistols and novelty cigarette lighters might fall into this group. However, the boundaries between these different groups are not defined in law or practice.

**3.5** The term 'replica' is sometimes used in other countries to describe an exact working replica of a real firearm, for example a reproduction of a vintage musket. In Great Britain, a working gun of this kind would be treated as a real gun and is not the subject of this discussion. To avoid confusion, the term 'imitation firearm' is used in this discussion as our general term for these items.

#### Misuse of imitation firearms

**3.6** The police service have made clear that the misuse of imitation firearms has been a persistent problem to them in recent years and the committee fully recognises the difficulties they face. Imitation firearms are most commonly misused in armed robberies and other circumstances where a criminal wishes to threaten and intimidate a victim. Criminal statistics for England and Wales for 1999-2000



suggest that imitation firearms were used in some 823 offences, including 228 robberies. This makes up a small proportion of the 6843 recorded offences involving firearms other than air weapons, although it is possible that some imitations may have been wrongly recorded as the real thing given the difficulties in identifying them if they were not recovered by the police. The possession of a 'gun' tends to demand instant attention and submission from victims who might otherwise be tempted to run away or fight back. Apart from planned crimes of this kind, imitation guns may be carried and displayed by criminals who would not generally have access to real firearms, especially irresponsible youngsters seeking to show off. Conversely, the police have suggested that many drug-dealing gangs will avoid carrying imitation firearms, as their rivals might be encouraged to respond with real firearms.

**3.7** Apart from the fear engendered by the misuse of an imitation firearm, the report that a 'gun' is being misused will inevitably trigger an armed police response. The FCC is fully in support of the police in such matters and has little sympathy for those who recklessly endanger their own lives and those of others by the misuse of imitation firearms. However, we are also concerned both at the waste of police time and resources in dealing with incidents of this kind and with the trauma to firearms officers who may be obliged to open fire on an apparently armed suspect who turns out to have a 'harmless' imitation gun.

**3.8** The FCC understands from the police service that the misuse of imitation firearms is not the whole of the problem in this area. Some criminals will seek to commit robberies by passing off innocuous items hidden in a bag as a 'firearm'. Others may simply claim to have a firearm and rely on the threat to frighten people or deter the police from acting. The police would not therefore regard controls on imitation firearms as a comprehensive solution to this problem.

### Present legislation

**3.9** At present, there are two main controls in law on the misuse of imitation firearms. The first is the **Firearms Act 1982**, which provides that an imitation firearm should be treated as a real firearm in law if:

- It has the appearance of being a firearm to which section 1 of the 1968 Act (firearms requiring a certificate) applies; and
- Is so constructed or adapted as to be readily convertible into a firearm to which that section applies.

**3.10** This law was introduced to prevent the sale of blank-firing imitation guns of a kind that could be converted to fire live ammunition by fairly simple changes (for example cutting off a blanked-off barrel. The police and the Forensic Science Service had found that some imitations had been converted by criminals to fire potentially lethal missiles and used in crime. While such conversions

still turn up in crime occasionally, this measure has made it more difficult for all but skilled criminal gunsmiths to produce such items.

**3.11** The second is the **Firearms (Amendment) Act 1994**. This creates a criminal offence of possessing a firearm or imitation firearm with intent to cause fear of unlawful violence. For these purposes, an ‘imitation firearm’ is defined as ‘any thing, which has the appearance of being a firearm whether or not it is capable of discharging any shot, bullet or other missile.’

**3.12** This measure was intended to allow the police to deal with the misuse of imitation firearms as a threat by criminals. Of course, the misuse of imitation firearms may involve other crimes such as robbery, but this offence would also cover less specific threatening behaviour.

**3.13** It should be noted that the term ‘imitation firearm’ may be applied differently in these two cases. A novelty cigarette lighter would clearly not be a ‘readily convertible’ imitation under the 1982 Act, but might be an ‘imitation’ under the 1994 Act if used to threaten people during a robbery.

### General principles

**3.14** The FCC recognises that the problems faced by the police in dealing with the misuse of imitation firearms are considerable, and we would wish to assist them in addressing this difficult issue. We have no wish to be dismissive of the risks to public safety posed by imitations.

**3.15** On the other hand, the FCC is not opposed in principle either to the use of imitations for legitimate purposes, however limited these might be, as discussed below. Nor does the FCC believe that items such as children’s toy guns and water pistols should be banned. The choice of what toys are considered suitable for children is largely a matter for parents rather than for the State.

**3.16** Lastly, we would wish any response to the problem of imitation firearms to be proportionate. **The Human Rights Act 1998** provides that when seeking to impose limits on the possession and use of private property, Governments should impose measures that are proportionate to the mischief they seek to prevent and not excessive or *Draconian*. Even setting aside this provision, we would wish to have due regard in line with the Government’s own ‘Better Regulation’ guide to any burdens on police time and resources within limited policing budgets that might better be directed elsewhere.

### Legitimate uses of imitation firearms

**3.17** The FCC would suggest that there is a range of legitimate uses for imitation firearms, as set out below, and amounting to a considerable number of imitations in circulation. While some of these will be of more consequence than others and not all would be accepted by all FCC members as essential; there is a consensus that at least some legitimate uses would have to be accommodated in any further legislation. It should be borne in mind that in many cases the use of

imitation firearms has grown up to avoid the potential dangers of using real working firearms.

- Historical re-enactment and living history displays. In particular, groups portraying the Second World War and other recent conflicts may use replicas of machine guns, handguns and other weapons that would otherwise be prohibited.
- Sport Shooters and Hunters. Very low powered replica air weapons are used for informal target shooting. Blank-firing pistols are used by hunters for training gun dogs.
- Collectors. Imitation firearms may be displayed in museums and private collections where real guns would either be rare and expensive or a potential safety and security risk.
- Theatre and film use. Apart from professional use in film, theatre and television, this would also include amateur dramatics.
- Race starting. Blank-firing starting pistols have replaced the use of real pistols with blank ammunition in most circumstances.
- Western Quick Draw Competitions. These use blank-firing replicas of 'Wild West' revolvers to burst balloons as a test of speed and skill.
- Wargames and Skirmishes, including 'paintball' games and similar activities.
- The Toy trade. While most toy cap guns, water pistols etc have only a vague resemblance to real firearms, some 'cowboy' guns or 'secret agent' guns are loosely modelled on real weapons.
- Interior Decoration. Non-firing reproductions of vintage guns are commonly used as wall decoration in 'rustic' public houses and similar circumstances.
- Deactivated weapons. These are real guns with their working parts modified so that they cannot be restored to working order and thus cease to be 'firearms' for legal purposes. These are commonly held as collectors' items or in museum displays, and any controls on imitation firearms would have to address them.

### **Definition of an 'imitation firearm'**

**3.18 The Firearms Act 1968** section 57 defines an imitation firearm as 'any thing which has the appearance of being a firearm whether or not it is capable of discharging any shot, bullet or other missile.' The Gun Control Network (GCN) would support this as a satisfactory basis for any new measures in this field. The Courts would be obliged to exercise discretion in deciding the status of particular items, as they do in relation to offensive weapons, obscene publications etc. A body of precedent is likely to be built up to assist them. The definition would apply to its appearance, rather than to how it was disguised, so the Courts would not be called upon to pronounce on whether everyday items concealed in bags were 'firearms'.

**3.19** However, other FCC members, including the police service and the Forensic Science Service, have expressed concerns about applying this definition beyond its present use. In the two cases where it is already used in law, it is subject to a qualifier either as to its design (readily convertible) or its misuse (to cause fear of unlawful violence). To apply such a definition without further clarification may present problems. For example, a person who produced a novelty cigarette lighter in the shape of a pistol, pointed it at a person and threatened to shoot them might reasonably be held to possess an ‘imitation firearm’ for these purposes. It is less clear that the Courts would find that a person innocently carrying such an item to light cigarettes was in possession of an ‘imitation’ firearm.

**3.20** A majority of the FCC, therefore, felt that further controls on imitation firearms, if adopted, should be carefully defined. Apart from any development of the law in this area, it might be possible for the police and the Crown Prosecution Service to adopt a clear prosecution policy to avoid bringing the more dubious cases before the Courts.

### **Overseas controls**

**3.21** As part of our review of this issue, the FCC has sought the advice of a range of countries as to their controls over imitation firearms. Of those countries, which responded, a number had no such controls, and others had controls on the misuse of replicas in crime similar to our own.

**3.22** Of particular interest were those who imposed stricter controls on imitations, such as Canada, Australia and the Netherlands. The latter imposed an outright ban, and the former two a ban on import, manufacture and sale. However, in each case the judgement of what constituted a ‘replica’ rested with a public official or committee in the first instance.

### **Licensing of imitation firearms**

**3.23** The GCN have suggested that imitation firearms might be subject to a licensing system as an option for control, either by raising them to the status of licensed firearms or prohibited weapons. Legitimate users such as film and theatre companies could therefore be accommodated without allowing for the free circulation of imitations.

**3.24** However, the Association of Chief Police Officers (ACPO), along with most members of the FCC, do not support this proposal. ACPO have concluded that given the likely numbers of imitations in circulation in the UK, a licensing system would impose a huge administrative burden on the police service. At present most police licensing departments were having some difficulty in operating existing controls on firearms, and a licensing scheme for imitation firearms would divert attention and resources away from the control of these more dangerous items. The large number of imitation guns potentially in circulation would be difficult to identify and recover, leading to a pool of such items still available for misuse. The FCC notes that the Government rejected the recent Home Affairs Committee

(HAC) proposal for a licensing system for air weapons largely on these grounds.

**3.25** Low-powered air weapons used for target shooting and vermin control are firearms for many legal purposes, albeit not subject to licensing. Many of these will look like more powerful firearms, or at least not clearly different to all but an experienced observer. It would be anomalous to licence imitations while air weapons are freely available, and might encourage manufacturers to produce air weapons that look like more powerful firearms rather than the present imitations that do not fire missiles.

**3.26** FCC members also noted that while the manufacture of even a crude working firearm would take some gun-smithing or engineering skill, no such was needed to make a fairly convincing imitation firearm. An extreme example was the American robber John Dillinger, who escaped from prison by threatening the guards with a ‘pistol’ which later turned out to be a carved bar of soap covered in boot black. While criminals with access to realistic imitations may have more confidence in deceiving their victims, most ordinary people threatened with a ‘gun’ would tend to react accordingly rather than check it’s exact appearance. There may therefore be limits to how far controls on realistic imitation firearms would deter someone intent on mischief.

**3.27** On this basis, a majority of FCC members do not favour a licensing system for imitation guns.

### **Controls over the sale, import and manufacture of imitation firearms**

**3.28** The Gun Control Network have suggested that a prohibition on the sale, import and manufacture of imitation guns along the lines of the Canadian system might be adopted in the UK. Exemptions might be allowed under the Secretary of State’s authority to possess prohibited weapons. This may help reduce the availability of imitations in both the medium and long term while allowing for legitimate possession and use.

**3.29** However, a majority of FCC members did not support this proposal. Allowing that there were legitimate reasons to possess imitation firearms, those businesses involved in supplying the legitimate market would have a reasonable case to hold the Secretary of State’s authority to do so. As no licence would be needed to buy an imitation firearm, those selling them would have no easy way of distinguishing between legitimate purchasers and potential criminals. HM Customs & Excise have suggested that any prohibition on import of imitations would have to be regulated by an import licensing system, and it had been difficult in other circumstances for HM Customs to prevent the import of items that could be possessed freely in this country. On this basis, a majority of FCC members did not support this proposal.

### **Possession of an imitation firearm in public**

**3.30** At Committee the British Association for Shooting and Conservation (BASC) supported by the police have proposed a new offence of possession of an imitation firearm in a public place without lawful authority or reasonable excuse. This should not interfere unduly with the legitimate uses of imitation firearms, but would allow the police to deal with those who were either misusing replicas or carrying them around in suspicious circumstances which appears to be at the centre of their current difficulties.

**3.31** The FCC as a whole, including the police service, supported this measure in principle. Subject to our comments on defining imitation firearms above, we believe that it would provide a useful measure for the police in curbing the misuse of imitation firearms. The police would be able to detain those found with such items in suspicious circumstances and perhaps confiscate the item concerned even if no formal criminal charges were brought.

**3.32** The present legislation on the carrying of knives in public imposes the burden of proof on the defendant to show that he has lawful authority or reasonable excuse to carry a knife. This is accompanied by a list of statutory ‘reasonable excuses’, for example carrying a knife for work or religious reasons or as part of a national costume. We would suggest that a similar approach might be appropriate for the possession of imitation firearms in public, with film or theatrical use or historical re-enactment being ‘reasonable excuses’ in themselves.

**3.33** In our Tenth Annual Report, the FCC *recommended* that the Home Office and police may wish to launch a publicity campaign against the misuse of imitation firearms. We would still support this measure, perhaps as part of the promulgation of any new offence. It is possible that many criminals and others who carry imitation firearms do so casually and might be deterred from doing so if they believed that a swift armed police response was likely.

### **Conclusions**

**3.34** The FCC accepts that any legislation arising from its own or other proposals will take time to draft and put before Parliament. There should therefore be considerable opportunity to consult more widely with interested parties such as those who use imitation firearms for legitimate purposes. The FCC hopes that its advice will be useful in framing any further legislation in this field.

**3.35** The FCC also noted a letter from a toy manufacturer who advised that if a toy gun carries the ‘CE’ mark it has a guarantee of free circulation within the European Union. This might affect any proposed legislation on replica firearms.

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## CHAPTER 4

### Age limits and young shots

**4.1** This was one of the key areas of discussion by the FCC following the Government's response to the report of the Home Affairs Select Committee. We note that in its response the Government indicated that it believed, in principle, that the present age limits should be reformed and that they were in favour of a minimum age of sixteen for unsupervised use of firearms and seventeen or eighteen for purchase, ownership and the responsibilities of holding a firearm or shot gun certificate. However, in recognition of the complexities of existing age limits, they wished to consider carefully what the legal implications of such a change might be and in particular to explore existing provisions whereby young people can borrow firearms under adult supervision. We were asked to take this forward.

**4.2** There is general agreement that the current law relating to young people is complicated and inconsistent. We believe it is in the interests of all parties to remedy these defects. That said, section 1 firearms are more problematic than shot guns and any changes in the present regime need to be carefully thought through and justified.

**4.3** In considering the HAC's recommendations and the Government's response, we were cognisant of their over-arching view that they did not wish to see further unnecessary burdens placed on shooting activities which generally operate in a well-regulated framework. We therefore sought to go back to first principles in respect of certain aspects of the existing laws on age limits. Although the Gun Control Network (GCN) was concerned as a matter of principle, about the ages involved, and favoured eighteen as the minimum age for possession, we noted that there was no evidence that the use of firearms (subject to the licensing process by young people), had given rise to incidents which jeopardised public safety and we are therefore in favour of retaining 17.

**4.4** Under existing laws, there are several exemptions that allow non-certificate holders to use firearms under supervision. Principally these include the provisions governing the conduct of miniature rifle ranges as set out in section 11(4) of the 1968 Act; possession by members of cadet corps as provided for by section 28 of the Armed Forces Act 1996; and the arrangements for approved rifle clubs as amended by section 45 of the 1997 Act. These provisions were not discussed by us in depth but in the context of the review of age limits we envisage that they will continue to operate unchanged.

**4.5** Section 11(6) of the 1968 Act allows for a person to use a shotgun without holding a certificate in order to shoot at artificial targets. This is generally used in relation to clay pigeon shooting and must take place at a time and place approved by the chief officer of police. This has rarely proved to be problematic and should be replicated as appropriate or left undisturbed in any future legislation. We were pleased to be informed that the police and the shooting organisations are working to draw up a code of practice designed to ensure that events are run to appropriate safety standards.

**4.6** The exemptions under section 11(5) of the 1968 Act and section 16 of the 1988 Act are more circumscribed in so far as a shotgun (in the case of the former) and a rifle (in the case of the latter) may only be borrowed from the occupier of private premises and must be used thereon. Section 16 also imposes an age limit of 17 years on the borrower. The concept of having to be an occupier has become something of an anachronism since many shooters are now city dwellers and much of the land is not held by an “occupier” *per se*. In practical terms the police use the definition of occupier given at section 27(1) of the Wildlife and Countryside Act 1981 which defines an occupier as ‘the owner or the person with shooting rights’.

**4.7** These two exemptions have diminished in value because few can now satisfy the criteria of being an “occupier”. It is for this reason that many young people are obliged to apply for firearm or shotgun certificates as their parents or supervisors do not satisfy the criteria within the statutory exemptions. We have considered at some length whether fewer young people would have need for a certificate if these provisions were replaced. In particular we discussed the implications of replacing them with a simple exemption which would allow adult certificate holders to lend any of their firearms to a minor, subject to the terms of any conditions on their certificate, and for use only in their presence. There would be no question of unfettered access and such changes would allow young people to receive proper, supervised training from adults.

**4.8** Police members of the Committee had no problem with the concept of a parent or guardian taking a young person out shooting, but pointed out that any changes ought not to allow an inexperienced young shooter to take out several young people in less than favourable conditions. There was also a question of obtaining the consent of a parent or guardian, although this should not be difficult to address and should be made a prerequisite.

**4.9** If such changes are to be made, there are several other detailed aspects which will need to be addressed such as who should be allowed to supervise once consent had been given? Although a case could be made out for eighteen as the age for adult responsibility, there was much to be said for using the requirements for driving instruction as a comparable system. We would therefore favour a minimum age of twenty-one and would further qualify this by a requirement of at least three years appropriate experience. It would also be prudent to restrict the number of persons to be supervised at any one time.

**4.10** There was agreement that supervision other than under the statutory exemptions mentioned at paragraph 4.4 should be on a one-to-one basis. The possibilities of allowing a higher ratio provided the firearms were not loaded was rejected on the basis that accidental discharges have been known to occur with firearms believed to have been unloaded. The nature of the supervision might vary according to



the age of the person borrowing the weapon and present legislation would appear to address this already by referring to “supervision of” which was the standard for children and “in the presence of” for adults.

**4.11** Taking all these considerations together we would *recommend* that any changes in the law to allow the supervised use of firearms should be drafted in terms of “no person qualified to supervise the use of firearms by young shooters shall supervise the possession or use of firearms by more than one person at any one time, save and except properly organised target shooting”. Clarification of what constituted ‘properly organised target shooting’ for these purposes should be given by way of guidance.

**4.12** We propose an exemption, which would allow any firearm certificate holder of age 21 or over, and with three years experience with the class of firearm concerned, to give temporary possession of a rifle to anyone else, subject to any conditions on his certificate for activities connected with quarry shooting. In the case of a recipient under the age of eighteen, the certificate holder would be required to undertake direct one-to-one supervision of the recipient. For a recipient of eighteen years or older, the certificate holder would be required to remain in the presence of the recipient.

**4.13** We similarly propose an exemption, which would allow any shotgun certificate holder of age 21 or over, and with three years experience to give temporary possession of a shotgun to anyone else. In the case of a recipient under eighteen years of age, the certificate holder would be required to undertake direct one-to-one supervision of the recipient. For a recipient of eighteen years or over, the certificate holder would be required to remain in the presence of the recipient.

**4.14** This would provide the following model relating to the use of firearms by minors:

- Under 14 – could use firearms only when supervised on a one-to-one basis by a person of at least 21 years of age with at least 3 years appropriate experience.
- Between 14 and 17 – the minor can obtain a firearms certificate if able to satisfy the qualifying criteria but if this is not the case may borrow firearms if supervised by a person of at least 21 years of age with at least 3 years appropriate experience
- 17 and over – this age limit will remain unchanged. The young person can obtain his own firearm or shotgun certificate or qualify under the current exemptions from certification under the Firearms Acts.
- Between 17 and 21 – no person between these ages may supervise a young person in the use of firearms.

**4.15** This model is one which may be of benefit in the use of air weapons by young people, but we have not considered this in Committee and we would *welcome* the opportunity to do so in the future.

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## CHAPTER 5

### 'Good reason' for shot guns

#### Principles and objectives

**5.1** The Committee noted that the Government accepts the recommendations of the Home Affairs Committee (HAC) that, as a matter of principle, anyone wishing to own shot guns should show 'good reason' to do so. However, Ministers were not committed to any particular system or mechanism for achieving this aim, and did not wish to interfere unduly with legitimate shooting activities and had asked the FCC to consider a range of options in relation to this objective and advise on the advantages and disadvantages of each. In as far as the Government had endorsed the HAC's rejection of territorial conditions for shot guns or 'good reason' for each shot gun, there was no commitment to adopt full section 1 controls for shotguns by default. A sub-group was accordingly set up to consider this issue, the membership of which is set out in **Annex D**.

**5.2** The sub-group was advised at the outset that the British Shooting Sports Council in particular were opposed to the introduction of further controls that would prove to be bureaucratic and impractical. In accordance with the Home Office strapline, they expected the Government to display tolerance towards the interests of shooters. However, in common with other parties involved, they were willing to discuss in depth proposals to which they were strongly opposed in principle.

**5.3** The police favoured applying some, but not all, aspects of the section 1 licensing system to section 2 shot guns. On the one hand, they were in favour of a common test of 'fitness' and criteria for refusing an application or for revoking a certificate. They (the police) saw this as a matter of priority and indeed this is a matter on which the FCC has already made recommendations in its 10th Annual Report. On the other hand, they accepted that approved club criteria for clay pigeon shooting clubs or land inspections and territorial conditions for shotguns might not be appropriate. While they were in favour of a 'good reason' requirement for shot guns they were open-minded about how this might work in practice.

**5.4** The historical re-enactment community wished to ensure that the archaic nature of their weaponry was reflected in any new system as it was in the present arrangements. Single shot muzzle-loading weapons were lethal firearms and re-enactors accepted that they should be subject to licensing. However, it was anomalous to subject such weapons to exactly the same controls as modern breech-loading weapons. Re-enactors would often lodge their guns with a single member of their society who had the best security and transport arrangements, and it was not uncommon for such a re-enactor to possess a dozen or more identical muskets for the use of other society members. In view of its high public profile, public attitudes towards firearms in re-enactment seemed to be more liberal than those of the gun owners themselves.

**5.5** The Gun Control Network (GCN) was in favour of a single system for shot guns and other firearms along the lines of the present system for section 1 firearms. This would simplify administration, strengthen controls on lethal weapons, and address the Government’s concerns about proliferation of shot guns. Guns were dangerous in their own right and should not be treated on the same basis as other tools or hobby items. If people did not have a ‘good reason’ to own shot guns, they should not do so. Once a change in the law was identified as appropriate, then the Government should provide sufficient resources to make it work successfully. However, they were willing to consider exceptions to the general rule (for example, on re-enactment weapons) providing that these did not compromise the overall strong system of controls.

**5.6** There was consensus that a single *certificate* for firearms and shot guns would improve administration. However, there was no agreement on the system of actual controls over the shot guns and other firearms concerned.

**5.7** There was some consensus that people who could not demonstrate a sensible reason for owning a shot gun should not have an automatic right to possess such weapons. The police were aware of cases where guns were missing on renewal and their owner had not opened his gun cabinet to check them for several years. The police were also aware of cases where individuals had been found to own shot guns for personal protection, though it was acknowledged that those determined to do so might take steps to establish a ‘good reason’ to own the gun and that revocation *may* have been possible under the present law.

**5.8** The number of shot gun certificates allowed to lapse on renewal suggested that most people who had abandoned shooting sports also sought to dispose of their shot guns rather than hold onto them indefinitely. However, the state of the market for shot guns might encourage some owners to hold on to their guns until they could get a good price.

#### **The present system**

**5.9** At present, the police could refuse to grant or renew a shot gun certificate if they were satisfied that the applicant had no good reason to possess shot guns (section 28(1A) of the 1968 Act). In practice, the police would tend to enquire of the applicant’s reasons for wanting to own a shot gun and the answers given tended to be sensible. An applicant who refused point blank to give a reason would probably be turned down having aroused suspicions of his intentions. Under section 28 (1B), the police cannot refuse to renew a shot gun certificate over lack of ‘good reason’.

**5.10** However, the statutory provision that ‘good reason’ did not require use (included to safeguard collection and inheritance) made it difficult for the police in practice to prove such a lack of ‘good

reason’. The police were concerned that anyone with no good reason to keep a shot gun could simply claim that they wanted to hand it on to a child or grandchild in the future and thus block further police inquiries. The police were not, however, opposed to possession without use for legitimate reasons such as genuine collection or inheritance. The shooting community agreed that a system of ‘good reason’ could only be as strong in practice as the ‘lowest common denominator’.

**5.11** The requirement that guns be stored securely when not in use placed a practical limit on the unlimited acquisition of shot guns. However, an individual who could afford a gunroom or other substantial storage facilities could acquire a larger number of guns.

**Practical issues**

**5.12** The group agreed that any system of controls over shotguns would have to take account of individual and unusual circumstances. The police service noted that at present, section 1 weapons were generally treated on their own merits rather than subject to a single, rigid system of ‘good reason’, secure storage and patterns of use.

**5.13** The BSSC were concerned that the introduction of a ‘good reason’ requirement for shot guns would lead, inevitably, to an unwarranted reduction in the number of certificate holders and of shot guns. This in turn would be harmful to the gun trade and ancillary trades, the income of farmers (already under considerable pressure) and the overall rural economy.

**5.14** The shooting community were not satisfied that a clear group of certificate holders had been identified in practice who would and should rightly lose their certificates under the proposed new system. They foresaw that a ‘good reason’ requirement for shot guns would fall especially heavily in principle in several broad cases, as follows:

- individuals who own a shot gun and go shooting occasionally, perhaps through lack of time and resources to shoot regularly. If ‘good reason’ were equated with regular use, the police may not feel that they have sufficient ‘good reason’ to justify keeping their own gun. ‘Regular’ shooting would need to be measurable in time and frequency depending on circumstances;
- shooters who own a small selection (c3-6) of guns for different purposes, for example rough shooting, wildfowling and clay pigeon shooting. In any given year they might use some of these regularly, others less so, and might be challenged on their ‘good reason’ to retain all but the most used guns;
- gun owners who do not shoot with their guns but hold them as a collection, an investment or inheritance. If ‘good reason’ was equated with use it would be difficult to show a ‘good reason’ to possess these.

**5.15** Coupled to this was the practical issue of proving use. If the gun owner was part of a heavily organised activity, then he may be able to provide supporting testimony from club officials, syndicate captains or re-enactment society officers. However, this would place considerable administrative burdens on such officials who were generally unpaid volunteers. At present, re-enactment officials were able to vouch for a relative handful of firearm certificate holders but would be hard-pressed to keep track of the hundreds of shot gun certificate holders in their societies. Wildfowling clubs or pest control societies tended to be loose groupings who may work together or as individuals depending on circumstances.

**5.16** At worst, club officials would be obliged to investigate the background and character of their members without any of the powers and resources of the police to do so. This would be unacceptable both to such officials and to the wider public. Officials would also be reluctant to make any judgement for which they could be sued either for the misbehaviour of an applicant who they endorsed or for libel against an applicant who they criticised. In practice, club officials would often assume that a shotgun certificate holder who sought to join them would be of good character because he had already been subject to vetting by the police.

**5.17** In other cases, such as vermin control by open invitation of a farmer or landowner, it would be difficult for a shooter to prove that he visited a farm on a particular occasion, unless the farmer were obliged to keep records of such visits. The GCN expressed concerns that farmers and landowners did not at present seek to keep track of shooters on their land.

**5.18** By contrast, in countries such as New Zealand where ‘good reason’ was synonymous with use shooters tended to fire more shots than were needed in order to show that they were using their guns. It was possible that an individual with ulterior motives for wanting a shotgun would take steps to meet any minimum requirements of club membership, attendance etc and the police would be no further forward in dealing with such dubious characters.

**5.19** Shooters were also concerned that the judgement on ‘good reason’ rested effectively with the individual force licensing officer and in many cases with the enquiry officer. In some cases licensing officers had already tended to take a narrow view on ‘good reason’, for example that they would only recognise re-enactment societies who were members of NARES.

**5.20** At present, the police were applying a test of ‘good reason’ to some 131,000 firearm certificate holders. Many police forces appeared to be encountering problems in handling their present workload. Were this to be applied to 627,000 shot gun certificate holders, the shooting community queried whether the police would struggle with such a workload and be unable to use the volume of information received effectively.

**‘Good Reasons’ in principle to possess shot guns**

**5.21** The sub group noted that the Government did not intend to interfere unduly with lawful shooting activities. It was therefore considered helpful to set out the possible reasons for owning a shotgun or shotguns, bearing in mind that not all sub-group members would accept all of these as ‘good reason’. The GCN noted that while ‘good reason’ should apply to all shotguns, different kinds of evidence of ‘good reason’ may be appropriate to different cases.

- (a) Clay pigeon shooting. Many certificate holders will be members of a clay pigeon shooting club, but others will be members of several or not at all. Some competitions may require a range of bores and designs (over-and-under, side-by-side etc) and a keen shooter may use up to ten different guns with different characteristics. Others may organise shooting events under section 11(6) and wish to hold shot guns to loan to people under this exemption. Valuable guns may also be awarded as trophies, and in the past the police have accepted the acquisition of a section 1 gun as a trophy as good reason to possess it. Many clay pigeon shoots were set up informally by farmers and landowners (or by groups of friends with the landowner’s permission) rather than at regular club premises;
- (b) Other target shooting. Some target shooting organisations (for example, possibly the British Western Shooting Society or the United Kingdom Practical Shooting Association) may wish to use shot guns for other forms of target shooting;
- (c) Game shooting (including pheasant, grouse and other game birds and animals). Some keen shooters may need a variety of guns for different quarry; others may keep a single gun to take part in occasional shoots by invitation, and others may run shooting estates with a number of ‘estate shotguns’ to loan out under supervision;
- (d) Wildfowling. The wildfowler may need to use a variety of larger bore shot guns for this, and the FCC had previously suggested that the ban on lead shot over wetlands may encourage the use of self-loading (restricted magazine) or pump action shotguns with steel shot;
- (e) Pest control (including rabbits, pigeons, rats, fox etc). Apart from professional pest controllers and those who wish to shoot pests on their own farm, estate or smallholding, pest control may be contracted out on a paid or voluntary basis;
- (f) Historical re-enactment. The ‘shot guns’ in this case would be muzzle -loading muskets and small cannon. Most re-enactors will be a member of one or more re-enactment societies, but members will possess a number of such guns to provide safe storage for guns of fellow members;
- (g) Collection. Apart from an interest in historical shotguns, some owners may collect valuable vintage guns as an investment. It may not be practical to place limits on the ‘proper’ minimum and

maximum number of guns to be held as collector’s items. In practice, collection, investment and occasional use may be interchangeable;

- h) Inheritance. At the time of the 1988 Act there were concerns in Parliament that the scope for possessing but not using an inherited shot gun to hand down to future generations should be safeguarded. On the one hand, inheritance may serve as a last refuge for those who were unable to substantiate another ‘good reason’. On the other hand, those who wished to hold guns for inheritance might use them sporadically if they were obliged to prove another ‘good reason’;
- (i) Instruction. A shotgun owner may wish to teach his children or others to shoot and have shot guns set aside for this purpose;
- (j) Expeditionary use. Some shot gun owners may need shotguns for purposes not generally applicable in the UK, for example shooting wild boar with solid slug ammunition. The GCN did not generally regard use abroad as ‘good reason’ for possessing firearms in the UK;
- (k) Possession for transport etc. Spouses and other family members may hold shot gun certificates mainly to assist an active shooter in transporting shot guns, buying ammunition etc, even if they do not shoot on their own account.

**Options for changing the present system**

**5.22** The sub-group considered a range of options for amending the present arrangements. The advantages and disadvantages of these are set out below. While the idea of leaving the present system unchanged was not discussed extensively, the repeal of section 28(1B) (thus allowing the police to refuse to renew a shotgun certificate if they were satisfied the applicant had no ‘good reason’ to possess shotguns) might assist the police in dealing with those whose stated ‘good reason’ was not borne out over time.

**‘Good Reason’ for shot guns in general**

**5.23** Under this system, a shot gun certificate holder would have to show ‘good reason’ to possess shot guns in general terms (for example, that he was a clay pigeon shooter or game shooter), and then be free to possess any number for any lawful purpose.

**5.24** The shooting community suggested that ‘good reason’ to own shot guns may change over time, with certificate holders changing their shooting interests for a variety of reasons. If ‘good reason’ were to be tested in connection with active use, it should be on an aggregate of legitimate shooting activities rather than on a single fixed ‘good reason’. In particular, they would be opposed to conditions tying down particular guns to particular purposes. The police acknowledged that the exact nature of a gun owner’s ‘good reason’ could change over time whilst remaining substantial. Such changes might, for example, include a re-enactor changing societies and roles from being a Medieval soldier with a hand-cannon to a Redcoat with a ‘Brown Bess’ Musket.



**‘Good Reason’ by numbers**

**5.25** Under such a system, applicants might have to demonstrate a ‘good reason’ to possess shot guns in general, and then be permitted a limited holding of shot guns (perhaps up to half a dozen) without further query. If they wished to possess more than this, they would have to seek specific police permission.

**‘Good reason’ by categories**

**5.26** Under this provision, a certificate holder might have to show ‘good reason’ to possess shot guns for a particular purpose, and then be permitted to possess shot guns in general for that specific purpose only. If he wished to take up another branch of shooting sports then he would have to show ‘good reason’ to possess a further selection of shot guns.

**5.27** There was little support for such a system. In practice, a certificate holder would be able to own several shot guns, but have to seek variations to his certificate if he wanted to take up a new branch of shooting even if his interest was only casual.

**Section 1 ‘Good Reason’**

**5.28** At present, a firearm certificate holder must satisfy the police that he has ‘good reason’ to possess each of the firearms concerned. If this system were introduced for shot guns, the certificate holder would have to justify the acquisition of each shotgun. The Gun Control Network supported this system, and ACPO saw some merit in it, but the shooting organisations were opposed to it.

**Related issues**

**5.29** If further controls were introduced on shot guns, then stricter controls might also be needed for shot gun ammunition. As this was not recorded on certificate at present, it would be difficult to prove that ammunition was being regularly purchased and used. The police did not feel that the recording of cartridges on certificate was essential in its own right, though a ‘secure storage’ requirement might be appropriate. There was also no direct control over the gift (as opposed to the sale) of shot gun ammunition.

**5.30** BASC suggested that the exemption for ‘estate shot guns’ under section 11 (5) might be extended. At present it only allowed an ‘occupier’ of land to lend a gun under supervision: an extension to others lawfully on the land might reduce the need for people to hold shot gun certificates for more casual participation in shooting sports. However, many shooters who use exemptions to borrow a shot gun some of the time would still need a shot gun certificate to cover exceptional circumstances beyond the scope of the exemptions.

**5.31** BASC also suggested that the present system whereby shot gun certificate holders could borrow each others shot guns for 72 hours without notifying the police should be extended to a week. The police agreed to consider this further.

**Conclusions**

**5.32** Given the absence of consensus amongst the sub-group, the matter was further discussed on several occasions by the main Committee. Police members agreed that there was no evidence of a significant problem of shot gun misuse and accepted that any regulation must be proportional. Nevertheless chief officers did not currently have sufficient latitude to determine an applicants ‘fitness’ to possess. In identifying some categories of good reason, it was not the police intention to go beyond a first level enquiry, i.e. there would be no land checks. Nor was there a desire to impose an arbitrary limit on the number of shot guns a certificate holder could possess but if somebody had a large number for no discernible or demonstrable purpose this would not meet a test of good reason. This requirement would help prevent mischief by those people who were not objectively showing good reason at present and would not be used in extremis to prevent genuine use. There was no disagreement amongst us that there should be a single test of fitness to be applied at both application and renewal stages, and we so *recommend*. However, there was some concern that a system of good reason which simply mirrored that for section 1 firearms took no account of the fact that different categories of firearms were treated differently because of their perceived dangerousness, and could generate much ill-feeling and additional bureaucracy to little good effect. It could also lead to certificates being conditioned, unlike at present, which could mean unnecessary work if a shot gun originally possessed for wildfowling was subsequently used for clay pigeon shooting.

**5.33** Members were willing to endorse as ‘good practice’ guidance to the police indicating that nobody should be granted a shot gun certificate if they did not say why they wanted it and where doubt as to their motives remained. However, if legislation were to be introduced to impose a good reason requirement, in the terms currently used for section 1 firearms, then this would be subject to all the nuances of interpretation given by various court decisions over the years, which may not be appropriate for shot guns.

**5.34** Bearing in mind that the Home Affairs Select Committee did not favour the justification of individual shot guns, members of the FCC saw merit in seeking to uncouple grounds for owning shot guns from the existing terminology of ‘good reason’ with its section 1 baggage derived from previous court cases. The aim was to find a form of words which indicated that somebody who passed the fitness test and had a valid reason to possess a shot gun could then use it for any lawful purpose. The Gun Control Network did not accept the general principle that there was a need to only register the person and not the activity. They believed full ‘good reason’ provisions should apply to each shot gun to limit proliferation.

**5.35** Whilst not seeking to draft in specific terms, it was suggested that pending an opportunity to amend the principle Act to this effect it should be made clear in Home Office ‘Firearms Law:Guidance to the Police’ and elsewhere in published literature on shot gun law that:

- entitlement to possess a shot gun certificate depends principally upon satisfaction by the police of lack of danger to public safety or the peace, coupled with the existence (or in strict law rather the lack of convincing reason for the police to believe absence: see the way section 28(1A) of the 1968 Act is worded) of a ‘good reason’ for possession by the particular applicant;
- there is no exhaustive list of ‘good reasons’ and, while the Act gives express confirmation of a few activities which will qualify (1968 Act section 28(1B) – sporting, competition, pest control) and Guidance to Police may set out by way of example an additional number of different recognised activities which can be considered sufficient good reason for possession of shot gun, the test under the Act is a broad one;
- if the applicant satisfies the licensing authority that he has at least one ‘good reason’ (whether on the exemplar lists or otherwise) for possession of shot guns, then subject to the criterion of fitness (and any well-founded doubts about security) the certificate should be granted;
- when granted, the certificate is a licence to possess and use shot guns for any lawful purpose in lawful circumstances. The use of any shot gun properly held by that certificate holder is not restricted to the particular reason(s) given by the applicant on grant or renewal, and no effort should be made to seek to impose such a restriction, whether in the certificate or by other means, and whether on the use of any particular shot gun(s) held on certificate or generally on all shot guns held under it;
- in other words, existence of a particular ‘good reason’ on the occasion of grant or renewal is a precondition of being given a certificate but places no limitation on the otherwise lawful use of all shot guns held under it during the certificate’s lifetime.

**5.36** We so *recommend* and would also reiterate the need to address the question of ‘fitness’ when a legislative opportunity presents as recommended in our 10th Annual Report. The question of ‘good reason’ should not be addressed in isolation from such a change.

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## CHAPTER 6

### Deactivated firearms.

**6.1** We have looked again at the question of deactivation standards in the light of continuing concerns over the use of reactivated firearms in crime and against the wider debate on imitation and replica guns.

**6.2** A consensus exists that the current standards of deactivation, set in 1995, were generally effective in preventing reactivation while accepting that even the most *Draconian* measures are unlikely to stop those with the relevant expertise, equipment and determination. There was little evidence that significant numbers of guns deactivated to the 1995 specifications had been restored to working order and subsequently used in crime. The present system has two potential weaknesses. The first is that the specifications are evidential rather than a statutory requirement. This creates an element of uncertainty for both gunsmiths and the authorities as to what any court might accept as being sufficiently deactivated to be no longer a firearm.

**6.3** The second problem is that the 1995 standard is not retrospective and as a result there are numerous guns in circulation deactivated to the 1988 standard. The lead-up to the introduction of the 1995 deactivation standards saw deactivation firms submitting large numbers of weapons to the Proof Houses prior to the new standards coming into force. It seems that the supply of these weapons has only recently begun to dwindle. While collectors and other lawful owners hold most pre-1995 deactivations, some may still likely be available for criminal reactivation. Equally, lawful presence of these pre-1995 deactivations provides an alternative standard for the Courts to rule on what is reasonable in deactivation.

**6.4** While current problems may not be great there is clearly a risk of a single incident bringing the whole issue of replica and deactivated firearms into disrepute and the difficulty in drawing clear boundaries in this area could encourage sweeping legislation which would have wide-ranging consequences. If the 1995 standards were to be made retrospective it is not at all clear how many of the pre-1995 deactivations held in private hands might be collected. At present, if the owner of a pre-1995 deactivation loses his deactivation certificate and applies for another one, the Proof Houses have no authority to insist that the weapon is deactivated to current standards and can only ask for the weapon to be resubmitted to establish that it meets the 1988 standards. The FCC *recommends*, as it has previously, that this should be amended so that the Proof Houses would only issue duplicate certificates for guns deactivated to the *most recent* standards. In order for this to have practical effect there ought to be a requirement for the certificate to remain with the gun.

**6.5** Following the 1997 prohibition on small firearms it was arguable that the standards for their deactivation (essentially handguns) should be strengthened to fall in line with those for other prohibited weapons. In practice the 1995 standards were based on the likely

reactivation by criminals and not on a firearm's legal status. As such this meant that handguns were already subject to generally strict deactivation standards and it was questionable that these needed to be made stricter. Where small anomalies have emerged these have been dealt with through Proof House memoranda. While the memorandum does not carry legal weight it sets out what the Proof Houses might accept in points of doubt or uncertainty. There was however further work needed on some areas of the existing standards to deal with, for example, muzzle accessories such as flash suppressers. The FCC *recommends* that the Gun Trade Association (GTA), FSS and Proof Houses should review the need to strengthen the deactivation standards. The Proof House might also advise on current trends in deactivation over the past few years which would include the numbers and types of guns regularly submitted.

**6.6** In 1995 the Government considered both a tougher standard of deactivation with parts welded solid, known as the "A" specification, and an equally rigorous standard that allowed for moving parts, known as the "B" specification. The "A" specification was adopted and discussions about the "B" specification were overtaken by the tragedy in Dunblane. The "B" specification would have virtues, as it would accommodate re-enactors and others who wanted realistic guns with some working parts. The legitimate market for less strict deactivations and potentially convertible replicas would decline, reducing the availability of such weapons to criminal gunsmiths. Deactivations to the 1988 standard would still be attractive and expensive collector's items so these might be less likely to drift onto the criminal market. It might also be attractive as a standard for other countries to adopt who might find the "A" specification too strict. Once a number of these were able to trade in deactivated guns to an agreed standard, others might be encouraged to adopt this to join the market. The FCC *recommends* that the Government adopts and promulgates the proposed "B" specification.

**6.7** The introduction of the "B" specification has virtues as a method of bringing lesser foreign deactivation standards in line with our own. The Firearms Protocol includes a provision on deactivation that might help in carrying this forward at an EU level, whilst still allowing for stricter domestic standards if required. As a result a low uniform European standard would not require the UK to lower its own standards although the aim would be to set the standards as high as possible, if only through the publication of model standards. However, many European countries suffered more from illegal imports of firearms from the Balkans and regarded reactivation as of limited importance. The FCC *recommends* that the Government continue to press for strong and effective standards of deactivation in the international context.

**6.8** At present it is open to an importer of a foreign deactivation which does not meet the UK standard to arrange a section 5 dealer to arrange the appropriate DTI import license and import the firearm on their behalf. Further deactivation work can then be carried out here before the gun is submitted to the Proof House for marking. A similar arrangement to this was adopted for weapons seized by the military after the Gulf War. There are some concerns that although this should be the case, it is not always happening in practice.

**6.9** The system whereby HM Customs can seize improperly deactivated weapons, while necessary for public safety, does not lend itself to the owners of such weapons (as opposed to the authorities) bringing a case before the courts to establish their legal status. HM Customs can have such weapons destroyed but only after taking them before the Courts which will provide a legal decision. Some of the poor quality deactivations entering the UK come through small ports where Customs officers may not always be present or might lack specialist firearms knowledge. While some people intent on mischief have tried to pass these weapons off as other items, HM Customs feel the main problem is simply that importers are not declaring their imports at all. While the FCC does not make any recommendations on this point, they have noted with concern the difficulties identified by HM Customs and others on this issue.

**6.10** A related issue is the manufacture of non-firing “guns” in Russia and other countries from component parts *similar* to those used in real guns. Some of these are air weapons using the frame of a real gun while others purport to be made as dummy training aids and others are designed as souvenirs. If it is deemed acceptable to make a “dummy gun” from scratch to the standards of firearms deactivated to the 1988 specifications, the 1995 specifications will be fatally undermined. Similar problems have arisen with some models of blank-firing replica sub-machine guns. These are purpose built, but some of the working parts might be the same as those used in a real sub-machine gun. Apart from their potential convertibility, some blank firing replicas have been used in robberies and other crimes in an unmodified form as a burst of fire may serve to intimidate victims and/or rivals even if no damage is done.

**6.11** While neither gunsmiths nor re-enactors wish to break the law, the legal boundaries in this area are unclear. Some form of tribunal or inspection process, perhaps similar to that used in Germany, may be the way forward. The CPS may be reluctant to bring a test case where evidence and public interest may be less than clear. The FCC *recommends* that the Government re-examine the MFE system and the standards on which it was based to see if these could be improved.

**6.12** The FCC *recommends* that the Home Office issues a leaflet to re-enactors and others involved with blank-firing replicas on “good practice” in their construction. While this would not be legally binding, it might help to curb any particular mischief and allow gunmakers to proceed with greater certainty.

**6.13** It is arguable that while standards for replicas and deactivated firearms are not retrospective, they are still enforceable on new work. A parallel can be drawn with building regulations, where existing construction and electrical work may be acceptable in an old house but not in a new building. Pre-1995 deactivation and 1982 replica standards may also have a bearing on modern deactivation cases. The Courts could reasonably find that if a gun made to these standards was lawful and acceptable, a modern version might be equally acceptable. While it is unlikely that any gun owner would relish such a court case, this would depend to a certain extent on the nature of the standards set by the Home Office for both replica and deactivated firearms. If these were considered excessive, gun owners could rely on the flexibility of the law to test their own standards before the Courts.

**6.14** Equally it is open to the responsible gun trade to encourage the maintenance of high standards, backed by the prospect of legislation should this fail. Furthermore, the risk of illegal importation by collectors and others might be reduced if those concerned were aware that stronger controls might be introduced if the envelope was pushed too excessively. It is likely, however, that a single successful challenge in the Courts would jeopardise these arrangements.

**6.15** A ban on the sale and transfer of all deactivated and replica weapons could be considered but such a ban would be very difficult to enforce and may well encourage underground sales of the more potentially dangerous weapons, making them more accessible to the criminal element rather than reputable collectors.

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## CHAPTER 7

### Research issues

#### Police action against illegal firearms

**7.1** Debates on the effectiveness of firearms controls and how best to tackle armed crime tend to be hampered by a lack of information concerning the sources of illegal weapons. It was for this reason that the FCC previously proposed a study of firearms recovered and to trace their origins. Apart from the need to target policing efforts more effectively, we believed that such a survey would help address the concerns of shooters that the Government was unduly focussed on legally held firearms. Both the Home Affairs Select Committee and the Government had supported the idea in principle, but we were advised that more recent work on firearms databases by the FSS and NCIS may have overtaken this idea. To follow this up and to get a broader overview of what research might be useful in those areas of overlap between legally and illegally held firearms, a sub-group was set up at **Annex D**.

**7.2** Although much of the FCC's work is centred on reviewing the administration and enforcement of the Firearms Acts, we have also taken a close interest in the measures which might be taken to control the illegal possession and misuse of firearms by criminals. This is of concern to all sectors of the community, but the shooting community in particular is anxious to know what steps are being taken to tackle the problem, given the adverse impact it has on their chosen sport/recreation. We were therefore particularly interested to receive presentations from both the Greater Manchester Police and the Metropolitan Police about their experience in dealing with criminal gangs in their areas. We were pleased to note their successes whilst recognising that this was a problem which needed constant attention. It was clear from these presentations that armed crime cannot be tackled in isolation from other criminal activities, in particular drug trafficking and robbery. Apart from some concerns over the use of replica and de-activated weapons, the control on firearms were generally acknowledged to be strict. We enclose a summary of the two presentations at **Appendix E** and in reproducing it we commend the officers concerned for all the hard work, which has been vested in this particular problem.

#### The Firearms Consultative Committee research project

**7.3** As already mentioned the FCC research project was intended to investigate the types and origins of firearms used in crime. It had been suggested that some of our members expert in identifying firearms would examine all firearms recovered by the police for a single year. This would cover not just those firearms used in crime, but all those recovered, surrendered and otherwise removed from unlawful possession. While this would be a snapshot rather than a detailed statistical picture, it was likely to provide a good impression of the kinds of guns commonly available to criminals. However, having been given details of the proposed new National Firearms Forensic Intelligence database as described below, we believe that this will effectively overtake the aims of our project and we *recommend* that this should be regarded as redundant.



**The National Firearms  
Forensic Intelligence  
database**

**7.4** The Forensic Science Service (FSS) already seeks to collate information on the firearms and ammunition used in crime. We were told that the proposed database was intended to bring the available information together in a coherent and readily accessible form. The sum of £1.4 million over three years had been allocated to the project, and a project management board was being appointed to include the key stakeholders such as the police and the Home Office. Databases were already set up, but the amalgamation of the Metropolitan Police laboratory and the Home Office laboratories in 1996 had led to greater co-ordination of available information, the DNA database being a prime example.

**7.5** The new database would record a range of information about each firearm recovered, including make; model; serial number (and methods of erasure); modifications such as re-activation and conversion. Similar information would be recorded about ammunition, such as the calibre, type of cartridge and bullet, whether it was home-loaded etc. In particular, the characteristics of ammunition could be linked to a particular gun. In one case, the misuse of what was probably a re-activated Tokarev pistol was tracked between incidents by the marks on the ammunition, even though the gun itself was not recovered.

**7.6** The database would not in itself be able to determine where a weapon had originated and how criminals had acquired it. However, it would help investigating officers in linking and solving crimes and potentially lead to more information about sources of illegal firearms being uncovered.

**7.7** It was intended that the database would be started later this year and be fully active by 2004. It would continue indefinitely: funding would be supplied by the police fees for the examination of firearms. ACPO were committed in principle to ensuring that all firearms recovered by the police would be submitted to the FSS, not just those used in serious crime. This would include air weapons, replicas, deactivated firearms etc.

**7.8** It was accepted that this would have substantial resource implications. A typical police force may deal with some 500 recovered firearms each year. Many of these would be clearly traceable (for example discovered and handed in by the heirs of a previous owner, or surrendered as unsaleable scrap). Others would be airguns and airsoft replicas seized from young people in situations where forensic details may not be relevant. Guns recovered from rivers and similar places may be too badly corroded to analyse. The resource implications of storing and transporting weapons and ammunition may therefore be considerable. However, the FSS would draw up protocols for the level of information needed on each type of firearm submitted to avoid unnecessary and costly work. The FCC would *recommend* such a considered and comprehensive approach as appropriate.

**7.9** The Home Office would have to consider the role of the database as a policy as well as an investigative tool and what features might be needed to extract policy data. In particular, the UN protocol on firearms included substantial provisions on the marking and tracing of firearms, and information on the effectiveness of the protocol would be helpful. Information on the age of firearms may help to identify recent imports. However, there were inherent dangers in using information that may be at best partial as a policy tool. The FCC therefore *recommends* that particular care should be taken over the policy-making role of the database.

**7.10** The FSS database appears for the most part to have superseded the FCC proposal for a specific firearms research project. However, police co-operation in submitting firearms for examination would be a crucial factor in its success, though the FCC project would have been equally so dependent. The FCC therefore *recommends* that the Home Secretary and Chief Officers give all necessary assistance to the project.

#### **HM Customs database of recovered firearms**

**7.11** HM Customs maintain a database of all firearms recovered by the service, including details of the firearm, time and location of the seizure etc. As this information was logged immediately by the investigating officers the database was kept constantly updated and was accessible to all officers.

**7.12** The quality of the data supplied, however, was subject to the knowledge of the investigating Customs officer who may not be experienced in firearms matters. Given the other calls on officer's training needs and knowledge base it may not be possible to address this problem by further training. For security reasons, finds were put onto the database by the investigating officer concerned rather than reviewed centrally. The FCC *recommend* that HM Customs should continue to analyse carefully and review any information from the database to be used for policy and statistical purposes.

#### **NHS reporting systems**

**7.13** The NHS has the capability to record statistics for injuries (including firearms injuries) reported in Accident and Emergency departments. However, issues of patient confidentiality and lack of reporting systems appear to prevent prompt disclosure of information about serious violence, even when this is fully justified in the public safety context. This might well have impeded some police investigations in the past such as Operation 'Trident'. Further work is needed on the wider issues of NHS recording practices particularly since there are no regulations concerned specifically with disclosure by A&E Departments of information relating to firearm injuries. Such work might include:

- A survey of all police authority areas to find out what processes are in place a) to ensure disclosure of information on firearms injuries from A& E departments, and b) whether there was a significant problem with disclosure; and

- To consider mandatory reporting by A&E departments of firearms injuries.

**7.14** In view of the seriousness of the issues involved we **recommend** that this form part of the FCC's future work programme.

### The NCIS Tracing Service

**7.15** The National Firearms Tracing Service was set up under an EU initiative to trace the movement of illegal firearms in and out of the EU. In the absence of an established collation point in the UK, NCIS assumed this role. However, no specific funding was available and the future role of this service is uncertain notwithstanding these arrangements have met with some successes.

**7.16.** Databases of this kind are often useful in picking up either re-occurring trends or in nipping trends in the bud before they became significant problems. The FSS database will be case-specific, which could leave NCIS free to concentrate on tracing issues. The FCC wishes to generally endorse the work of NCIS in firearms tracing and **recommends** that any future arrangements should take account of the usefulness of such a service.

**7.17** It was suggested to us that there might have been a change in criminal patterns of firearms misuse over the past thirty years. While criminals in earlier times might have borrowed or rented a gun for a particular crime, more recent criminals tended to carry guns routinely for status or protection against attacks by rival gangs. However, patterns of misuse implied that the older patterns of gun rental were still fairly common. Guns seemed to circulate within the criminal community, turning up in a number of shootings, which could not have been committed by a single criminal. There seemed to be a division between guns used in less serious assaults, which might disappear for a year or so and then re-surface, and guns used in murders and other serious crimes which did not re-appear.

### Criminal statistics

**7.18** The quality of criminal statistics published by the Home Office was open to question on several points, including those on firearms controls. One example was a homicide recorded as involving a 'supposed firearm' when a real (albeit unknown) firearm must have been used. Another was the figures for thefts of handguns in which many of the 'handguns' were antiques, replicas etc, while in the case of HM Customs figures it was difficult to distinguish technical infractions by lawful owners from deliberate smuggling.

**7.19** We were advised that the Home Office were making preparations (in the context of the Simmons Review of Crime Statistics) to draw up with ACPO a protocol of agreement covering the extent and quality of statistical information that the police should provide. Coupled with the establishment of Statistical Registrars in each force; it was hoped that this would lead to an improvement in the quality of information available. The information available from the

FSS database might also be cross-checked against recorded crime figures to detect anomalies. The FCC welcomes these developments but in the mean time would *recommend* that, in answering Parliamentary Questions and other enquiries the Home Office should make clear the likely shortcomings of any figures.

**Other projects**

**7.20** A number of projects being undertaken by the Home Office's Research, Development and Statistics Directorate (RDS) were drawn to our attention.

- The most relevant was a project funded within the Targeted Policy Initiative of the Crime Reduction Programme: The South Manchester Project. This drew upon a similar project in Boston, which dealt with the misuse of firearms by teenage gangs. Its emphasis was on the analysis of gang violence, higher visibility policing to act as a deterrent and community pressure as aid to alternatives to such violence.
- A PCRU project on the nature of robbery, which involved detailed analysis of robbery, whilst only a very small percentage involved firearms there may be a bearing on firearms issues.
- The NEW ADAM research in which representative samples of arrestees in police custody suites were urine tested for illegal drugs. Some of these tested were also interviewed – mainly about their drug taking and offending behaviour, but also about their access to guns and whether they featured in their offending patterns.

**7.21** Apart from work of the Home Office, Professor Roger Matthews of the University of Middlesex had recently been involved in interviewing prisoners convicted of (mainly armed) robberies. While not statistically wide, the survey would be a useful follow-up to similar work done earlier by Oxford University. RDS would investigate whether the Matthews study ruled out the need for any other prisoner-interview work. RDS considered such work as a useful (and comparatively feasible) way of getting more information on gun use at the more serious end of the criminal spectrum. We also noted the results of the study by John Bryan at the Centre for Defence Studies at Kings College London, "Illegal Firearms in the United Kingdom".

**7.22** The FCC notes these projects with interest, and would ask the Home Office and Secretariat to take steps to keep the FCC informed of any further developments in the field of research into firearms crime.

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## CHAPTER 8

### Ammunition and its component parts

#### Introduction

**8.1** The Firearms Acts prescribe penalties for unauthorised possession of complete rounds of ammunition, but not for its components. The explosive elements, typically propellant and primer, are subject to controls under the Explosives Acts, but only in substantial quantities. The inert elements, projectile and cartridge case, are generally not controlled. Lord Cullen noted this anomaly, which has existed since modern firearms legislation began in 1920, but made no recommendation.

**8.2** Two recent developments caused the Committee to appoint a sub-group to review the matter:

- a.) The Health and Safety Executive review of the Control of Explosives Regulations made under the Explosives Acts. The thrust of the HSE consultation is to avoid any extension to the licensing system, which predominantly affects shooters who use black powder, which does not feature in crime.
- b.) Police concern about a few cases, mainly in Greater Manchester, where members of criminal gangs had escaped prosecution by holding ammunition in component form, either themselves or with accomplices, and assembling it just before use.

**8.3** Ammunition in component form is widely used by legitimate firearms users, who hand load either to achieve better accuracy and consistency than that offered by commercial ammunition, or for economy.

#### Measures against misuse

**8.4** We are unanimous that any person in possession of explosives should be obliged to show reasonable and lawful excuse. We note that the wording of section 4 of the Explosives Substances Act 1883 which refers to any 'explosive substance' appears to serve the purpose, but are advised that the provisions are archaic and prosecutions need the consent of the Attorney-General. If the 1883 Act is not available we *recommend* a criminal provision to this effect, and are persuaded that to deal with the cases which the police have described it would be sensible to reverse the burden of proof, on the model of legislation applying to possession of a knife in a public place.

**8.5** Such a measure must contain safeguards such as statutory defences e.g. for possessors of Firearm Certificates. It must for example allow use of blank cartridges in the theatre, sport, historical re-enactment, and the construction industry and should be framed to avoid extension of licensing.

**8.6** We commend the existing good practice whereby dealers who sell smokeless powder require sight of a Firearm or Shotgun certificate or other evidence of lawful possession.

**8.7** Of the various items that might be controlled, smokeless powder and primers would be potentially the most viable as the circulation of these items was limited. Controls on bullets and cartridge cases would include cartridge boards, souvenirs and key rings, which were far more likely to turn up in innocent circumstances. The FCC *recommends* that any controls on component parts of ammunition should not apply to such inert metal components.

**8.8** The possession (as opposed to the sale) of shotgun cartridges was not subject to control, and this was arguably an anomaly. However, the possession of shot gun cartridges was less common amongst criminals than bulleted ammunition and might be less of a serious problem. Shot gun cartridges were also more commonly possessed in rural areas by people not holding a shot gun certificate (for example spouses sent to obtain more cartridges) so further controls might fall more heavily on legitimate owners. The FCC *recommends* that the existing provisions on the sale of shot gun cartridges should therefore be retained in their present form.

### Controls on explosives

**8.9** The Health and Safety Executive (HSE) were responsible for controlling explosives through the Control of Explosives Regulations (COER) 1991. This provided that those who wished to possess explosives needed an explosives certificate, which were further divided into two types:

- ‘Acquire’ certificates, in which the user would acquire the explosives for a day and either use or destroy them;
- ‘Acquire and keep’, which allowed the holder to store explosives in suitable secure conditions. This required a licensed store for more than 5kg of explosives at home.

**8.10** The HSE had proposed two main reforms to the COER system, on which they had asked the FCC for views. Firstly whether smokeless powder should be brought into the certification system and secondly on an exemption of up to 5kg to be allowed to FAC and SGC holders who could be allowed to buy the powder on production of their certificates.

**8.11** The FCC had looked at this issue previously and had been advised by the Home Office that such ‘hybrid legislation might be *ultra vires*. However, having considered the small quantities involved and with appropriate training for Firearm Enquiry Officers (FEOs) there was a strong case for supporting the HSE reforms.

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## CHAPTER 9

### Air weapons

**9.1** In responding to the report of the Home Affairs Select Committee, the Government rejected introducing a licensing system for low-powered air weapons, but undertook to see if other measures might be needed to deal with the misuse of air weapons. This might include education on safe air weapon use, enforcement of the existing law, and identification of any changes to the existing law that might be needed to aid its enforcement. We were asked to consider this further and did so initially through a sub-group as detailed at **Annex D**.

**9.2** We noted the recommendations of the Royal Society for the Prevention of Cruelty to Animals (RSCPA) and the GCN that a licensing system be adopted. It remains the view of GCN that the government should reconsider bringing more air weapons into the licensing system and banning their sale, import and manufacture if they are designed to look exactly like a lethal barrelled weapon. As this had been rejected by the Government we did not seek to explore this issue, but noted that the range and type of incidents described in both papers submitted by these organisations suggested that the misuse of air weapons was a serious problem. While the exact levels and changes over time may be difficult to measure, the Home Office has received sufficient letters and other representations to suggest that this was at least a common persistent mischief worth addressing further.

**9.3** The term ‘air weapon’ has been used in its legal meaning in the 1968 Act as an air or CO<sub>2</sub> powered gun that is below the ‘specially dangerous’ limits that would require licensing, but powerful enough to be lethal (see Chapter 10 Lethality). While ‘soft-air’ guns did not fall within these terms, it was likely that at least some of the problems associated with their misuse would be addressed by a general campaign against air weapons misuse

**9.4** As a first step, we believe it would be helpful for Ministers to write to chief officers setting out their concerns about the misuse of air weapons. Apart from encouraging chief officers to address air weapon misuse as a matter of increased priority having regard to local patterns and peaks of misuse, the letter might seek to elicit specific examples of successful education and enforcement which might be promulgated as good practice. The FCC therefore *recommends* that Ministers should raise this issue with chief officers and in doing so should have regard to the issues raised in the remainder of this chapter.

#### **Sale of air guns to young people**

**9.5** A Home Office survey of trading standards officers (TSOs) indicated that they conducted extensive campaigns against the sale to young people of items such as knives, solvents, alcohol and tobacco. However, almost all TSOs contacted had suggested that the enforcement of the Firearms Act was, in law and practice, a matter for the local police rather than for TSOs. From the involvement of Peckham TSOs in a police campaign against the sale of knives, it was possible that TSOs would be willing to assist the police in a campaign

against under-age air weapon sales. However, in view of the response received to the Home Office survey, the FCC makes no recommendation on the involvement of TSOs in enforcement of controls over air weapons

### Education

**9.6** Education might include a range of audiences. Apart from young people themselves, a ready source of information may be useful to parents, teachers, shop staff and police officers. We accept that some of the young people involved in air weapon misuse are likely to be persistent offenders with little time for law or formal 'education'. In these cases, enforcement action may be the most effective form of 'education' as such. However, much air weapon misuse may be due to the ignorance of young people and adults about the law and the potential dangers of airguns.

### Signs and posters

**9.7** Signs in shops may be useful in informing staff and customers of the main points of the law. They may be of particular use as a reminder to untrained or casual staff, of interest to purchasers who may not know the law, and a deterrent to young purchasers who might be tempted to bluff staff into selling them an air gun. Current posters on the sale of alcohol and tobacco might serve as a model. A poster focussing on the main issues might also be suitable for display in shooting clubs, halls used by scouts and guides, and other places where young people and adults might read it. The FCC *recommends* that the Home Office should produce a suitable poster for this purpose.

### Leaflets

**9.8** The original Home Office leaflet on air weapons adopted on the recommendation of the FCC some years ago was withdrawn due to concerns about its style. However, it was re-issued last year in a purely text form and with minor updating. Stocks of this latest version should be available from the Home Office publication unit, but there seems to have been some confusion over the serial numbers of the two leaflets making them difficult to identify and order. The Home Office has therefore taken action to ensure that those requesting copies of its air weapons leaflet are supplied with the new leaflet and the FCC *support* this measure.

**9.9** Both the Air gun Manufacturers and Trades Association (AMTA) and BASC also produce their own leaflets, the latter is also available in a Welsh version. The GTA work with importers and wholesalers to ensure that a copy is included in the box of every air weapon sold in Great Britain. The FCC *endorses* this measure. Retailers could also distribute copies to existing owners of air weapons who only visit retailers to buy pellets. It may be helpful to distribute copies to air gun pellet wholesalers who could then distribute them to their vendors, and the FCC would *recommend* that this should be adopted.



### **Public education: practical demonstrations**

**9.10** Prior to the Dunblane tragedy, the NSRA had met with considerable success in promoting safe air weapon use. The Home Office had received representations from schools concerned about soft-air weapons and who might welcome information on law and good practice. However, in recent years the NSRA has not been invited to schools, in part due to pressures on school timetables and lack of teachers with firearms training, as well as school concerns about firearms. It may be helpful for police officers involved in schools liaison to deal with air weapon safety, perhaps in co-operation with shooting groups. It may be politically difficult for the Home Office to support bringing firearms into schools, but the FCC *recommends* that the Home Office discusses the matter further with the Department for Education and Skills (DfES). The Gun Control Network is opposed to the idea of bringing guns of any kind into schools and is concerned that a high profile safety education strategy might serve to encourage young people's interest in guns.

**9.11** Essex Police have brought an 'air gun in a box' (i.e. a self-contained kit for safe airgun shooting which could easily be set up without a purpose-built range) to Southend sea-front. This area has seen considerable air weapon misuse during summer holidays and the facilities served as a useful focus to young people who might otherwise not have had contact with safe shooting practices. The GTA has pioneered the 'air gun in a box' approach at fairs and village fetes. The FCC commends this approach and *recommends* that it be adopted more widely.

### **Public education: media**

**9.12** Following a FCC recommendation, the Home Office produced some years ago, a public education film on air weapon misuse which was shown on television as a 'filler' advertisement. However, Government departments do not control the timing and frequency with which 'fillers' are shown on television, and this may be an expensive measure to address a narrow target audience compared with Home Office films on fire and road safety. The FCC *recommends* that the Home Office explore this idea further.

### **National hand-in campaign**

**9.13** Some members were concerned that a national hand-in campaign for air weapons may do more harm than good. Those prone to misuse air weapons (or simply ignore them languishing in storage) were unlikely to hand them in. Air weapons may also be held for contingent use (for example against possible problems with rats and other vermin). The experience of Northumbria Police suggested that hand-ins required considerable resources for limited returns. Furthermore a campaign may be seen by legitimate gun owners as seeking to reduce the number of air weapons being held for lawful purposes. To make best use of police resources, we believe that any hand-in campaign should form part of a wider amnesty for firearms. Police experience showed that air weapons were regularly handed in during such amnesties by people who might otherwise be cautious about handing in a 'firearm' to the police. The FCC do not therefore

make any specific recommendation for an air weapon hand in, but we do *recommend* that air weapons should be borne in mind in implementing any further amnesties.

**Secure storage**

**9.14** A formal requirement to store air weapons securely would not be enforceable without a licensing system. However, it would be worthwhile encouraging owners to keep air weapons under lock and key and store pellets away from the gun itself. Many air weapon incidents have arisen from young people accidentally finding an air weapon and pellets to which lawfully they should not have had access. The FCC *recommend* that any literature or other material on air weapon safety should encourage secure storage as part of air weapon safety. The possibility of offering a trigger lock with every weapon sold, perhaps free of charge as they were relatively inexpensive, might usefully be explored by the trade.

**Sale of air weapons only through registered firearms dealers**

**9.15** We have considered whether the sale of air weapons might be restricted only to registered firearms dealers (RFDs). At present, a majority of new air weapons are sold other than through RFDs, for example through hardware, fishing tackle or sporting goods shops. As there is little profit margin for dealers in selling ordinary second-hand air weapons, these are mostly sold informally through private sales. Anecdotally, air weapons are seldom sold at car boot sales so most transfers would tend to be private. A majority of our members saw little merit in confining air weapon sales to RFDs. It can be argued that RFDs know the law better than other retailers do and may be less prone to break it accidentally or deliberately, there is no evidence to support this theory, and most air weapon vendors appeared to be responsible and reliable. Below are sales figures supplied by the Gun Trade Association for the year 2000;

**Total Sales: 230,000 of New ‘Low Powered’ Air guns for Year 2000**

<i>Point of Sale</i>	<i>Proportion of Sales</i>
RFDs:	27%
Sports Shops:	11%
Hardware/Ironmongers:	6%
Mail Order:	9%
Others:	47%
(Fishing Tackle, Cycle, Camping, General Model and Petshops etc.)	

*‘Second Hand’ Sales – (estimated)*

Quantity:	Impossible to estimate
RFDs:	5%
Other Retailers:	15%
Private:	80%.

**9.16** While some measures applicable to RFDs (such as record keeping and secure storage) might be applied to air weapons, it is not clear what this might achieve. Most retailers selling air weapons already take steps to deter theft (for example chains and steel grilles), simply because air weapons might be tempting targets for thieves. Most thefts of air weapons are opportunistic measures from houses and sheds rather than shops. Record keeping would be difficult, as most air weapons do not have unique serial numbers.

**9.17** It is also likely that those air weapons being misused tend to be acquired second-hand from family or friends, and controls on sale would be unenforceable. There may be as many as a million second-hand sales a year. Allowing that there are probably some four million air weapon owners and seven million air weapons in the UK, many of the latter serviceable for several decades, the attrition rate requiring the purchase of new air weapons is limited. The proportionality of restricting sales to RFDs in these circumstances might thus be called into question. Although it could also be argued that such a requirement would be ‘restraint of trade’, this in itself should not over-rule the Government’s duty to protect public safety. We do not believe however, that there would be an enhancement of public safety and do not **recommend** that the sale of air weapons should be confined to RFDs. This view is not shared by the GCN, which believes that air weapons should be brought into the licensing system and sold only through RFDs.

**Sale through mail order**

**9.18** Air weapon sales through mail order are difficult to regulate. While vendors generally require a signed declaration that the purchaser is over eighteen, this is difficult to check. Many vendors insist on payment by cheque or credit card, as young people would be unlikely to have these. This might be adopted more widely as best practice, and the FCC so *recommends*. The GCN’s view is that no gun of any sort should be sold through mail order.

**Enforcement of existing law**

**9.19** Enforcement of the existing law is subject to a range of practical issues. We agree that any further measures to control air weapons, including changes to the law, would need to be supported by adequate policing resources in order to be worthwhile. A brief and focussed campaign of enforcement aimed at peak times and places (for example parks and canal banks during summer school holidays) might produce useful results. On the other hand, it is accepted that police resources will always be subject to competing priorities both of more serious crimes and wider policing issues. For example, levels of house-breaking also rise during the summer months. The prosecution of offences has also become more complex, for example the Crown Prosecution Service (CPS) frequently need to confirm with the FSS that an airgun or soft-air gun is a ‘firearm’ for legal purposes.

**9.20** The Courts are generally willing to take a firm approach to those brought before them who misuse airguns. However, prosecution policy is subject to the decisions of the CPS and Home Office 'Firearms Law: Guidance to the Police' on cautioning. Both of these took a considered approach to bringing young people before the courts, which should not be waived lightly in the case of air weapon misuse.

**9.21** The view might be taken that the casual misuse of air weapons by young people, especially when no damage was done, is not a serious problem worthy of a firm approach. We reject this idea on the grounds that many of the offences (for example, possession in a public place) were intended to head off more serious problems and should therefore be enforced.

**9.22** We regard the confiscation of air weapons as central to any campaign of enforcement. While the Courts could order such a forfeiture, the police can also request the parents of a young offender to sign a disclaimer allowing the police to retain the air weapon. Apart from removing the means to commit further offences, young people would be likely to warn their friends thus serving as a wider deterrent. As such it might serve to 'educate' those persistent offenders who may reject conventional education on airgun misuse. The FCC therefore *recommends* that the forfeiture of air weapons should be encouraged in cases of misuse, independently of whether criminal proceedings are instituted.

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## CHAPTER 10

### Lethality

**10.1** The Firearms Act 1968 defines a ‘firearm’ as a lethal barrelled weapon. It is generally understood that this is the level at which a weapon becomes capable of inflicting a lethal injury on a person, although there was some uncertainty when evidence was being given to the Home Affairs Select Committee as to how this level is set. Accepting their recommendations on the matter, the Government saw merit in setting at least a non-statutory ‘rule of thumb’ under which manufacturers and law enforcement authorities can operate. Asked to take this forward, we concluded that this was best handled by a sub-group of technical experts, constituted as at **Annex D**. The sub-group produced a comprehensive report and in view of its detailed, technical nature we think it would be helpful to reproduce it in full, see **Annex F**.

**10.2** The FCC fully endorse the approach which was adopted and *recommends* that a statutory threshold of one joule (0.7376 ft/lbs.) muzzle energy should be embodied in primary legislation on the basis that any air weapon which exceeded this limit would be deemed to be a firearm for the purposes of the Firearms Acts.

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## CHAPTER 11

### Shooting disciplines

#### Introduction

**11.1** The Government accepted the HAC's recommendation that a list of accepted disciplines for target shooting should be drawn up in consultation with all recognised shooting organisations and we were asked to explore how best this might be carried forward in practice. This was considered, in the first instance, by a sub-group constituted at **Annex D**.

**11.2** The interest of the Home Affairs Committee in target shooting disciplines was thought to have emerged from two broad issues. The first was concerns about the more extreme forms of 'practical' shooting that sought to simulate real military or similar situations. The second was the use of unusual firearms; for example .50 BMG calibre rifles, which may not be appropriate for civilian target shooting. (See Chapter 2.)

**11.3** The HAC had recommended that a list of target shooting disciplines should be drawn up and that pursuit of these alone should be considered 'good reason' to own a firearm for target shooting. It was not intended that this should be an absolute boundary for the grant or refusal of a firearm certificate, but should serve to underpin police consideration of each case.

**11.4** In as far as only section 1 firearms (including section 1 shot guns) were subject to a positive test of 'good reason', we confined our deliberations to the use of such weapons for target shooting.

**11.5** In terms of the International Shooting Sports Federation (ISSF), formerly the *Union Internationale de Tir* (UIT), a 'discipline' was the use for target shooting of a particular type of firearm: thus 'rifle' was a discipline. Any particular use of the firearm (for example, a shooting competition) was an 'event'. The National Rifle Association (NRA) divided the use of different firearms into 'categories', which were then subject to 'conditions of fire'. For the purpose of this report, the term 'discipline' is used to describe a combination of the particular firearm concerned and what course of fire is carried out with it.

#### Police views

**11.6** The police service regarded shooting disciplines as linked to 'good reason' to possess firearms rather than public safety as such. While a person's improper use of firearms may reflect on his fitness to possess them, in practice it was difficult to regard a person as 'fitted' to possess one type of firearm but not another. The police accept that some shooters were not competitive, and would tend to regard the shooting of nationally recognised disciplines as a good reason to possess firearms rather than the only good reason to do so. Likewise, the police did not believe that the basic 'good reason' for possessing firearms should be the sole purpose for which the weapon might be used. The shooting of local 'Derbys' and other local events was an acceptable part of shooting sports.

**11.7** However, the police were concerned about the acquisition of esoteric firearms simply for the purpose of trying them out without any more organised use. Likewise, a stated desire to ‘target shoot’ without further structure may not constitute ‘good reason’ in itself. The police had also encountered problems with keen target shooters seeking to acquire several apparently similar weapons on the basis of each being useful for particular competitions.

### **Gun Control Network views**

**11.8** The Gun Control Network (GCN) were not opposed in principle to the use of firearms for target shooting, for example in the Olympic and Commonwealth Games. However, they were opposed to ‘reality-based’ practical shooting events that sought to simulate police and military training and the use of firearms against human targets. Training in the use of firearms to kill people and the use of human-shaped targets should be a matter for the Government through the police service and armed forces rather than for private individuals. Such training for personal protection or ‘militia’ purposes was no longer appropriate or relevant in modern Britain.

### **Current organisation of shooting sports and development of new disciplines**

**11.9** Target shooting was recognised by the Government through a variety of avenues. The Home Office and the police service recognised a range of shooting organisations for the purpose of club approvals and the grant of firearm certificates. The Ministry of Defence (MOD) recognised the NRA and NSRA for the purpose of organising target-shooting competitions for the armed services, cadets and civilians. The Department of Culture, Media and Sport (DCMS), through the Sports Councils, recognises through funding the NRA, NSRA, MLAGB, and the British Clay Target Federation.

**11.10** The national governing bodies would seek to organise shooting disciplines at a national level. However, most such bodies would also be organised at regional, county and club level, each level organising their own disciplines. Drawing up a full list of all such disciplines would be a formidable task, and subject to constant local developments. The Historic Breechloading Smallarms Association (HBSA) for example, had developed a range of similar shooting events to reflect a wide range of vintage weapons. Many shooters would not always be engaged in shooting a particular formal ‘discipline’ or competition, but simply to better their own score. At present, there were some fifteen Olympic target-shooting events and twenty-five Commonwealth Games events.

**11.11** Historically, the Government has supported target shooting as a sport to develop shooting skills for the Defence of the Realm. After an extensive review the Charity Commission in 1998 confirmed the continued charitable status of the NRA and NSRA first established in the case of *Re Stephens* (1892). However, some of the shooting competitions organised by the NRA (for example some service rifle competitions) used modern military weapons and only service personnel would take part.

### Human-shaped targets

**11.12** Many target-shooting activities had originally evolved from military target shooting against human-shaped targets. The Ministry of Defence still used figure targets on MOD ranges. The NRA still organised military and police shooting competitions using such targets, but most civilian target shooting required concentric rings for scoring and the NRA generally used black and white bullseye targets for most competitions. Some NRA competitions were abstractions of military target practice, for example, the 'Figure 14' non-humanoid target used in the McQueen snap shooting competition was a derivative of a head and shoulders target based on 1914-1918 trench warfare.

**11.13** The standard MOD figure targets, approved in 1959, are full length or head and shoulders figures of a charging soldier coloured black and buff. The NRA has developed abstract non-humanoid versions for use by cadets and in traditional snap shooting competitions. The ISSF uses ring targets and has dropped the traditional names of competitions based on quarry shooting, such as Running Boar, in favour of 'running target'. Whatever the target the shooter needs an aiming mark to indicate the exact centre (or area of maximum score). The dimension of scoring rings may be varied by governing bodies to allow for the increasing accuracy of competitive shooting. The optimum design of targets and signs is complex and must take human physiology and mental processes into account.

**11.14** We noted that the great majority of civilian target shooting did not involve humanoid or animal targets. Those targets still in use would tend to be holdovers from military purposes (or similar targets used customarily or historically), and a range of more abstract targets would tend to serve for civilian purposes. Allowing for such holdovers, we did not generally favour the use of humanoid targets for civilian target shooting, and *recommend* that their use should not be expanded or encouraged.

### New target-shooting disciplines

**11.15** New national competitions would tend to emerge from the interests of local club members and be presented to the governing bodies for approval. A recent example was the development of the 'Bianchi' cup competition, which had originally been imported from the United States as a centre-fire pistol competition. Following the 1997 Acts, the NRA had sought to develop alternative competitions for former pistol shooters who wished to continue their sport and to use ranges which were limited to centre fire pistol power cartridges. The Association promoted trials by clubs and, in consultation with the police and the FCC, introduced a range of competitions and technical conditions for the Gallery Rifle (centre fire). The NSRA has made comparable arrangements for a class known as Lightweight Sport Rifle (.22 rimfire).



**11.16** Groups of shooters who wish to introduce a new form of competition would normally be anxious to seek support and recognition by affiliation to the appropriate governing body. Existing clubs may develop local competitions but must comply with the general rules of conduct of the Association to which they subscribe. While we do not make a formal recommendation on this point, we generally *support* the national associations both in promulgating rules of conduct and in being willing to advise on and endorse or reject new disciplines in a responsible manner.

**11.17** Section 1(4) of the 1988 Act gives the Secretary of State powers to prohibit specially dangerous new developments in firearms. The Section has never been used and it is arguable that it would not cover conventional rifles chambered for the Browning .50 round, which has been in widespread use since 1919. A better course would be to issue guidance to the police that firearms with certain characteristics should not meet the test of 'good reason' for target shooting.

**'Reality' or 'scenario'  
based shooting**

**11.18** 'Practical' shooting might be defined as target shooting where the course of fire is not set down permanently. Rather, the course is changed and developed for each event, and the shooter must thus make calculations on the spot about distances and positions for firing.

**11.19** 'Reality' or 'scenario' based shooting might be defined as a shooting activity which seeks to simulate the use of firearms under real combat conditions, often with a 'scenario' such as a military, police or adventure situation. 'Bodyguard training' was of particular concern underlined by a fatal accident at the Alderfield Range in 1989. In its 10th Annual Report, the FCC had considered the issue of practical shooting and made clear that it did not support the more extreme forms of practical shooting which involved activities of this kind. The FCC reaffirms this position, and would support the Home Office and the police service in their cautious approach to this issue.

**11.20** In particular, the UKPSA regarded practical shooting as an abstract target shooting sport rather than any sort of training or simulation. For this reason they did not support scenario based events or allow participants to wear camouflage clothing at events. The FCC generally *supports* this approach.

**Mechanisms for  
determining 'good reason'  
for target shooting**

**11.21** The national shooting organisations were willing to advise the police on whether particular disciplines existed that might be suitable for particular firearms and on potentially spurious applications. However, there were many safe and respectable disciplines that were organised at a county or local level with which the national organisations were not involved.

**11.22** The shooting organisations did not wish to see the acceptability of shooting disciplines and thus ‘good reason’, decided on the basis of ‘good taste’. While shooting organisations would tend to exercise restraint and discretion in supporting potentially distasteful activities, it may be more difficult for the authorities to make rulings on matters of ‘good taste’. Likewise, the shooting community did not wish to see a formal list of ‘acceptable’ disciplines drawn up as this might tend to be applied rigidly by some forces.

**11.23** The police and the main shooting organisations should continue to meet on a regular basis to discuss developments in shooting sports. This might include an update on new and developing shooting disciplines and a discussion of police concerns about particular developments. Apart from discussing specific new activities, such meetings may help to set broad parameters that may be helpful in shaping local shooting activities. The FCC *recommends* that such meetings should continue to be held.

**11.24** It might not be practical to develop a comprehensive list of all shooting disciplines. However, it might be possible to develop a ‘tool kit’ of the issues that shooting organisations would consider in setting up and regulating a discipline, without going into the detail of every event and variation. However, this would also need to acknowledge local conditions such as the safety limits of particular ranges. In some cases the lack of a suitable range may in itself be cause to question ‘good reason’ for a particular firearm.

**11.25** It may also be helpful to draw up a list of nationally accepted shooting disciplines or at least the outlines thereof, to serve as a basic reference work. The details of pistol shooting activities supplied by the NRA and included in the then-Home Department’s evidence to Lord Cullen might serve as a model for this.

**11.26** To some extent, firearms enquiry officers would be expected to familiarise themselves with good shooting sports practice and seek the advice of the national bodies or local club officials on matters of doubt. However, it would be helpful to have written guidance to support any training and consultation, especially as even those FEOs with military or quarry shooting experience might not be expected to know about all aspects of firearms shooting.

**11.27** The FCC therefore *recommends* that both the ‘tool kit’ of the normal parameters of shooting activities and the specific list of the outlines of national disciplines should be prepared.

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## CHAPTER 12

### The Human Rights Act 1998.

#### Introduction and general issues

**12.1** Although we know of no cases decided since the Human Rights Act 1998 (HRA) took effect, which are directly relevant to licensing under the Firearms Acts, we thought it prudent to invite a sub-group to examine possible issues which may arise. We drew heavily on the findings of an audit which ACPO had commissioned into the impact of the HRA on firearms administration, and also had the benefit of a review by Sport England on implications for governing bodies of sport, and of a paper by the Shooting Sports Trust on certificate renewal. We noted that rights were classified as absolute, limited or qualified and that if invoked would involve different procedural consequences.

**12.2** The ACPO audit revealed that one of the main problems identified was the lack of consistent written guidance. Policies and procedures in firearms licensing departments were often based on custom and inherited procedure rather than on clearly defined guidelines available to the applicant. The revision and eventual publication of the Home Office's 'Firearms Law: Guidance to the Police' should help address many of the problems in this area.

#### Article 2: Right to Life

**12.3** The Right to Life was absolute with minor limitations. However, the authorities may have a duty of care in respect of protecting the right to life of its citizens, rather than merely abstaining from killing them itself. Under English law, the duties of the police in respect of preventing crime were generally limited. Providing that public order and the Queen's Peace were maintained, the police were not liable for damages in respect of crimes committed by others: the provisions of the Riot (Damages) Act 1886 were intended to cover circumstances where public order was not upheld. The case law touching this area had been set by the ECHR case of 'Osman', in which police liability to protect an individual against a known threat was brought into question. However, this case was brought under article 6 (due to lack of due process) rather than article 2. Any obligation on the authorities to protect the public from the misuse of firearms would therefore tend to be a qualifier on other rights rather than a right in itself.

#### Article 6: Right to a Fair Trial

**12.4** The provision most likely to be raised is Article 6, a limited right, which gives right to a fair trial. The right also extends to the process leading up to court proceedings. Possible issues where public bodies might infringe Article 6 are:

- Lack of adequate remedy against a decision made by the Secretary of State on an issue where there is no statutory right of appeal, such as an application to possess prohibited firearms (section 5, Firearms Act 1968), to be granted status as an approved club (section 44, Firearms (Amendment) Act 1997), or for designation as a site to store heritage pistols (section 7(3), Firearms (Amendment) Act 1997);

- Lack of adequate remedy against Chief Officers of police who impose conditions on certificates against which there is no appeal. *R v. Cambridge Crown Court (ex-parte Buckland) 1997* confirms that there is no statutory remedy by appeal in such a case, although it is arguable that the lack of an appeal is wrong in principle and may have been a flaw in the consolidation Act of 1968;
- Unreasonable delay or refusal to process licensing applications for grant and renewal of certificates by Chief Officers of police;
- Lack of a proper audit trail of the decision making process in firearms licensing matters, and undue secrecy as to reasons for decisions taken.

An aggrieved applicant may have a remedy by Judicial Review in such cases, but it is arguable that such an expensive process would often not be an appropriate recourse under the HRA principle of “equality of arms”. We *recommend* that these problems are drawn to the attention of the Secretary of State.

**12.5** Apart from the absence of statutory remedies that would require legislation, we agree with ACPO that much depends on good practice backed by consistent written guidance. We *welcome* the revision of Home Office ‘Firearms Law; Guidance to the Police’, published this year, and also *welcome* the action of Her Majesty’s Inspectorate of Constabulary, in consultation with Chief Constables, to draw up standards of good practice as a benchmark for reasonable procedures and services.

#### **Public authorities and shooting clubs**

**12.6** In general, sporting associations and clubs are not subject to Judicial Review and are not “public bodies” for the purposes of the HRA (*R v. Disciplinary Committee of the Jockey Club ex parte HH Aga Khan (1993) 1 WLR 909 [CA]*). The governing bodies of target shooting, with counterparts from other sports, have engaged in a review led by the Sports Councils to ensure that their codes and practice in internal disciplinary procedures conform to the principles of Article 6. Among the Secretary of State’s existing criteria for target shooting clubs approved under the Firearms Acts (section 44, Firearms (Amendment) Act 1997) are requirements that they are properly constituted and properly run. We *note* this position.

#### **Article 8: Right to Private Life**

**12.7** This is a qualified right. The Home Office and the police had reviewed the provisions of the Data Protection Act 1998 (DPA) in respect of clubs notifying the police of new members for their advice. The view was that informing the club that an applicant was unsuitable would be lawful and proportionate within the DPA, albeit without details of the applicant’s unsuitability. It seemed likely that the DPA provided a legal basis in accordance with article 8. In view of the ongoing concerns of the Committee about this issue we *welcome* this interpretation.

**Article 1 to the  
First Protocol**

**12.8** This is a qualified right that safeguards peaceful enjoyment of personal possessions to procedures for renewal of certificates.

**Associated Matters**

**12.9** The Defence Manufacturers Association raised with us the question of export controls for components of firearms, which is governed by the Export Control Regulations. The definition of components for this purpose is stricter than the definition, which the Committee recommended in the Ninth and Tenth Reports for use with the Firearms Act. This, coupled with the decision in *R v. Clarke*, tends to hinder companies wishing to export. We understand that new legislation is to be put before Parliament to clarify the existing regulations, and to set out the purposes in accordance with the HRA.

**Conclusions**

**12.10** In general, the FCC believes that much of the principle of the HRA already forms part of both the Firearms Acts and their current administration, and potential breaches of the HRA would tend to involve poor administrative practice in many cases. Apart from the specific issues outlined above, the main issues that the FCC *recommends* are taken forward is the need to publish clear and legally acceptable guidelines and observe them. It would be expected under the HRA that citizens should be able to know beforehand the principles on which any decision affecting them would be made.

**12.11** The FCC *recommends* clearly documented and auditable processes in dealing with individual cases. Even when a particular decision was lawful and reasonable, chief officers would be expected to account for their decision-making process on appeal.

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## CHAPTER 13

### Section 7(3) Firearms and Ammunition

**13.1** As a general rule ammunition subject to section 1 of the Firearms Act is held at home with the firearms concerned. However, section 7(3) of the Firearms (Amendment) Act 1997 provides that certain guns of historic interest could be held and used at a site designated for this purpose by the Secretary of State but not removed from the site.

**13.2** It has become common practice for the ammunition for such weapons to also be held on site and not removed, and the certificates of holders of these weapons are conditioned to prevent this. In some cases this has a bearing on historic pistols held under section 7(1) of the 1997 Act. It would be anomalous for a person to be permitted to keep a .455 Webley revolver at home because the ammunition for it was not 'readily available' but then be permitted to home-load .455 ammunition for an identical pistol held under section 7(3). On the other hand, it is equally anomalous that the owner of a .22 rimfire rifle and a .22 rimfire pistol could hold identical sets of ammunition for his rifle at home and his pistol at the designated site but be forbidden to have ammunition for the latter at home.

**13.3** We were advised that in administering the designated site at Bisley Camp, the National Rifle Association (as agreed with the Home Office and Surrey Police) have made facilities available for home-loading ammunition at the site. The need to do so at home was therefore largely removed. It is also open to owners of section 7(3) weapons to partially load their ammunition at home, to the extent that it remains an uncontrolled round. However, the Government is keen to keep strict controls over section 7(3) designated sites in general and to block any attempt to use such sites to continue competitive pistol shooting by the 'back door'. Such activities would undoubtedly bring them into disrepute with potentially adverse consequences.

**13.4** It was also pointed out to us that certain cartridges were considered to be 'not readily available' under the terms of section 7(1), and this was due in part to the limited circulation of such ammunition. An obvious example would be .455 Webley. A criminal stealing such a pistol, for example, would be hard-pressed to obtain ammunition for it on the illegal market. Were such ammunition to be available through thefts and other diversions from lawful ownership, its 'not readily available' status would have to be questioned, and to allow such cartridges to be commonly kept at home might jeopardise the viability of the exemption.

**13.5** The FCC *concluded* that the present arrangements were broadly satisfactory and that the keeping of ammunition for section 7(3) weapons at the designated site concerned presented few practical problems to most owners. The feeling that each case ought to be viewed on its own merits had to be tempered with the police view that a strong, consistent line needed to be adopted.

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## **CHAPTER 14**

### **Guidance to the Police**

We were pleased to note, shortly before going to press, that the Home Office has comprehensively revised its 1989 publication “Firearms Law: Guidance to the Police”. It has been subject of wide consultation, a process that culminated in a nation-wide conference of police and members of the shooting community held at Wakefield Police Training Centre. The FCC fully endorse the concept of comprehensive guidance which will be available to both the police and members of the public through the internet and will go a long way towards encouraging uniformity and good practice in the licensing process.

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## CHAPTER 15

### Administration of the Firearms Act

**15.1** Procedures for administering the licensing of firearms are largely in the hands of individual police forces and we are aware that some have been experiencing difficulties in dealing with the number of applications for grant or renewal of certificates. Against this background, we identified several areas where advice on the administration of the Acts and possible changes in the way things are dealt with at present, might be beneficial. To help us take this forward in the first instance, a sub-group of experienced practitioners and representatives of the shooting community was set up as at **Annex D**. Having regard to their deliberations we offer the following comments and recommendations.

#### Referee Forms/ Countersignatories/ Variation Forms

**15.2** Given the Government's intention to extend the referee system for firearms to shot guns in due course, the effectiveness of the present arrangements and how they might be improved should be explored. In the light of Lord Cullen's Report and the Home Affairs Committee (HAC) inquiry, we recognise that there are political imperatives for the retention of a referee system in principle. We also note that doctors will no longer be specially mentioned in the list of acceptable people to serve as referees following a Cabinet Office review of workload on General Practitioners (GPs).

**15.3** However, there is a risk, identified by the FCC last year, that the willingness of shooters to help the police is being buried by bureaucracy. The FCC would therefore *recommend* in principle that referees should continue to form part of the firearms licensing system but would wish to note that there are practical problems which need to be addressed.

**15.4** The shooting community is concerned over the lack of consistency in the use of the information by different forces:

- there appears to be no 'good practice' about when and how to follow up references;
- what level of information might be expected of referees;
- what persons might be suitable to act as referees;
- the referee may not know much of the information he was asked to verify (for example, criminal records and medical information);
- it is unlikely that the referee would be able to answer all of the questions;
- Police can sometimes appear over-rigorous in insisting on long elaboration of what amounted to a 'don't know' answer;
- conversely, a drive to 'consistency' might encourage officers to adopt a 'tick-in-the-box' approach rather than judging and investigating each case on its merits.



**15.5** We noted a number of proposals for the improvement of the system:

- many potential referees for jobs etc are now concerned that if they give a favourable reference, the employer might sue them for the applicant's failings, and if unfavourable the applicant might also sue. In as far as referees may be unwilling to commit themselves on paper, it might be worthwhile replacing the form, with the applicant simply providing the names of two referees and the police then interviewing them as needed;
- this would reduce the time taken for the police to wait for referees;
- the arrangements for providing and counter-signing photographs are also ponderous and potentially unnecessary;
- the police are willing to consider whether fewer photographs might be needed.

**15.6** The FCC therefore *recommends* a review from first principles and would invite ACPO to seek the views of all forces on what they need and expect from a referee and a reference form. It would also be useful to gather views on good practice in approaching referees under the existing forms, and the advice of Enquiry Officers about other practical issues. In particular, the FCC also *recommends* that the views of all forces be sought on the option of referees' names and addresses being supplied only (rather than a reference form) and evidenced. It may also be helpful to consider any strategies that had been attempted by dubious applicants that the reference system should seek to prevent.

**15.7** The FCC further *recommends* that the views of all forces should be sought on the option of photographs not being signed by the referee/countersignatory as the applicant will be seen by an FEO who can state whether the photograph is an accurate likeness. To this end ACPO have already agreed to set up a sub group to look into the suggested improvements.

**15.8** It will also consider the possible inclusion of a one page variation form as this was also highlighted as an area where improvements may be made in firearms administration. The FCC *recommends* this approach which at the time of publication is still being taken forward.

#### **Changes of address**

**15.9** The way in which changes of address are processed differs from force to force. It is unclear whether certificates should be returned for re-issue by the new force area. There is no legal requirement to do so, as a certificate with an old address would still be valid. Some forces that do ask for the return of certificates end up retaining them for long periods which can be problematic for the owner. The FCC *recommend* that the views of all forces should be sought on the option of allowing the old certificate to continue until expiry, whilst just updating the

computer record and undertaking any relevant security inspection. The Home Office should also note this for inclusion in the 'Guidance'. We also note that the way addresses are recorded in computer systems is not standard. This will be dependent on the systems used by individual forces but QAS (Quick Address System) or postcodes can standardise.

### **No appeal against conditions on a Firearm Certificate**

**15.10** As has been demonstrated in Chapter 12 the 'Buckland' (*R v Cambridge County Court, ex parte Buckland 1997*) decision established that there is no right of appeal against conditions on a Firearm Certificate (FAC). Shooting organisations are extremely concerned about the situation which currently obtains, believing it to contravene the Human Rights Act because there is no process of appeal (other than by Judicial Review). The Home Office have followed up the suggestion that the lack of an appeal mechanism against conditions imposed on a certificate might be *ultra vires* on the ground that the present situation seemed to flow from the 1968 Act, which was a consolidation measure. They have advised that a consolidation Act did not have to replicate everything exactly and that the 1968 Act should be regarded as valid. It was accepted the Judicial Review process could be costly and cumbersome and arguably disproportionate. The whole question of appeals needs to be reviewed in this regard and we **recommend** that this should be done when a suitable legislative opportunity next arises.

### **Review of Other Issues**

**15.11** A paper submitted by the Shooting Sports Trust (SST) raised a number of other issues both general and specific about the information required on firearms forms and related licensing work, it suggested that:

- It may be helpful to take a view from first principles as to what information licensing practitioners need and why it is useful to them;
- Consideration needs to be given to accessing application forms on-line, thus speeding the process, saving postage and encouraging clearly printed applications;
- The style and size of certificate, or certificate plus credit card sized ID should be considered. The present certificate was too large and fragile to carry whilst shooting, and it is arguable that police officers usually need to establish only that the applicant is a certificate holder rather than the details of particular guns;
- For a co-terminous shot gun certificate, the applicant might simply provide a list of his shot guns rather than a repeat of his personal details;
- The purpose of requiring the applicant's height, address, occupation and ammunition possessed on renewal, when the licensing authority already holds this information;
- The purpose of giving two figures (to possess/acquire) when one might do. The police suggested that ammunition possessed at the time of renewal helps quantify usage.

**Good practice, best value  
and accountability**

**15.12** The FCC *welcomes* the decision by ACPO to set up a working group to consider further the issue of forms and licensing practices, including those raised by the SST paper, and looks forward with interest to its conclusions in due course.

**15.13** The BSSC have discussed with HM Inspectorate of Constabulary the possibilities of reviewing firearms licensing practices which they consider has resulted in a wholly unacceptable service for the money paid. There is a National Crime Squad and a National Drugs Squad, so a National Firearms Licensing Board (still under the auspices of the police) might equally be developed. However, a civilianised Firearms Control Board, while attractive to the shooting community, has been effectively rejected by Lord Cullen and by the recent HAC report.

**15.14** We accept that there are limits under the present arrangements to how far the Home Office or others could direct chief officers as to how they meet their obligations under the Firearms Acts. However, there may be scope for particular practices to be encouraged or discouraged as ‘good practice’; for example, the use of (armed) Firearms Officers as Firearms Enquiry Officers tends to mean that every enquiry is made by two police officers rather than a single officer or civilian.

**15.15** The FCC therefore *welcomes* the recent decision by Her Majesty’s Inspectorate of Constabulary (HMIC) to conduct a short review of police licensing with a view to identifying and promulgating good working practice.

**Delays and other  
problems of process**

**15.16** We are aware that shooters have expressed concern about the lack of clear avenues of redress for applicants aggrieved by the system and those involved with it. If the police refused to grant a firearm or shotgun certificate there was a clear avenue of appeal to the courts. Likewise, malpractice by individual police officers was subject to investigation by the Police Complaints Authority. However, shooters concerns have centred around three main areas:

- complaints against individual civilian licensing officers. These were subject to internal disciplinary procedures, but not to checks outside the force. In some cases, chief officers were seen to refer all complaints to the licensing officer concerned. The Local Authority Ombudsman may have a role here;
- slowness in processing individual applications. If an application was delayed rather than refused there was no clear avenue of redress to force the police to reach a decision;
- overall efficiency. If an applicant was aggrieved at the level of staffing and working methods of the licensing department, there was no clear mechanism for pressing for improvement. The role

of HMIC, police authorities and the Home Office were all limited in respect of constabulary independence and the tripartite relationship under the Police Act. HMIC may also lack the detailed knowledge of firearms licensing needed to offer constructive criticism on licensing departments.

**15.17** The shooting organisations suggested a shooting Ombudsman to deal with complaints. An alternative might be investigation by a licensing officer from another force. The FCC notes these concerns, but in view of the forthcoming HMIC review, do not make any recommendation on them.

**15.18** We understand from HMIC that forces are generally improving on turnaround times of applications, although some were still taking a very long time to process renewals. ACPO have indicated that once the current difficulties have been resolved, they will consider very carefully what else might be done to secure more consistent delivery, and to minimise inconsistencies between various police areas.

**Fees**

**15.19** We note that a draft Order to change the level of fees charged for firearms licensing was laid before Parliament and came into effect on 1 January 2001. The possibility of adopting a two-tier system for dealers fees, with a lower fee for those registered as an essential part of another trade or business, had been considered carefully. However, this presented legal problems in that it allowed chief officers a measure of discretion in deciding who attracted which fee and this would be *ultra vires*.

**15.20** The new fees are as follows:

	Old Fee	New Fee
FAC Grant	£56	£50
FAC renewal	£46	£40
FAC variation	£26	£26
Shotgun grant	£43	£50
Shotgun renewal	£18	£40
Co terminous	£5	£10
Dealers grant	£118	£150
Dealers renewal	£50	£150

**15.21** The reason why firearms fees were reduced reflected the principle of full cost recovery for the work done, which in the case of firearm certificates was speeded by computerisation, civilianisation and other efficiency savings. The move from postal renewals to home visits, by contrast, has made shotgun licensing more expensive than previously.

**Welsh Language Act 1993**

**15.22** The Welsh Language Act 1993 (WLA) provides that, unless there are serious practical difficulties, forms and other written material used in Wales must be equally available (rather than just available on request) in Welsh as well as English versions. Lack of demand is not a criterion for non-use, nor is cost. Rare exceptions to the rule may be made for larger documents in some circumstances (for example the old PACE codes). The main options are between dual forms (the preferred option) or a choice between English or Welsh versions. In as far as the WLA provides that Welsh versions of Statutory Instruments and similar legal documents are only valid if they were made at the same time as the English version, it is not clear whether a Welsh translation of the English forms would have legal validity. However, it is possible that the references in the Firearms Acts to ‘a form to the like effect’ would allow for translations.

**15.23** A total of 365 Welsh language applications have been requested in the last five years, broken down by force as below:

- North Wales 350
- South Wales 3
- Dyfed-Powys 12
- Gwent 0

**15.24** In response to the demand, several Welsh forces have produced (non-statutory) forms with an English and Welsh version back to back, the applicant filling in the version preferred. Dyfed-Powys issue dual language certificates, though again it is unclear whether this might be *ultra vires*. Logically all forms would require translation, not just the most used, although Statutes need not be translated, which raised the question of whether statutory forms were covered by the WLA. The police already publish guidance notes and similar material in Welsh. A bilingual FAC/SGC might be cumbersome though driving licences are already published bilingually.

**15.25** We were advised that translation costs vary between £119 and £25 per sheet of A4. Furthermore the Welsh language differs between north and south Wales: however, the statutory nature of the forms may help to establish a single valid version. Translation of the Rules is a ‘one off’ which is likely to cost £6,000. We note that the Home Office has budgets to assist in Welsh language versions of Home Office and police forms and other material. Computer software costs will need to be addressed, including the modification of the ORBIS system and address recognition software. (Town names are different in English and Welsh). Welsh language versions are applicable to Wales only, not to English forces. Concerns were expressed that costs of Welsh forms would be born by all shooters (in common with other licences issued by bodies in Wales), in particular ongoing costs that may be difficult for the Home Office to take up.

**15.26** We are aware that a back translation has already been carried out on all the available forms and that no difficulties in meaning were encountered. This being so we *recommend* that there should be a wider distribution to all Welsh forces.

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## CHAPTER 16

### Other issues

#### Range safety

**16.1** The FCC has looked briefly in the past at the issue of range safety and is aware that further work has been taking place. A working group to discuss this issue has since met, comprising representatives of the police service, the Ministry of Defence and the shooting community. Their main conclusion was that the principal responsibility for maintaining range safety rested with the range operator and ultimately with the individual shooter. However, while the police had no direct responsibility, they might have a Duty of Care to avoid licensing weapons unsuitable for particular ranges. It was hoped that the discussions of this group would produce a paper that might be laid before the FCC later in the working year, but this has not yet materialised. We understand that the MOD have also expressed concerns about their ongoing commitment to inspect civilian ranges and may wish to review the future of this arrangement.

#### Sound moderators

**16.7** Following discussions with the Forensic Science Service (FSS), who had studied recent research from Finland. It suggested that sound moderators helped to prevent hearing damage (by reducing the noise level below the 140-decibel European safety limit), we understand that the police have accepted that the use of sound moderators might be appropriate for quarry and target shooters on health and safety grounds and have amended their policy accordingly. The FCC *notes* this change.

#### EU Weapons Directive Review Of EC Directive and UN Protocol

**16.9** The FCC noted that the European Commission (EC) presented their report on the operation of the EC Directive on the control of the acquisition and possession of weapons (91/477/EEC) to the Working Group of national experts in December 2000. The Report concluded that the Directive had been properly transposed into national law, and was generally operating well. It did, however, make some recommendations for improving the operation of the Directive, focusing on areas such as the exchange of information between Member States. In subsequent Working Group discussions, the EC have also proposed a study of the use of the European Firearms Pass (EFP).

**16.10** The EC have indicated that they intend to present legislative proposals at the beginning of 2002 reflecting the outcome of their deliberations. We understand that these have not yet been articulated fully, so it is too early to speculate on what exact form they might take and how the Government and the Committee might respond to them. The EC have indicated that these legislative proposals will take full account of the UN Protocol against the illicit manufacturing of and trafficking in firearms, their parts, ammunition and components. The UN General Assembly adopted the Protocol on 31 May 2001, and it is currently awaiting signature and formal ratification.

**16.11** The EC Report drew attention to some of the issues to emerge from the UN Protocol discussions, for example the development of international agreed standards for deactivation of firearms and a common definition of antique guns. However, the Protocol is mainly concerned with much broader issues involving the movement of firearms, their parts, ammunition and components between nations, some of which will require an EU, rather than a national, response. These issues, together with the EC's legislative proposals, will continue to be discussed in the Working Group of national experts and the Committee throughout 2002.

**Standards for testing**

**16.12** The Government also accepted that it would be desirable to have in place a common standard for the testing of air weapons as recommended by the HAC. Again this is a complex technical matter and we were advised that this would be very expensive to carry out on a regular basis due to the sophisticated and highly calibrated equipment required. For the most part such equipment would only be available in the Forensic Science Service, which would be unable to cope with large numbers of checks. It is possible that the Proof Houses could carry out screening checks to within say a 5% tolerance and any air weapons which fell within that might be submitted as necessary to the FSS for more accurate testing. The practicalities of such a system need to be further explored by the FSS, the Proof Houses and The Gun Trade Association and we so *recommend*.



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## CHAPTER 17

### Summary of Recommendations

**17.1** It has now become customary to include a summary of the FCC's recommendations. Many of these are majority as opposed to consensus decisions. We would refer the reader to the chapters concerned for further details of our discussions.

**17.2** The FCC *recommends* the Government should take steps to prohibit certain powerful (materiel destruction) rifles, based on their muzzle energy and not by name. Any prohibition should make exceptions for certain rifles as indicated at paragraph 2.6 herein. [Paragraphs 2.4-2.9].

**17.3** The FCC *recommends* that the Government should seek to ban those revolvers which have wrist braces or similar extensions to the pistol grip. It is further suggested that such a ban might be extended to all those revolver guns without a permanently attached shoulder stock. [Para 2.14].

**17.4** The FCC *recommends* that further controls on imitation firearms, if adopted, should be carefully defined to avoid banning *inter alia*, toy guns and their legitimate use. [Para 3.20]

**17.5** The FCC *recommends* the creation of a new offence relating to possession of an imitation firearm in a public place without lawful authority or reasonable excuse. This should not interfere with legitimate use of imitation firearms. [Para 3.30].

**17.6** As in the Tenth Annual report the FCC *recommends* that the Home Office in conjunction with the police should look into the possibility of launching a publicity campaign against the misuse of imitation firearms. [Para 3.33]

**17.7** The FCC *recommends* that any changes in the law, to allow the supervised use of firearms, should be drafted in terms encompassing the following: "no person qualified to supervise the use of firearms, by young shooters, shall supervise the possession or use of firearms by more than one person at any one time, save and except properly organised target shooting". Clarification of what constituted 'properly organised target shooting' for these purposes should be given by way of guidance. [Para 4.11].

**17.8** The FCC *recommends* that there should be a provision to allow any firearm certificate holder aged over 21 with three years relevant experience to give temporary possession of his gun to anyone else, subject to any conditions on his certificate, for activities connected with quarry shooting. For a recipient under eighteen this would require direct one-to-one supervision and over eighteen this would need the FAC holder to be in the presence of the recipient. [Para 4.12].

**17.9** The FCC *recommends* a provision to allow any shot gun certificate holder of age 21 or over, with three years experience, to give

temporary possession of a shot gun to anyone else. Supervision to be subject to the rules recommended for FAC holders (as above in 17.8). [Para 4.13].

**17.10** The FCC *recommends* that the following age limits should apply to the use of firearms:

- Under 14 – can use any weapons only when supervised on a one-to-one basis by a suitable person.
- Between 14 and 17 – can obtain a FAC if able to meet the qualifying criteria, but if not be able to borrow weapons with the proper supervision.
- 17 and over may obtain a FAC and SGC in their own right (this is unchanged).
- Between 17 and 21 – not entitled to supervise in the use of firearms. [Para 4.14]

**17.11** The FCC *recommends* that there should be a single test of ‘fitness’ for ‘good reason’ to possess shot guns at grant and renewal. [Para 5.32].

**17.12** With regard to ‘good reason’ to possess a shot gun and pending an opportunity to amend the principle Act, the FCC *recommends* that it should be made clear in Guidance that:

- entitlement to possess a shot gun certificate depends principally on the police being satisfied of lack of danger to the public safety or the peace combined with a ‘good reason’ for possession by the applicant;
- the list of ‘good reason’ is not exhaustive and even though the Act gives some express examples, it may be beneficial for *Guidance* to give an additional number of qualifying activities;
- if the applicant satisfies the licensing authority that he has at least one ‘good reason’ to possess a shot gun then subject to the criterion of fitness, the certificate should be granted. [Para 5.35].

**17.13** The FCC *recommends* that the question of ‘fitness’ in relation to ‘good reason’ to possess a shotgun should be addressed when a suitable legislative opportunity arises; the question of ‘good reason’ should not be addressed in isolation from such a change. [Para 5.36].

**17.14** At present if the owner of a deactivated firearm loses his certificate and applies for another one, the Proof Houses have no authority to insist that the weapon is deactivated to current standards. As a result they can only ask for the weapon to be resubmitted to ensure that it meets the 1988 standards. The FCC *recommends*, as it has previously, that this should be amended so that the Proof Houses

would only issue duplicate certificates for guns deactivated to the *most recent* standards. In order for this to have practical effect there ought to be a requirement for the certificate to remain with the gun. [Para 6.4].

**17.15** The FCC *recommends* that the Gun Trade Association (GTA), FSS and Proof Houses should review the need to strengthen the deactivation standards. The Proof House might also advise on current trends in deactivation over the past few years which would include the numbers and types of guns regularly submitted. [Para 6.5].

**17.16** With regard to deactivated firearms the FCC *recommends* that the Government should adopt and promulgate the proposed “B” specification. [Para 6.6]

**17.17** The FCC *recommends* that the Government should continue to press for strong and effective standards on deactivation in the international context. [Para 6.7].

**17.18** The FCC *recommends* that the Government re-examine the MFE system and the standards on which it was based to see if these could be improved. [Para 6.11].

**17.19** The FCC *recommends* that the Home Office should issue a leaflet to re-enactors and others involved with blank firing replicas on ‘good practice’ in their construction. This might help curb any particular mischief and allow gunmakers to proceed with greater certainty. [Para 6.12].

**17.20** The FCC *recommends* that the proposed research into types and origins of firearms used in crime should be regarded as redundant in view of the work now being developed by the National Firearms Forensic Intelligence Database. [Para 7.3].

**17.21** The FCC *recommends* that the FSS draw up a protocol on the levels of information required for the National Firearms Forensic Intelligence Database to avoid unnecessary and costly work. [Para 7.8].

**17.22** Because of the inherent dangers involved in the use of the information, the FCC *recommends* that particular care should be taken over the policy-making role of the FSS database. [Para 7.9].

**17.23** As the FSS database is reliant on the submission of weapons for its success, the FCC *recommends* that the Home Secretary and Chief Officers should give all necessary assistance to the project. [Para 7.10].

**17.24** HM Customs maintain a database on all firearms recovered by the service. This information is logged immediately by the investigating officers and is kept constantly updated and readily available to all officers although the descriptions may not always be complete. The FCC *recommends* that HM Customs should carefully analyse and review any information from this database which is used for policy and statistical purposes. [Para 7.12].

**17.25** The FCC *recommends* that the procedures governing the reporting of injuries by the NHS, involving firearms, should be reviewed as part of its work for the next year. [Para 7.14].

**17.26** The FCC wishes to endorse the work of the National Criminal Intelligence Service in the field of firearms tracing and *recommends* that any future arrangements should take account of the usefulness of such a service. [Para 7.16].

**17.27** The FCC acknowledges that there might be shortcomings in the compilation of criminal statistics and therefore *recommends* that the Home Office makes this clear when using the data to answer Parliamentary Questions and the like. [Para 7.19].

**17.28** The FCC *recommends* a criminal provision that any person found in possession of explosives should be obliged to show reasonable and lawful excuse. This is one of those areas where the burden of proof ought to be reversed (similar to the possession of a knife in a public place), putting the onus on the person not the police. [Para 8.4].

**17.29** Many dealers require the sight of a firearms certificate before they will sell smokeless powder, the FCC *recommends* this should be encouraged in the trade as ‘best practice’. [Para 8.6].

**17.30** The FCC *recommends* that any controls on component parts of ammunition do not extend to inert metal components such as bullets and cartridge cases. [Para 8.7].

**17.31** The FCC *recommends* that the existing provisions on the sale of shot gun cartridges should be retained in their present form as controls might fall more heavily on legitimate owners rather than criminals. [Para 8.8].

**17.32** The FCC *recommends* that Ministers should raise the issue of air weapons misuse with Chief Officers, having regard to issues of education, enforcement and ‘good practice’. [Para 9.4].

**17.33** The FCC *recommends* that the Home Office should produce a poster on the law with regard to air weapons for display at suitable venues, such as shooting clubs, halls used by scouts and guides, and other places where young people and adults might read it. [Para 9.7].

**17.34** The FCC commend GTA practice of providing a leaflet promoting safe use with the sale of each air weapon and *recommends* that a leaflet on the safe use of air weapons ought to be given to wholesalers of air gun pellets to distribute to their vendors. [Para 9.9].

**17.35** Although it may be politically difficult for the Home Office to support bringing firearms into schools in order to further safety education, the FCC *recommends* that the Home Office takes the matter further with the Department for Education and Skills (DfES). [Para 9.10].

**17.36** The Gun Trade Association (GTA) have done pioneering work with the ‘air gun in a box’ approach to education at fairs and village fetes. The FCC *recommends* that this approach be adopted more widely. [Para 9.11].

**17.37** In order to reach as wide an audience as possible on the issues of air weapon safety, the FCC *recommends* that the Home Office explore the possibility of producing a public education film. [Para 9.12].

**17.38** The FCC *recommends* that any future amnesty on firearms ought to consider the inclusion of air weapons in preference to mounting a separate hand in campaign. [Para 9.13].

**17.39** The FCC *recommends* that any literature or other material on air weapon safety should encourage secure storage as part of air weapon safety. [Para 9.14].

**17.40** With regard to air weapon sales through mail order, the FCC *recommends* that the system of requesting payment by cheque or credit card ought to be encouraged as ‘best practice’ since young people would be less likely to have access to them. [Para 9.18].

**17.41** Where the police have been called to an incident which involved the misuse of an air weapon, the FCC *recommends* that the forfeiture of the weapon should be considered irrespective of whether criminal proceedings are instituted. [Para 9.22].

**17.42** The FCC *recommends* that a statutory threshold of one joule (0.7376 ft/lbs.) muzzle energy should be embodied in primary legislation. Any air weapon which exceeded this limit should be deemed to be a firearm, for the purposes of the Firearms Acts. [Para 10.2].

**17.43** The FCC *recommends* that the use of humanoid shaped targets should not be expanded or encouraged. [Para 11.14].

**17.44** The FCC *recommends* that meetings between shooting organisations and the police should continue to be held. This should encompass discussions on developments in shooting sports and might include an update on new and developing shooting disciplines and any concerns the police may have. [Para 11.23].

**17.45** The FCC *recommends* that a ‘tool kit’ of the normal parameters of shooting activities of national disciplines should be listed for the benefit of Firearms Enquiry Officers (FEO’s). [Para 11.27].

**17.46** It was generally felt that the principles of the Human Rights Act already underpinned the Firearms Acts and their administration. The FCC *recommends* that clear and legally acceptable guidelines are published and observed on the operation of the HRA. Under the HRA citizens

should be able to know beforehand the principles on which any decision affecting them would be made. [Para 12.10].

**17.47** The FCC *recommends* that clearly documented and auditable processes for dealing with individual cases are put in place. Even when a particular decision was lawful and reasonable, chief officers should be expected to account for their decision-making process in the event of an appeal. [Para 12.11].

**17.48** Whilst acknowledging the practical problems, the FCC *recommends* that referees should continue to form part of the firearms licensing system. [Para 15.3].

**17.49** The FCC *recommends* that ACPO should seek the views of all forces on what they would need and expect from a referee and reference form. [Para 15.6].

**17.50** The FCC *recommends* that the views of all forces should be sought on the option of referees' names and addresses being supplied only (rather than a reference form) and evidenced. [Para 15.6].

**17.51** The FCC *recommends* that the views of all forces should be obtained on the option of photographs not being signed by the referee/countersignatory as the applicant will be seen by the FEO who can state whether the photograph is an accurate likeness. [Para 15.7].

**17.52** The FCC *recommends* that the views of all forces should be sought on the option of allowing the old certificate to continue until expiry, whilst just updating the computer record and undertaking any relevant security inspection. The Home Office should also note this for inclusion in the 'Guidance'. [Para 15.9].

**17.53** The only recourse at present to appeal against the imposition of a condition on a certificate is to apply for a costly and potentially cumbersome Judicial Review and the FCC *recommends* that the whole question of appeals should be reviewed when a suitable legislative opportunity next arises. [Para 15.10].

**17.54** In respect of Welsh language forms, the FCC *recommends* that there should be a wider distribution to all Welsh forces. [Para 15.26].

**17.55** The FCC *recommends* that the FSS, Proof Houses and the GTA should explore further the possibility that Proof Houses could carry out screening checks of power levels for air weapons to within a 5% tolerance, subject to further verification by the FSS where necessary. [Para 16.12].

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## ANNEX A

### Firearms (Amendment) Act 1988

#### Firearms Consultative Committee

**22.-(1)** There shall be established in accordance with the provisions of this section a Firearms Consultative Committee consisting of a chairman and not less than 12 other members appointed by the Secretary of State, being persons appearing to him to have knowledge and experience of one or more of the following matters –

- (a) the possession, use or keeping of, or transactions in, firearms;
  - (b) weapon technology; and
  - (c) the administration or enforcement of the provisions of the principle Act, the Firearms Act 1982 and this Act.
- (2)** The reference in subsection (1)(a) above to the use of firearms includes in particular a reference to their use for sport or competition.
- (3)** Subject to subsection (4) below, a member of the Committee shall hold and vacate office in accordance with the terms of his appointment.
- (4)** Any member of the Committee may resign by notice in writing to the Secretary of State; and the chairman may by such a notice resign his office as such.
- (5)** It shall be the function of the Committee –
- (a) to keep under review the working of the provisions mentioned in subsection (1)(c) above and to make to the Secretary of State such recommendations as the Committee may from time to time think necessary for the improvement of the working of those provisions;
  - (b) to make proposals for amending those provisions if it thinks fit; and
  - (c) to advise the Secretary of State on any other matter relating to those provisions which he may refer to the Committee.
- (6)** The Committee shall in each year make a report on its activities to the Secretary of State who shall lay copies of the report before Parliament.
- (7)** The Secretary of State may make to members of the Committee such payments as he may determine in respect of expenses incurred by them in the performance of their duties.

- (8) The Committee shall cease to exist at the end of the period of five years beginning with the day on which this section comes into force unless the Secretary of State provides by an order made by statutory instrument for it to continue thereafter, but no such order shall continue the Committee for more than three years at a time.

**The Firearms (Amendment) Act 1988  
(Firearms Consultative Committee) Order 2000  
Order 2000 No. 177.**

2. The Firearms Consultative Committee shall, following the expiry of the period of its existence specified in article 2 of the Firearms (Amendment) Act 1988 (Firearms Consultative Committee) Order 1996 (*b*), continue to exist for a period of two years beginning on 1st February 2000.



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## ANNEX B

### **Biographies of members relevant to their appointment to the Committee and record of attendance at meetings 2000/2001 [including sub-Committee meetings]**

- Mr B Carter**  
[8/11] Vice President of the British Shooting Sports Council. Previously a registered Firearms Dealer, former Director of the Gun Trade Association and Clay Pigeon Association. An active game and vermin shooter for most of his life.
- Mr C A Ewing**  
[11/11] Chairman of the board of Directors of The National Shooting Centre Ltd. Former Chief Executive of National Rifle Association. Formerly Regular Soldier (Colonel).
- Mr J Hart**  
[5/7] Assistant Commissioner City of London Police and Chairman of the ACPO firearms licensing sub-group.
- Mr W Harriman**  
[12/13] Director of Firearms of the British Association for Shooting and Conservation; Member of the Academy of Experts and Law Society registered expert witness in the field of firearms, ammunition and ballistics; member of the British Shooting Sports Council. Weapons and Militaria consultant for BBC TV 'Antiques Roadshow'; firearms and weapons historian, writing regularly in the shooting/collecting press and in learned journals; former Territorial Army officer (Captain).
- Mr D Henderson**  
[3/5] Scottish Executive Justice Department
- Mr J Hoare**  
[6/8] Secretary of the National Small-Bore Rifle Association
- Mr M Lobb**  
[12/12] Firearms Licensing Officer, Thames Valley Police and formerly licensing officer for Northamptonshire Police.
- Mrs G Marshall-Andrews**  
[12/12] Chair, Gun Control Network
- Mr D S McCrone**  
[8/8] Deputy Chief Constable, Greater Manchester Police, Chairman of the Association of Chief Police Officers Sub-Committee on the Criminal Use of Firearms
- Mr K Mc Inness** [6/7] Deputy Chief Constable Fife Constabulary. Chair of ACPO (Scotland) committee on Firearms.
- Mr K O'Callaghan**  
[13/13] Forensic Science Service Firearms Section.
- Mr D J Penn**  
[8/8] Keeper, Exhibits and Firearms, Imperial War Museum. Fellow of the Society of Antiquaries. Liveryman of the Worshipful Company of Gunmakers. Office holder in Muzzle Loaders Association of Great Britain and Historical Breechloading Smallarms Association. Former member of the British Shooting Sports Council. Member of the Arms and Armour Society and National Rifle Association. Has also represented Oxford University and County of London in pistol shooting. Also shoots rifle and shotgun.

- Mr R J Pitcher**  
10/10] Special Investigation Branch, Royal Military Police to 1984. Branch Proof Master, Worshipful Company of Gunmakers, Royal Small Arms Factory, Enfield to 1986. Proof Master, Worshipful Company of Gunmakers, London and head of British delegation to the Commission of International Proof. Pistol shot and rough shooter.
- Mr R Sanbrook**  
[6/8] HM Customs and Excise, Criminal and Enforcement Policy Group.
- Mr M Scoggins**  
[7/8] Elborne Mitchell Solicitors who has worked on a number of public enquiries, including Lord Cullen's Enquiry into the tragedy at Dunblane.
- Professor J Shepherd**  
[8/9] University of Wales College of Medicine. Department of Oral Surgery and Pathology. A surgeon and specialist in firearms wound ballistics and active with Victim Support.
- Dr S Smith**  
[5/9] Technical Advisor, National Union of Farmers
- Mr I Snedden**  
[2/2] Head of Police Division, Scottish Home Department, then Head of Police Division, Justice Department, Scottish Executive. Left the FCC in December 2000.
- Mr G Widdecombe**  
[15/15] Head of Firearms Section, Action Against Crime and Disorder Unit, Home Office.
- Mr J A Winnington**  
[8/10] Farmer and Magistrate, Chairman of the Magistrates Association sub-committee on road traffic

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## ANNEX C

### Interested parties which have submitted representations

Mr Abbot  
Mr S. Andrews  
Baron van Tuyl van Serooskerken  
Mr F.T. Bodham  
Countryside Alliance  
DCS Cox, Metropolitan Police.  
Mr J Craig.  
Mr B. Davies  
Fulwood Shooting Club, Merseyside.  
Mr Paul Green  
Ms Chrissie Hall  
Mr S. Ide  
Mr Stephen Kendrick  
Mr Tom Knowles.  
Mr David Lacey.  
National Operatic and Dramatic Association.  
Pennine Shooting Sports Association.  
Mr A.A. Piper  
Royal Society for the Prevention of Cruelty to Animals (RSPCA)  
Mr J.D. Rose  
Mr J.M. Veale.  
Warwickshire Shooters Liaison Committee.

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## ANNEX D

### Those attending FCC sub-group meetings

<b>Lethality</b>	Dr John Anthony	General Practitioner
	Mr Brian Carter	SST
	Mr Geoff Doe	NSRA
	Mr Mick Fidgeon	Essex Police
	Mr Bill Harriman	BASC
	Dr David Izod	Royal Military College of Science
	Mrs Gill Marshall-Andrews	GCN
	Mr Kevin O'Callaghan	FSS
	Mr Bob Pitcher	London Proof House
Dr Dick Shepherd	St George's Hospital Medical School, London	
<b>'Good Reason' for shotguns</b>	Mr Brian Carter	Shooting Sports Trust
	Mr Ian Clifton	Association of Professional Clay Target Shooting Grounds
	Mr Graham Downing	Countryside Alliance
	Dr Phillip Elliot-Wright	National Association of Re-enactment Societies
	Mr Brian Ellis	Sussex Police
	Mr Roger Emmerson	English Civil War Society
	Mr Mick Fidgeon	Essex Police
	Mr Doug Glaister	National Rifle Association
	Mr Bill Harriman	British Association for Shooting and Conservation
	Mr Mike Lobb	Thames Valley Police
	Mr Pat Johnson	British Shooting Sports Council
	Mrs Gill Marshall-Andrews	Gun Control Network
	Mr Kevin O'Callaghan	Forensic Science Service
	Mr Emillio Orduna	Clay Pigeon Shooting Association
	Mr Derek Phillips	Office of Legislative Affairs
	Mr Bob Pitcher	London Proof House
	Dr Stephen Smith	National Farmers Union
	Mr Graham Widdecombe	Home Office
<b>Firearms Administration (including Welsh Language issues)</b>	Mr Brian Carter	Shooting Sports Trust
	Mr Glynn Cook	BASC Wales
	Mr Sandy Ewing	NRA
	Mr Colin Greenwood	Shooting Sports Trust
	Mr Bill Harriman	BASC
	Mr Pat Johnson	British Shooting Sports Council
	Mr Mike Lobb	Thames Valley Police
	Mr Martin Richardson	Home Office Communications Directorate
	Ms Helene Rogers	South Wales Police
	Mr Gary Smith	Metropolitan Police
	Dr Stephen Smith	National Farmers Union
	Mr Mick Sykes	Lancashire Constabulary
	Mr Graham Widdecombe	Home Office

<b>Deactivation Standards</b>	<p>Mr John Batley Dr Phillip Elliot-Wright</p> <p>Mr Kevin O’Callaghan Mr Bob Pitcher Mr Chris Price Mr John Varley Mr Graham Widdecombe</p>	<p>Gun Trade Association National Association of Re-enactment Societies FSS London Proof House Helston Gunsmiths PMV limited Home Office</p>
<b>Research</b>	<p>Mr John Bryan Mr Colin Greenwood Mr Fred Hallam Mr Bill Harriman Mr David Hepworth Mr Kevin O’Callaghan Mr David Penn Mr Clive Royce Professor Jonathan Shepherd Mr Alan Shires Mr Roger Weedon Mr Graham Widdecombe</p>	<p>King’s College London Shooting Sports Trust National Criminal Intelligence Service BASC Northumbria Police Forensic Science Service Imperial War Museum HM Customs &amp; Excise Victim Support National Criminal Intelligence Service Surrey Police Home Office</p>
<b>Human Rights</b>	<p>Mr Geoff Doe Mr Brian Ellis Mr Sandy Ewing Mr Bill Harriman Mr Mike Lobb Mr Kevin O’Callaghan Mr Roger Sanbrook Mr Arthur Winnington Mr Richard Westlake</p>	<p>NSRA Sussex Police NRA BASC Thames Valley Police FSS HM Customs Magistrates Association Home Office</p>
<b>Secure Storage</b>	<p>Mr John Batley Mr Brian Carter Mr Geoff Doe Mr Mike Eveleigh Mr Colin Greenwood Mr Peter Johnson Mr Alec Moffatt Mr David Penn Mr Chris Price Mr Tony Slate Mrs Madeleine Swainbank  Mr Graham Widdecombe</p>	<p>Gun Trade Association Shooting Sports Trust NSRA BASC Shooting Sports Trust Merseyside Police Fife Constabulary Imperial War Museum Helston Gunsmiths Derbyshire Constabulary Manroy Engineering (for Defence Manufactures Association) Home Office</p>

<b>Component Parts of Ammunition</b>	DC Alan Birtles	Greater Manchester Police
	Mr Mike Eveleigh	BASC
	Mr Sandy Ewing	NRA
	Mr Phil Kent	West Yorkshire Police
	Mr Mike Lobb	Thames Valley Police
	Mr Andy Miller	Health & Safety Executive
	Mr Kevin O'Callaghan	FSS
	Mr Chris Price	Helston Gunsmiths
	Mr Julian Ross	Greater Manchester Police
	Mr Russell Wilkins	Holland & Holland Ltd
Mr Graham Widdecombe	Home Office	
<b>Target Shooting Disciplines</b>	Mr Mike Eveleigh	BASC
	Mr Geoff Doe	NSRA
	Mr Sandy Ewing	NRA
	Mr Mick Fidgeon	Essex Police
	Mr Graham Gill	UK Practical Shooting Association
	Mr Mark Hodgkins	Historical Breech-Loading Small-Arms Association
	Mr Mike Lobb	Thames Valley Police
	Mrs Gill Marshall-Andrews	GCN
	Mr Alan Overton	Muzzle-Loaders Association of Great Britain
	Mr Mick Sykes	Lancashire Constabulary
Mr Graham Widdecombe	Home Office	
<b>Reducing the misuse of air weapons through education and enforcement</b>	Mr John Batley	Gun Trade Association
	Mr Brian Carter	Shooting Sports Trust
	Mr Mick Fidgeon	Essex Police
	Mr Colin Greenwood	Shooting Sports Trust
	Mr Bill Harriman	BASC
	Mr John Hoare	NSRA
	Mrs Gill Marshall-Andrews	GCN
	Mr Kenneth McInnes	Fife Constabulary
	Mr Kevin O'Callaghan	FSS
	Mr Mark Scoggins	Elborne Mitchell, Solicitors
	Professor Jonathan Shepherd	Victim Support
	Dr Stephen Smith	National Farmers Union
Mr Arthur Winnington	Magistrates Association	
Mr Graham Widdecombe	Home Office	

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## ANNEX E

### Operation 'Trident' Presentation by The Metropolitan Police

1. Detective Chief Superintendent Cox kindly attended and gave a presentation on the Metropolitan Police's Operation 'Trident'. This was set up on 24 July 2000 as part of the Metropolitan Commissioner's objective to make London the safest capital city in the world. 'Trident' was intended as a specific response to armed and violent crime within London's black community. Its objectives were threefold:

- Disruption of criminal activity through intelligence driven targeting of those involved;
- Investigation of individual offences; and
- Investment and education within the community to support alternatives to drug and crime-related lifestyles.

2. The present drugs and gang related violence, mostly involving the use of firearms and labelled by the media as 'Yardie culture', had its roots in the poverty and political instability of Jamaica in the 1960's and 1970's. Criminals saw the opportunities for vast profits and were ruthless in surpressing rivals. Drugs markets have expanded worldwide and inevitably the U.K. has been influenced by this type of criminality.

3. In the UK, such a lifestyle with fast cars and large amounts of ready cash held superficial attractions to some young black Britons. The situation was made worse by professional criminals visiting the UK illegally from Jamaica, supported by a thriving trade in forged passports. The United States and Canada had recently introduced stricter visa requirements to combat this problem. The 'Trident' team had been working closely with the Home Office's Immigration Service and HM Customs to deal with this problem, with a Customs officer posted permanently to the 'Trident' team and a 'Trident' officer permanently in Jamaica.

4. At present, recorded shooting incidents averaged 4/5 a week, or some 200/250 incidents over the last year. The apparent 'rise' in shooting incidents was due in part to better recording practices for incidents. Incidents were often linked, sometimes relating to feuds in Britain and Jamaica ongoing over several years and involving a number of gang members.

5. In previous years, the Metropolitan Police Service (MPS) had mounted short-term operations against armed crime in the black community. However, demand on resources had lead to such operations being limited in duration: by contrast 'Trident' was permanent and ongoing.

6. 'Trident' was supported by an Independent Advisory Group drawn from the black community including local politics, business and social services. The Group was intended to act as a 'critical friend' to advise the MPS about the work of 'Trident'. However, the Group had

also played a high-profile role in media appeals, designing logos and publicity campaigns, and in dealing with victim's families who were often reluctant to approach the police directly.

**7.** While the black community as a whole had been very supportive, the gang or 'posse' culture of the criminals was marked by a Mafia-style 'code of silence'. This meant that the police often had more intelligence-information on criminal activities than hard evidence against named individuals. Gang members were often experienced criminals with a strong understanding of forensic evidence, for example wearing masks and gloves during shootings.

**8.** The 'Trident' unit based at Putney included a central Major Incident Room supported by three investigation teams and a Dedicated Source Unit dealing with informants. The latter was particularly important in ensuring that evidence from informants with criminal backgrounds was in a form acceptable to the courts. 'Trident's terms of reference allowed it to deal specifically with armed crimes within the black community rather than a wider remit to cover all shootings and drug-related crime. 'Trident' had some 200 officers and civilian staff, but investigations were complex and lengthy.

**9.** 'Trident' shooting incidents were marked by extreme ruthlessness and disregard for bystanders, including:

- A gang shooting at a queue at a night-club in Brixton in order to kill one person. Eight people were injured in the shooting, including a 14-year-old girl. Despite the severity of the violence, mainstream media coverage had been poor;
- A close-range shooting by masked gunmen in a car park covered by closed-circuit television;
- Automatic weapons fired at a passing car in Brent High Street, bullets hitting a passing bus and landing in a school playground;
- Death threats and attempted murder of witnesses to shootings, highlighting the importance of witness protection.

**10.** Over the past year, Operation 'Trident' had achieved a number of successes in addressing both crime and the fear of crime, including the following:

- Over 150 arrests, including several people suspected of organising shooting incidents and related crimes;
- The seizure of over 100 firearms of all types, ammunition and substantial quantities of controlled drugs;



- Growing community support for ‘Trident’ and re-assurance that action was being taken to deal with criminal shootings;
- Transferring the burden of fear from the public to the criminals. Informally, gang members had indicated that fear of other armed criminals was now matched by fear of ‘Trident’ and police ‘Trojan’ armed response teams.

**11.** Arms seized by ‘Trident’ included a range of modern firearms such as sub-machine guns and Glock and Tokarev pistols, sometimes with sophisticated sights. The money available from drug dealing allowed criminals to buy several of the best guns as status symbols or ‘fashion accessories’. While some guns were re-activated or converted, many of the better-quality guns were smuggled illegally into the country. However, from the number of non-fatal shootings it seemed that suitable ammunition might be difficult to obtain with the wrong calibre or poor quality ammunition sometimes used.

**12.** There is growing evidence of this type of criminality spreading to other areas of the U.K. In part this reflects the ease of commuting and communicating within the country, but it may also involve an element of displacement as Operation Trident (and similar initiatives in other large forces) prompts criminals to look for easier environments in which to operate. While separate gangs were established in each town, the club and music scene tended to encourage members of different gangs to meet, often leading to conflict.

**13.** The source of illegal arms were not easy to trace as illegal arms dealers tended to act through intermediaries and were therefore difficult to identify. While guns were imported, for example from the Balkans, the same gun often appeared in unrelated shootings, suggesting that guns may be hired out. One murder had been linked to the failure of the victim to return a gun hired from an illegal armourer.

**14.** Offences in London could be locally based or have their origin in gang clashes in Jamaica. There have been instances where Jamaican criminals interests have conflicted with local criminals, leading to violence, and other examples of local criminals ‘hiring in’ Jamaican contract killers.

**15.** Much of the violence was confined to a small section of the black community, and repudiated by the majority, with gang members tending to be people who grew up together in London or Kingston. However, the nature of the trade in drugs and illegal weapons meant that gang members were willing to deal with anyone willing to trade with them.

**16.** The FSS/ACPO National Firearms Intelligence Database now provided recording for all markings, including proof markings. As well as being able to supply such information to Investigating officers it

was also possible to provide general statistical information and to identify wider trends. ACPO was seeking to encourage the police to submit all recovered weapons to the FSS for examination.

**Presentation on police  
action against illegal  
firearms in Greater  
Manchester**

17. The role played by replica/deactivated firearms had caused some concerns, in general the controls on firearms in the UK were fairly strict.

18. The media image of armed crime in Manchester had centered around a misleading stereotype of Moss Side as ‘The Bronx of Britain’ or ‘Gun-chester’. Television news clips reported ‘a shooting every day for the last six months’, a spate of shootings heralding the ‘breakdown of a gangland truce’, and three (unlinked) shotgun murders in a single month.

19. The problem of armed violence in south Manchester included a range of specific problems:

- A ‘gun culture’ amongst gangs of drug dealers in which the possession of firearms and willingness to use them to gain ‘respect’ was a mark of status;
- The wider community were intimidated by the continuing violence and the risk of reprisals if they became involved in measures against this;
- Offenders and offences often spanned and crossed police areas, making a co-ordinated response difficult;
- The multi-million pound regeneration scheme for south Manchester was endangered by the ongoing risk of violence;
- The ‘Bronx/Gunchester’ image was damaging to investment and to community morale;
- Police morale was also eroded by the risk of armed violence to officers and the difficulties in combating this effectively;
- The spontaneous nature of most shooting incidents made a proactive police response difficult;
- Victims of shootings, themselves gang members, were generally unwilling to help the police in their investigations;
- Often there was no clear ‘scene of crime’: a victim would turn up in hospital with gunshot wounds but refuse to report where the actual shooting took place;
- The police use of firearms emphasised safety over flexibility, making it more difficult to respond swiftly to armed incidents.

**20.** Between 1998 and 2000 there had been a steady rise in shooting incidents, though the 40 incidents last year was far less than the ‘shooting every day’ reported in the media.

**21.** Shooting incidents tended to involve a small number of gang members rather than the full gang. Although ‘turf wars’ to gain territory for drug dealing did take place, personal pride tended to be the spur to most shootings. Injuries were often limited and sometimes accidental and self-inflicted, for example to the legs when drawing a pistol from a pocket. Shooting incidents tended not to involve police and members of the public (though a 16-year old girl was seriously injured when a gang member shot at the minicab believing that she was a rival gang member). Media interest was unpredictable and not always proportionate to the seriousness of each incident.

**22.** In 1998 the Greater Manchester Police set up an Armed Crime Strategy Group which developed ‘Operation Starlite’, a police response to armed crime with the following features:

- A ready force for rapid deployment;
- A high profile to reassure the public and to challenge the assumption by criminals that they could carry and use guns with impunity;
- Intelligence lead rapid re-deployment;
- Policing components of:
  - Uniformed foot patrols, supported by:
  - An inter-divisional response; and
  - Two dedicated armed response vehicles, including an armoured land-rover to raise the profile of the operation.

**23.** Operation ‘Starlite’ had some successes, but was limited by operational factors such as the need for authorisation at chief officer level for pre-planned firearms operations and restrictions on the deployment capabilities of Armed Response Vehicles.

**24.** This led to the development of ‘Starlite II’, an operation with a range of improvements. These included a standing firearms authorisation delegated to the superintendent in charge of the operation, based on clear rules, improved training, convoys of vehicles including ARVs intelligence-lead operations against well-defined targets, and pro-active vehicle checks and roadblocks. Intelligence Association Charts were used to set out the information on known targets and define operations more effectively. In the first ‘Starlite II’ operation, two gang members were arrested and firearms were

recovered. Further research showed that the single convoy was too cumbersome and was split into two convoys with spotter vehicles and ARVs. Decoy operations were used to confuse gangs and code words for targets were used as gangs may be monitoring police radio transmissions.

**25.** A typical 'Starlite II' operation cost some £12,232. By comparison, a major incident investigation would cost some £250,000 and a murder investigation £1 million, so pre-emptive action of this kind was financially effective as well as saving lives. Further refinements of the system through 'Operation Jugular' included a clear command log to record the details of the operation, and briefing including policy, risk assessment and Human Rights Compliance.

**26.** 'Operation Cactus' was intended to deal with the problem that many armed criminals did not carry guns routinely and were difficult to arrest while in possession of weapons. Many of these criminals were involved in drug dealing, and through a series of targeted operations, 28 people involved in armed violence were arrested for their drug dealing activities and sentenced to terms of between four and eight years imprisonment.

**27.** Operations against specific gangs included Operation 'Eagle', in which 13 members of a gang were arrested and a Colt .45 pistol and a Skorpion SMG recovered, and Operation 'Nile' in which all members of another gang were arrested. In total, the operations have led to a dramatic reduction in the number of shootings in the last quarter of 2000, especially fatal shootings.

**28.** Future work would include greater comprehensiveness of intelligence gathering (especially forensic and DNA evidence) and Operation 'Chrome', a multi-agency approach to problem solving on Moss Side partly funded by the Home Office and based on a successful project in Boston. Police operations alone could not counter the problem that some young people in the area believed that a short, rich criminal career and a violent death were inevitable and that there was little purpose in helping the police to protect them.

**29.** There was a mixed pool of firearms being used in and around Greater Manchester, often rented by criminals from professional criminal armourers. Some guns were re-activations of pre-1995 deactivated guns, a few were stolen, but most appeared to have been in criminal hands for some years (i.e. before the handgun ban in 1997) and were of post World War Two vintage. Criminals from Manchester tended to obtain guns from across the northwest and there was no easily traceable single source.

**30.** With reference to the age entry point, gang members tended to be aged between 16 and 25 and have previous criminal convictions.

- 31.** Gang members used a variety of means to conceal guns (carried by girlfriends, concealed in vehicles etc). However, many gang members tended to rely on mountain bikes to provide mobility, especially through back alleys where cars could not follow.
- 34.** Hospitals did not always report gun shot injuries, particularly if they were asked not to by the victims, though the police could sometimes identify such victims through linking them with reported shooting incidents. This was against the advice of the General Medical Council (GMC), who had said that patient confidentiality should be weighed against the wider need to protect society from violent crime.
- 35.** Armed gangs in the area tended to confine themselves to dealing in hard drugs as they are more profitable than robbery or burglary, though robbers might also sometimes use guns.
- 36.** Gang members tended to not carry replicas since rival gang members would be more inclined to respond with a real gun if they had been threatened in this way.

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## ANNEX F

### Lethality

#### Background

1. “Lethality” is not an issue confined to air weapons, although, in practice, it is in determining the lethal potential of low powered air weapons that it is most frequently problematic. ‘Lethality’ is in law the measure of whether an item is potentially a firearm and subject to strict controls and thus a matter of great concern to the police service, the Forensic Science Service and to gun manufacturers and owners.

2. The power of air weapons on general sale is regulated by the Firearms (Dangerous Air Weapons) Rules, 1969. The rules set the muzzle energy limits allowed above which air weapons become subject to control by firearm certificate. The limit for air rifles is 12 foot pounds (16.27 Joules) and for air pistols 6 foot pounds (8.13 Joules)<sup>1</sup>. Subsequent to the Firearms (Amendment) (No2) Act 1997, a pistol becomes prohibited under section 5(1)(aba) of the Firearms Acts 1968-1997, if it exceeds this limit.

3. The fact that most air weapons are insufficiently powerful to be subject to firearms certificate control doesn’t mean that they should not be regarded as being “firearms” for the purposes of the Firearms Acts. This would include, for example, when sold to young persons, possessed by persons prohibited under Section 21 of the Firearms Act, 1968 or carried or used in other serious offences.

4. Section 57 (1) of the Firearms Act, 1968 defines a firearm for the purposes of the Act as “...a lethal barrelled weapon of any description from which any shot, bullet or other missile can be discharged...”.

5. The question is, at what point does a low powered air weapon have the potential to be lethal<sup>2</sup> and consequently be considered to be a firearm as far as the Firearms Acts are concerned?

6. Some case law exists to assist courts in the interpretation of “lethal”. The Court of Appeal ruled in the case of *Moore v Gooderham, 1960*, that even a relatively low powered air pistol could be considered capable of inflicting a lethal injury, if used to discharge a pellet or dart at a vulnerable, exposed part of a person’s body. None the less, currently, it remains for each court to decide on the balance of evidence presented to it, whether any given item is a ‘lethal barrelled weapon’ and consequently a firearm.

7. For some time the Home Office has given the advice that the “lethal” threshold is approximately 1 Joule. However, it seems that evidence given to the Home Affairs Committee (HAC) has suggested that a figure of 2 Joules might be more realistic, while the Forensic Science Agency for Northern Ireland indicated to the HAC that between 3 and 4 Joules would be nearer the mark.

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<sup>1</sup> The German limit set for the uncontrolled transfer of air weapons is 7.5 Joules (5.53 foot pounds).

<sup>2</sup> On average there is one human fatality in the United Kingdom each year resulting from a wound inflicted using an air weapon. Many are tragic accidents; others are self-inflicted, while some are deliberate shots intended to injure. Annex A. lists deaths involving air weapons where we have first hand information on both the injury and the performance of the weapon used.

**Establishing a “Lethal Threshold”**

8. Also of note are the regulations for the Safety of Toys set out in the European Standard EN 71-1 (BS 5665-1). Paragraph 4.17.3 (a)(1) of the Standard sets a limit of 0.08J for rigid projectiles discharged from “projectile toys with stored energy”.

9. The task of the sub-group has been to determine whether or not it is possible to establish a practical and safe “lethal threshold” and, if so, how best to express this minimum level as unambiguously as possible, for the purposes of the Firearms Acts.

10. The sub-group considered that the first step was to establish a realistic minimum injury from which death might result as a consequence of a shot fired at a vulnerable part of the body. Dr Shepherd, Dr Anthony and Dr Izod were asked to address this issue.

11. Shepherd concludes that there are areas on the human body where vulnerable blood vessels lie 3-5 millimetres below the surface of the skin, an injury to which could result in death. Consequently, any projectile capable of penetrating skin and underlying tissues to a depth of 3-5 millimetres (less than the length of many pellets) could cause a potentially lethal injury.

12. In effect, it is perhaps reasonable to assume that if a projectile is capable of penetrating skin, it has the potential to cause a lethal injury.

13. Research for the US Army<sup>3</sup>, using 0.125 inch diameter steel spheres, determined that the threshold velocity for the penetration of skin is about 170 f/s (51.8 m/s). For our purposes, however, the paper by Di Maio (et. al.)<sup>4</sup> is perhaps the most helpful in defining the threshold velocity for the penetration of human skin using as they did, surgically removed legs for their test medium rather than other animal tissue or tissue simulant. They determined that a “domed”<sup>5</sup>, 0.177 pellet weighing 8.25 grains would penetrate skin at a velocity of 290 f/s (KE 1.54 ft lbs. or 2.08J, while a similar 0.22 pellet weighing 16.5 grains did so at 223 f/s (KE 1.79 ft lbs. or 2.42J).

14. Di Maio and his colleagues also determined the velocities at which pellets would “perforate” skin, which they defined as passing completely through the skin and into the underlying soft tissues. They determined that for perforation, a velocity of 331 f/s was required for a 0.177 pellet (KE 2.0 ft lbs. or 2.71J) and 245 f/s for a 0.22 pellet (KE 2.16 ft lbs. or 2.92J)

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<sup>3</sup> Grungfest, H et al: Ballistics of the Penetration of Human Skin By Small Spheres. National Research Council, Division of Medical Sciences, Office of Research and Development, Missiles Casualties Report No 11, 6 July 1945.

<sup>4</sup> DiMaio, V.J.M, Copeland, A.R., Besant-Matthews, P.E., Fletcher, L.A., Jones, A., Minimal Velocities Necessary for Perforation of Skin by Air Pellets and Bullets, Journal of Forensic Sciences, Vol. 27, No 4, Oct. 1982, pp894-898.

<sup>5</sup> One with a hemispherical “nose”.

**15.** Tests carried out by the Forensic Science Service using human tissue simulants, such as fresh “belly pork”, in general, echo Di Maio’s results confirming skin penetration by “domed” lead pellets and “BB’s” occurs at threshold velocities of about 250 f/s (76/2 m/s). Darts, however, are capable of greater initial penetration at any given velocity than conventional lead pellets, and for darts the threshold velocity for skin penetration is about 170 f/s (51.8 m/s).

**16.** These velocities for projectiles of generally standard weights equate to the following kinetic energies.

- A 14 grain 0.22 pellet with a velocity of 250 f/s has a kinetic energy of 1.94 ft lbs. or 2.62J.
- An 8 grain 0.177 pellet with a velocity of 250 f/s has a kinetic energy of 1.11 ft lbs. or 1.49J.
- A 5.5 grain “BB” with a velocity of 250 f/s has a kinetic energy of 0.76 ft lbs. or 1.03J.
- A 16 grain 0.22 dart with a velocity of 170 f/s has a kinetic energy of 1.03 ft lbs. or 1.39J.
- A 12 grain 0.177 dart with a velocity of 170 f/s has a kinetic energy of 0.76 ft lbs. or 1.04J.

**17.** Dr. Izod, having reviewed available literature<sup>6</sup> and the data on fatal injuries caused by air weapons<sup>7</sup>, concluded that energy density rather than kinetic energy should be used to define the “lethal threshold”. Dr Izod recommends a value of 0.182 J/mm<sup>2</sup>, which he mentions corresponds to energies of 2.89J for a 0.177 pellet and 4.46J for a 0.22 pellet. These are significantly higher energies than those obtained by Di Maio.

## **Conclusions**

**18.** To be of real value, a declared “lethal threshold” must be expressed as unambiguously as possible, and be capable of being determined by anyone with a suitable chronograph and weighing apparatus. It must not be a simple “rule of thumb” which might easily be overturned in the courts.

**19.** The level at which the threshold is set and how it is expressed must take account of the best available research and experience but must ensure that public safety is the primary consideration.

**20.** Expressing the threshold in terms of energy density, as Dr. Izod suggests, is scientifically sound but is not in line with the kinetic energy limits used in current firearm and toy legislation, and would add an undesirable, complication to an issue we are seeking to simplify.

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<sup>6</sup> In particular the papers by DiMaio et al and Powely et al.

<sup>7</sup> Annex A.



21. It would certainly be possible to express the threshold in terms of velocity, based on the results of the work by Grungfest, Di Maio and tests carried out by the FSS. This approach, while undoubtedly valid, is not as intrinsically unambiguous as a single kinetic energy value and the level would necessarily vary with the calibre and type of projectile.

22. Probably the only way to establish the level at which an air weapon becomes a firearm simply and unambiguously without having to rely upon the courts, is to establish in law, a pragmatic limit above which an air weapon becomes a firearm and express it in terms of Kinetic Energy. This would be a similar principle to that used for drink-driving, where the level at which a driver is dangerously drunk is subjective, but the legally permissible levels of alcohol in the body is objective.

23. This could be done by endorsing the 1 Joule limit, which the Home Office has advocated for some time, as being both practical and at a level below which it is extremely unlikely that a lethal injury might be inflicted, whatever the weapon and projectile. A limit of 1 Joule takes account of projectiles that have intrinsically high penetrative qualities, such as darts, and is significantly above the limit of 0.08 Joules contained in the European Standard for the Safety of Toys. Such an approach would not only be unambiguous and accessible but would bring the point at which an air weapon becomes a firearms into line with the way in which other “limits” are expressed in current legislation.

24. The FCC should therefore *recommend* to the Secretary of State that a statutory threshold of one joule muzzle energy should be embodied in primary legislation as the level at which an item becomes a ‘firearm’ for legal purposes.

**SUB ANNEX A****Deaths resulting from injuries caused by air weapons**

(The velocity (V) and Kinetic Energy (KE) were determined by testing in the laboratory.)

- Suicide of an adult male, shot through the temple from a Relum .22in air rifle. V 482 ft/sec, KE 7.4 ft.lb. (10.03J)
- Suicide of adult male, shot to the abdomen from a BSA Mercury .22in rifle. Pellet severed artery inside the pelvis and damaged the kidney. V 596 ft/sec, KE 11.07 ft.lb. (15.01J)
- Murder of adult male, shot to the chest from a BSA Mercury .22in rifle. V 567 ft/sec, KE 10.42 ft.lb. (14.13J)
- Death of an 11-year-old girl, shot to the head from a BSA Airsporter .22in rifle. V 527ft/sec, KE 7.4ft.lb. (10.03J)
- Death of a 10-year-old boy, shot to the head from Feinwerkbau Sport .22in rifle. V 533 ft/sec, KE 8,57 ft.lb. (11.62J)
- Suicide of an adult male, shot to the head from a BSA Airsporter .22in rifle. V 540 ft/sec, KE 10.16 ft.lb. (13.78J)
- Suicide of an adult male, shot to the chest from Feinwerkbau .22in rifle. KE 11.9 ft.lb (16.13J)
- Death of a 15-year-old youth, shot to the chest from a Jackal .22in rifle. V 600 ft/sec KE 11.0 ft.lb. (14.91J)
- Accidental death of a 5-year-old girl, shot to the chest from an Original mod 25 .177in rifle. Pellet penetrated between the 3rd and 4th ribs through the base of the pulmonary artery causing traumatic haemopericardium. V470 ft/sec, KE 3.7 ft.lb. (5.02J)
- Suicide of an adult male, shot to the temple from a Weihrauch HW77 .22in rifle. V 601 ft/sec, KE 11.4 ft.lb. (15.46J)
- Death of a 16-year-old youth, shot to the side of the head from a Weihrauch HW77K .22in rifle. V 550ft/sec, KE 8.86ft.lb. (12.01J)
- Death of a 16-year-old youth, shot penetrated left eyelid, passed the eye and penetrated bone at the rear of the orbit and penetrated 5 inches into the brain. Shot fired from a distance of between six and ten inches. Relum .22in rifle. V 333 ft/sec<sup>8</sup>, KE 4.1ft.lb. (5.56J)

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<sup>8</sup> This is the lowest recorded velocity for a death caused by an air weapon for which we have reliable information.

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## ANNEX G

### List of publications relevant to the Report

Firearms Act 1920	The Stationery Office ISBN 0 10 8504107
Firearms Act 1968	The Stationery Office ISBN 0 11 802339
Firearms (Dangerous Air Weapons) Rules 1969	The Stationery Office ISBN 0 11 090047 2
Firearms Act 1982	The Stationery Office ISBN 0 10 5431826
Firearms (Amendment) Act 1988	The Stationery Office ISBN 0 10 5445886
Firearms (Amendment) Act 1992	The Stationery Office ISBN 0 10 5431923
Firearms Acts (Amendment) Regulations 1992	The Stationery Office ISBN 0 11 0259025
Firearms (Dangerous Air Weapons) (Amendment) Rules 1993	The Stationery Office ISBN 0 11 034490 1
Firearms (Amendment) Act 1994	The Stationery Office ISBN 0 10 543194 X
Firearms Rules 1989	The Stationery Office ISBN 0 11 0968549
Firearms (Amendment) Rules 1992	The Stationery Office ISBN 0 11 0258924
Firearms (Amendment) Act 1988 (Firearms Consultative Committee) Order 1993	The Stationery Office ISBN 0 11 033390X
Firearms (Amendment) Act 1988 (Firearms Consultative Committee) Order 1996	The Stationery Office ISBN 0 11 063514 0
Firearms (Amendment) Act 1997	The Stationery Office ISBN 0 10 540597 3
Firearms (Amendment) Act 1997 (Commencement)(No 1) Order 1997	The Stationery Office ISBN 0 11 064333 X
Firearms (Amendment) Act 1997 (Commencement)(No 2) Order 1997	The Stationery Office ISBN 011 064559 3
Firearms (Amendment) Act 1997 (Commencement)(No 2) (Amendment) Order 1997	The Stationery Office ISBN 011 064572 3

Firearms (Amendment) Act 1997 (Firearms of Historic Interest) Order 1997	The Stationery Office ISBN 0 11 064571 5
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