

# Anti-social Behaviour, Crime and Policing Bill

## Fact sheet: Prohibited Firearms Provisions (clauses 100 to 102)

### Background

1. The UK has some of the toughest gun laws in the world and as a result, firearm offences continue to make up a small proportion of overall recorded crime. However, we cannot afford to be complacent. Gun crime has a severe impact on victims, their families and the communities affected by it.
2. The use of illegal firearms by urban street gangs and organised criminal groups is a continuing cause of concern. In 2010 the Home Affairs Select Committee conducted an inquiry into firearms control. In its report, the Committee recommended that the Government should “introduce new offences for supply and importation of firearms to ensure that those guilty of such offences face appropriate penalties”.<sup>1</sup> In its report *Ending Gang and Youth Violence*, published in November 2011, the Government undertook to consult “on the need for a new offence of possession of illegal firearms with intent to supply, and the penalty level for illegal firearms importation”. The consultation document was published on 8 February 2012 and the Government responded on 22 October 2012.<sup>2</sup>
3. Evidence from ballistics experts suggests that there are a relatively small number of firearms being used in criminal activity, and that a “middle market” has developed in which individuals are in possession of firearms which they rent out to offenders, and which are used in relation to violent crimes. Generally, the individual found in possession of the firearm is not the person who goes on to use it in the violent offence that follows. The proposed amendments to the current legislation seek to target this “middle market” of suppliers. We need to target not just those who use illegal firearms but those who import or supply them. These middle men are as responsible as those who pull the trigger for the terrible harm that gun crime causes.
4. The current legislation does not adequately reflect the seriousness of their role. At the moment there is no offence for possession of a prohibited weapon or ammunition for sale or transfer. While it is an offence to import or export illegal firearms, the maximum sentence is 10 years – in contrast, the maximum sentence for an offence under the same legislation committed in relation to a class A drug is life imprisonment, or for a class B or class C drug, 14 years.

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<sup>1</sup> Third Report of Session 2010-2011, HC 447.

<sup>2</sup> *Consultation on legislative changes to firearms control*.

5. The Bill therefore makes several changes to tackle this problem. We are introducing a new offence of possessing prohibited firearms for sale or transfer, and increasing the penalty for the existing offences of manufacture, and purchase or acquisition for sale or transfer. We are also increasing the maximum penalty for importation and exportation of illegal firearms.

### **Amendment to the Firearms Act 1968**

6. The existing firearms control regime is set out in the Firearms Act 1968 ("the 1968 Act"). Section 1 prohibits the purchase, acquisition and possession without a firearms certificate of any firearm other than a full-length shotgun or an air weapon. The maximum sentence is 5 years, or 7 years where the weapon is a sawn-off shotgun.
7. Section 5(1) relates to a more specific set of weapons and prohibits possessing, purchasing, acquiring, manufacturing, selling or transferring them without the authority of the Secretary of State, with a maximum sentence of 10 years. The types of weapons prohibited under section 5 include those most desirable to criminals, such as handguns, sub-machine guns and assault rifles.
8. Section 5 provides for a single offence, so there is no distinction between, for example, possession and manufacturing. The maximum sentence for possessing a firearm is therefore the same as that for the arguably more serious acts of manufacturing, selling or transferring it.
9. At the moment there is no offence of possession of a prohibited weapon or ammunition for sale or transfer. We are ensuring that the law reflects the seriousness of these actions by creating a new criminal offence.
10. We also intend to separate sections 5(1) and 5(1A) into two component parts. One would cover simple possession and simple acquisition of the prohibited firearm or ammunition, and would carry the existing maximum penalty of 10 years. The other component part would cover the purchase or acquisition for sale or transfer, manufacture, sale, transfer, and the new offence of possession for sale or transfer, which are generally associated with the trafficking of firearms. The maximum penalty for this latter offence will be life imprisonment.
11. The provisions will target the behaviour of those who choose to supply firearms to the criminal market, by applying a tougher maximum sentence to them.
12. There may be circumstances in which individuals are caught in possession of a firearm who do not have any involvement in gun crime, for example, those who are vulnerable to undue influence or

exploitation. The Government intends that any mitigating factors will be taken into account when sentencing these individuals, as per the usual practice. Further advice will be issued by the Director of Public Prosecutions about when it will be appropriate to charge the new offence, which attracts the higher penalty.

## **Importation and exportation**

13. The importation of firearms is restricted under the Import of Goods (Control) Order 1954 [SI 1954/23], made under section 1 of the Import, Export and Customs Powers (Defence) Act 1939. This prohibits importation other than in accordance with a licence issued by the Department for Business, Innovation and Skills. Control of the import of firearms is governed by the Customs and Excise Management Act 1979 (“CEMA”).
14. The maximum sentence for an offence under this law, where the goods in question are prohibited weapons of various kinds mentioned in section 5(1) and (1A) of the Firearms Act 1968, is 10 years.<sup>3</sup> In contrast, the maximum sentence for an offence committed in relation to a class A drug is life imprisonment. The Government believes that the penalties for importing prohibited firearms should not be any less serious than for class A drugs.
15. We know that very small numbers of weapons legally owned are used in crime, which indicates that the vast majority of weapons used in criminal activity are illegally brought into the country. These weapons are being imported illegally by individuals who cannot be ignorant that the primary use of the guns they are putting in the criminal market is to kill or to make someone believe they will be killed. This is very serious criminal behaviour which has a disproportionate impact on the victims, their families and the communities affected. We believe that the current maximum sentence of 10 years does not reflect the level of criminality involved. The Bill therefore increases the maximum sentence for illegal importation to life imprisonment.
16. The Bill also makes complementary changes to the law on exporting firearms.<sup>4</sup> As with the provisions related to importation, generally the maximum penalty is 7 years, but this maximum sentence rises to 10 years where the goods in question are prohibited weapons of various kinds mentioned in section 5(1) and (1A) of the Firearms Act 1968.

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<sup>3</sup> Sections 50(5A) and 170(4A).

<sup>4</sup> Section 68 of CEMA 1979 deals with offences in relation to the exportation of prohibited or restricted goods. Section 68(2) stipulates that any person knowingly concerned in the exportation of any goods with the intent to evade the prohibition or restriction on their exportation shall be guilty of an offence.

17. In order to maintain parity between illegal importation and exportation of firearms, the Bill also increases the maximum sentence for the exportation offence from 10 years to life imprisonment.

Home Office  
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