

OFFENSIVE WEAPONS BILL
EUROPEAN CONVENTION ON HUMAN RIGHTS
MEMORANDUM BY THE HOME OFFICE

Introduction

1. This memorandum addresses issues arising under the European Convention on Human Rights (“ECHR”) in relation to the Offensive Weapons Bill. This memorandum has been prepared by the Home Office. On introduction of the Bill in the House of Commons, the Home Secretary (the Rt Hon Sajid Javid MP) made a statement under section 19(1)(a) of the Human Rights Act 1998 that, in his view, the provisions of the Bill are compatible with the Convention rights.

Summary

2. This Bill gives effect to the then Home Secretary’s statement at the 2017 Conservative Party Conference that new laws would be introduced to ban the sale of corrosive substances to anyone under the age of 18, to target people carrying acid and to make it more difficult for anyone under the age 18 to buy knives online. Specifically, the Bill will:
 - a. prohibit the sale of corrosive products to persons under 18;
 - b. prohibit the delivery of corrosive products and bladed products to residential premises;
 - c. prohibit the delivery of corrosive products and bladed articles to persons under 18;
 - d. amend the defences to the sale of bladed articles to persons under 18 where the sale was conducted remotely;
 - e. create an offence of possessing a corrosive substance in a public place;
 - f. prohibit the possession of certain offensive weapons in a private place;
 - g. broaden the offences of possessing a bladed article or offensive weapon to include education institutions other than schools;

- h. amend the offence of threatening with a bladed article or offensive weapon;
 - i. update the definition of a “flick-knife”;
 - j. add certain firearm types and “bump stocks” to the list of prohibited firearms in section 5 of the Firearms Act 1968;
 - k. make provision for the surrender of certain offensive weapons and prohibited firearms, including providing for compensation arrangements
3. The Government considers that clauses of and Schedules to this Bill which are not mentioned in this memorandum do not give rise to any human rights issues.

Defence to sale of corrosive products/bladed articles to persons under 18

4. Clauses 12, 13, 14 and 2 contain equivalent provision for both bladed articles and corrosive products respectively. Clause 2 extends to the UK. Clauses 13 and 14 make similar provision for Scotland and Northern Ireland as clause 12 does for England and Wales.
5. Section 141A of the Criminal Justice Act 1988 provides that it is an offence to sell a bladed/sharply pointed article to a person under the age of 18 in England and Wales. Article 54 of the Criminal Justice (Northern Ireland) Order 1996 makes equivalent provision for Northern Ireland. In England and Wales and Northern Ireland it is a defence to prove that all due diligence was, and all reasonable precautions were, taken to avoid the commission of the offence. Different defences apply in Scotland. Clauses 12 and 14 modify the effect of this defence as it applies in England and Wales and Northern Ireland in the case of remote sales of such items by providing that the defence will not apply to a defendant who fails to prove that four conditions have been met. Clause 13 makes similar provision in respect of Scotland by creating a new defence to the s141A offence when committed in the remote sales context.
6. As these amount to reverse burdens of proof, Article 6(2) of the Convention is engaged. The Convention does not prohibit such presumptions from

operating, but rather requires them to be confined within “reasonable limits”¹. In relation to England and Wales, this creates a persuasive burden on the accused. In relation to Scotland however, the Bill imposes an evidential burden only. This is at the request of the Scottish Government, and this approach follows their different approach to the offence set out at s141A². The burdens imposed by the Bill on the accused in the United Kingdom, whether evidential or persuasive, do not violate the presumption of innocence set out in Article 6(2).

7. The Government is of the view that these provisions are within such reasonable limits as are permitted and are compatible with the Convention.
8. The offence in s141A is a summary only offence, punishable by a fine only. The subject matter of conditions A-D in these clauses will clearly be within the knowledge and ability of the accused to demonstrate, and it is accordingly not unfair to require the accused to discharge this burden of proof. This provision is intended to reduce the prevalence of crimes of very serious violence by reducing access to weapons, which is a significant and important public safety issue that merits the imposition of a reverse burden of proof. There is also a public interest in ensuring that distance retailers are obliged to comply with certain minimum standards in relation to age verification, packaging and delivery³. This analysis applies equally to both persuasive and evidential burdens.
9. The analysis above is also equally applicable to clause 2, which makes similar provision in respect of the sale of corrosive products.

Delivery of corrosive products to residential premises / locker

10. Clause 3 prohibits the delivery of a corrosive product that has been purchased remotely to either residential premises or a locker in the United Kingdom.
11. This clause provides that it is a defence for a person charged with the offence in England and Wales or Northern Ireland to prove that he or she took all

¹ *Salabiaku v. France* 13 E.H.R.R. 379, *Sheldrake v DPP* [2005] 1 AC 264, *R v Foye* [2013] All ER (D) 248.

² Section 141A(4) as it applies to Scotland sets out that this is a defence for the accused to “show” (rather than “prove”) various matters.

³ *R v Johnstone* [2003] 1 W.L.R. 1736, *Sheldrake v DPP*.

reasonable precautions and exercised all due diligence to avoid the commission of the offence. This creates a persuasive burden on the accused.

12. The clause provides that it is a defence for a person charged with the offence in Scotland to show that they took all reasonable precautions and exercised all due diligence to avoid the commission of the offence. This creates an evidential burden only on the accused. This approach is taken in order to maintain consistency with the s141A defence as it applies in Scotland in relation to the sale of knives and as discussed above, and the provision made by clauses 4 and 16 in relation to the delivery of corrosive products and bladed articles to persons under the age of 18.

13. As these burdens amount to a reverse burden of proof, Article 6(2) of the Convention is engaged. The Convention does not prohibit such presumptions from operating, but rather requires them to be confined within “reasonable limits”⁴. As set out above, it is accepted that these provisions create a persuasive burden on the accused in England and Wales and Northern Ireland and an evidential burden in Scotland.

14. The Government is of the view that these provisions are within such reasonable limits as are permitted and compatible with the Convention.

15. These offences are summary only offences, punishable by a maximum sentence of six months imprisonment⁵ and/or a fine. It will clearly be within the knowledge and ability of the accused to demonstrate the precautions taken and diligence exercised, and it is accordingly not unfair to require the accused to discharge this burden of proof. These provisions are intended to reduce the prevalence of crimes of very serious violence, which is a significant and important public safety issue that merits the imposition of a reverse burden of proof. There is also a public interest in ensuring that distance retailers are obliged to comply with certain minimum standards in relation to age

⁴ *Salabiaku v. France* 13 E.H.R.R. 379, *Sheldrake v DPP* [2005] 1 AC 264, *R v Foye* [2013] All ER (D) 248.

⁵ This will increase to 12 months imprisonment when s281(5) of the Criminal Justice Act 2003 is commenced.

verification, packaging and delivery⁶. This analysis applies equally to both persuasive and evidential burdens.

Delivery of corrosive products/bladed articles to persons under 18

16. Clauses 4 and 18 contain equivalent provision for creating offences related to the delivery of corrosive products and bladed articles to persons under the age of 18.
17. These clauses provide that it is an offence in England and Wales and Northern Ireland for a person to deliver corrosive products/bladed articles to a person under 18 unless that person can prove that he or she took all reasonable precautions and exercised all due diligence to avoid the commission of the offence. This creates a persuasive burden on the accused.
18. Such a delivery is also an offence in Scotland unless that person can show that he or she believed the person accepting the delivery to be 18 or over, and that he or she had either taken reasonable steps to establish the person's age⁷ or no reasonable person could have suspected that that person was under 18. Again, and as above, this creates an evidential rather than persuasive burden. This approach is taken in order to maintain consistency with the s141A defence as it applies in Scotland and discussed at paragraph 7 above.
19. As these burdens amount to a reverse burden of proof, Article 6(2) of the Convention is engaged. The Convention does not prohibit such presumptions from operating, but rather requires them to be confined within "reasonable limits"⁸. As set out above, it is accepted that these provisions create a persuasive burden on the accused in England and Wales and an evidential burden in Scotland.

⁶ *R v Johnstone* [2003] 1 W.L.R. 1736, *Sheldrake v DPP*.

⁷ Reasonable steps will only be deemed to have been taken if an appropriate document has been checked, see clauses 4(7-8) and 18(7-8).

⁸ *Salabiaku v. France* 13 E.H.R.R. 379, *Sheldrake v DPP* [2005] 1 AC 264, *R v Foye* [2013] All ER (D) 248.

20. The Government is of the view that these provisions are within such reasonable limits as are permitted and compatible with the Convention.

21. These offences are summary only offences, punishable by a fine only. It will clearly be within the knowledge and ability of the accused to demonstrate the precautions taken and diligence exercised, and it is accordingly not unfair to require the accused to discharge this burden of proof. These provisions are intended to reduce the prevalence of crimes of very serious violence, which is a significant and important public safety issue that merits the imposition of a reverse burden of proof. There is also a public interest in ensuring that distance retailers are obliged to comply with certain minimum standards in relation to age verification, packaging and delivery⁹. This analysis applies equally to both persuasive and evidential burdens.

Offence of having a corrosive substance in a public place

22. Clause 5 creates an offence of being in possession of a corrosive substance in a public place and extends to the United Kingdom.

23. It will be a defence for a person charged in England and Wales or Northern Ireland to prove that they had good reason or lawful authority for possession of the corrosive substance in a public place. It is accepted that this creates a persuasive burden on the accused.

24. It will be a defence for a person charged in Scotland to show that they had good reason or lawful authority for possession of the corrosive substance in a public place. It is accepted that this creates an evidential burden on the accused. This lower burden of proof is applied in order to achieve consistency with equivalent Scottish legislation regarding the possession of a bladed article in a public place.

25. As these burdens amount to a reverse burden of proof, Article 6(2) of the Convention is engaged. The Convention does not prohibit such presumptions from operating, but rather requires them to be confined within “reasonable

⁹ *R v Johnstone* [2003] 1 W.L.R. 1736, *Sheldrake v DPP*.

limits”¹⁰. As set out above, it is accepted that these provisions create a persuasive burden on the accused in England and Wales and Northern Ireland and an evidential burden in Scotland.

26. The Government is of the view that these provisions are within such reasonable limits as are permitted and compatible with the Convention.

27. These offences are either way offences, with a maximum sentence of 4 years imprisonment and/or a fine. As the defence relates to the state of mind of the accused at the time of the criminal act, the defendant will clearly be able to demonstrate his or her reasons for being in possession of the substance. This approach reflects the burdens that are already imposed on those accused of the possession of a bladed article or an offensive weapon in a public place. It is accordingly not unfair to require the accused to discharge this burden of proof.

28. These provisions are intended to reduce the prevalence of crimes of very serious violence, which is a significant and important public safety issue that merits the imposition of a reverse burden of proof. This analysis applies equally to both persuasive and evidential burdens.

Defences to offence under clause 15

29. Clause 15 creates an offence of delivery of a bladed product to residential premises or to a locker where the sale of that bladed product was conducted at a distance, and extends to the United Kingdom. Clause 16 creates four discrete defences to this offence:

- a. That the seller took all reasonable precautions and exercised all due diligence to avoid committing the offence;
- b. That the bladed product was designed or manufactured for the buyer in accordance with specifications provided by the buyer;
- c. That the bladed product was adapted for the buyer, and those adaptations were made to enable/facilitate the use of the product either by the buyer or for a particular purpose, and

¹⁰ *Salabiaku v. France* 13 E.H.R.R. 379, *Sheldrake v DPP* [2005] 1 AC 264, *R v Foye* [2013] All ER (D) 248.

- d. That the retailer reasonably believed that the bladed products had been purchased for use for a relevant sporting purpose or the purpose of a historical re-enactment.
30. In England and Wales and Northern Ireland, the accused is obliged to prove that one of these defences is made out in order to avoid conviction. It is accepted that this creates a persuasive burden on the accused. In Scotland, the obligation is for the accused to show the subject matter of a defence. It is accepted that this creates an evidential burden on the accused.
31. As these burdens amount to a reverse burden of proof, Article 6(2) of the Convention is engaged. The Convention does not prohibit such presumptions from operating, but rather requires them to be confined within “reasonable limits”¹¹.
32. The Government is of the view that these provisions are within such reasonable limits as are permitted and compatible with the Convention.
33. These offences are summary only offences, punishable by a maximum sentence of six months imprisonment¹² and/or a fine.
34. In respect of the taking all reasonable precautions and exercising all due diligence defence, it will clearly be within the knowledge and ability of the accused to demonstrate the precautions taken and diligence exercised, and it is accordingly not unfair to require the accused to discharge this burden of proof.
35. As to the defences of designing or manufacturing the bladed product in accordance with specifications provided by the buyer, and of making adaptations to the product for the buyer, again these will be matters within the knowledge and ability of the accused to demonstrate as they will have records of the particular specifications/adaptations required by the buyer in respect of the product sold. Accordingly it is not unfair to require the accused to discharge the burden of proof in respect of either of these defences.

¹¹ *Salabiaku v. France* 13 E.H.R.R. 379, *Sheldrake v DPP* [2005] 1 AC 264, *R v Foye* [2013] All ER (D) 248.

¹² This will increase to 12 months imprisonment when s281(5) of the Criminal Justice Act 2003 is commenced.

36. In relation to the relevant sporting purpose and historical re-enactment defence, the obligation is for the accused to demonstrate that he or she had a reasonable belief that the product had been purchased for one of the defined purposes. As the defence relates to the state of mind of the accused at the time of the criminal act, the defendant will clearly be able to set out whether they had a reasonable belief that the product had been purchased for one of these reasons, and what steps they had taken during the process of sale to establish this reasonable belief. It follows that it is not unfair to require the accused to discharge the burden of proof in respect of either of these defences.

37. These provisions are intended to reduce the prevalence of crimes of very serious violence, which is a significant and important public safety issue that merits the imposition of a reverse burden of proof. There is also a public interest in ensuring that distance retailers are obliged to comply with certain minimum standards in relation to the delivery of bladed products¹³. This analysis applies equally to both persuasive and evidential burdens.

Prohibition on possessing certain dangerous knives and offensive weapons

Article 8

38. At present, possession of an offensive weapon is only an offence when that possession takes place in public or in a school¹⁴. Clauses 20 and 22 prohibit the possession of certain offensive weapons (namely those currently listed in the Schedule to the Criminal Justice Act 1988 (Offensive Weapons) Order 1988 and section 1 of the Restriction of Offensive Weapons Act 1959¹⁵, regardless of where that possession takes place. This Bill removes the location element for the offence of possessing these weapons¹⁶, and instead

¹³ *R v Johnstone* [2003] 1 W.L.R. 1736, *Sheldrake v DPP*.

¹⁴ Section 1 of the Prevention of Crime Act 1953 and section 139A of the Criminal Justice Act 1988.

¹⁵ These include flick knives, zombie knives and swords with a curved blade of 50 cm or over in length.

¹⁶ By providing that the offence can be made out by possession in private premises as well as in public or in school.

provides for a number of defences relating to the nature of the weapon or the purpose of possession¹⁷.

39. These weapons are those that Parliament has considered to be particularly dangerous or unpleasant and which therefore should be subject to a prohibition on their sale, manufacture and importation. Other types of knives and offensive weapons are not subject to a prohibition on their supply. The Government has decided that the prohibition on supplying and manufacturing these weapons should be extended to cover their possession. At present a police officer coming across one of these weapons when searching the home of a suspect cannot take any action because owning them is lawful. This is notwithstanding that if the weapon was found on an individual in the street that individual would be liable to be arrested and charged. This provision will further reduce the availability of these weapons while ensuring that the risk of such weapons being taken out of private premises and used to commit violent crime is reduced.

40. These clauses engage Article 8 by increasing the scope of authorities to search domestic premises. These new offences will be indictable offences, which means that the police will be able to use a broader range of powers of entry in their investigation.

41. The Government understands that the weapon described at paragraph 1(r) of the Schedule to the 1988 Order¹⁸ can also be used in particular religious ceremonies. Clauses 22 and 23 will affect the enjoyment of private and family life rights of those who engage in such practices. While the Government has preserved the right of individuals to engage in these practices by providing for a defence where the possession is for the purpose of use in religious

¹⁷ Namely where the weapon is of historical importance, is possessed by a person acting as an operator of a gallery, is possessed for educational purposes, is possessed for theatrical performances and rehearsals, is possessed for the production of films or the production of television programmes, if the weapon is an antique (over 100 years old), if (in respect of a curved sword) it was made according to traditional methods of making swords by hand, if the weapon was possessed for the purposes of a sporting activity or historical re-enactment and if the possession is in relation to religious ceremonies.

¹⁸ Namely, "a sword with a curved blade of 50 centimetres or over in length; and for the purposes of this sub-paragraph, the length of the blade shall be the straight line distance from the top of the handle to the tip of the blade".

ceremonies, invocation of this defence will effectively require the disclosure of personal religious beliefs which may further engage Article 8¹⁹.

42. Any such interference will be in accordance with the law as the new offences will be set out in freely accessible primary legislation, are clear and precise in scope and accordingly the scope for any arbitrary interference with this right is limited. The Government's view is that the scope for arbitrary interference with this right will be limited to the operational discretion of officers (in relation to any ancillary powers of search that will now be accessible to them) and of prosecutors, whose decisions may be legally challenged.

43. Any interference will be proportionate as it will be pursuant to the legitimate aim of reducing violent crime, the new offences are rationally connected to that aim by reducing the availability of dangerous weapons, that aim could not be achieved effectively by a less intrusive measure and the measures strike the appropriate balance between that aim and the rights of the individual through the provision of a defence for those who use such weapons for religious purposes.

Article 9

44. The possession of a bladed article in a public place is prohibited, unless the person in possession has a good reason or lawful authority to have the article with him in a public place²⁰. Possession for religious reasons is such a good reason²¹. The effect of clauses 22 and 23 will be that the possession of bladed articles that are also listed in the Schedule to the Criminal Justice Act 1988 (Offensive Weapons) Order 1988 will be prohibited in a private place.

45. This clause engages Article 9 as some of these bladed articles²² can be possessed for religious purposes. The Government accepts that such

¹⁹ FOLGERØ AND OTHERS v. NORWAY, Application 15472/02.

²⁰ Section 139(1) of the Criminal Justice Act 1988.

²¹ Section 139(5) of the Criminal Justice Act 1988, *R v Wang* [2003] EWCA Crim 3228.

²² The weapon described at paragraph 1(r) of the Schedule to the 1988 Order can be used as part of Sikh religious ceremonies – see the Explanatory Memorandum to the Criminal Justice Act 1988 (Offensive Weapons) (Amendment No. 2) Order 1988

http://www.legislation.gov.uk/ukxi/2008/2039/pdfs/ukxiem_20082039_en.pdf.

possession is a manifestation of religious belief for the purposes of Article 9(2) ECHR. Accordingly, a prohibition on their possession amounts to a restriction of the right to manifest such a belief.

46. The Government is of the view that this restriction is in accordance with Article 9(2). As above, the Government is of the view that this interference will be prescribed by law as the new offence will be set out in freely accessible primary legislation, is clear and precise in scope and the scope for any arbitrary interference with this right is limited. A defence for possession for use in religious ceremonies has been provided. In relation to kirpans, the Government understands that these weapons are also carried on the person as part of religious observance. While possession in this context would not be possession for the purposes of use in religious ceremonies, the Government understands that the larger kirpans²³ that will be caught by this proposal are not as a matter of practice²⁴ possessed for reasons of religious observance.
47. The Government's view is that the scope for arbitrary interference with this right will be limited to the operational discretion of officers and of prosecutors in investigating and prosecuting suspected offences, and whose decisions are subject to legal challenge and judicial oversight if a case is brought to court.
48. This interference is necessary in a democratic society as it is in the interests of public safety to protect members of the public from serious violence caused by the weapons set out in the Schedule to the 1988 Order.
49. The interference is proportionate to that aim as it is rationally connected to the aim of protecting public safety by reducing the availability of weapons that can be used in violent crime, that aim could not be achieved effectively by a less intrusive measure and it strikes the appropriate balance between that aim and the rights of the individual through the provision of a defence for those who possess such weapons for religious purposes.

²³ Paragraph 1(r) of the Schedule to SI1988/2019, namely a sword with a curved blade of 50 centimetres or more in length.

²⁴ The Government understands that the Sikh requirement to be in possession of a kirpan is most often discharged by the possession of kirpans of less than 50 centimetres in length.

Article 14

50. As the offence will apply to all individuals, and accordingly the Government does not accept that Article 14 is contravened. The Government has provided a specific defence in relation to those weapons most likely to be used in religious ceremonies, which will prevent any risk of discrimination arising.

51. In the event that the rights of those of a particular religious affiliation are disproportionately affected in comparison to other members of society, the same considerations as set out above in relation to Articles 8 and 9 apply in relation to the measures which can be justified as being necessary and proportionate in pursuit of a legitimate aim.

Article 1 of Protocol 1 ("A1P1")

52. The possession of certain weapons²⁵ in private premises is currently permitted without restriction. Their possession in a public place is an offence, with a defence available for when that possession is for good reason, reasonable excuse or with lawful authority²⁶. Clauses 19, 20, 22 and 23 have the combined effect of banning the possession of these weapons both in public and in private, subject to certain statutory defences.

53. The clauses engage A1P1 as those who are currently in possession of such items will effectively no longer be able to possess them for reasons other than those encompassed by the statutory defences. Accordingly, for those individuals, the Government is of the view that this approach is closer to a "deprivation than a mere control"²⁷ as the owners of such items will no longer have any meaningful or residual use of their property²⁸. The Government is

²⁵ Those described in section 1 of the Restriction of Offensive Weapons Act 1959 (flick knives and gravity knives) and in the Schedule to the Criminal Justice Act 1988 (Offensive Weapons) Order 1988 (zombie knives etc).

²⁶ Section 139(4) of the Criminal Justice Act 1988, section 1(1) of the Prevention of Crime Act 1953.

²⁷ *R (on the application of Mott) v Environment Agency* [2018] UKSC 10, *NA v Turkey* (2005) 45 EHRR 287, *Papamichalopoulos v Greece* (1993) 16 EHRR 440.

²⁸ *R (on the application of British American Tobacco UK Ltd & Others) v Secretary of State for Health* [2016] EWCA Civ 1182, *Pine Valley Developments Ltd v Ireland* (1991) 14 EHRR 319.

content that this is likely to amount to a deprivation of use for the purposes of A1P1.

54. Any deprivation of use of property must comply with the conditions imposed by A1P1. It must be in the “public interest”, subject to conditions provided by law and the general principles of international law and be proportionate. The Government is content that these measures are in the public interest as they are intended to promote public safety and to combat crime. As these measures are being introduced by primary legislation, and will be implemented compatibly with that legislation, the Government is content that they will be subject to conditions provided by law.

55. The Government recognises that the confiscation of property without any compensation is only justifiable in “exceptional circumstances”²⁹. The Government accepts that these proposals are tantamount to confiscation and those principles are likely to apply. The Government is accordingly content to provide a compensation scheme, which has been included on the face of the Bill at clauses 22 and 23.

56. It is the Government’s view that the provision of a compensation scheme complies with general principles of international law, strikes a fair balance between the interests of the weapon holder and the general interest and is proportionate. These measures are accordingly compatible with A1P1.

Adding to the list of prohibited weapons

Article 1 of Protocol 1

57. Clauses 28 and 29 add two types of firearm, and “bump stocks³⁰”, to the list of prohibited weapons set out in section 5 of the Firearms Act 1968 and Article

²⁹ *Holy Monasteries v Greece* (1995) 20 E.H.R.R. 1, *James v United Kingdom* [1986] ECHR 2. The only case that we are aware of where the European Court of Human Rights has found that no compensation was necessary in the context of a deprivation of use of property is *Jahn v Germany* (2006) 42 EHRR 49, which seems confined to its own facts.

³⁰ A bump stock is a device that can be attached to a self-loading firearm and has the effect of increasing that firearm’s rate of fire. The proposed legal definition is set out at clause 28(3).

45 of the Firearms (Northern Ireland) Order 2004³¹. The firearms are currently subject only to the licensing requirements set out in section 1 of that Act and Article 3 of that Order, while the possession of bump stocks is not subject to any restrictions³². Following the coming into force of these provisions, possession of these items by a member of the public will only be lawful where that person additionally has the authority of the Secretary of State.

58. The clauses engage A1P1 as those who are currently in possession of such items will effectively no longer be able to possess them without Secretary of State authority. The Government is content that this is likely to amount to a deprivation of use for the purposes of A1P1.

59. Any deprivation of use of property must comply with the conditions imposed by A1P1. It must be in the “public interest”, subject to conditions provided by law and the general principles of international law and be proportionate. The Government is content that these measures are in the public interest as they are intended to promote public safety and to combat crime. As these measures are being introduced by primary legislation, and will be implemented compatibly with that legislation, the Government is content that they will be subject to conditions provided by law.

60. The Government recognises that the confiscation of property without any compensation is only justifiable in “exceptional circumstances”³³. The Government accepts that these proposals are tantamount to confiscation and those principles are likely to apply. The Government is accordingly content to provide a compensation scheme, which has been included on the face of the Bill at clauses 32 and 33.

61. It is the Government’s view that the provision of a compensation scheme complies with the general principles of international law, strikes a fair balance

³¹ S.I. 2004/702.

³² A prohibition on their importation took effect on 4 December 2017.

³³ *Holy Monasteries v Greece* (1995) 20 E.H.R.R. 1, *James v United Kingdom* [1986] ECHR 2. The only case that we are aware of where the European Court of Human Rights has found that no compensation was necessary in the context of a deprivation of use of property is *Jahn v Germany* (2006) 42 EHRR 49, which seems confined to its own facts.

between the interests of the weapon holder and the general interest and is proportionate. These measures are accordingly compatible with A1P1.

Home Office
20 June 2018