

# Policing and Crime Bill

## Firearms – Law Commission recommendations

### Background

1. The Firearms Act 1968 (“the 1968 Act”) governs the possession and acquisition of firearms in Great Britain. The legislation is complex and is currently set out in over 34 Acts of Parliament dating back to 1842.
2. The Home Office asked the Law Commission to conduct a scoping review of firearms legislation to identify areas which were open to abuse by criminals and cause unnecessary difficulties for law enforcement agencies and legitimate holders of firearms.
3. The Law Commission commenced a review of firearms legislation in January 2015 and identified five priority areas where legislation would benefit from amendment to (i) close potential legislative loopholes due to public safety concerns and (ii) clarifying and simplifying the law and making it easier to understand and use.
4. These proposals were tested through a Law Commission public consultation<sup>1</sup> between 21 July and 21 September 2015. The consultation provided an opportunity for legitimate certificate holders and collectors to raise concerns about any adverse impact and enabled the Law Commission to refine their proposals.
5. On 16 December the Law Commission published their report<sup>2</sup> and their recommendations to Government. Part 6 of the Bill gives effect to key recommendations in the report. The Government responded to the Law Commission on 15 April 2016.
6. The five areas identified as causing difficulties and being open to abuse by the Law Commission are:
  - a. The absence of a definition of ‘lethality’;
  - b. The lack of a definition of a ‘component part’;
  - c. The lack of a definition of an ‘antique firearm’;
  - d. The absence of an offence to criminalise those in possession of articles with intent to use them in the unlawful conversion of imitation firearms into firearms; and
  - e. The absence of a requirement that in order for a weapon to be considered deactivated as a matter of law that it must be certified as being deactivated to an approved standard.

The Bill acts upon these concerns.

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<sup>1</sup> <http://www.lawcom.gov.uk/project/firearms/>

<sup>2</sup> [http://www.lawcom.gov.uk/wp-content/uploads/2015/12/lc363\\_firearms.pdf](http://www.lawcom.gov.uk/wp-content/uploads/2015/12/lc363_firearms.pdf)

## Amendments made by the Bill to the Firearms Act 1968

### *Lethality*

7. The 1968 Act defines a firearm as a “lethal barrelled weapon of any description from which any shot, bullet or other missile can be discharged”. This makes lethality integral to knowing whether something is a firearm, yet the law does not provide an unambiguous definition of lethality. This raises a number of problems, including: greater reliance on expert witnesses; a lack of clarity over whether some air weapons and poorly converted imitations are firearms; and the knock on effect of not knowing when offenders, who are banned from firearm ownership, are in breach of their bans.
8. The Bill amends the 1968 Act to provide a definition of lethality. A firearm will be considered ‘lethal’ if it is capable of discharging a projectile with a kinetic energy of more than 1 joule as measured at the muzzle of the weapon.
9. The Bill also exempts airsoft<sup>3</sup> weapons which will minimise the impact on the airsoft trade while also ensuring public safety.

### *Component parts of firearms*

10. The 1968 Act states that the term “firearm” includes “any component part of such a lethal or prohibited weapon”. The effect of this provision is that whenever the legislation refers to a firearm it is also referring to a component part. However there is currently no statutory definition of “component part”.
11. The Bill amends the 1968 Act to provide a definition of a ‘component part’. A component part will be defined as a: (i) the barrel, chamber, or cylinder; (ii) frame, body or receiver; or (iii) breech, block, bolt or other mechanism for containing the pressure of discharge at the rear of the chamber. The Secretary of State will have the power to amend the list of component parts by regulations subject to the affirmative procedure.

### *Antique firearms*

12. The 1968 Act exempts antique firearms, from the scope of firearms legislation. There is no requirement for antique firearms held as a ‘curiosity or ornament’ to be held on a firearm certificate but firearms legislation does not provide a definition of ‘antique.’ This creates ambiguity amongst law enforcement and legitimate collectors as to what constitutes an antique firearm.

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<sup>3</sup> **Airsoft** is a sport in which participants eliminate opponents by hitting each other with spherical non-metallic pellets launched via replica firearms called **airsoft** guns (Wikipedia)

13. The Bill amends the 1968 Act to provide a definition for an 'antique firearm'. A firearm will be defined as an antique firearm if its chamber is capable of being used only with a cartridge of a specified description or if its ignition system is of a specified description. The lists of obsolete cartridges and ignition systems will be specified in regulations (subject to the negative resolution procedure). The Home Office will hold a public consultation on these definitions including a review of the existing Home Office obsolete calibre list<sup>4</sup> to define which firearms should be specified on the list and therefore not subject to certificate controls, and which firearms should be omitted and revert to certificate controls.

#### *New offence in relation to converting imitation firearms*

14. Law enforcement agencies expressed a concern that there is not an offence of being in possession of articles with the intention of using them unlawfully to convert imitation firearms into live firearms.

15. The Bill introduces a new offence so that persons who are in possession of articles with intent to use them to unlawfully convert imitation firearms, without legal entitlement as a Registered Firearms Dealer, can be prosecuted. This is to correct the fact that there is currently nothing in law to deter persons from engaging in the process of unlawfully converting a firearm. The maximum penalty for the new offence is five years' imprisonment.

#### *New offence in relation to deactivation standards*

16. A deactivated firearm means an imitation that consists of something which was a firearm but has been rendered incapable of discharging a shot, bullet, or other missile.

17. On 8 April 2016 the EU Implementing Regulation on Deactivation Standards came into force.

18. The Bill introduces a new offence to sell or gift a weapon that has not been deactivated to the new EU Deactivation Standards. If a person was to sell a weapon that was not deactivated to the new EU standards they would, following conviction on indictment, be subject to imprisonment for a term not exceeding 5 years or to a fine, or to both.

**Home Office  
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<sup>4</sup>[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/479794/Guidance\\_on\\_Firearms\\_Licensing\\_Law\\_Nov\\_2015\\_v16.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/479794/Guidance_on_Firearms_Licensing_Law_Nov_2015_v16.pdf)