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## STATUTORY INSTRUMENTS

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# 2004 No. 702

## The Firearms (Northern Ireland) Order 2004

### PART VIII **N.I.**

#### MISCELLANEOUS AND GENERAL

#### Appeal from decision of Chief Constable **N.I.**

74.—(1) A person aggrieved by a decision of the Chief Constable under this Order may appeal to the [<sup>F1</sup>relevant authority] if it is a decision to which this Article applies.

(2) On an appeal under this Article the [<sup>F2</sup>relevant authority] may make such order as the relevant authority] thinks fit having regard to the circumstances.

(3) This Article applies to the following decisions of the Chief Constable under this Order—

- (a) a refusal to grant or vary any certificate;
- (b) a revocation of a certificate;
- (c) a condition attached to any certificate or the variation of such a condition;
- (d) a requirement to surrender a certificate of approval under Article 17(3) or 18(2);
- (e) an order under Article 72(4).

(4) In this Article—

“certificate”, except in the expression “certificate of approval”, includes a permit or authorisation under this Order;

“grant” includes issue;

“revocation” includes—

- (a) in relation to a firearm certificate, partial revocation under Article 9;
- (b) in relation to a firearms dealer's certificate, the removal of a place of business under Article 32;

“vary any certificate”, in relation to a firearms dealer's certificate, includes adding a place of business under Article 31.

[<sup>F3</sup>(5) In this Article “the relevant authority” means—

- (a) the Secretary of State, in any case where the Chief Constable's decision was taken wholly or partly on the basis of information the disclosure of which may, in the view of the Secretary of State or of the Chief Constable, be against the interests of national security;
- (b) the Department of Justice, in any other case.

(6) Where the Chief Constable makes a decision within paragraph (3)(a) to (d), he must notify (as the case may be)—

- (a) the applicant, or
- (b) the holder of the certificate,

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who the relevant authority is for the purposes of any appeal against the decision.

(7) An order under Article 72(4) must be accompanied by a written statement by the Chief Constable specifying who the relevant authority is for the purposes of any appeal against the order.]

- F1** Words in art. 74(1) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 9, **Sch. 11 para. 8(2)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**
- F2** Words in art. 74(2) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 9, **Sch. 11 para. 8(3)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**
- F3** Art. 74(5)-(7) inserted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 9, **Sch. 11 para. 8(4)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

**Fees** **N.I.**

75.—(1) Schedule 6 (fees) shall have effect.

(2) Subject to this Order, there shall be payable in relation to any matter specified in the first column of that Schedule the fee specified in the second column (if any); and references in this Order to the appropriate fee shall be construed accordingly.

(3) The [<sup>F4</sup>Department of Justice] may, with the approval of the [<sup>F5</sup>Department of Finance and Personnel], make an order varying any sum specified in Schedule 6 or providing that any such sum or any such sum as varied under this paragraph shall cease to be payable.

(4) <sup>F6</sup>.....

(5) No fee shall be payable on the grant to a responsible officer of a firearms club authorised under Article 49 of a firearm certificate in respect of firearms or ammunition to be used solely by the club.

(6) No fee shall be payable on the grant or variation of a firearm certificate if the Chief Constable is satisfied that the firearm certificate relates solely to and, in the case of variation, will continue when varied to relate solely to—

- (a) a firearm or ammunition which the applicant requires as part of the equipment of a ship; or
- (b) a signalling apparatus, or ammunition for a signalling apparatus, which the applicant requires as part of the equipment of an aircraft or aerodrome; or
- (c) a slaughtering instrument, or ammunition for a slaughtering instrument, which the applicant requires for the purpose of the slaughter of animals.

- F4** Words in art. 75(3) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 9, **Sch. 11 para. 3(f)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**
- F5** Words in art. 75(3) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 9, **Sch. 11 para. 9(a)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**
- F6** Art. 75(4) omitted (12.4.2010) by virtue of Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 9, **Sch. 11 para. 9(b)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

### **Application of Order to imitation firearms which are readily convertible into firearms** **N.I.**

76.—(1) This paragraph applies to an imitation firearm if it is so constructed or adapted as to be readily convertible into a firearm.

(2) For the purposes of this Order an imitation firearm shall be regarded as readily convertible into a firearm if—

- (a) it can be so converted without any special skill on the part of the person converting it in the construction or adaptation of firearms of any description; and
- (b) the work involved in converting it does not require equipment or tools other than such as are in common use.

(3) Subject to paragraphs (4) to (6), this Order shall apply in relation to an imitation firearm to which paragraph (1) applies as it applies in relation to a firearm; and references in this Order to a firearm shall be construed accordingly.

(4) For the purposes of this Article (and this Order as it applies by virtue of this Article), the definition of “firearm” in Article 2(2) shall apply as if paragraphs (b) and (c) were omitted.

(5) Articles 53, 58, 61 and 67(3) and (4) do not apply by virtue of this Article to an imitation firearm to which paragraph (1) applies.

(6) In any proceedings brought by virtue of this Article for an offence under this Order involving an imitation firearm to which paragraph (1) applies, it shall be a defence for the accused to show that he did not know and had no reason to suspect that the imitation firearm was so constructed or adapted as to be readily convertible into a firearm.

### **Application of Order to Crown servants** **N.I.**

77.—(1) Articles 3 to 13 and paragraphs 1 and 4 of Schedule 1 apply, subject to the modifications specified in paragraph (2), to persons in the service of the Crown in their capacity as such so far as those provisions relate to the purchase and acquisition, but not so far as they relate to the possession, of firearms and ammunition.

(2) The modifications referred to in paragraph (1) are the following—

- (a) a person in the service of the Crown in right of Her Majesty's Government in the United Kingdom duly authorised in writing in that behalf may purchase or acquire firearms or ammunition for the public service without holding a firearm certificate;
- (b) a person in the service of the Crown in right of Her Majesty's Government in Northern Ireland duly authorised in writing by the [<sup>F7</sup>Department of Justice] may purchase or acquire firearms or ammunition for the public service without holding a firearm certificate;
- (c) a person in the armed forces shall, if he satisfies the Chief Constable on an application under Article 4 that he is required to purchase or acquire a firearm or ammunition for his own use in his capacity as such, be entitled without payment of any fee to the grant of a firearm certificate authorising the purchase or acquisition.

(3) For the purposes of this Article and section 7 of the Interpretation Act (Northern Ireland) 1954 (c. 33) (Crown not bound), the persons specified in paragraph (4) shall be deemed to be in the armed forces, in so far as they are not otherwise in the armed forces or treated as being in the armed forces.

(4) The persons referred to in paragraph (3) are the following—

- (a) members of any foreign force when they are serving with the armed forces;
- (b) members of any cadet corps approved by the Secretary of State when—
  - (i) they are engaged as members of the corps in, or in connection with, drill or target shooting; and

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- (ii) in the case of possession of prohibited weapons or prohibited ammunition when engaged in target shooting, they are on service premises; and
  - (c) persons providing instruction to any members of a cadet corps who fall within subparagraph (b).
- (5) In paragraph (4)—
- “foreign force” means any of the naval, military or air forces of a country other than the United Kingdom; and
- “service premises” means any place, including any ship or aircraft, used for any purpose of the armed forces.

**F7** Words in art. 77(2)(b) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 9, **Sch. 11 para. 3(g)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

**Modifications etc. (not altering text)**

**C1** Art. 77(3) applied (6.4.2007 for specified purposes and 1.10.2007 to the extent not already in force) by Violent Crime Reduction Act 2006 (c. 38), ss. 51, 66(2), **Sch. 2 para. 14(4)**; S.I. 2007/858, **art. 2(j)(ii) (cc)**; S.I. 2007/2180, **art. 4(d)(ii)**

**Application of certain provisions of this Order to police** **N.I.**

**78.**—(1) For the purposes of this Article the relevant provisions are Articles 3 to 13 and paragraphs 1 and 4 of Schedule 1.

(2) The relevant provisions shall not apply to the following persons in their capacity as such so far as they relate to the possession of firearms and ammunition—

- (a) police officers;
- (b) members of the police support staff;
- (c) police trainees and police reserve trainees (within the meaning of the Police (Northern Ireland) Act 2000 (c. 32); and
- (d) members of any Harbour or Airport Police.

(3) Subject to paragraph (4), the relevant provisions shall apply to the persons specified in paragraph (2)(a) to (d) so far as they relate to the purchase or acquisition of firearms and ammunition.

(4) The Chief Constable may purchase or acquire firearms or ammunition for police purposes without holding a firearm certificate.

**Delegation of functions** **N.I.**

**79.** The Chief Constable may direct in writing that any of his functions under this Order as are specified in the direction may be exercised by such police officers and members of the police support staff as are specified in the direction.

**[<sup>F8</sup>Regulations and orders** **N.I.**

**80.**—(1) The Department of Justice may make regulations—

- (a) as to the manner in which the Chief Constable is to carry out his duties under this Order;
- (b) generally for carrying this Order into effect.

(2) The Secretary of State may, for purposes connected with national security or any function of the Secretary of State under this Order, make regulations—

- (a) as to the manner in which the Chief Constable is to carry out his duties under this Order;
- (b) generally for carrying this Order into effect.

(3) Regulations under paragraph (2) may (in particular) make provision about the holding or use of information the disclosure of which may be against the interests of national security.

(4) Regulations made by the Department of Justice under paragraph (1) have effect subject to regulations made by the Secretary of State under paragraph (2).

(5) Regulations and orders made by the Department of Justice under this Order [<sup>F9</sup>, except regulations under Article 11(9) or 50A,] are subject to negative resolution.

(6) Regulations and orders made by the Secretary of State under this Order, except orders under Article 1, are subject to annulment in pursuance of a resolution of either House of Parliament in like manner as a statutory instrument, and section 5 of the Statutory Instruments Act 1946 applies accordingly.]

**F8** Art. 80 substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 9, **Sch. 11 para. 10** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

**F9** Words in art. 80(5) inserted (13.5.2016) by Justice Act (Northern Ireland) 2016 (c. 21), s. 61(1), **Sch. 5 para. 8**

## Saving and transitional provisions **N.I.**

**81.**—(1) Nothing in this Order shall apply to an antique firearm which is sold, purchased, acquired or possessed as a curiosity or ornament.

(2) The provisions of this Order shall be in addition to and not in derogation of any statutory provision relating to the keeping and sale of explosives.

[<sup>F10</sup>(2A) The Department of Justice may by order under Article 8(3) or paragraph 2(6) of Schedule 2 make such saving and transitional provisions as appear to the Department of Justice to be necessary or expedient.]

(3) The Secretary of State may by order under Article 1 [<sup>F11</sup><sup>F12</sup>. . . or 45(10)] or paragraph 2(6) of Schedule 2 [<sup>F13</sup>(as applied by paragraph 3A(4) of that Schedule)] make such saving and transitional provisions as appear to him to be necessary or expedient.

(4) Nothing in any provision of this Order shall affect the punishment for an offence committed before the commencement of that provision.

**F10** Art. 81(2A) inserted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 9, **Sch. 11 para. 11(2)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

**F11** 2005 NI 16

**F12** Words in art. 81(3) omitted (12.4.2010) by virtue of Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 9, **Sch. 11 para. 11(3)(a)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

**F13** Words in art. 81(3) inserted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 9, **Sch. 11 para. 11(3)(b)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

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**Modifications etc. (not altering text)**

- C2** [Art. 81](#) applied (with modifications) (6.4.2007 for specified purposes and 1.10.2007 to the extent not already in force) by [Violent Crime Reduction Act 2006 \(c. 38\)](#), ss. 51, 66(2), [Sch. 2 para. 14\(3\)\(d\)](#); [S.I. 2007/858](#), [art. 2\(j\)\(ii\)\(bb\)](#); [S.I. 2007/2180](#), [art. 4\(d\)\(ii\)](#)

*Article 82—Amendments and repeals*

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**Changes and effects yet to be applied to the whole Order associated Parts and Chapters:**

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- [art. 6\(3A\)](#) inserted by [2019 c. 17 s. 62\(2\)](#)
- [art. 6A](#) inserted by [2019 c. 17 s. 62\(3\)](#)
- [art. 11\(1A\)](#) inserted by [2019 c. 17 s. 62\(4\)](#)