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DRAFT STATUTORY INSTRUMENTS

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**2004 No.**

**The Firearms (Northern Ireland) Order 2004**

**PART VII**

**ENFORCEMENT AND OFFENCES**

*General*

**Prosecution and punishment of offences**

**69.**—(1) Schedule 5 sets out in tabular form the manner in which offences under this Order are punishable on conviction.

(2) In relation to an offence under a provision of this Order specified in column (1) of Schedule 5 (the general nature of that offence being described in column (2))—

- (a) column (3) shows whether it is punishable on summary conviction or on indictment or in either one way or the other; and
- (b) column (4) shows the maximum punishment which may be imposed on a person convicted of it in the way specified in column (3).

(3) In column (4) of Schedule 5—

- (a) any reference to a period of years or months shall be construed as a reference to a term of imprisonment of that duration; and
- (b) any reference to a level shall be construed as a reference to a fine of that level on the standard scale.

(4) Subject to paragraph (5), summary proceedings for an offence under this Order—

- (a) may be instituted at any time within four years after the commission of the offence; but
- (b) shall not be instituted after the expiration of six months from the commission of the offence unless they are instituted by, or by the direction of, the Attorney General.

(5) Paragraph (4) does not apply to an offence which by virtue of the entry relating to it in column (3) of Schedule 5 is triable also on indictment.

(6) Paragraph (4) has effect notwithstanding anything in Article 19(1) of the [Magistrates' Courts \(Northern Ireland\) Order 1981 \(NI 26\)](#) (limitation of time for taking proceedings).

**Minimum sentence for certain offences**

**70.**—(1) This Article applies where—

- (a) an individual is convicted of—
  - (i) an offence under Article 3(1)(a),
  - (ii) an offence under Article 45(1)(a), (b), (c), (d), (e) or (g), or
  - (iii) an offence under Article 45(2)(a), and

- (b) the offence was committed after the commencement of this Article and at a time when he had attained the age of 16.

(2) The court shall—

- (a) in the case of an offence under Article 3(1)(a) committed by a person who was aged 21 or over when he committed the offence, impose a sentence of imprisonment for a term of five years (with or without a fine), and
- (b) in any other case, impose an appropriate custodial sentence for a term of at least the required minimum term (with or without a fine),

unless (in any of those cases) the court is of the opinion that there are exceptional circumstances relating to the offence or to the offender which justify its not doing so.

(3) Where an offence is found to have been committed over a period of two or more days, or at some time during a period of two or more days, it shall be taken for the purposes of this Article to have been committed on the last of those days.

(4) In this Article—

“appropriate custodial sentence” means—

- (a) in the case of an offender who has attained the age of 21 when convicted, a sentence of imprisonment, and
- (b) in the case of an offender who is under the age of 21 at that time, a sentence of detention under section 5(1) of the Treatment of Offenders Act (Northern Ireland) 1968 (c. 29);

“the required minimum term” means—

- (a) in the case of an offender who had attained the age of 21 when he committed the offence, five years, and
- (b) in the case of an offender who was under the age of 21 at that time, three years.

### **Power by order to exclude application of minimum sentence to those under 18**

71.—(1) The Secretary of State may by order—

- (a) amend Article 70(1)(b) by substituting for the word “16” the word “18”, and
- (b) make such other provision as he considers necessary or expedient in consequence of, or in connection with, the provision made by virtue of sub-paragraph (a).

(2) The provision that may be made by virtue of paragraph (1)(b) includes, in particular, provision amending or repealing any statutory provision (whenever passed or made).

### **Forfeiture and disposal of firearms; cancellation of certificate by convicting court**

72.—(1) Where a person—

- (a) is convicted of an offence under this Order or is convicted of any crime for which he is sentenced to imprisonment or to detention during the pleasure of the Secretary of State or in a young offenders centre or a juvenile justice centre; or
- (b) has been ordered to enter into a recognizance to keep the peace or to be of good behaviour a condition of which is that he shall not possess, use or carry a firearm; or
- (c) is subject to a probation order containing a requirement that he shall not possess, use or carry a firearm,

the court before which he is convicted or by which the order is made may make such order as to the forfeiture or disposal of any firearm or ammunition found in his possession as the court thinks fit and may cancel any firearm certificate held by the person convicted.

- (2) Where the court cancels a firearm certificate under this Article—
- (a) it shall cause notice to be sent to the Chief Constable; and
  - (b) the Chief Constable shall by notice in writing require the holder of the certificate to surrender it; and
  - (c) if the holder of the certificate fails to surrender it within 21 days from the date of the notice given to him by the Chief Constable or within such further time as the Chief Constable may in special circumstances allow, he shall be guilty of an offence.
- (3) A constable may seize and detain any firearm or ammunition which may be the subject of an order for forfeiture under this Article.
- (4) The Chief Constable may order that any firearm or ammunition which is surrendered to, or seized or found by, any constable and in respect of which a firearm certificate has not been granted, shall be destroyed or otherwise disposed of.
- (5) Without prejudice to paragraph (4), a court of summary jurisdiction may on the application of the Chief Constable order any firearm or ammunition seized and detained by a constable under this Order to be destroyed or otherwise disposed of.
- (6) In the case of an offence under Article 48(4) or 56(3), the court before which the offender is convicted may, if he is the owner of the firearms or ammunition, make such an order as to their forfeiture as it thinks fit.
- (7) A person aggrieved by an order under paragraph (1) or paragraph (6) may appeal against the order in the same manner as against the conviction, and the court may, if it thinks fit, suspend the operation of the order pending the appeal.

### **False statements**

**73.**—(1) Any person who knowingly or recklessly makes any statement which is false in any material particular for the purpose of procuring, whether for himself or another person, the grant or variation of any certificate under this Order shall be guilty of an offence.

(2) In this Article—

“certificate” includes licence, permit or authorisation;

“grant” includes issue;

“variation of any certificate”, in relation to a firearms dealer’s certificate, includes the addition of a place of business under Article 31.