
DRAFT STATUTORY INSTRUMENTS

2004 No.

The Firearms (Northern Ireland) Order 2004

PART VII

ENFORCEMENT AND OFFENCES

Enforcement

Power of search with warrant

52.—(1) If a justice of the peace is satisfied that there is reasonable ground for suspecting—

- (a) that an offence under this Order has been, is being or is about to be committed; or
- (b) that, in connection with a firearm or ammunition, there is a danger to public safety or to the peace,

he may grant a warrant for any of the purposes mentioned in paragraph (2).

(2) A warrant under this Article may authorise a constable or a member of the police support staff—

- (a) to enter at any time any premises or place named in the warrant, if necessary by force, and to search the premises or place and every person found there;
- (b) to seize and detain anything which he may find there, or on any such person, in respect of which or in connection with which he has reasonable grounds for suspecting—
 - (i) that an offence under this Order has been, is being or is about to be committed; or
 - (ii) that, in connection with a firearm, imitation firearm or ammunition, there is a danger to public safety or to the peace.

(3) The power under paragraph (2)(b) to seize and detain anything found on any premises or place shall include power to require any information which is kept in any electronic form and is accessible from the premises or place to be produced in a readable form which can be taken away.

(4) Any person who intentionally obstructs a constable or a member of the police support staff in the exercise of his powers under this Article shall be guilty of an offence.

Powers of constables to stop and search

53.—(1) A constable may require any person whom he has reasonable cause to suspect—

- (a) of having a firearm or ammunition with him in a public place; or
- (b) to be committing or about to commit an offence under Article 60 or 62 elsewhere than in a public place,

to hand over the firearm or ammunition for examination.

(2) A person who, having a firearm or ammunition with him, fails to hand it over when required to do so by a constable under paragraph (1), shall be guilty of an offence.

(3) If a constable has reasonable cause to suspect a person of having in his possession a firearm or ammunition in contravention of any provision of this Order, the constable may search that person.

(4) If a constable has reasonable cause to suspect—

(a) that there is a firearm in a vehicle in a public place; or

(b) that a vehicle is being or is about to be used in connection with the commission of an offence under Article 60 or 62 elsewhere than in a public place,

he may search the vehicle and for that purpose require the person driving or in control of it to stop it.

(5) If the person driving or in control of any vehicle fails to stop it when required to do so by a constable under paragraph (4) or refuses to permit the vehicle to be searched, he shall be guilty of an offence.

(6) For the purpose of exercising the powers conferred by this Article a constable may enter any place.

Production of firearms for ballistic and other tests

54.—(1) The Chief Constable may by notice in writing require any person having lawful possession of a firearm to produce it at such time and place as may be specified in the notice for the purpose of having ballistic or other tests carried out on it and of establishing and recording any distinctive characteristics.

(2) A person who without reasonable excuse fails to comply with a notice issued under paragraph (1) shall be guilty of an offence.

Production of certificates, etc.

55.—(1) A constable may demand from any person whom he believes to be in possession of a firearm or ammunition the production of his firearm certificate.

(2) Where a person upon whom a demand has been made by a constable under paragraph (1) and whom the constable believes to be in possession of a firearm fails—

(a) to produce a firearm certificate; or

(b) to show that he is a person who, by reason of his place of residence or any other circumstances, is not entitled to be issued with a document identifying that firearm under any of the provisions which in the other member States correspond to the provisions of this Order for the issue of European firearms passes; or

(c) to show that he is in possession of the firearm exclusively in connection with the carrying on of activities in respect of which he or the person on whose behalf he has possession of the firearm, is recognised, for the purposes of the law of another member State relating to firearms, as a collector of firearms or a body concerned in the cultural or historical aspects of weapons,

the constable may demand from that person the production of a document which has been issued to that person in another member State under any such corresponding provisions, identifies that firearm as a firearm to which it relates and is valid.

(3) If any person upon whom a demand is made under this Article fails—

(a) to produce the firearm certificate or document or to permit the constable to read it; or

(b) to show that he is entitled by virtue of this Order to have the firearm or ammunition in his possession without holding a firearm certificate,

the constable may seize and detain the firearm or ammunition and may require the person to declare to him immediately his name and address.

(4) If under this Article a person is required to declare to a constable his name and address, it is an offence for him to refuse to declare it or to fail to give his true name and address.

(5) A person who, being in possession of a firearm, fails to comply with a demand under paragraph (2) shall be guilty of an offence.

Police powers in relation to firearms traffic

56.—(1) Any constable may search for and seize any firearms or ammunition which he has reason to believe are being removed or have been removed, in contravention of an order made under Article 48 or of an order prohibiting the removal of firearms or ammunition from Great Britain to Northern Ireland made under section 6 of the Firearms Act 1968 (c. 27).

(2) A person having the control or custody of any firearms or ammunition in course of transit shall, on demand by a constable—

- (a) allow him all reasonable facilities for their examination and inspection; and
- (b) produce any documents relating to them in the possession of that person.

(3) A person who fails to comply with paragraph (2) shall be guilty of an offence.

Seizure and detention of firearms and ammunition

57. In addition to any other powers conferred on him under this Order, a constable may seize and detain any firearms or ammunition in the possession of a person whom he believes to be in possession of them in contravention of any of the provisions of this Order.

Offences with firearms

Possession with intent

58.—(1) A person who has in his possession any firearm or ammunition with intent—

- (a) by that means to endanger life or cause serious damage to property; or
- (b) to enable any other person by that means to endanger life or cause serious damage to property,

shall be guilty of an offence whether any injury to person or any damage to property has been caused or not.

(2) A person who has in his possession any firearm or imitation firearm with intent—

- (a) by that means to cause; or
- (b) to enable another person by that means to cause,

any person to believe that unlawful violence will be used against him or another person, shall be guilty of an offence.

Use of firearm to resist arrest

59.—(1) A person who makes any use whatsoever of a firearm or imitation firearm with intent to resist or prevent the lawful arrest or detention of himself or any other person shall be guilty of an offence.

(2) A person who at the time of his committing, or of his being arrested for, an offence specified in Schedule 4 has in his possession a firearm or imitation firearm, shall be guilty of an offence under this paragraph unless he shows that he had it in his possession for a lawful purpose.

(3) For the purposes of this Article, the definition of “firearm” in Article 2(2) shall apply as if paragraphs (b) and (c) were omitted.

Carrying firearm with criminal intent

60.—(1) A person who has with him a firearm or imitation firearm with intent—

- (a) to commit an indictable offence; or
- (b) to resist arrest or to prevent the arrest of another,

in either case while he has the firearm or imitation firearm with him, shall be guilty of an offence.

(2) In proceedings for an offence under this Article proof that the accused had a firearm or imitation firearm with him and intended to commit an indictable offence or to resist or prevent arrest is evidence that he intended to have it with him while doing so.

(3) In this Article “indictable offence” means an offence which, if committed by an adult, is triable on indictment (whether or not it is also triable by a court of summary jurisdiction) except an offence otherwise triable only by a court of summary jurisdiction which under Article 29 of the [Magistrates' Courts \(Northern Ireland\) Order 1981 \(NI 26\)](#) or any other statutory provision, is required to be tried on indictment at the instance of the accused or the prosecution.

Carrying or discharging firearm in a public place

61.—(1) A person who has with him in a public place a loaded shotgun or loaded air gun or any other firearm (whether loaded or not) together with ammunition suitable for use in that firearm, shall be guilty of an offence unless he shows that he had lawful authority or reasonable excuse for doing so.

(2) A person who discharges any firearm on any public road, or within 18 metres of the centre of any public road, or in any church, churchyard or burial ground shall be guilty of an offence unless he shows that he had lawful authority or reasonable excuse for doing so.

Trespassing with firearm

62.—(1) A person who enters or is in any building or part of a building as a trespasser while he has a firearm or imitation firearm with him shall be guilty of an offence unless he shows that he had lawful authority or reasonable excuse for doing so.

(2) A person who enters or is on any land as a trespasser while he has a firearm or imitation firearm with him shall be guilty of an offence unless he shows that he had lawful authority or reasonable excuse for doing so.

Prohibition of possession, etc. of firearm by certain persons

63.—(1) Subject to paragraph (7), a person who has been sentenced to—

- (a) imprisonment; or
- (b) detention in a young offenders centre,

shall not at any time purchase, acquire or have in his possession a firearm or ammunition unless the term of imprisonment or detention to which he was sentenced was less than three years.

(2) Subject to paragraph (7), a person who has been sentenced to—

- (a) imprisonment for a term of three months or more but less than three years; or
- (b) detention in a young offenders centre or a juvenile justice centre for such a term,

shall not at any time before the expiration of the period of eight years from the date of his conviction, purchase, acquire or have in his possession a firearm or ammunition.

(3) Subject to paragraph (7), while a person is prohibited by section 21 of the Firearms Act 1968 in Great Britain from having a firearm or ammunition in his possession, he shall also be prohibited from purchasing, acquiring or having in his possession a firearm or ammunition in Northern Ireland.

(4) Subject to paragraph (7), a person who has been sentenced to detention during the pleasure of the Secretary of State under Article 45(1) of the [Criminal Justice \(Children\) \(Northern Ireland\) Order 1998 \(NI 9\)](#) shall not purchase, acquire or have in his possession a firearm or ammunition.

(5) A person shall not, while he is subject to—

- (a) 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;
- (b) a probation order containing a requirement that he shall not possess, use or carry a firearm, or
- (c) a licence under Article 46 of the Criminal Justice (Children) (Northern Ireland) Order 1998,

purchase, acquire or have in his possession a firearm or ammunition.

(6) A person who contravenes any of the foregoing provisions of this Article shall be guilty of an offence.

(7) A person prohibited under paragraph (1), (2), (3) or (4) from purchasing, acquiring or having in his possession a firearm or ammunition may apply to the Secretary of State to remove the prohibition, and, if the application is granted, the prohibition shall not then apply to that person.

(8) A person who sells or transfers a firearm or ammunition to, or repairs, tests or proves a firearm or ammunition for, a person whom he knows or has reasonable ground for believing to be prohibited by this Article from purchasing, acquiring or having in his possession a firearm or ammunition, shall be guilty of an offence.

(9) In this Article “sentenced” means sentenced in any part of the United Kingdom.

Possession of firearm or ammunition in suspicious circumstances

64.—(1) A person who has in his possession any firearm or ammunition in suspicious circumstances shall be guilty of an offence unless he shows that he had it in his possession for a lawful purpose.

(2) In paragraph (1) “suspicious circumstances” means circumstances such as to give rise to a reasonable suspicion that the person does not have the firearm or the ammunition in his possession for a lawful purpose.

(3) This Article is without prejudice to any other provision of this Order.

Possession of loaded firearm while drunk or under influence of drugs

65. A person who has in his possession any loaded firearm while drunk or under the influence of drugs shall be guilty of an offence.

Supplying firearm or ammunition to person who is drunk, etc.

66. A person who sells or transfers any firearm or ammunition to, or repairs, proves or tests any firearm or ammunition for, a person whom he knows or has reasonable cause for believing to be drunk, under the influence of drugs, or suffering from mental disorder, shall be guilty of an offence.

Conversion of weapons

67.—(1) Subject to paragraph (2), a person who shortens the barrel of a shotgun to a length less than 60.96 centimetres shall be guilty of an offence.

(2) It shall not be an offence under paragraph (1) for the holder of a firearms dealer's certificate to shorten the barrel of a shotgun for the sole purpose of replacing a defective part of the barrel so as to produce a barrel of not less than 60.96 centimetres in length.

(3) A person, other than the holder of a firearms dealer's certificate, who converts into a firearm anything which, though having the appearance of being a firearm, is so constructed as to be incapable of discharging any missile through its barrel, shall be guilty of an offence.

(4) A person who commits an offence under Article 3 by having in his possession, or purchasing or acquiring—

- (a) a shotgun which has been shortened contrary to paragraph (1); or
- (b) a firearm which has been converted as mentioned in paragraph (3) (whether by the holder of a firearms dealer's certificate or not),

without holding a firearm certificate authorising him to have it in his possession, or to purchase or acquire it, shall be treated for the purposes of the provisions of this Order relating to the punishment of offences as committing that offence in an aggravated form.

Defences

68. In proceedings for an offence under Article 59(2), 61, 62 or 64, if a person adduces evidence which is sufficient to raise an issue with respect to a matter which he is required to show under any of those Articles, he shall be treated as having shown that matter unless the prosecution proves the contrary beyond reasonable doubt.

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.