

EXPLANATORY MEMORANDUM TO
THE FIREARMS (ELECTRONIC COMMUNICATIONS) ORDER 2011
2011 No. 713

1. This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This Order permits firearms dealers and people holding certificates allowing them to possess firearms to notify the police of transactions involving their firearms by electronic means as well as well by post. It also permits the police, the Secretary of State and Scottish Ministers to use electronic communication to send notices required by the Firearms Acts to firearms dealers and to certificate holders. Notices can currently be sent only by registered post or recorded delivery. Electronic notifications will be quicker, cheaper and more convenient for all concerned.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Context

4.1 Firearms dealers and certificate holders must notify the police of certain transactions involving firearms. The relevant provisions are:

Firearms Act 1968, section 42A
Firearms (Amendment) Act 1988, sections 18 and 18A
Firearms (Amendment) Act 1997, sections 33, 34 and 35

In all cases, the notices must be sent by registered post or recorded delivery.

4.2 Where the police, Secretary of State or Scottish Ministers are required to send notices to firearms dealers or certificate holders, section 56 of the Firearms Act 1968 requires those notices also to be sent by registered post or recorded delivery.

4.3 The widespread use of electronic communications, such as email and fax, provides an opportunity to allow notifications to be sent by more modern methods. This Order responds to requests from the police and the shooting community to permit notices to be sent by electronic means, in addition to the existing postal methods.

5. Territorial Extent and Application

5.1 This instrument applies to England and Wales and Scotland.

6. European Convention on Human Rights

The Parliamentary Under-Secretary for Crime Prevention, James Brokenshire MP, has made the following statement regarding Human Rights:

In my view the provisions of the Firearms (Electronic Communications) Order 2011 are compatible with the Convention rights.

7. Policy background

- *What is being done and why*

7.1 This Order is being made under the Electronic Communications Act 2000, which is intended to facilitate the use of electronic communications. This Order facilitates the sending of notifications under the Firearms Acts by electronic means. A notification contains details of a transaction involving a firearm. It includes a description of the firearm involved, the nature of the transaction (for example, sale, purchase, acquisition, deactivation, destruction or loss) and the name and address of the other party involved. Notices sent by the police, Secretary of State or Scottish Ministers are enforcement notices relating to actions such as the removal of a dealer's name from the register of firearms dealers.

7.2 It is estimated that about 928,000 notifications are sent to the police each year by firearms dealers and certificate holders, at a cost of around £5 million. Restricting notifications only to registered post or recorded delivery is costly and does not reflect modern business practice. Most businesses and many certificate holders nowadays have access to electronic communications such as email or fax, and allowing notices to be sent by such means would be quicker, cheaper and more convenient. Costs could be halved and there would also be small savings for the police from not having to open and manually process as many notifications. Electronic notifications would not create any additional public safety implications.

7.3 Public interest in this Order is limited to the gun trade and others in the shooting community.

7.4 The changes in this Order are not politically or legally important. However, they represent significant savings for the shooting community and for the police. They also modernise the process for notifications, reflecting modern business practice. Legislation is needed to achieve this outcome because current primary legislation only allows notices to be sent by registered post or recorded delivery.

- *Consolidation*

7.5 There are no present plans to consolidate firearms law.

8. Consultation outcome

8.1 The Home Office has been in consultation since 2004 with key interested parties, including ACPO England and Wales, ACPO Scotland, the Scottish Government, the British Shooting Sports Council, the Gun Trade Association, the

British Association for Shooting and Conservation, the Countryside Alliance and the National Small-bore Rifle Association. They all expressed support of the measure and contributed useful costings and detailed comments on the draft Order. For example, following comments from shooting representatives, we added to the Order a provision to consult “such other persons as the Secretary of State is satisfied should be consulted”. This allows for shooting representatives and other affected bodies to be consulted before the Secretary of State approves any form of electronic communication.

9. Guidance

9.1 The Order requires the Secretary of State to publish details of newly approved electronic methods of notification. It also requires the police to publish details of the electronic addresses to be used. Any necessary guidance will be produced for their members by the Association of Chief Police Officers and relevant shooting organisations. The Home Office will assist wherever needed.

10. Impact

10.1 The impact on business, charities or voluntary bodies is cost savings of around £2.5 million per year.

10.2 The impact on the public sector is a small one-off cost of around £2,000 for publicising approved forms of electronic communication and associated electronic addresses. There will be small administrative savings to police of around £12,000 per year.

10.3 An Impact Assessment is attached to this memorandum.

11. Regulating small business

11.1 The legislation applies to small business.

11.2 To minimise the impact of the requirements on small firms employing up to 20 people, the approach taken is to include them in the option of using electronic notifications so they might benefit from the resulting savings.

11.3 The basis for the final decision on what action to take to assist small business was consultation with shooting bodies such as the Gun Trade Association, which represents small dealers. They were able to reflect the views of small businesses to ensure they benefited equally from the ability to send electronic notifications.

12. Monitoring & review

12.1 Success criteria for this Order are:

providing the shooting community and enforcement bodies with a greater choice of how to send notifications, and

savings for the shooting community and police, in line with section E of the Impact Assessment.

12.2 This will be monitored by the Home Office on an ongoing basis through feedback from the police and shooting community. The results will be made public as they become available.

13. Contact

Dennis Wilmer at the Home Office (tel: 0207 035 1786 or email: dennis.wilmer@homeoffice.gsi.gov.uk) can answer any queries regarding the instrument.