

FIREARMS (AMENDMENT) (NORTHERN IRELAND) ORDER 2005

S.I. 2005 1966

EXPLANATORY MEMORANDUM

INTRODUCTION

The Firearms (Amendment) (Northern Ireland) Order (“the Order”) was made on 19 July 2005. This Explanatory Memorandum has been prepared by the Northern Ireland Office to assist the reader in understanding the Order. It does not form part of the Order.

BACKGROUND

The Order replicates sections 37 and 39 of the Anti-social Behaviour Act 2003 by making it an offence to possess an air gun or imitation firearm in a public place without lawful authority or reasonable excuse and by prohibiting air guns that use a self-contained gas cartridge system. Its provisions are intended to address the growing misuse of air guns and imitation firearms. This is largely in relation to criminal damage and nuisance but also the practice of carrying imitation firearms to intimidate others. The problem with air guns that use a self-contained gas cartridge system is that they can be converted easily to fire live ammunition.

PROVISIONS OF THE ORDER

Article 1 provides that the Order may be cited as the Firearms (Amendment) (Northern Ireland) Order 2005 and that it will come into operation 2 months from the day on which it is made.

Article 2 attracts to the Order the provisions of the Interpretation Act (Northern Ireland) 1954 and provides some additional interpretation.

Article 3 adds to the list of prohibited weapons at Article 45(1) of the Firearms (Northern Ireland) Order 2004, any air gun which uses, or is designed or adapted for use with, a self-contained gas cartridge system. It is therefore an offence to possess, purchase, acquire, manufacture, sell or transfer one of these firearms without the Secretary of State’s written authority. The Government has decided that existing legal owners of these air guns may keep and continue to use them, as is the case in Great Britain.

Certificate controls apply to the small number of these air guns held in Northern Ireland and arrangements will be made for them to be covered by the Secretary of State’s authority.

The Article makes some consequential amendments to the 2004 Order including adding the new offence to the list of offences punishable on indictment and which attract a maximum sentence of 10 years with a minimum sentence of 5 years. It also adds the new provision to the references to the 2004 Order in the Customs and Excise Management Act 1979

Article 4 provides that the Secretary of State may make such consequential amendments to the 2004 Order, or any other statutory provision, arising from any addition he may make to the list of prohibited weapons by virtue of the order making power at Article 45(10).

Article 5 adds to the list of firearms covered by the offence in Article 61(1) of the 2004 Order of carrying a firearm in a public place without lawful authority or reasonable excuse. The offence previously applied to the possession of loaded shotguns, loaded air guns or any other firearm (whether loaded or not) together with its ammunition. Article 5(1) adds unloaded air guns and imitation firearms to the list. Article 5(3) adds the offence to the list of offences to which powers of summary arrest apply, set out in Article 26(2) of the Police and Criminal Evidence (Northern Ireland) Order 1989.

ANTICIPATED IMPACT OF THE PROPOSAL

Equality

Section 75 of the Northern Ireland Act 1998 requires public authorities in carrying out their functions to have due regard to the promotion of opportunity in the nine categories set out in the Act. A formal impact assessment was not carried out under section 75 as a screening exercise indicated no evidence of adverse or differential impact within any of the nine categories. Neither was any issue raised by any group or individual during the 12-week consultation period.

EUROPEAN CONVENTION ON HUMAN RIGHTS

It is the Government's view that the Order's provisions are compatible with the rights set out in the Convention.

BUSINESS COMPLIANCE COST ASSESSMENT

There is only a small number of legally held self-contained gas cartridge air guns in Northern Ireland and the Government understands that there are no stocks held by dealers here. There should, therefore, be no costs to business.