

EXPLANATORY MEMORANDUM TO
THE FIREARMS (AMENDMENT) REGULATIONS 2010

2010 No. 1759

1. 1.1 This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 In relation to England, Wales and Scotland, the proposed Regulations will increase from 17 to 18 the age at which a person can lawfully purchase or hire all firearms (currently only air weapons are subject to the threshold of 18 years). The proposed Regulations will also restrict the application to persons under the age of 18 of existing exemptions from the requirement to hold a firearm or shotgun certificate: they will allow a person under 18 to carry firearms and ammunition for another person at sporting events such as shoots only if the other person is aged 18 or over; they will restrict the use of firearms for starting races to those aged 18 or over (this does not apply to blank-firing weapons); and they will allow a person under 18 to use a borrowed shotgun or rifle on private land only in the presence of a person aged 18 or over.

2.2 In relation to Northern Ireland, the proposed Regulations will have a similar effect on person under 18 carrying firearms and ammunition for others at sporting events and using starter pistols at athletic events. In addition, the proposed Regulations will allow persons aged at least 16 but under 18 to acquire and possess firearms but not to purchase them, and will make their acquisition and possession subject to certain conditions.

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

3.1 None.

4. Legislative Context

4.1 The proposed Regulations transpose provisions in Council Directive 2008/51/EC which amend Directive 91/477 of 18 June 1991 on the control of the acquisition and possession of weapons. Member States must have measures in force to comply with the 2008 Directive by 28 July 2010.

4.2 The amendments made by the 2008 Directive to the 1991 Directive are already broadly reflected in UK law. The only area where it is felt that further legislation is required is in relation to the acquisition and possession of firearms by persons under the age of 18. Under article 5(a) of the 1991 Directive, as originally enacted, the acquisition and possession of firearms by under-18s was permitted only for the

purposes of hunting and target shooting. This is reflected in UK law. Article 1.4 of the 2008 Directive amends article 5(a) of the 1991 Directive in order further to restrict the acquisition and possession of firearms by under-18s, where it takes place for these limited purposes. The effect is that acquisition is permitted only if it is by means other than purchase, and acquisition and possession is permitted only if it is with parental permission, under parental guidance or the guidance of an adult with a valid firearms or hunting licence, or within a licensed or otherwise approved training centre.

4.3 The existing UK law, and the amendments to be made by the proposed Regulations are explained in paragraphs 7.2 to 7.11 below. A Transposition Note for the 2008 Directive is attached at Annex A.

- *Scrutiny History*

4.4 An Explanatory Memorandum, outlining the effect of the EU Commission's proposed changes to Council Directive 91/477, dated 22 June 2006, was submitted to the Commons and Lords Scrutiny Committees. The committees were updated as negotiations progressed and the measure was cleared by the Commons in late November 2007 and the Lords on 6 December 2007.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom (amendments to Northern Ireland legislation are made by this instrument at the request of the Department of Justice, Northern Ireland).

6. European Convention on Human Rights

6.1 James Brokenshire, Parliamentary Under-Secretary of State responsible for crime prevention has made the following statement regarding Human Rights:

In my view the provisions of the Firearms (Amendment) Regulations 2010 are compatible with the Convention rights.

7. Policy background

- *What is being done and why*

7.1 The proposed Regulations amend UK legislation in order to implement those provisions of the 2008 Directive outlined in paragraph 4.2 above.

Purchase of firearms by under-18s to be prohibited

7.2 Under the existing law in England, Wales and Scotland it is an offence for a person under the age of 17 to purchase or hire a firearm other than an air weapon (section 22(1)(b) of the Firearms Act 1968, referred to hereafter as the 1968 Act), and for a person to sell or let on hire a firearm other than an air weapon to a person under the age of 17 (section 24(1)(b) of the 1968 Act). The maximum sentence for these offences is 6 months' imprisonment on summary conviction (Part I of Schedule 6 to the 1968 Act).

7.3 The proposed Regulations amend sections 22(1) and 24(1) by increasing the relevant age in each case to 18. The amendments bring the age threshold into line with that for the purchase and hire of air weapons, which is already 18 (sections 22(1)(a) and 24(1)(a) of the 1968 Act). The proposed Regulations also remove incidental references to the purchase of firearms by under-18s in sections 22(1A) and 28(1C) of the 1968 Act, which deal with firearm and shotgun certificates respectively.

7.4 The 2008 Directive only prohibits purchase by under-18s, and not hire. However, in order to avoid additional complexity, and to maintain the coherence of UK law, the proposed Regulations apply the same age limit in relation to purchase and hire. To the limited extent that the proposed Regulations go further than the requirements of the Directive, they do so for the purpose of dealing with matters related to the obligations created by the Directive, in accordance with section 2(2)(b) of the European Communities Act 1972.

7.5 In so far as the proposed Regulations create new criminal liability in relation to the purchase or hire of firearms other than air weapons by 17 year olds, the maximum penalty that may be imposed on summary conviction is limited by paragraph 1(1)(d) of Schedule 2 to the 1972 Act to 3 months' imprisonment. This is reflected in the proposed Regulations in amendments to the table of penalties in Part I of Schedule 6 to the 1968 Act. Having a lower maximum penalty in relation to purchase or hire by 17 year olds, as compared with those under the age of 17, reflects the fact that perceived culpability diminishes the closer one gets to the prescribed age threshold (the younger the purchaser or hirer of the firearm, the more serious the offence, subject to the mitigation that may be available on grounds of youth). While it is undesirable to have a lower maximum sentence where the offences are committed in respect of firearms other than air weapons (and are therefore arguably more serious), this anomaly will only exist in a limited class of cases where the person concerned is 17, and progress has at least been made in standardising the threshold age at 18 for all types of firearm.

7.6 The law in relation to the control of firearms in Northern Ireland is to be found in the Firearms (Northern Ireland) Order 2004 (the Northern Ireland Order). The Northern Ireland Order does not contain offences in relation to the purchase or hire of firearms by young persons, equivalent to sections 22(1) and 24(1). However, the grant of a firearm certificate to a person under the age of 18 is governed by article 7 of the Northern Ireland Order. The proposed Regulations amend article 7 to ensure that a certificate may only be issued to a person under the age of 18 for the acquisition, and not the purchase, of firearms and ammunition.

Acquisition or possession of firearms by under-18s to require permission or guidance

7.7 Under the law of England and Wales and Scotland it is an offence for any person to acquire or possess a firearm without holding a firearm or shotgun certificate, unless an exemption applies (sections 1 and 2 of the 1968 Act). In relation to young certificate holders, the permission of the person's parent or guardian for the acquisition and possession of the firearms to which the certificate relates can be inferred from the fact that the parent or guardian counter-signs the application for the

certificate. Currently, the forms prescribed for applications for firearm and shotgun certificates (in Part I of Schedule 1 and Part I of Schedule 2 to the Firearms Rules 1998, respectively) require the signature of the parent or guardian only if the applicant is under 17. The proposed Regulations amend this to require signature by the parent or guardian if the applicant is under 18. This will ensure that all certificate holders under the age of 18 have the permission of a parent or guardian to acquire or possess their firearms, in accordance with the 2008 Directive (the Directive speaks only of parental permission, but we would say that permission given by a legal guardian is effectively equivalent and satisfies the requirement).

7.8 In relation to persons under the age of 18 acquiring or possessing firearms otherwise than under a certificate, the relevant exemptions for these purposes are those in relation to gun bearers at organised shoots (section 11(1) of the 1968 Act), the use of firearms (but not blank-firing weapons) to start races (section 11(2) of the 1968 Act), the use of borrowed shotguns on private premises (section 11(5) of the 1968 Act) and the use of borrowed rifles on private premises (section 16 of the Firearms (Amendment) Act 1988 – referred to hereafter as the 1988 Act).

7.9 The proposed Regulations amend section 11(2) of the 1968 Act so that the race starting exemption is only available to persons aged 18 or over. They also amend section 11(1) and (5) of the 1968 Act, and section 16 of the 1988 Act, so that where the person carrying or borrowing the firearm is under 18, the exemption only applies if the person for whom the firearm is being carried, or the occupier or servant in whose presence the borrowed firearm is being used, is aged 18 or over. Since this person will be the holder of a firearm or shotgun certificate, the amendments ensure compliance with the requirement in the 2008 Directive for supervision by a licensed adult.

7.10 In relation to Northern Ireland, the proposed Regulations amend article 7 (dealing with the issuing of firearm certificates to under-18s) to provide that a certificate may only be issued where the application is accompanied by the written permission of the person's parent or guardian for the applicant to acquire and possess the firearms concerned. The proposed Regulations further amend article 7 of the Northern Ireland Order to require that any firearm certificate issued to a person under the age of 18 in relation to a high-powered air weapon or shotgun to be used for sporting purposes is issued subject to the condition that the weapon is used under the supervision of a certificate holder aged 21 or over and has held a firearm of that type for at least 3 years or until the applicant himself reaches the age of 18.

7.11 In relation to the exemptions to the requirement to hold a certificate, these are set out in Schedule 1 to the Northern Ireland Order. Paragraphs 5 and 6 of Schedule 1 correspond to the bearer and race starter exemptions in section 11(1) and (2) of the 1968 Act respectively. The proposed Regulations amend these paragraphs to similar effect to the amendments to sections 11(1) and (2) of the 1968 Act. Paragraphs 10 and 11 of Schedule 1 to the Northern Ireland Order correspond to the borrowed rifle and shotgun exemptions under section 16 of the 1988 Act and section 11(5) of the 1968 Act respectively. However, the detail of the Northern Ireland provisions is different, in that under-18s are expressly excluded from the reach of the exemptions. Accordingly there is no need to amend these provisions in order to implement the 2008 Directive.

- *Consolidation*

7.12 The Regulations amend the Firearms Act 1968, the Firearms (Amendment) Act 1988, the Firearms Rules 1998 and the Firearms (Northern Ireland) Order 2004. There are no current plans to consolidate the legislation.

8. Consultation outcome

8.1 The changes to the legislation are minor and were subject to full consultation with shooting, trade and enforcement interests when the Directive was being amended. There has been a series of subsequent meetings to discuss the exact nature of any changes required but the timing of formal consultation was disrupted by the General Election and was shortened to three weeks. The majority of those who replied had no comment to make. No respondents expressed concern about the effect of the proposed Regulations.

9. Guidance

9.1 We shall circulate information about this by writing to Chief Constables, the Association of Chief Police Officers of England, Wales and Northern Ireland, the Association of Chief Police Officers in Scotland, shooting organizations and other Government departments.

10. Impact

10.1 The impact on business, charities or voluntary bodies is negligible.

10.2 The impact on the public sector is negligible.

10.3 An Impact Assessment is attached to this memorandum.

11. Regulating small business

11.1 The effect on small businesses, and business in general, is negligible and no special procedures are required. Further information is given in the Impact Assessment.

12. Monitoring & review

12.1 The firearms legislation is kept under constant review. It will be looked at again in the context of the recent tragic shootings in Cumbria.

13. Contact

13.1 Graham Widdecombe at the Home Office Tel: 020 7035 1791 or email: Graham.Widdecombe@homeoffice.gsi.gov.uk can answer any queries about the instrument.

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DIRECTIVE 2008/51/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL OF 21 MAY 2008 AMENDING COUNCIL DIRECTIVE 91/477/EEC ON CONTROL OF THE ACQUISITION AND POSSESSION OF WEAPONS

TRANSPOSITION NOTE

Directive 2008/51/EC (“the 2008 Directive”) amends Directive 91/477/EEC (“the 1991 Directive”) as set out below. The additional requirements imposed by the 2008 Directive were already largely reflected in UK law, notably the Firearms Act 1968 and the Firearms (Amendment) Act 1988 in relation to England, Wales and Scotland, and the Firearms (Northern Ireland) Order 2004 in relation to Northern Ireland. In order to complete the process of transposition it has only been necessary to legislate in the area of the acquisition and possession of firearms by persons under the age of 18 (article 1.4 of the 2008 Directive). The Firearms (Amendment) Regulations 2010 (“the Regulations”) do what is necessary to implement the Directive in this area, including making consequential changes to domestic legislation to ensure its coherence in the area to which they apply.

Article	Objective	Implementation	Responsibility
1	Amends article 1 of the 1991 Directive as follows:		
1.1(a)	Inserts a general definition of “firearm” (previously defined by reference to particular categories of object set out in Annex I)	Existing legislation. In England, Wales and Scotland section 57(1) of the Firearms Act 1968 defines a firearm as “a lethal barrelled weapon from which any shot, bullet or other missile can be discharged”. The same definition applies in Northern Ireland under article 2(2) of the Firearms (Northern Ireland) Order 2004. Existing UK law therefore goes further than the 2008 Directive in including air weapons and weapons that are not portable. Article 3 of the 1991 Directive permits Member States to adopt legislative provisions more	Home Office (England, Wales and Scotland), Department of Justice (Northern Ireland).

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		stringent than those provided for in the Directive.	
1.1(b)	Inserts definitions of “part”, “essential component”, “ammunition”, “tracing” and “broker” (these terms did not previously appear in the 1991 Directive, with the exception of “ammunition”, which was not defined).	<p>Existing legislation.</p> <p>In England, Wales and Scotland under section 57(1)(a) of the Firearms Act 1968 “any component part” of a firearm is classed as a firearm, and ammunition is defined as “ammunition for any firearm”. The position is the same in Northern Ireland by virtue of article 2(2) of the Firearms (Northern Ireland) Order 2004, save that blank cartridges of a diameter not more than 25.4mm are excluded from the definition of ammunition.</p> <p>The term “tracing” does not appear in UK legislation, but the existing provisions on marking and record-keeping are sufficient to implement the substantive requirements of the Directive – see below.</p> <p>The term “broker” does not appear in UK legislation – brokers are classed as dealers for the purposes of most of the activities covered by the Directive definition (see the definition of “dealer” below).</p>	Home Office (England, Wales and Scotland), Department of Justice (Northern Ireland).
1.1(c)	Substitutes a new definition of “dealer” in order to include those who deal in ammunition.	<p>Existing legislation.</p> <p>In England, Wales and Scotland section 57(4) of the Firearms Act 1968 (as amended by section</p>	Home Office (England, Wales and Scotland), Department of

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		<p>31(3) of the Violent Crime Reduction Act 2006) defines a firearms dealer as “a person who, by way of trade or business, (a) manufactures, sells, transfers, repairs, tests or proves firearms or ammunition to which section 1 of this Act applies or shot guns ...”. By virtue of section 1(3), section 1 of the 1968 Act (as amended by Firearms (Amendment) Act 1988 and the Anti-Social Behaviour Act 2003) applies to every firearm except (a) a smooth-bore gun which has a barrel not longer than 24 inches and a bore not greater than 2 inches, has no magazine or a non-detachable magazine incapable of holding more than 2 cartridges, and is not a revolver gun, and (b) an air weapon which is not designed or adapted for use with a self-contained gas cartridge system or has not been specified by the Home Secretary as specially dangerous.</p> <p>In Northern Ireland a firearms dealer is defined in article 2(2) of the Firearms (Northern Ireland) Order 2004 as “a person who by way of trade or business manufactures, sells, transfers, repairs, tests or proves firearms or ammunition”.</p>	<p>Justice (Northern Ireland).</p>
<p>1.1(d)</p>	<p>Inserts definitions of “illicit manufacturing” and “illicit trafficking” (these terms did not previously appear in the 1991 Directive).</p>	<p>Existing legislation.</p> <p>These terms do not appear in UK legislation, but the existing provisions on marking and record-keeping are sufficient to implement the</p>	<p>Home Office (England, Wales and Scotland), Department of Justice</p>

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		substantive requirements of the Directive – see below.	(Northern Ireland).
1.1(e)	Amends the paragraph in relation to the European Firearms Pass to make the maximum period of validity 5 years in all cases, and makes other minor changes to the text.	<p>Existing legislation.</p> <p>In England, Wales and Scotland under section 32A(6) of the Firearms Act 1968 (as inserted by the Firearms Acts (Amendment) Regulations 1992) the period for which a European Firearms Pass is to be valid cannot exceed the period until a firearm or shotgun certificate relating to a firearm identified in the pass expires. Under section 28A(1) of the 1968 Act (as inserted by the Firearms (Amendment) Act 1997) a certificate continues in force for 5 years.</p> <p>The position is the same in Northern Ireland by virtue of articles 20(1) and 8(2) of the Firearms (Northern Ireland) Order 2004.</p>	Home Office (England, Wales and Scotland), Department of Justice (Northern Ireland).
1.2	Substitutes a new article 4 requiring the implementation of a system of marking for individual firearms and packages of ammunition, requiring that the activity of dealer be subject to authorisation in all cases, requiring the implementation of a computerised database of firearms supply and possession by 31 December 2014, maintaining the requirement for dealers to keep their own registers of transactions, and requiring that all firearms be capable of being traced to their owners including, by 31 December 2014, Category D firearms placed on	<p>Existing legislation and practice.</p> <p>The Gun Barrel Proof Act 1868, as amended by the Gun Barrel Proof Act 1978 provides for the marking of firearms in accordance with the Convention for the Reciprocal Recognition of Proof Marks of Small Arms done at Brussels on 1st July 1969.</p> <p>The 1969 Convention also governs the marking of ammunition packages, and UK manufacturers</p>	Home Office (England, Wales and Scotland), Department of Justice (Northern Ireland).

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	<p>the market after 28 July 2010. (Category D firearms are single-shot shotguns.)</p>	<p>regard themselves as bound by it.</p> <p>In England, Wales and Scotland under section 3(1) of the Firearms Act 1968 it is a criminal offence for a person to sell any firearm or ammunition to which section 1 of the Act applies, or a shotgun, without being registered under the Act as a firearms dealer. Sections 33 to 39 of the 1968 Act govern the registration of firearms dealers by the police, including a power under section 34(2) to refuse to register a person as a dealer if on grounds of danger to public safety.</p> <p>Section 40 of, and Schedule 4 to, the 1968 Act requires registered firearms dealers to maintain registers of transactions, including the quantities and descriptions of firearms and ammunition sold or transferred, and the names and addresses of the purchasers or transferees. The corresponding provisions in Northern Ireland are articles 24(1), 26 to 36 and 38 of, and Schedule 3 to, the Firearms (Northern Ireland) Order 2004.</p> <p>The requirement to create a computerised database has not been implemented as at 28 July 2010, but will be implemented by 31 December 2014.</p>	
1.3	Inserts new articles 4a, restricting the acquisition of	Existing legislation.	Home Office

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	<p>firearms to licence holders, with the exception of Category C and D firearms acquired or possessed in accordance with specific permission granted under national law, and 4b, requiring consideration to be given to a system of regulation for brokers. (Category C firearms are repeating and semi-automatic shotguns and single-shot, repeating and semi-automatic rifles, other than shotguns with short barrels and semi-automatic shotguns and rifles which have magazines that are removable or contain more than 3 rounds, or which resemble automatic weapons. For Category D firearms, see above.)</p>	<p>In England, Wales and Scotland section 1 of the Firearms Act 1968 (as amended by Firearms (Amendment) Act 1988 and the Anti-Social Behaviour Act 2003) makes it a criminal offence for a person to acquire or possess a firearm to which the section applies (for which, see above) without holding a firearm certificate. Section 2 of the 1968 Act makes similar provision in relation to shotguns. Sections 1 and 2 of the Act are subject to certain exemptions set out in sections 7 to 13, which permit the acquisition and possession of firearms without a certificate in specific circumstances.</p> <p>The corresponding provisions in Northern Ireland are article 3 of, and Schedule 1 to, the Firearms (Northern Ireland) Order 2004.</p> <p>Brokers are regarded as dealers under UK law for most purposes, and are regulated as such (see above). They are also subject to export control legislation in relation to international transactions.</p>	<p>(England, Wales and Scotland), Department of Justice (Northern Ireland).</p>
1.4	<p>Substitutes a new article 5 restricting the acquisition and possession of all firearms to those who have good cause, are at least 18 and are not likely to be a danger to themselves or to public order or safety. In relation to the prohibition on the acquisition and possession of firearms by under-18s, the exception</p>	<p>Existing legislation and the Firearms (Amendment) Regulations 2010.</p> <p>In England, Wales and Scotland it is a criminal offence under section 22(1) of the Firearms Act 1968 for a person under the age of 17 to</p>	<p>Home Office (England, Wales and Scotland), Department of Justice (Northern</p>

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	<p>for hunting and target shooting is retained, provided that any acquisition is by means other than purchase, and provided that the person either has parental permission, is under parental guidance or the guidance of an adult holding a firearms or hunting licence, or is in a licensed or approved training centre.</p>	<p>purchase or hire a firearm or ammunition. There is a corresponding offence under section 24(1) of the 1968 Act of selling or letting on hire a firearm to a person under the age of 17. The Firearms (Amendment) Regulations 2010 amend sections 22(1) and 24(1) in order to raise the age threshold to 18. Consequential amendments are made to Part 1 of Schedule 6 to the 1968 Act, which deals with sentencing. The 2010 Regulations also amend sections 27(1)(b) and 28(1C) by removing incidental references in those subsections to the purchase of firearms by under-18s. By prohibiting the hiring as well as the purchase of firearms by under-18s, the 2010 Regulations do more than is necessary to implement the 2008 Directive, but they do so in order to ensure the coherence of UK law by maintaining the existing equal treatment of purchase and hire.</p> <p>The 2010 Regulations amend section 11 of the 1968 Act, which allows persons who do not hold a firearm or shotgun certificate to possess firearms for the purposes of sporting activities. Section 11(1) and (5) are amended to ensure that, where a person under the age of 18 possesses a firearm under the particular circumstances set out in those subsections, they are under the guidance of an adult. Section 11(2) is amended to allow only persons aged 18</p>	<p>Ireland).</p>
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		<p>or over to possess firearms for the purpose of starting races.</p> <p>The 2010 Regulations amend the forms prescribed for the purposes of applying for firearm and shotgun certificates in Part I of Schedule 1 and Part I of Schedule 2 to the Firearms Rules 1998, respectively, in order the require the forms to be counter-signed by the parent or guardian of an applicant who is under the age of 18. This ensures that all certificate holders under the age of 18 have the permission of a parent or guardian to acquire or possess the firearms to which the certificate relates.</p> <p>In Northern Ireland article 7 of the Firearms (Northern Ireland) Order 2004 governs the issuing of firearms certificates to persons under the age of 18. The 2010 Regulations amend article 7 to prevent a firearms certificate being issued to a person under the age of 18 for the purchase of a firearm, and to require that proof of parental permission is provided before a certificate for acquisition and possession can be issued.</p>	
1.5	<p>Inserts a new paragraph in article 6 requiring that the acquisition of firearms, parts and ammunition by means of distance communication is strictly controlled.</p>	<p>Existing legislation.</p> <p>In England, Wales and Scotland section 32 of the Firearms (Amendment) Act 1997 requires that the sale of a firearm to which section 1 of</p>	<p>Home Office (England, Wales and Scotland), Department of Justice</p>

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		<p>the Act applies, or a shotgun, must be conducted in person. This prevents firearms being acquired by distance communication.</p> <p>The equivalent legislation in Northern Ireland is article 39 of the Firearms (Northern Ireland) Order 2004.</p>	(Northern Ireland).
1.6	<p>Inserts new paragraphs in article 7 allowing consideration to be given to the issuing of multi-annual firearms licences, and exempting persons authorised to possess Category B firearms as at 28 July 2008 from any requirement to apply for a licence in respect of Category C or D firearms resulting from the coming into force of the 2008 Directive.</p>	<p>Existing legislation.</p> <p>In England, Wales and Scotland under section 28A(1) of the Firearms Act 1968 (as inserted by the Firearms (Amendment) Act 1997) a firearm or shotgun certificate continues in force for five years unless revoked or cancelled.</p> <p>The corresponding provision in Northern Ireland is article 8(2) of the Firearms (Northern Ireland) Order 2004.</p> <p>Category C and D firearms were already subject to the requirement for a firearm or shotgun certificate under existing UK law, so the 2008 Directive does not give rise to any additional requirement to apply for a licence, and the question of an exemption does not arise.</p>	<p>Home Office (England, Wales and Scotland), Department of Justice (Northern Ireland).</p>
1.7	<p>Substitutes a new second sub-paragraph in article 11(3) requiring that notification of a transfer of firearms between member states be given to the authorities by the dealer prior to the date of transfer,</p>	<p>Existing legislation and administrative policy.</p> <p>The export of firearms is governed by the Export Control Order 2008, made under the Export</p>	<p>Department for Business, Innovation and Skills, Home</p>

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	<p>and that the authorities carry out inspections to verify the details given.</p>	<p>Control Act 2002. Registered firearms dealers in the UK may apply to the Department for Business, Innovation and Skills for an Open Individual Export Licence under article 26 of the 2008 Order authorising the export of firearms to dealers in other Member States. As a matter of administrative policy such licences are issued subject to the condition that notification of each shipment is given to the Home Office 2 days in advance. Under article 38 of the 2008 Order, it is a criminal offence to breach a condition in a licence.</p>	<p>Office.</p>
<p>1.8</p>	<p>Substitutes a new first sub-paragraph in article 12(2) allowing hunters and target shooters travelling through other Member States to produce proof of their hunting or target shooting activities, rather than an invitation, in order to substantiate the reason for their journey, and prohibiting the charging of a fee for acceptance of a European Firearms Pass in these circumstances.</p>	<p>Existing legislation.</p> <p>Section 17 of the Firearms (Amendment) Act 1988 (as amended by the Firearms Acts (Amendment) Regulations 1992 and the Firearms (Amendment) Act 1997) provides for the grant of a visitors' firearm or shotgun permit where the chief officer of police is satisfied (on whatever grounds) that the visitor has good reason to have the firearm or shotgun with him in Britain. Under section 17(3A) of the 1988 Act a permit may not be granted in the absence of a European Firearms Pass, but no fee is charged for the acceptance of a European Firearms pass for these purposes.</p> <p>In Northern Ireland the corresponding provision is article 15 of the Firearms (Northern Ireland)</p>	<p>Home Office (England, Wales and Scotland), Department of Justice (Northern Ireland).</p>

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		Order 2004.	
1.9	Substitutes a new article 13(3) providing for the Commission to set up a contact group by 28 July 2009 for the purposes of the regular exchange of information between Member States on intra-Community transfer of firearms.	The Home Office has been identified to the Commission as the UK responsible national authority for these purposes.	Home Office.
1.10	Inserts a new article 13a providing for a committee to assist the Commission in the implementation of article 13.	Does not impose any requirement on Member States.	N/A.
1.11	Substitutes a new article 16 requiring the implementation of effective, proportionate and dissuasive sanctions for infringements of national law.	Existing legislation and case law. In England, Wales and Scotland maximum sentences for offences under the Firearms Act 1968 are set out in Part 1 of Schedule 6 to the Act (as amended by the Firearms (Amendment) Act 1997, the Criminal Justice Act 2003, the Anti-social Behaviour Act 2003 and the Violent Crime Reduction Act 2006). Section 51A of the 1968 Act provides for minimum custodial sentences for certain serious firearms offences, in the absence of exceptional circumstances. The Court of Appeal has issued sentencing guidelines, which judges have to follow, emphasising the need for deterrent sentences for firearms offences (see the judgment of the Court in <i>R v Avis</i> [1998] 1 Cr App R 420 CA). In Northern Ireland the corresponding provisions are article 70 of and Schedule 5 to the Firearms	Home Office (England, Wales and Scotland), Department of Justice (Northern Ireland).

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		(Northern Ireland) Order 2004.	
1.12	Substitutes a new article 17, requiring the Commission to report to the European Parliament and the Council by 28 July 2012 on a move to two categories of firearm (prohibited and authorised) and by 28 July 2010 on the inclusion of replica firearms in the Directive.	Does not impose any requirement on Member States.	N/A.
1.13	Amends Annex I by creating more detailed requirements as to methods of deactivation, and requiring verification of deactivation by the issuing of certificates.	Existing legislation. In England, Wales and Scotland under section 8 of the Firearms (Amendment) Act 1988 it is to be presumed that a firearm has been deactivated if it has been marked and certified as such by one of the proof houses for which provision is made in the Gun Barrel Proof Act 1868.	Home Office
2	Requires the implementation of the 2008 Directive by 28 July 2010. Requires Member States to communicate to the Commission the text of implementing measures, which must contain a reference to the Directive or be accompanied by such a reference on official publication, and also to communicate the text of the main provisions of national law adopted in the area.	See the remainder of this Note, and the Firearms (Amendment) Regulations 2010, a copy of which is to be supplied to the Commission.	Home Office (England, Wales and Scotland), Department of Justice (Northern Ireland).
3	Entry into force.	Does not impose any requirement on Member States.	N/A.
4	Addressees.	Does not impose any requirement on Member States.	N/A.