

**EXPLANATORY MEMORANDUM TO**  
**THE FIREARMS (AMENDMENT) ACT 1988 (AMENDMENT) REGULATIONS**

**2011 No. 2175**

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 The purpose of this instrument is to make a small change to our controls over the import of firearms from the European Union, helping shooters from the EU to take part in the London 2012 Olympic and Paralympic Games.
  - 2.2 Under the terms of section 17(3A) of the Firearms (Amendment) Act 1988, EU citizens who wish to bring guns into the UK must submit an original document, the European Firearms Pass (EFP), to obtain a British Visitor's Permit (BVP) authorising their possession of guns in the UK. The purpose of these regulations is to amend our controls so as to allow the police to grant a BVP on submission of a *copy* of an EFP, rather than just the original.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
  - 3.1 None.
4. **Legislative Context**
  - 4.1 The requirements in section 17(3A) were inserted into the 1988 Act by regulation 7 of the Firearms Acts (Amendment) Regulations 1992, made under section 2(2) of the European Communities Act 1972. The 1992 Regulations implemented the European Weapons Directive (Council Directive 91/477/EEC).
  - 4.2 The proposed amendment is to be made under section 2(2) of the European Communities Act 1972. This is to improve the implementation of the European Weapons Directive 1991 (as amended by the later 2008 Directive). The need for this amendment arose in the context of the London 2012 Games, and in response to concerns from the EU shooting community. While the change is not in response to a direct trigger from the European Union, the Government is satisfied that section 2(2) of the European Communities Act 1972 is the appropriate enabling power to amend the implementation of an EU Directive. This is in line with case law (*Oakley v Animal* (2005)).
  - 4.3 For the reasons set out in paragraph 7 (Policy Background) below, we believe that the initial implementation in 1992 was not satisfactory, in that it is overly burdensome on visitors from the EU who wish to obtain a BVP. Therefore it should be amended. A transposition note is included at **Annex A**.

## **5. Territorial Extent and Application**

5.1 This instrument applies to England and Wales and to Scotland, in line with the application of the Firearms Acts 1968 onwards.

## **6. European Convention on Human Rights**

6.1 Nick Herbert MP, the Minister of State for Policing and Criminal Justice, has made the following statement regarding Human Rights:

In my view the provisions of the Firearms (Amendment) Act 1988 (Amendment) Regulations 2011 are compatible with the Convention rights.

## **7. Policy background**

7.1 Section 17 of the Firearms (Amendment) Act 1998 provides for the UK police to issue a BVP permitting overseas visitors to possess firearms and ammunition in the UK. The 1991 Directive introduced the EFP, intended as a form of ‘passport’ for shooters to travel between EU countries without having to obtain separate authorisation for each state visited.

7.2 The problem is that Section 17(3A) of the 1988 Act simply refers to ‘a document’ rather than a copy of such a document. This has always been understood to mean that the original EFP must be submitted to the chief officer before the BVP can be granted. Sending the EFP to a UK sponsor who submits this to a UK police force who must then process this can take several weeks. During this time, the shooter cannot travel with his guns to other EU countries as he must be able to present the EFP to the authorities of the countries that he visits. For competitive sports shooters this is a serious problem, as it can prevent them from attending training events and competitions while their EFP is with the UK authorities.

7.3 The Metropolitan Police Service (MPS) will be responsible for the issue of BVPs to competitors in the London 2012 Olympic and Paralympic Games. Even allowing for deployment of extra staff, the mechanics of processing BVP applications will take time. There is a risk that competitors from EU countries will be disadvantaged in the lead-up to the Games in being unable to travel to practise events in other EU states. This is in contrast to competitors from outside the EU who can simply submit copies of their documents in order to obtain a BVP. A legislative solution is therefore the most practical option.

7.4 The police, the London Organising Committee for the 2012 Games (LOCOG) and the Department for Culture, Media and Sport (DCMS), believe that the current situation should be changed. The Government has also made a formal commitment to the International Olympic Committee (IOC) to facilitate the hosting of the Games, and the IOC has expressed an interest in this issue.

7.5 The proposed change is to allow shooters from the EU to submit a copy of their EFP rather than the original as part of the BVP process. This would affect section 17(3A) of the 1988 Act both on the chief officer seeing the document, and endorsing it, though the original would still need to be admissible. The proposed change would enable the chief officer of police to endorse with the relevant information, either a copy of the EFP or the original EFP, depending on which document is submitted with the application.

7.6 It is proposed to bring this change into effect on 1<sup>st</sup> October 2011. This will allow LOCOG to promulgate guidance to national shooting bodies in the EU in good time for BVP applications to be made before test events leading up to the 2012 Games are underway.

- **Consolidation**

7.7 UK firearms laws arising from EU obligations make up a small part of overall controls on firearms. At present wider consolidation of the Firearms Acts 1968 onwards is not planned.

## **8. Consultation outcome**

8.1 The Home Office has consulted with the Ministry of Justice, who are content that the proposals will have minimal impact on the criminal justice system; with the Department for Business, Innovation and Skills who are content that the proposal will have minimal impact on business; and with the Scottish Executive, who are content with the proposals in respect of Scottish interests.

8.2 Externally, the Home Office has consulted with the Association of Chief Police Officers (ACPO) as representing police firearms licensing departments. We have also worked closely with LOCOG over the past year as the main beneficiary of the change, and through them the International Olympic Committee (IOC) and the European Shooting Sports Federation. All of these parties are content with the proposals.

8.3 The Home Office has consulted with the British Shooting Sports Council (BSSC) as the umbrella body representing individuals and bodies with an interest in shooting sports. BSSC are content with the proposal.

## **9. Guidance**

9.1 Guidance on the change will be circulated to police licensing authorities, and through LOCOG to the national organising committees for shooting sports in the wider European Union. We will also look to work closely with shooting sports bodies in the UK insofar as this affects them to promulgate the change.

## **10. Impact**

10.1 The impact on business, charities or voluntary bodies is minimal overall. This is minor deregulation, which should help organisers of shooting events in allowing visitors from the EU to take part. It will assist LOCOG in the business of hosting the 2012 Games.

10.2 The impact on the public sector is minimal, and this will be a benefit to the process for considering applications from EU shooters to visit the UK.

10.3 An Impact Assessment has not been prepared for this instrument.

## **11. Regulating small business**

11.1 The legislation does not apply to small business.

## **12. Monitoring & review**

12.1 The main measure of success will be the successful facilitation of shooting events during the London 2012 Games with minimal inconvenience to EU competitors. However, the Government intends to review our overall controls in relation to sports shooting following the 2012 Games.

## **13. Contact**

13.1 Sheila Alexander at the Home Office: Tel: 0207 035 1087 or email: [Sheila.Alexander10@homeoffice.gsi.gov.uk](mailto:Sheila.Alexander10@homeoffice.gsi.gov.uk) can answer any queries regarding the instrument.

## **Annex A: Transposition Note**

The 1991 Directive introduced the EFP, intended as a form of ‘passport’ for shooters to travel between EU countries without having to obtain separate authorisation for each state visited. The Directive set minimum standards for applicants for an EFP; in general the EFP will be available to all legitimate sports shooters in the countries concerned. The 1991 Directive also introduced common descriptions of firearms and ammunition, and common arrangements that different types of firearms should be subject to: prohibition; import with permission from the member state concerned; import with notification; or free movement. However, the Directive specifically provided that this did not prevent Member States from adopting stricter controls.

The UK implementation of the Directive did not follow the approach of most other EU states in accepting an EFP from a member state as sufficient authorisation on its own to bring sporting firearms into the country. In general our controls on firearms are stricter than those of other countries. As such, the 1988 Act as amended requires the visitor to obtain a BVP as set out in paragraph 2.2 above. The European Commission has raised concerns about the UK’s approach. However, this approach is not unique – Sweden and the Irish Republic have taken a similar approach – and no infraction proceedings have been taken against the UK on this issue.

Shooters from other EU countries have raised concerns about the practicalities of bringing their guns into the UK as they are obliged to submit their original EFP when applying for a BVP. There are a reasonable number of such visitors each year. Figures for 2008/2009 suggest that 1,577 BVPs (including group permits) were issued in England and Wales covering 1,977 applicants. These figures cover the total number of BVPs issued (including to those from outside the EU) as there is no breakdown on how many of these applicants are from EU countries. If a country has not adopted the EFP there is no obligation to produce this document, but shooters must produce similar evidence – which can be an original document or a copy – that they are trusted to possess firearms in their own country.