



Home Office

# **CONTROLS ON FIREARMS**

A Consultation Paper

May 2004

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## FOREWORD



Guns range from the very low-powered guns firing plastic pellets, through air guns which are used both safely on farmland to control vermin and dangerously by young thugs to terrorise communities, right through to the handguns and automatic weapons used in the most serious of crimes. This Government takes the issues and problems raised by all of these very seriously indeed. This consultation is the first step in a comprehensive review of our firearms controls and laws.

Our regulatory framework must reduce the risk of any type of firearm getting into the wrong hands as well as providing for effective and proper penalties when firearms are misused. We want to minimise bureaucracy for those who enforce and administer the law, and we don't want to impose unnecessary burdens on those who possess and use guns lawfully. We do, though, want to make it as difficult as possible for criminals to access and use weapons. We want to be as clear as we possibly can be that we take gun crime extremely seriously and will take firm and effective action to reduce the threat that it poses to our communities.

We are working very hard to tackle gun crime and we have stemmed the worrying and unacceptable rises seen in recent years. We have changed the law to introduce a five year mandatory minimum sentence for illegal possession of a prohibited firearm. We have further restricted the possession and use of air guns and imitation firearms. In addition to changes in the law, we have brought together representatives from the police and other law enforcement agencies, voluntary and victims' groups, other government departments and

Ministers to look across the board at how we can best work together to tackle gun crime. Working with the Association of Chief Police Officers and Her Majesty's Inspectorate of Constabulary, we are implementing a comprehensive action plan to improve the police response to preventing and tackling gun crime. And, most importantly, we are working with community groups and representatives to change the culture which has developed amongst young people in some communities where guns are seen as acceptable and convey status.

As part of this range of work, we have also looked at where we do not believe that changes are needed. For example, further restriction of air guns would at this stage, we believe, be disproportionate in terms of the effects on legitimate users when measured against the benefits in reducing misuse. We also believe that licensing of imitation firearms would be unenforceable.

However, we want your views on these issues as well as on the rest of the legislative framework. We are looking for your suggestions, your comments and your ideas as to whether further legislation is required and what form it should take. We have asked specific questions but we want an open debate and welcome your thoughts on any of the issues that are raised.

Thank you very much for taking part in this consultation.

A handwritten signature in black ink that reads "David Blunkett". The signature is written in a cursive, slightly slanted style.

HOME SECRETARY  
May 2004

## SUMMARY

The possession of firearms, their parts and ammunition in England, Scotland and Wales is regulated by the Firearms Acts 1968-97. Northern Ireland has its own firearms laws.

We already have some of the toughest gun controls in the world. But the legislation has been amended a number of times, and as a result the framework of controls can be difficult to understand and enforce.

This consultation paper seeks views on how these controls should be updated. Firearms law is complex and the paper separates the issues into six manageable sections. However, issues overlap and you should try to consider the big picture when formulating your response, remembering always that the purpose of firearms controls is to contribute to improving the safety of our communities. You might also want to draw on the experiences and good practices of other countries in dealing with issues and problems that surround firearms licensing.

We want to ensure that we have a system of controls which is practical, proportionate and consistent with our international and other legal obligations. The latter include the European Directive 91/477/EEC on control of the acquisition and possession of weapons and the UN Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition (adopted by the UN General Assembly in May 2001 although it has not yet entered into force). In responding with your views, we would also like you to say what you see as the benefits and the resource implications of any proposals, particularly where you are responding on behalf of a group that will be directly affected by any suggestions for change.

Each section finishes with a list of questions and we want you to address these issues where you can. But do not be put off by the technical nature of some of the material. We encourage you to raise any gun licensing matter which you believe should be addressed. We want comments on the

principles that should underpin the legal possession of firearms as well as matters of detail. However, some of the key issues hinge on legal and technical definitions and we would particularly welcome suggestions about how the law might need to be changed.

The six sections of the document are as follows:

- *Part 1: "Firearms"* describes the three categories on which gun licensing is currently based. It asks whether types of gun are subject to the right levels of control and if licensing should continue to be based on these categories. The section also asks whether the certification process can be improved, if any changes are needed to the regulation of component parts and whether responsibilities for administering controls on firearms should continue as at present;
- *Part 2: "Unlicensed Guns"* discusses those types of guns, principally imitations, low-powered air guns and deactivated firearms, which are not subject to licensing. We do not believe that licensing of low-powered air guns and imitations, or restrictions on their sale, is proportionate or enforceable. Part 2 invites consultees to say whether they agree with this. It also invites views on whether further controls on deactivated firearms are needed;
- *Part 3: "Young People and Guns"* refers to growing concern about the attractiveness of guns to some young people. It asks how the complex age limit provisions might be simplified and invites comments on the principle of young people and legal shooting;
- *Part 4: "Trade"* discusses the means by which guns, their parts and ammunition are bought and sold. It asks whether the regulation of Registered Firearms Dealers can be improved, and whether action is needed in connection with internet, newspaper and telephone sales and mail order deliveries;

- *Part 5: "Ammunition"* seeks views on whether shot gun cartridges and component parts of ammunition should be licensed and whether the existing controls on expanding ammunition should be maintained;
- *Part 6: "Other Issues"* asks for views on topics not covered elsewhere in the paper. For example, if exemptions from the need to have a firearms certificate should continue in their present form and whether changes are needed to the existing procedures for appeals against licensing decisions.

Details of how to respond to this consultation paper (which applies to England, Scotland and Wales) can be found in Annex A. Responses should be received by 31 August 2004.

## PART 1. FIREARMS

The Firearms Acts define a “firearm” as a “lethal barrelled weapon” capable of discharging any shot, bullet or other missile. Particularly dangerous types of firearms are prohibited and cannot be held except with the authority of the Secretary of State. All other “firearms”, apart from some low-powered air guns, must be held on a certificate issued by the local police. Low-powered air guns, that is air rifles discharging pellets with a muzzle energy below 12 foot pounds and air pistols discharging pellets with a muzzle energy below 6 foot pounds, deactivated firearms, antiques and imitations are not subject to licensing and are dealt with in Part 2.

Firearms licensing is based on the following three categories:

- *Prohibited weapons.* These are the most dangerous types of weapons, the most attractive to criminals and subject to the most rigorous controls. The Secretary of State’s authority is required to possess them. The Home Office only grants this to people with a legitimate need. Prohibited weapons include handguns, machine guns, sub-machine guns, most self-loading rifles, short-barrelled “assault shot guns”, gas and pepper sprays and stun guns;
- *Guns held on firearms certificates.* These may be held under the authority of a firearms certificate issued by the police. The police must be satisfied that individuals are fit to possess the guns without being a danger to the public, have a “good reason” for possessing each gun and are not subject to a statutory prohibition. This category includes most hunting and target-shooting rifles, high-powered air rifles, long-barrelled pump-action and self-loading shot guns with large magazines, and muzzle loading pistols;
- *Shot guns held on shot gun certificates.* Other shot guns may be held under the authority of a shot gun certificate issued by the police. A shot gun normally fires a large number of small pellets rather than a single projectile. The police will not issue a certificate if they believe that the

individual would be a danger to the public, does not have a “good reason” for having the guns or is subject to a statutory prohibition. This category includes most long-barrelled shot guns, used by farmers and others for vermin control, game shooting and shooting at clay targets.

These three categories have been the basis of firearms licensing since the late 1960s. They raise a number of fundamental questions:

- *Are types of gun in the right category?*

Categorisation presently reflects an assessment of a gun’s “dangerousness” based on a range of factors, including rate of fire, ease of concealment, speed of reload and ease and accuracy of aim.

We are particularly interested in views on whether any other types of firearms should be moved into the prohibited category. For example, large calibre “materiel destruction” rifles, long-barrelled revolvers or ones with wrist braces or similar extensions, long-barrelled pump action shot guns, self-loading shot guns or self-loading .22 rimfire rifles. The suggestion that all shot guns are treated on a par with guns held on a firearm certificate is dealt with in detail below.

The Secretary of State has the specific power to ban any firearm that might be “specially dangerous” and was not on sale in Great Britain in substantial numbers at any time before 1988. He has not so far used this power. The Anti-Social Behaviour Act 2003, which banned self-contained gas cartridge system guns because they are vulnerable to conversion to fire live ammunition, gives him the power to ban any air gun. Does the Secretary of State have sufficient powers to respond to unforeseen developments in firearms technology?

- *Should we continue with the present three categories?*

A new system with more or fewer categories could be based on the type of gun, the relative experience and trustworthiness of applicants or, like the current system, a combination of both.

The present distinction between controls on shot guns and on other firearms is a complex one with much scope for confusion. Many people accept that a move to a single gun licence would be simpler to administer but there are different views on the actual systems of controls over the shot guns and other firearms concerned. Some of the issues to be addressed are:

- *“Good reason” for shot guns.* Under a completely unified system, shot gun owners would have to satisfy the “good reason” requirement for having each gun. The onus is currently on the police to show that no “good reason” exists before turning down an application for a shot gun certificate. Although shot gun certificate holders do not have to seek the prior approval of the police before acquiring a new shot gun they do have to notify the police when they acquire or dispose of one (firearms certificate holders must also obtain the prior approval of the police when exchanging one gun of the same type for another). What might “good reason” for holding a shot gun consist of and would it need to be different to that for guns presently held on a firearms certificate? Should there be minimum requirements for levels of use as there are for guns held on firearms certificates or would this be too difficult to evidence? Should the onus be placed on those applying to hold a gun to show that they have “good reason” for doing so rather than, as currently, being placed on the police to show that they do not?
- *Standards of fitness.* Shot gun owners might be required to meet the more stringent standards of fitness required of firearms certificate holders, covering such areas as their mental state, habits, general behaviour and willingness to co-operate with the licensing authority. At present, the police only assess whether the shot gun certificate applicant is a danger to the public or subject to statutory prohibitions;
- *Certificate conditions.* At present, the police can only place additional conditions on firearms certificates. We invite views on whether it would be beneficial to extend this to shot gun certificates, or whether to do this would result in un-

necessary bureaucracy (for example where a gun possessed for shooting game was to be used for clay pigeon shooting);

- *Referees.* Shot gun owners might be required to provide two referees, to vouch for their good character, rather than two countersignatories as at present.

- *How else might the certification process be improved?*

Making informed decisions to protect public safety lies at the heart of the certification process. Processes must therefore be effective and make good use of time. Issues for consideration include:

- *Number of guns.* There are no current statutory limits on the number of guns that a certificate holder may hold, although firearms certificate holders have to satisfy the police that they have a “good reason” for having each gun. Should the police continue to have this flexibility to treat each case on its merits or would there be advantages in having what is sometimes referred to as “licensing by category”? This could be based on the development of broad categories of gun, with individuals being allowed to possess any number of guns in that category up to an agreed limit (and subject to suitable security arrangements being in place). It would still be necessary to notify details of individual transactions to the police;
- *Statutory prohibitions.* The present prohibitions prevent somebody who has been sentenced to a term of imprisonment of three years or more from ever possessing firearms, and those who have been sentenced to a term of between three months and three years from possessing firearms for five years from the date of their release. Are these prohibitions set at the right levels and should they explicitly mention suspended sentences and mental health disposals? We would like to ensure that certain types of convictions (particularly those involving violence or guns) lead to an automatic ban on the possession of firearms. How might this work in practice?

– *Duration of certificates.* Firearms and shot gun certificates currently run for five years. There is regular, ongoing contact between the licensing authority and certificate holders but should the duration of certificates be changed? For example, would the public safety benefits of reducing certificate duration to, say, two years outweigh the additional burdens on the police and the shooting community? Views are also invited on what might be done, if anything, to ensure an even spread of certificate renewals, avoiding the “peaks” and “troughs” that exist at present;

– *Medical information.* At present, the police approach GPs for details of a certificate applicant’s medical history. There is no formal requirement for continuing checks once a certificate has been approved, although GPs or the police will initiate contact where there is cause for concern. Is this sufficient?

– *Suspension of certificates.* Certificates can be immediately revoked where the police judge that the grant criteria are no longer met. There might also be merit in the police having a specific power to temporarily suspend certificates where they have concerns about a certificate holder’s continued possession of guns;

– *Referees.* Applications for firearms certificates have to be endorsed by two referees who vouch for the individual’s good character and confirm that the information provided by the applicant is correct. Is the current referees system effective and if referees had to provide more information about an applicant’s good character what form might this take?

– *Mandatory training/testing.* It has been suggested that applicants for certificates should undergo mandatory training and/or testing in the use of firearms. Most target shooters have to undergo a probationary period of at least three months (and satisfactorily complete a course in the safe handling and use of firearms) when joining clubs but there are no comparable requirements for those who have guns for other purposes, such as deer-stalking or vermin control. If this

were changed, what level of training or testing would be required, who should provide it and who should pay for it?

– *Other improvements.* The Government invites general views on ways in which certification could be improved either in substance or in terms of the processes involved.

- *Component parts of firearms*

There are two main issues for consideration:

– *Definition of “component part”.* The definition of a firearm applies to any “component part of such a lethal or prohibited weapon”. Component parts of prohibited firearms and guns held on firearms certificates are generally subject to the same level of controls as the gun to which they relate. In the absence of a legal definition, we consider component parts are those elements necessary to the action of the gun, such as trigger mechanisms, barrels, frames etc. but not screws, springs, nuts and bolts etc. which may be used for other purposes. We invite views on the value of producing a statutory definition. Suggestions on what form this might take would be welcomed;

– *Shot gun parts and component parts for prohibited weapons that are not firearms.* Component parts of shot guns are not controlled, nor are component parts of prohibited items that are not firearms (for example, gas and pepper sprays). Views are invited on the value of making these parts subject to the same restrictions as the complete item to which they relate, as well as proposals for definition.

- *Responsibilities for firearms licensing*

The Secretary of State’s role in issuing prohibited weapon approvals reflects the particularly dangerous nature of these items. Local police forces issue shot gun and firearms certificates to residents of their area and this is consistent with their responsibilities for public safety and local service delivery. It has previously been suggested that a “National Firearms Agency” might take over local police force responsibilities for issuing certificates. This has been rejected in the past as

more costly and less efficient than the present system but views are invited on whether responsibilities should be changed.

- *Advising the Secretary of State on firearms matters*

Consideration is currently being given to the

remit and composition of a two-tier body to advise the Secretary of State on firearms matters. This body will replace the Firearms Consultative Committee which was allowed to lapse at the end of January 2004. Membership will include people with a technical knowledge of firearms and those with a wider interest in gun issues.

**In summary, the areas in which the Government particularly invites views are:-**

- ***Classification of individual types of gun. Are all firearms subject to the right levels of control?***
- ***Should other types of gun be prohibited?***
- ***Flexibility of law. Is the law able to respond quickly enough to changes in firearms technology?***
- ***Firearms categories. Should we continue to use the present three categories?***
- ***Single gun licence and/or procedures for firearms and shot guns. What would be the value and the difficulties?***
- ***Certification process. Can it be improved?***
- ***Defining component parts. What would be gained and how might it be done?***
- ***Regulating component parts for shot guns and prohibited weapons that are not firearms. Is this necessary and how might it be done?***
- ***Responsibilities for issuing certificates. Should they continue as at present?***

## PART 2. UNLICENSED GUNS

Guns that do not meet the legal definition of a “firearm” (see Part 1), and low-powered air guns (see definition below) do not need to be licensed. Present controls on these items are based on their use and, in the case of low-powered air guns, the age of the person in possession (see also Part 3).

The following are the main types of unlicensed gun that have been at the centre of recent debate about whether additional controls are required (this was discussed most recently by the All Party Parliamentary Group on Gun Crime):

- *Imitation firearms.* The Firearms Acts define an imitation as anything having the appearance of a firearm whether or not capable of firing shot, a bullet or other missile. This wide-ranging definition includes realistic metal replicas (some capable of firing blanks), crude home-made copies, novelty items, children’s toys and water pistols. The term “replica” and “imitation” are often used interchangeably, though the term “replica” is sometimes incorrectly applied to working reproductions of older guns;

- *Air guns.* Air guns discharge a projectile by means of compressed air or carbon dioxide. Low-powered air guns are commonly possessed for target shooting and for vermin control, with high powered ones held on firearms certificates used as an alternative to conventional firearms for similar purposes and for hunting small game. The legal status of an air gun is determined by the muzzle energy of the pellets it discharges:

- Air rifles discharging pellets with a muzzle energy of 12 foot pounds or more have to be held on a firearms certificate. Air pistols discharging pellets with a muzzle energy of 6 foot pounds or more are prohibited firearms. Air guns discharging pellets below these power levels are not subject to licensing. We invite views on whether these power levels remain the correct ones for determining how air guns should be classified;

- Air guns discharging pellets with a muzzle energy of 1 joule or less, which covers many “airsofts” (and most BB guns), are not “firearms” because they are not regarded as “lethal” barrelled weapons. “Lethality” is not defined in law and we invite views on whether, and how, this might be done. Views are also invited on whether the statutory definition of a “firearm” should be amended.

- *Deactivated firearms.* These are guns which have been modified in such a way that they cannot reasonably operate as firearms. In this country, if a gun is certified as deactivated by one of the two Proof Houses it is no longer regarded as a “firearm”. Home Office deactivation standards date from 1995 and replaced earlier, less stringent, 1988 standards. They are not retrospective and guns that were certified under the earlier standard are still regarded as deactivated firearms in law. Deactivated firearms are used for display purposes, in film and theatre work and by historical re-enactors.

### Imitation firearms

Imitations are freely available without licence and have proved attractive to criminals who may not have the resources, or may not want to possess real guns. They are as frightening to confront as real guns, and their criminal and irresponsible use presents particular problems for the police. For this reason, there is already a number of controls relating to imitation guns and the Government has recently introduced a new offence under the Anti-social Behaviour Act 2003 which allows the police to arrest somebody who is in possession of an imitation (or an air gun) in a public place without lawful authority or reasonable excuse. In addition to this new offence the law makes the following provisions:

- *Readily convertible.* Imitations that have the appearance of being firearms and are constructed or adapted so as to be “readily convertible” to guns that can fire live

ammunition, are treated as “firearms”. An imitation is regarded as “readily convertible” if it can be turned into a firearm by somebody without any special skill in constructing or adapting firearms and can be done with tools that would be commonly used by somebody constructing or maintaining their own home. Does this definition need updating?

- *Offences.* Many of the offences involving the misuse of firearms, for example trespassing with a firearm or using a firearm to resist arrest, also apply to imitations. It is also an offence to possess an imitation firearm “with intent to cause fear of unlawful violence”.

Previous suggestions for dealing with this problem have included licensing all imitations (there will be significant numbers owned for wholly legitimate reasons) or placing restrictions on their sale. These options have been rejected in the past because of impracticalities of enforcement. It has proved difficult to find a workable legal definition of an “imitation firearm” and we do not believe that the level of effort required by agencies to administer additional restrictions is offset by public safety gains. This is why we introduced the new offence of possession in a public place without legal authority or reasonable excuse. We do not therefore propose that imitations are licensed or their sales restricted. Do you agree?

Enquiries of other countries show that many do not regard imitation guns as firearms and they are not subject to licensing. The main exception to this is the Netherlands where imitations, including toy guns ruled by a committee as resembling firearms, are subject to licensing. As in Great Britain, many of those countries treat offences carried out with imitation guns as if they were committed with a real gun. Like us, the Belgians have also made it an offence to possess an imitation gun in a public place without legitimate reason.

## **Air guns**

With the exception of high-powered air guns (see previous page), these are not currently subject to licensing. Present controls on the possession and use of air guns include:

- *Offences.* Trespassing with an air gun and firing one within 50 feet of a public road are both offences. The maximum penalty for having an

air gun with the intention of endangering life is life imprisonment. The Anti-Social Behaviour Act 2003 also makes it an offence to possess an air gun, or imitation firearm, in a public place without legal authority or reasonable excuse;

- *Age limits.* Present age limits for guns are complex and are dealt with in detail in Part 3. As far as air guns that are “firearms” (see previous page) are concerned, following the Anti-Social Behaviour Act 2003, a person under 17 can only possess an air gun:
  - under the supervision of an adult who is 21 or over; or
  - at an approved shooting club or miniature rifle range; or
  - on private premises if they are 14 or over and have the consent of the occupier.

It is also an offence:

- to lend an air gun to somebody under 17, other than in the above circumstances;
- to make a gift of an air gun to somebody under 17;
- for someone under 17 to buy an air gun, or for somebody to sell one to somebody under that age.

As with imitations, suggestions for change in the past have included licensing (it is estimated that there might be seven million legally owned air guns) or placing additional restrictions on sale. These options have been rejected previously because of the disproportionate enforcement effort. We do not therefore believe that there should be a system of licensing or further restrictions on the sale of air guns (leaving aside other issues such as any possible rationalisation of age limits). Do you agree?

## **Deactivated firearms**

There is no evidence that guns deactivated to the current 1995 Home Office standard have been successfully re-activated but these standards are not retrospective. The following are some of the key issues for comment:

- *Retrospective standards.* We would be interested in views on the value and practicalities of requiring all deactivated firearms to meet the 1995 standards;
- *The 1995 standards.* These are considered tough in comparison to those of other countries and we are encouraging the development of strict deactivation standards throughout the European Union. Can our standards be further improved and should they be made a statutory requirement?
- *License all deactivated firearms.* Police estimates indicate that there might be in excess of 100,000 deactivated firearms in private hands. Taking account of the cost and effort involved, do the resulting public safety gains justify licensing?

## Antiques

Nothing in the Firearms Acts applies to any “antique firearm” that is held as a “curiosity or ornament”. “Antique” is not defined in law but the Home Office provides published guidance on what might constitute an antique gun (known as the “obsolete calibre” list). This effectively covers those firearms which do not use readily available ammunition. Many antique guns are not particularly attractive to criminals and have not so far featured prominently in crime. Further controls on antiques would only be likely to penalise people with a genuine interest in collecting antique guns. We do not therefore believe that regulatory changes are necessary. Do you agree?

### Some issues for views:

- ***Air gun power levels for licensing. Are they at the right levels?***
- ***Lethality. Should a limit be defined in law?***
- ***Definition of a firearm. Should it be changed and if so how?***
- ***Readily convertible imitation firearms. Should “readily convertible” be further defined in law?***
- ***Licensing and restrictions on sales of imitations and all air guns. Do you agree that there should be no changes?***
- ***Licensing of deactivated firearms. Should this be done? What are the costs and gains?***
- ***Retrospective deactivation standards. Should all deactivated firearms meet the 1995 standards? Should such standards be made a statutory requirement?***

## PART 3. YOUNG PEOPLE AND GUNS

Young people have traditionally been able to use firearms in this country under varying degrees of control and adult supervision. This might be at organised target shooting, miniature rifle ranges, on farms or in connection with the activities of cadets or scouts. Most use has been without incident.

Much of the concern in previous years about the misuse of guns by young people has been about unsupervised use of low-powered air guns. This is why the Anti-Social Behaviour Act 2003 increased the age that somebody can own an air weapon from 14 to 17 and made it a criminal offence to possess air guns and imitation firearms in a public place without lawful authority or reasonable excuse. These provisions added to a series of existing restrictions on young people's access to firearms.

However, there is growing concern about the emergence of a gun culture and the attractiveness to some young people of a range of guns, primarily for criminal and intimidatory purposes. One of the main purposes of this review is therefore to consider whether the current legal framework allows guns to get into the hands of the wrong young people.

Furthermore, age limits for young people are complex and need simplifying. Broadly, children under 14 can only use firearms in limited circumstances and under adult supervision. Those aged 14 to 16 can possess firearms on their own subject to certain controls. 17 year olds are treated as adults. The following are some of the provisions:

- Under-17s cannot own, buy or hire a firearm, including most air guns;
- Under-15s cannot possess an assembled shot gun, unless it is securely covered or they are supervised by somebody of 21 or over;
- Under-14s cannot have a firearm certificate but may have a shot gun

certificate. These are only issued to young people who will handle shot guns under adult supervision;

- Under-14s can only possess guns for which a firearms certificate is needed at a shooting club, a miniature rifle range or under instructions from a firearms certificate holder who is using that gun for sporting purposes;
- Under-17s can only possess air guns under the supervision of an adult who is 21 or over, at an approved shooting club or miniature rifle range or, if on private premises, are 14 or over and have the consent of the occupier.

Key issues are:

- *Young people and guns.* This is an emotive and difficult issue. Those who are interested in the legitimate working, sporting or recreational use of guns feel very strongly that young people should gain experience of handling firearms by using them in controlled situations. People whose interest in firearms issues stems mainly from concerns about gun crime may believe that young people should not have access to guns. We invite views on the general principle involved;
- *Rationalising age limits.* There are many different ways of approaching this and we invite views on whether to:
  - *Introduce one age for the possession of all types of "firearms".* If you favour this, what should this age be, and should there be a series of exemptions? You may believe there should be a minimum age below which you cannot handle guns even under supervision, or that this should be left to parental control. If you consider that different types of gun require different limits then let us know what they should be;

– *Introduce a statutory minimum age below which you cannot hold firearms or shot gun certificates or own a “firearm”.* What might this be and should it distinguish between different types of gun?

– *Maintain the distinction between supervised and unsupervised use.* Again, consider who

should be able to supervise. What age should they be, what experience should they have and should a distinction be made between the type of gun and where it is being used?

**Some issues for views:**

- **Principle of young people and guns.** Should young people be able to possess guns and, if so, in what circumstances?
- **Age limits.** How might they be rationalised?

## PART 4. TRADE

This section looks at Registered Firearms Dealers (RFDs) and other outlets for the sale and marketing of guns. The vast majority of RFDs are responsible, law-abiding people but there have been a few cases in the past where unscrupulous individuals have diverted guns to criminals. There might be merit in clarifying some of the existing provisions around RFDs and we need to consider whether additional restrictions on other means of selling guns, such as the internet, are required.

This paper does not focus directly on the general arrangements for the import and export of guns, component parts or ammunition but we are happy to receive views on these issues.

### Registered firearms dealers

A RFD is somebody who “by way of trade or business, manufactures, sells, transfers, repairs, tests or proves firearms or ammunition”. The following are some of the key issues that you might want to comment on:

- *RFD registration.* The police will not add an individual to their RFD register if they have committed specified firearms offences, will not engage in business as firearms dealers to a substantial extent (or as an essential part of other trades, businesses or professions) or they believe that their running a dealership presents a danger to the public safety or the peace. Are these the right criteria? For example, should the general prohibition criteria for certificate holders (see Part 1) apply to RFDs?
- *Place of business.* RFDs can only keep firearms and ammunition at a “suitable place”. The police can refuse to enter a nominated site in the register if they believe that it presents a danger to the public safety or the peace. If a RFD wants to trade in another police force area they also have to make a new application to the relevant chief officer of police;
- *Gun shops.* Should gun shops have blacked out or frosted windows, or other limitations be

placed on how they display what is being sold? Should there be age restrictions on those allowed to enter gun shops?

- *Period of RFD registration and renewals.* Dealership registration runs for three years. There is regular, ongoing contact between the licensing authority and a RFD, but we invite views on whether the registration period should be changed. The police cannot refuse to renew a RFD’s certificate of registration on the grounds of failing to trade to a substantial extent. Should this provision apply to renewals as well as to initial registration?
- *Removal of RFD from the register.* The law is silent on whether RFDs whose names have been removed from the register can continue to trade during an appeal. They don’t in practice but there might be value in clarifying this. You might also have thoughts about other improvements that can be made to the process of removing a RFD from the register where this is deemed necessary;
- *RFD servants.* Once approved, RFDs and their servants are able to freely possess, subject to various conditions, certain types of firearms and ammunition. RFDs provide the police with written notification of their servant’s names. “Servants” is not defined in law and this has caused some confusion. The present working definition is “a person employed to work for another”. Should we define “servants” in law and how might this best be done?

### Other outlets for sales and marketing of guns

There are growing concerns about the sale and marketing of some guns, including imitations, particularly but not exclusively to young people:

- *Internet sales.* Guns can be bought over the internet, either through UK-based or foreign companies or more informally from individuals:

– *Imports*. There are concerns about foreign-based internet companies selling guns and ammunition directly to people in this country who are not authorised to possess them. We invite evidence on the extent of the problem and suggestions about action which might be needed;

– *Domestic trade*. Similarly, we would be interested in evidence about the extent and nature of the problem, and how we might best work with internet service providers and manufacturers to minimise it. In particular, we would welcome views on whether we should encourage retailers to provide information about safety and

legal requirements to possess particular guns, or whether any new criminal offences are necessary to restrict this kind of trade.

- *Newspaper and telephone sales*. Similar issues apply in relation to such sales. Transfers of firearms subject to licensing already need to be in person but does this need to be extended or other action taken?
- *Mail order deliveries*. Is there a need for greater controls over post and parcel deliveries to prevent unlawful delivery of firearms, parts or ammunition?

#### **Some issues for views:**

- ***Registration criteria for Registered Firearms Dealers (RFDs)*. Are they the right ones?**
- ***Places of RFD business*. Are controls on where RFDs can trade correct?**
- ***Gun Shops*. Should gun shops be allowed to openly display what they are selling and should there be age restrictions on who can go in?**
- ***Period of RFD registration*. Is duration correct and should the same criteria apply on renewal as at registration?**
- ***Inspection of RFDs*. Are the right agencies involved and do they have the necessary powers? Are levels of visits sufficient?**
- ***Removal of RFDs from the register*. Is the current process satisfactory?**
- ***RFD servants*. Should this term be clarified in law?**
- ***Internet sales*. What is the nature and extent of the problem and what can be done to restrict abuse both for imports and domestic trade?**
- ***Newspaper and telephone sales*. What is the nature and extent of any problem and what should be done to restrict abuse?**
- ***Mail order deliveries*. What is the nature and extent of any problem and what might be done about it?**

## PART 5. AMMUNITION

This paper has covered most types of gun, and their component parts, but has so far had little to say about ammunition.

The main issues on which we invite views are:

- *Shot gun cartridges.* Possession of prohibited ammunition requires the approval of the Secretary of State. Ammunition for guns held on firearms certificates is separately authorised and recorded, with upper limits on the number of rounds that can be held. However, cartridges for guns held on shot gun certificates can be freely possessed (although a shot gun certificate is needed to buy them). We invite views on whether this different approach is justified. For example, should we bring controls on shot gun cartridges into line with those for ammunition for other non-prohibited firearms (see also Part 1)? If so, what quantities should a certificate holder be allowed to possess, and how might this take into account individual circumstances?
- *Component parts of ammunition.* Modern ammunition is made up of a cartridge case,

bullet, primer and smokeless powder. There are penalties for unauthorised possession of complete rounds of ammunition, but not for its components (except for some missiles used with prohibited ammunition). The explosive elements, typically smokeless powder and primer, are subject to controls under the Explosives Act, but only in large quantities. We invite views on whether there should be controls on the component parts of ammunition. For example, should we require primers at least to be held on certificate?

- *Expanding ammunition.* This is ammunition that is “designed or adapted to expand on impact”. It was banned along with handguns in 1997. There are exemptions from the ban, mainly linked to its use in the humane dispatch of animals. British hunters and marksmen sometimes use expanding ammunition on foreign shooting trips. Use of ammunition overseas is not currently regarded as a “good reason” for possession and this ammunition has to be acquired abroad. We believe that these present restrictions should remain in place. Do you agree?

### Some issues for views:

- **Shot gun cartridges. Should they be controlled on certificates?**
- **Component parts of ammunition. Should primers be controlled on certificates?**
- **Expanding ammunition. Should the present restrictions remain in place?**

## PART 6. OTHER ISSUES

The previous sections have dealt with some of the large issues and big themes around gun licensing. This section includes what might look, at first glance, like less important matters. But some of these issues relate to exemptions from the requirement to have authorities and any gaps in firearms controls can have grave results.

The section also picks up on issues where anomalies exist in current legislation. We are aware of other areas where the law might need amending but have focused for now on those where there might be particular points of principle at stake. However, we invite views on other perceived inconsistencies.

We are particularly interested in views on the following:

- *Miniature rifle ranges.* At present, a person running a miniature rifle range or shooting gallery, where only air weapons or miniature rifles not exceeding .23 inch calibre are used, may have in their possession, or purchase or acquire, without holding a certificate, suitable rifle and ammunition. Any person may use the rifle or ammunition at the gallery without a certificate. This exemption has traditionally been used by travelling shows and fairgrounds but there are concerns that there are no controls over these ranges and galleries, and that anybody can set one up and freely possess any number of these types of gun and ammunition. Your view on whether there is value in continuing with this exemption would be welcomed. If it is not to be abolished, should the law be amended in anyway, for example to explicitly say that it only applies to .22 rimfire rifles?
- *Exemptions for borrowing firearms on private premises.* Exemptions exist to allow individuals, without holding certificates, to borrow shot guns or rifles from occupiers of private premises and use them on those premises in their presence (or also in the case of rifles in the presence of the occupier's servant). Different age limits apply to the exemption for guns held on shot gun certificates and rifles (shot guns can be borrowed by somebody of any age, under 17s cannot borrow rifles). Again, we would be interested in whether there is value in maintaining these exemptions. If you believe there is, we would welcome views on whether there should be any difference between provisions relating to guns held on shot gun certificates and rifles, whether it would be helpful to define in law the terms "to borrow", "occupier" and "in the presence of" (and, if so, how) and whether people who have had certificates refused or revoked should be able to take advantage of these exemptions?
- *Firearms used in theatrical, film and television productions.* An exemption exists to allow individuals, without holding certificates, to possess firearms for the purposes of theatrical or cinematographic film productions. The exemption does not extend to the possession of ammunition or to the purchase or acquisition of firearms, nor does it specifically refer to television or other forms of similar productions. This lack of precision in definition has caused some difficulties. We would be interested in thoughts on whether, and how, this exemption could be made less anachronistic;
- *Other exemptions from the need to have a certificate.* There are other exemptions from the requirement to have a certificate to possess firearms in specific circumstances. These include auctioneers, carriers, warehousemen, animal slaughterers, visiting armed forces, gun bearers, those controlling races, those taking guns for proof and those held in connection with aircraft and ships. Are the exemptions justified in modern circumstances?
- *Target shooting clubs.* Many target shooters belong to Home Office approved shooting clubs. This allows them to possess club guns or other members' guns when engaged as members in, or in connection with, target shooting. There are a number of issues for comment:

- *Club criteria.* The criteria for Home Office approved clubs are extensive and include the requirement for:
  - at least ten members (unless otherwise agreed) of good character;
  - effective liaison with the police (including notification of membership applications);
  - registers of individual attendance and shooting activity;
  - probationary periods with training of most new members;
  - satisfactory security;
  - regular use of ranges with safety certificates.
  
- Are the present criteria, and the way that they are applied, adequate?
  
- *Target shooting locations.* Should target shooting only be allowed at Home Office approved clubs? At present, target shooting is also allowed on privately-run ranges;
  
- *Target shooting disciplines.* Should there be a list of accepted target shooting disciplines required to satisfy the “good reason” criteria for firearms certificates? How does practical shooting, where the shooter moves to engage a number of different targets, fit into this?
  
- *Appeals process against licensing decisions.* The law provides for appeals against most firearms licensing decisions taken by the police. Appeals are usually heard in local courts. However, certificate holders cannot appeal against the police’s decision to add a condition to a firearms certificate. Can improvements be made to the current appeals procedures? For example, should appeals against gun licensing decisions be taken out of the hands of local courts and be heard by an Appeals Tribunal made up of representatives of the police, the courts and others involved in shooting?
  
- *British Visitors’ Permits.* The police issue British Visitors’ Permits (BVPs) to foreign visitors who want to possess firearms in Great Britain for a specified period (up to a maximum of one year). The police must not issue a BVP to somebody that they believe would represent a danger to the public safety or to the peace, is subject to a statutory prohibition preventing them from possessing firearms and does not have a “good reason” for having the specified guns in Great Britain (BVPs are normally requested for sporting purposes). This effectively allows the police to vet and approve foreign visitors who want to possess guns here. We invite views on how the BVP system works, particularly for visitors from other European Union countries who must also be in possession of a European Firearms Pass issued by their country of residence.

#### Some issues for views:

- ***Miniature rifle ranges.* Should this exemption be abolished?**
- ***Exemptions for borrowing firearms on private premises.* Should they be retained and, if so, should they be rationalised?**
- ***Firearms used in theatrical, film and television productions.* Should the exemption be made less anachronistic?**
- ***Other exemptions from the need to have a certificate.* Are they justified and should they be maintained in their present form?**
- ***Target shooting clubs.* Should any changes be made to the present arrangements?**
- ***Appeals process against licensing decisions.* Are any changes needed to the existing appeals procedures?**
- ***British Visitors’ Permits.* Are the present arrangements satisfactory?**

## ANNEX A. HOW TO RESPOND TO THE CONSULTATION PAPER

This consultation paper seeks views on the issues in this document. Specific questions on which comments are sought are set out at the end of each section. However, you may comment on any firearms related issue.

The consultation period ends on 31 August 2004, and all responses must be received by then. Responses to this consultation paper should be sent to:

*Firearms Controls Consultation  
Home Office  
5th Floor  
50 Queen Anne's Gate  
London SW1H 9AT*

Alternatively, responses can be e-mailed to [firearmscontrolsconsultation@homeoffice.gsi.gov.uk](mailto:firearmscontrolsconsultation@homeoffice.gsi.gov.uk)

The consultation is available in electronic format at: <http://www.homeoffice.gov.uk/>

Responses will not be acknowledged unless explicitly requested. Respondents should also indicate clearly where they are responding on behalf of a group or organisation, and should include a summary of its aims.

The information you send to us may need to be passed to colleagues within the Home Office and/or published in a summary of responses to this consultation. We will assume that you are content for us to do this, and that if you are replying by e-mail, your consent overrides any confidentiality disclaimer generated by your organisation's IT system, unless you specifically include a request to the contrary in the main text of your submission.

The Home Office will publish a summary of responses. This summary will be available from:

<http://www.homeoffice.gov.uk/>

The consultation is being conducted in accordance with the Cabinet Office's Code of Practice on Consultation (2004), whose consultation criteria are:

1. Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy.
2. Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses.
3. Ensure that your consultation is clear, concise and widely accessible.
4. Give feedback regarding the responses received and how the consultation process influenced the policy.
5. Monitor your department's effectiveness at consultation, including through the use of a designated consultation co-ordinator.
6. Ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.

The full code of practice is available at: <http://www.cabinet-office.gov.uk/regulation/Consultation/introduction.htm>

### Consultation Coordinator

If you have any complaints or comments about the consultation process, you should contact the Home Office consultation coordinator, Bruce Bebbington, by email at:

[bruce.bebbington@homeoffice.gsi.gov.uk](mailto:bruce.bebbington@homeoffice.gsi.gov.uk)

Alternatively, you may wish to write to:

*Bruce Bebbington  
Consultation Coordinator  
Performance and Delivery Unit  
Home Office  
50 Queen Anne's Gate  
London SW1H 9AT*

## ANNEX B. FIREARMS OFFENCES AND PENALTIES

| General nature of offence  | Maximum Punishment <sup>1</sup>  |
|--|--|
| Possession of firearm with intent to endanger life.  | Life imprisonment or an unlimited fine or both.                                |
| Use of firearm to resist arrest.   | Life imprisonment or an unlimited fine or both.                                |
| Possessing firearm while committing an offence specified in Schedule 1 (Schedule 2 in Scotland).                             | Life imprisonment or an unlimited fine or both.                                |
| Carrying firearm or imitation firearm with intent to commit indictable offence (Schedule 2 in Scotland) or to resist arrest. | Life imprisonment or an unlimited fine or both.                                |
| Possessing or distributing prohibited weapon or ammunition.  | 10 years or an unlimited fine or both (new 5 year mandatory minimum sentence). |
| Possession of firearm with intent to cause fear of violence.   | 10 years or an unlimited fine or both.   |
| Carrying firearm or imitation firearm in public place.   | 7 years or an unlimited fine or both.  |
| Trespassing with firearm or imitation firearm in a building.   | 7 years or an unlimited fine or both.  |
| Shortening a shot gun; conversion of firearm.  | 7 years or an unlimited fine or both.  |
| Possessing etc. firearm or ammunition without firearm certificate.   | 5 years or an unlimited fine or both.  |
| Possessing etc. shot gun without shot gun certificate.   | 5 years or an unlimited fine or both.  |
| Trading in firearms without being registered as firearms dealer.   | 5 years or an unlimited fine or both.  |
| Selling firearm to person without a certificate.   | 5 years or an unlimited fine or both.  |
| Repairing, testing etc. firearm without a certificate.   | 5 years or an unlimited fine or both.  |

<sup>1</sup> Level 1 fine – up to £200; Level 2 fine – up to £500; Level 3 fine – up to £1,000; Level 4 fine – up to £2,500; Level 5 fine – up to £5,000.

| <b>General nature of offence</b>  | <b>Maximum Punishment<sup>1</sup></b> |
|---|---------------------------------------|
| Falsifying certificate etc. with view to acquisition of firearm.  | 5 years or an unlimited fine or both. |
| Contravention of provisions denying firearm to ex-prisoners and the like.   | 5 years or an unlimited fine or both. |
| Supplying firearm to person denied them under statutory prohibition.  | 5 years or an unlimited fine or both. |
| Making false statement in order to secure registration or entry in register of a place of business.               | 6 months or a level 5 fine or both.   |
| Registered firearms dealer having place of business not entered in the register.                                  | 6 months or a level 5 fine or both.   |
| Non-compliance with condition of registration.  | 6 months or a level 5 fine or both.   |
| Non-compliance by firearms dealer with provisions as to register of transactions; making false entry in register. | 6 months or a level 5 fine or both.   |
| Person under 17 acquiring firearm.  | 6 months or a level 5 fine or both.   |
| Person under 14 having firearm without lawful authority.  | 6 months or a level 5 fine or both.   |
| Selling or letting on hire a firearm to person under 17.  | 6 months or a level 5 fine or both.   |
| Supplying (section 1) firearm or ammunition to person under 14.   | 6 months or a level 5 fine or both.   |
| Non-compliance with condition of firearm certificate.   | 6 months or a level 5 fine or both.   |
| Non-compliance with condition of shot gun certificate.  | 6 months or a level 5 fine or both.   |
| Non-compliance with condition of Defence Council authority.   | 6 months or a level 5 fine or both.   |
| Making false statement in order to obtain police permit.  | 6 months or a level 5 fine or both.   |
| Making false statement in order to obtain permit for auction of firearms etc.                                     | 6 months or a level 5 fine or both.   |
| Making false statement in order to obtain permit for removal of signalling apparatus.                             | 6 months or a level 5 fine or both.   |

| <b>General nature of offence</b>  | <b>Maximum Punishment<sup>1</sup></b>  |
|---|--|
| Making false statement in order to procure grant or renewal of firearm or shot gun certificate.   | 6 months or a level 5 fine or both.  |
| Making false statement in order to procure variation of firearm certificate.  | 6 months or a level 5 fine or both.  |
| Obstructing constable or civilian officer in exercise of search powers.   | 6 months or a level 5 fine or both.  |
| Failure to produce European Firearms Pass or Article 7 authority for variation or cancellation etc; failure to notify loss or theft of firearm identified in pass or to produce pass for endorsement. | 3 months or a level 5 fine or both.  |
| Failure to report transaction authorised by visitors' shot gun permit.  | 3 months or a level 5 fine or both.  |
| Trespassing with firearm or imitation firearm on land.  | 3 months or a level 4 fine or both.  |
| Failure to hand over firearm or ammunition on demand by constable.  | 3 months or a level 4 fine or both.  |
| Person under 18 using certificated firearm for unauthorised purpose.  | 3 months or a level 3 fine or both.  |
| Supplying firearm to person drunk or insane.  | 3 months or a level 3 fine or both.  |
| Pawnbroker taking firearm in pawn.  | 3 months or a level 3 fine or both.  |
| Failure to give constable facilities for examination of firearms in transit, or to produce papers.  | 3 months for each firearm or parcel of ammunition or a level 3 fine or both. |
| Non-compliance with requirement to surrender authority to possess etc. prohibited weapon or ammunition.   | Level 3 fine.  |
| Person under 15 having a shot gun without adult supervision.  | Level 3 fine.  |
| Person under 17 having air weapon or ammunition therefor.   | Level 3 fine.  |
| Person under 17 making improper use of an air weapon on private premises.   | Level 3 fine.  |

| General nature of offence   | Maximum Punishment <sup>1</sup> |
|---|---------------------------------|
| Person under 14 making improper use of air weapon when under supervision; person supervising and permitting such use.           | Level 3 fine.                   |
| Making gift of shot gun to person under 15.   | Level 3 fine.                   |
| Supplying air weapon to person under 17.  | Level 3 fine.                   |
| Failing to surrender certificate on revocation.   | Level 3 fine.                   |
| Failure to surrender certificate of registration or register of transaction on removal of firearms dealer's name from register. | Level 3 fine.                   |
| Failure to surrender expired European Firearm Pass.   | Level 3 fine.                   |
| Failure to surrender firearm or shot gun certificate cancelled by court on conviction.  | Level 3 fine.                   |
| Failure to comply with requirement of a constable that a person shall declare his name and address.                             | Level 3 fine.                   |
| Failure to produce firearms pass issued in another Member State.  | Level 3 fine.                   |

## ANNEX C. FIREARMS HOMICIDES IN OTHER COUNTRIES

| <b>Europe</b>    | <b>Firearms homicide rate per 100,000 population in 2000</b> |
|------------------|--|
| Lithuania        | 2.25   |
| Slovakia         | 2.17   |
| Estonia          | 1.53   |
| Latvia           | 1.26   |
| Portugal         | 0.84   |
| Switzerland      | 0.56   |
| Germany          | 0.47   |
| Denmark          | 0.26   |
| Sweden           | 0.20   |
| UK               | 0.12   |
| <b>Elsewhere</b> |  |
| Canada           | 0.54   |
| New Zealand      | 0.47   |
| Australia        | 0.31   |
| Japan            | 0.03   |
| Hong Kong        | 0.01   |

*Source: Data from United Nations Development Programme as analysed in the Small Arms Survey Yearbook 2003*

For 2000, the US Bureau of Justice reported a rate of 3.6 firearms homicides per 100,000 population in the US.

## ANNEX D. INTERNATIONAL APPROACHES TO IMITATION GUNS

### European Union

- *Austria*. Imitations are not regarded as firearms and can be acquired and possessed without a licence;
- *Belgium*. Imitations are not regarded as firearms and can be acquired and possessed without a licence. It is an offence to possess an imitation gun in a public place without legitimate reason;
- *Cyprus*. Imitations are not regarded as firearms, they do not need to be licensed and there are no restrictions on their import;
- *Czech Republic*. There is no requirement for imitations to be licensed. Crimes committed with imitations are treated similarly to comparable crimes committed with firearms;
- *Denmark*. Imitations are not regarded as firearms and can be acquired and possessed without a licence;
- *Finland*. Imitations are not regarded as firearms and do not need to be licensed. There is no legal definition of an imitation;
- *France*. There is no requirement for imitations to be licensed. Crimes committed with imitations are treated similarly to comparable crimes committed with firearms;
- *Germany*. In general, imitations are not regarded as firearms and do not need to be licensed. However, where they can be converted for use as a firearm they are regarded in law as firearms and require certification;
- *Greece*. In general, imitations are not regarded as firearms and do not need to be licensed. However, as with Germany, where they can be converted for use as a firearm they are regarded in law as firearms and require certification;
- *Hungary*. Imitations are not regarded as firearms and can be acquired and possessed without a licence. An imitation is defined as “an object that deceptively resembles a firearm due to its shape, finish and size.” It is an offence to possess an imitation in a public place in certain circumstances. Crimes committed with imitations are treated similarly to comparable crimes committed with firearms;
- *Ireland*. There is no requirement for imitations to be licensed and they can be freely bought or sold. The term “imitation firearm” is mentioned in relation to a number of specific criminal offences, and is defined as anything that is not a firearm but has the appearance of being one;
- *Luxembourg*. There is no requirement for imitations to be licensed and they can be freely bought or sold;
- *Malta*. Imitations may only be imported if they are “antiques, rare or artistic.” A Weapons Advisory Board adjudicates on this. Imitations that are allowed to enter the country are registered;
- *Netherlands*. Imitation guns, including “toy guns” that a committee of experts have said resemble “real/genuine” firearms”, are considered as firearms and are subject to controls on possession (licensing), sale, manufacture etc;
- *Poland*. There is no requirement for imitations to be licensed. There is no legal definition of an imitation but they are not regarded as firearms. Punishment for offences committed with firearms are more severe than for similar offences committed with imitations;
- *Slovenia*. Imitations are not regarded as firearms and are not subject to licensing. They are defined as items resembling firearms that cannot be used or processed into them.

We do not have similar information for Estonia, Italy, Latvia, Lithuania, Portugal, Slovakia, Spain and Sweden.

## United States of America

- *Federal law:*

- Imitations are not regulated under federal firearms law. However, it is unlawful for anybody to manufacture, trade or receive imitation guns that are not marked according to requirements laid down by the Secretary of Commerce. These require that imitations have a blaze orange plug inserted in the barrel. The Secretary of Commerce may provide for alternative markings for certain types of imitations and may waive the requirement for imitations used only for theatrical, movie or television purposes.

- *State law.* Additional provisions include:

- *California.* It is an offence to manufacture or trade in imitations unless it is for:
  - Export in interstate or foreign trade;
  - Use in theatrical etc. productions;
  - Use in certified or regulated athletics meetings;
  - Use in military or civil defence activities;
  - Use at approved school displays.

Imitations are defined as a replica of a firearm that is so substantially similar in physical properties to an existing firearm as to lead a reasonable person to conclude that the replica is a firearm. Their provisions exclude:

- A non-firing collector's replica of an antique firearm designed prior to 1898, that is historically significant and offered for sale in conjunction with a wall plaque or presentation case;
- A non-firing collector's replica of a firearm designed after 1898, that is historically significant, issued as a commemorative by a non-profit organisation and sold with a wall plaque or presentation case;

- Imitations where coloration of the entire exterior surface is bright orange or bright green;
- An instrument that expels a projectile, such as BB or pellet, not exceeding 6mm calibre through air or gas pressure, spring action or a spot marker gun.

- *Connecticut.* An imitation is a:

- Non-functional imitation of an original firearm which was manufactured, designed and produced since 1898, or;
- Non-functional representation of a firearm, other than an imitation of an original firearm, that could reasonably be perceived to be a real firearm.

This definition does not include:

- Any look-alike, non-firing, collector replica of an antique firearm developed prior to 1898, or;
- Traditional BB or pellet-firing air guns that expel a metallic or paint-contained projectile through the force of air pressure.

It is an offence to offer for sale, or sell, any imitation gun, other than those which because of their distinct colour, exaggerated size or other design feature cannot reasonably be perceived to be a real firearm. It is an offence, other than in self-defence, to carry, draw, exhibit or brandish an imitation in a threatening manner.

- *Wisconsin.* A look-alike firearm is any:

- Imitation of an original firearm that was manufactured, designed and produced since 1898, including and limited to toy guns, water guns, replica non-guns and air-soft guns firing non-metallic projectiles.

This definition does not include:

- Any imitation, non-firing, collector replica of an antique firearm developed prior to 1898, or;

- Any traditional BB, paint-ball or pellet-firing air gun that expels a projectile through the force of air pressure.

It is an offence to sell or distribute any look-alike firearm, excluding those that comply with federal marking laws.

## ANNEX E. INITIAL REGULATORY IMPACT ASSESSMENT

### 1. Title of proposal

#### **CONTROLS ON FIREARMS**

### 2. Purpose and intended effect of measure

#### **(i) The objective**

Taking account of the principal Act, and seven amending statutes, the aim is to produce a modernised, more readily enforceable system for the regulation of lawfully held firearms and, as far as possible, a transparent system of firearms control. We want controls that are practical, proportionate and consistent with our international and other legal obligations. Crucially, the regulatory framework must not allow guns, parts of guns or ammunition to get into the wrong hands. The consultation paper is the first step in reviewing existing arrangements.

#### **(ii) The background**

The possession of firearms, their component parts and ammunition in England, Scotland and Wales is regulated by the Firearms Acts 1968-97. Northern Ireland has its own firearms laws.

We already have some of the toughest gun controls in the world but nonetheless there has been an unacceptable increase in the use of guns in crime across the country which the Government is tackling vigorously. Several legislative changes have been made recently to help combat this trend. The Criminal Justice Act 2003 introduced mandatory

minimum sentences of five years for the possession or distribution of prohibited weapons or ammunition. The Anti-Social Behaviour Act 2003 introduced new requirements on the possession of air guns and imitations in public places. It also banned the import, manufacture and sale of air guns using self contained gas cartridge systems, these guns being vulnerable to conversion to fire live ammunition.

The Firearms Act has been amended a number of times, and the framework of controls can be difficult to understand. We need to consider how it might be best rationalised and updated. In drawing up a consultation paper we have built upon the Government's reply to the Home Affairs Select Committee Report on Controls over Firearms which was published in October 2000.

#### **(iii) Risk assessment**

The Government, with community organisations and law enforcement agencies, is already undertaking wide-ranging action to tackle gun crime. However, there are links between firearms licensing and gun crime. It is important that the regulatory framework reduces the risk of guns getting into the wrong hands and provides proper penalties when guns are possessed or traded without authorisation. Gun controls must therefore be robust, efficient and effective, without placing unnecessary burdens on those who administer and enforce the law or on those who possess guns for reasons allowed by the law. Gun crime has risen in recent years (see table on next page) and it is important that all opportunities for reducing such crimes are explored.

## Number of recorded crimes in which a firearm was used

| Year        | Handguns | Rifles | Shotguns | Air weapons | Imitations |
|-------------|----------|--------|----------|-------------|------------|
| 1998 - 99   | 2,687    | 43     | 642      | 8,665       | 566        |
| 1999 - 2000 | 3,685    | 67     | 693      | 10,103      | 823        |
| 2000 - 01   | 4,109    | 36     | 608      | 10,227      | 787        |
| 2001 - 02   | 5,874    | 64     | 712      | 12,377      | 1,245      |
| 2002 - 03   | 5,549    | 52     | 671      | 13,822      | 1,815      |

### 3. Options

Specific proposals for action will be made in the light of comments received in response to this consultation. However, in broad terms the options are:

#### Option 1: Do nothing;

#### Option 2: Improve controls by good practice and self-regulation;

#### Option 3: Legislation to rationalise and update controls.

### 4. Costs and benefits

#### a) Business sectors affected

Any changes to existing controls are likely to impact on the firearms trade and those involved in the legal use of guns. It is estimated that there are about 2,000 businesses involved, to a greater or lesser extent, in the manufacture, trade and sale of firearms. There are also about one thousand Home Office approved target shooting clubs and an unknown number of others. On 31 March 2003, there were 118,612 firearms certificates on issue (covering 316,669 firearms) and 561,762 shot gun certificates (covering 1,325,385 shot guns). The consultation paper does not include proposals at this stage, nor does it attempt to list all options for change, and we cannot offer meaningful estimates of the impact on trade. These will be developed as options emerge from the consultation.

#### b) Benefits/Costs

#### Option 1: Do nothing.

This option will not meet the RIA objective.

#### Option 2: Improve controls by good practice and self-regulation.

This may benefit the police and those allowed to own guns by providing a more efficient and effective licensing system. Improvements could be made to the:

- certification process;
- regulation of firearms dealers;
- sale and marketing of guns by internet, newspaper and telephone.

Detailed Home Office guidance to the police on the administration of firearms law was issued in 2002. This was the product of lengthy consultation with the police service, the shooting community and other interested parties. It was warmly welcomed by all, has helped to reduce uncertainties in interpretation of law and encouraged consistency of administration. The guidance is under constant review. Opportunities for improving controls by good practice and self-regulation will be considered further in the light of responses to this consultation, but nevertheless it seems likely that underpinning changes in legislation will be necessary.

### **Option 3: Legislation to rationalise and update controls.**

The law is complex and there is consensus that it would benefit from some form of rationalisation, notwithstanding any improvements resulting from best practice initiatives. It must also reflect current needs, not allowing guns, parts of guns or ammunition to get into wrong hands. Changes to the regulatory framework can therefore benefit the police service, those involved in the legal use of guns and the wider community. Action could be taken to:

- alter the three categories on which gun licensing is based;
- move types of gun into different categories;
- place additional controls on deactivated firearms;
- licence shot gun cartridges and some or all component parts of ammunition;
- rationalise age limits for possession of guns;
- regulate further on component parts;
- change procedures for appeals against licensing decisions.

## **5. Issues of equity and fairness**

No issues of equity and fairness have been identified. The outcome of this consultation is expected to inform this part of the RIA.

## **6. Consultation with small business: the Small Firms' Impact Test**

Consultation will continue with the Small Business Service.

## **7. Competition assessment**

Consultation will continue with the Office of Fair Trading.

## **8. Enforcement and sanctions**

Enforcement and sanctions are likely to be similar to those already in existence but could be amended by new legislation.

## **9. Monitoring and review**

The outcome of this consultation is expected to inform this part of the RIA.

## **10. Consultation**

The consultation paper is a first step in a comprehensive review of firearms legislation. Next steps will be proposed in the light of comments received.

## **11. Summary and recommendation**

The consultation paper invites a wide debate and does not offer firm proposals or selective options for change. Consideration of comments received will inform proposals for action. Impact assessments will be taken forward with those that might be affected as the consultation develops.

