

FIREARMS LAW – REFORMS TO ADDRESS PRESSING PROBLEMS

SUMMARY

This firearms project forms part of our Twelfth Programme of Law Reform, in which the Home Office asked the Law Commission to review the law relating to firearms. The project was taken on because law enforcement organisations and groups representing the licensed firearms community alike reported that the law in this area suffered from serious defects.

In July 2015 we published a scoping consultation paper that examined the most pressing problems with the law and made some provisional proposals to remedy them. We asked stakeholders for their views on our provisional proposals and during our two month consultation period we received over 200 responses. Our report sets out some of the responses we received and makes a number of recommendations.

Our report is divided into 9 chapters:

- Chapter 1 is our introduction and discusses the background to the project.
- Chapter 2 deals with problems relating to the definition of “lethal weapons”. It examines some of the responses we received to our provisional proposal that “lethal” in section 57(1) of the Firearms Act 1968 be defined with reference to a fixed muzzle kinetic energy. Based upon the responses we received from consultees, we recommend that “lethal” be defined with reference to a fixed muzzle kinetic energy and that the kinetic energy threshold be set at 1 joule. We acknowledge that this may have an impact upon those who sell airsoft imitation firearms and recommend that a higher threshold apply to airsoft imitations.
- Chapter 3 deals with difficulties arising from a lack of adequate definition of “component parts” to firearms. It examines some of the responses we received to our provisional proposal that a list of component parts be enshrined in law. Consultees agreed with this approach and we therefore recommend that “component part” be defined as the barrel, chamber, cylinder, frame, body, receivers, breech block, bolt or other mechanism for containing the charge at the rear of the chamber. To ensure the list is responsive to developments, we recommend that the Secretary of State be given the power to amend it by way of statutory instrument. To allay the concerns expressed by some consultees about the breadth of this power, we recommend that it be subject to the affirmative resolution procedure. Due to our inability to assess the impact of doing so, we make no recommendation on whether the component parts of shotguns should be subject to control.
- Chapter 4 deals with the problem of a lack of definition of “antique firearms” for the defence within the 1968 Act. It examines some of

the responses we received to our suggestions as to how “antique firearm” could be defined. Consultees were divided between enshrining the obsolete cartridge list into law and having a list of obsolete ignition systems. We recommend, therefore, that these approaches be combined. An antique firearm would be one that is either chambered for a cartridge type that is contained on an amendable statutory list of cartridge types that are no longer readily available. Or it would be a firearm that uses a type of ignition system contained on an amendable list of obsolete ignition systems. The response we received from consultees to our provisional proposal that sales of antique firearms be recorded and take place only via a traceable method was largely negative. Consultees queried the utility of these provisional proposals and we therefore make no recommendation on these issues. Finally we recommend that the offences in section 19 and 20 of the Firearms Act 1968 be extended to apply to those in possession of antique firearms. This will criminalise those who carrying an antique firearm in a public place without reasonable excuse and those who trespass with an antique firearm without reasonable excuse.

- Chapter 5 deals with deactivated firearms. It examines some of the responses we received to our provisional proposal that the Home Office approved deactivation standards be made mandatory. Consultees were broadly in favour of this approach and we therefore recommend that a deactivated firearm can only be one that has been deactivated to a Home Office approved standard. To ensure conformity with a recent European Union Regulation, we also recommend that a firearm can be considered deactivated if it has been deactivated in a way that conforms to the standards annexed to the Regulation. The Regulation states that it applies to any deactivated firearm that is to be sold or otherwise transferred and we recommend the same. In our scoping consultation paper we provisionally proposed amending section 4(3) of the Firearms Act 1968 to clarify that it applies to deactivated firearms. Broadly speaking, consultees agreed with this and we therefore make this recommendation.
- Chapter 6 deals with a problem of imitation firearms that can be readily converted. It examines some of the responses we received to our provisional proposal that the test for “ready convertibility” in the Firearms Act 1982 be amended to ensure it reflects the ability in contemporary society to convert imitation firearms into live firearms. To achieve this, we provisionally proposed the focus ought to be on the “ready availability” of the requisite tools. Consultees expressed unease about whether this would render the test too wide. We explain in the report, however, why we consider that this would not be the case. We also examine consultees’ response to our provisional proposal that an offence of being in possession of any article with the intention of using it unlawfully to convert an imitation firearm into a live firearm. Consultees expressed unease about the

breadth of this offence. As we explain, however, the offence would only be committed if there was a demonstrable intention to use it unlawfully to convert firearms. We believe this clarification will allay consultees' concerns and therefore recommend the creation of an offence such as the one we proposed.

- Chapter 7 examines some of the responses we received to our provisional proposal that the law governing the possession and acquisition of firearms be codified. Consultees were overwhelmingly in favour of such an exercise being undertaken. We therefore recommend that a codification exercise be undertaken at the soonest opportunity. Numerous consultees expressed support for the creation of an advisory body to advise the Home Office on firearms law. On the basis of the support for this suggestion, we recommend the creation of such an advisory body.
- Chapter 8 lists our recommendations.
- Chapter 9 contains a glossary.