

Issues for consideration of the Law Commission

1. Codify the 34 pieces of legislation on firearms

Firearms law is very complex and both the police and public have difficulty in understanding and applying the 34 relevant laws which govern the control of firearms. It is unreasonable to expect members of the public to know their responsibilities when the law is so complex and confused. It is also unreasonable to expect the police to apply the law accurately in all cases when it is so complex. This is unhelpful to good relations between the police and the public. It is recommended that, measures are put in place to codify and simplify the law.

2. Single certificate

It is advocated that the law is changed to create a single system for the licensing of section 1 firearms and section 2 shotguns. Such a system should be based upon the current process for granting licences for section 1 firearms. The benefits of such a system would be twofold:

firstly, it is considered that allowing guns to only those individuals who have good reason to hold them strikes the appropriate balance between personal freedoms and public safety, and we see no reason why those applying for a shotgun licence should be exempt from proving 'good reason'.

Secondly, it will render the process considerably more straightforward and, we understand from the police, cheaper to administer. This must be done in such a way as to avoid any undue restrictions on the use of shotguns.

3. Ability to suspend a certificate

Where a certificate holder comes to adverse notice the Chief Constable or his/her delegate should be able to suspend a certificate whilst full enquiries are made to assess an individual's continued suitability to retain their certificates. Such a suspension should carry a power of entry without warrant in order to seize the certificates and any firearms held by virtue of them.

The suspension should be for a fixed period,(6 months) however the Chief Constable or his/her delegate should be able to extend this for a up to a further 6 months in exceptional circumstances

4. Appeal process for suspended certificate.

Where a certificate has been suspended then the holder should have opportunity to appeal this decision. (See below re Appeals)

5. Appeals process

The appeals procedure is costly for all involved. It is suggested that consideration be given to the removal of this function from the Crown Court and perhaps considered in a tribunal environment. The chair of any such tribunal could be a member of the judiciary.

6. Duration of a certificate

Certificates are currently valid for 5 years, subject to a robust medical vetting procedure including an enduring medical marker on an individual's medical record and police forces being able to monitor incidents reported to the police 24/7, 365 days a year, then consideration could be given to extending the life of a certificate to 10 years. Cost of certificate should be increased pro rata to allow forces the resources to provide the monitoring service.

7. Requirement for medical reports on application

Consideration should be given to require that all applications for a firearms, shotgun certificate, Registered Firearms Dealership and Explosive License must be subject to a pre grant/renewal vetting process that would require their General Practitioners to disclose relevant medical conditions.

8. Semi-automatic Firearms and Shotguns

The risks associated with the private ownership of semi-automatic .22 rim fire rifles and shot guns should be assessed in light of the current threat of domestic extremism and consideration should be given to making these prohibited weapons.

Should these firearms remain licensable under Section 1 and 2 of the Firearms Act 1968 as amended that consideration should be given to amending S5(21)(ab) to read "other than one which is chambered for rimfire cartridges not exceeding .22"

Consider further limits on the magazine capacity of multi shot shotguns and the introduction of a magazine capacity on semi-automatic rifles.

9. Should Chief Constables remain the licensing authority.

Consideration should be given to removing the administrative element (back office) of the firearms licensing function from the police service and the establishment of a centralised administrative unit.

10. Classification of firearms

Consideration should be given to the classification of firearms commonly known as long barrelled revolvers or pistols, where the barrel has been lengthened and extensions fitted to pistol grip to comply with the restrictions on small firearms

The ban of small firearms was brought about to restrict the availability of easily concealable firearms. Guns that are less than 60 centimetres in total length or have a barrel under 30 centimetres are prohibited as small firearms. Manufacturers have developed variants of small firearms, which have been extended in various forms, from extended barrels to wrist & stock extensions.

11. Miniature rifle ranges

There are concerns regarding access by non-certificate holders to lethal firearms, It is important that the Commission are aware that public access to section 1 firearms without the need for a firearm certificate or indeed supervision can be achieved reasonably easily under the Firearms Act 1968 regarding miniature rifle ranges, which state that “a person conducting or carrying on a miniature rifle range (whether for a rifle club or otherwise) or shooting gallery at which no firearms are used other than air weapons or miniature rifles not exceeding .23 inch calibre may, without holding a certificate, have in his possession, or purchase or acquire, such miniature rifles and ammunition suitable therefore; and any person may, without holding a certificate, use any such rifle and ammunition at such a range or gallery”.

A miniature rifle range is a target shooting range not exceeding 100 yards in length, upon which miniature rifles and ammunition are used. The exemption came into being under the Firearms Act 1920 and reflected the use of a particular round of ammunition in military training. In the early twentieth century a number of politicians and military figures wished to promote rifle shooting in light of the inferior rifle technique demonstrated by British soldiers during the Second Boer War (1899–1902).

It is considered that this exemption provides a “clear opportunity” for a person who has had a certificate refused or revoked, or who would be refused a certificate if they applied, to acquire legally rifles and ammunition that in all other respects should be controlled by the firearms certificate arrangements. Furthermore, there is no police involvement in supervising such ranges or the people using them, and the numbers of firearms possessed and the quantities of ammunition involved are not known or recorded on the National Firearms Licensing Management System.

It is recommended that consideration should be given to similar licensing provisions that fall on individual certificate holders.

12. Registered Firearms Dealers (RFD) - Registration

The requirements for a dealers certificate should be at least as rigorous as those required to obtain a firearm certificate. Firearms dealers operate in an area of

extreme trust and there have been a number of examples where they have operated outside the law. (the vast majority of RFDs are law abiding and assist the police service without hesitation when required)

Consideration should be given that an applicant for a registered firearms dealership should meet the fitness requirements placed on a firearm certificate holder & provide photographs with two references.

Period of Registration and renewals

Consideration should be given to extending the Registered of firearms dealers to 5 years to fall in with other certificates, with a proportionate increase in fees.

Removal of RFD from register

Where the Chief Officer removes a dealer from the register for public safety reasons and an appeal is lodged, the law allows the dealer to retain his certificate & weapons for trade. The certificate may be retained until the appeal is heard. Where there is a public safety issue a requirement for the surrender of the certificate & weapons pending appeal should be introduced. It is suggested that a section similar to Section 12 of the Firearms Act 1988 be introduced in respect of RFD certificates.

RFD Servants

Servants should be defined in law. This is currently a grey area where there can be confusion. There is also the issue of access to firearm by RFD servant who themselves may not have undergone any vetting or suitability checks.

It appears odd that a personal certificate holder has to go through such a thorough procedure for a single shotgun whereas the RFD servant could be in sole charge of a large quantity of firearms.

13. Expanding ammunition

Consideration should be given to the removal of the restrictions created by s9 firearms (amendment) Act 1997 thus permitting that expanding ammunition be subject to s1 Forearms Act 1968 as amended.

14. Like for like variation,

Consider if a variation is required where one firearm is being exchanged for a another of the same calibre and action. Should this requirement remain then further consideration should be given to allow the police service to levy a charge for this.

15. Chargeable Services

Consider what elements of work currently carried out by firearms licensing department should carry a charge, such as exemption from holding a certificate under s(11(6) Firearms Act 1968 as amended, like for like variations, acquire and acquire and keep explosive licenses, new certificates on change of address, security visits etc.

16. Single standard for the refusal or revocation of both firearms and shotgun certificates.

Currently there are differing standards for the revocation of firearms and shotgun certificates, consideration should be given to changing the standard for shotguns to that of firearms.

17. Material destruction rifles. (50 calibre)

There are a minority of target shooters who use these firearms for target shooting, although purely for the personal enjoyment for an individual. Whilst this would appear to be reasonable under the right range conditions, It must be balanced against the overall public safety. If someone were to use such a firearm in a firearm related major incident scenario, the results could be devastating. Consideration should be given to making these firearms prohibited weapons.

18. Air Weapons

Reported air weapon offences have been falling since 2003/04, possibly in response to legislation, although it is appreciate that such offences are likely to be underrepresented in official figures.

Consideration should be given to what if any further restrictions should be placed on such weapons.

19. Review status re short prison sentences and prohibited status.

There are concerns that individuals who are subject to short prison sentences which do not attract a prohibition under s21 firearms Act 1968 as amended should in fact be subject to a prohibition.

Consideration should be given to reducing the period that attracts a prohibition, in particular where sentences for multiple offences attract a concurrent sentence.

20. Review requirement to discuss suitability with other family members

Consider a requirement to consult with other family members (to be defined) on the suitability of a prospective certificate holder.

21. Home office guidance to become an approved code of practice.

Consider a change in the status of the Home Office Guide on firearms Licensing Law, to make it an Approved Code of Practice in order to give police decisions greater weight with the courts.

21. Deactivations pre 1995

Consideration be given to making the 1995 deactivation standard mandatory for all deactivated firearms.

22. Antiques

Consideration should be given to a legal definition of an antique within the Firearms Act

The issue of antique firearms possession presents some problems for those involved in the policing of firearms. These are firearms are old and the ammunition is supposedly “not readily available”. The reality is that ammunition or its components is available.

The police service and CPS struggle to convince juries that firearms which are of “modern design” or which are chambered for current ammunition types are not “antique” due to age alone. Whilst some in the shooting community and collectors wish to see age as the sole test my opinion is that this approach would open up a new supply of firearms for criminal use.

23. Young persons

A large number of young people enjoy shooting in a safe and responsible manner. However, the legislation governing their use of firearms is extremely complex and confusing. Consideration should be given to measures that simplify and clarify (a) the age at which an individual is permitted to shoot under supervision in the controlled environment of a shooting range; (b) the age at which an individual is permitted to shoot under supervision outside of such a controlled environment; and (c) the age at which an individual is permitted to shoot unsupervised. In formulating such proposals it should be recognised that the risks involved in shooting are greatly

mitigated under supervision; that the purpose of granting a licence should be to allow an individual to shoot unsupervised; and that we can see no good reason to maintain the current differences in age restrictions between section 1 firearms and shotguns, the origins of which are purely historical.

24. Shotgun cartridges

Consideration should be given to ensuring shotgun ammunition is subjected to the same controls as ammunition covered by section 1 of the Act. The quantities required would need to reflect the needs of individuals. With cartridges being there should be a minimum-security requirement.

25. Borrowing firearms on private premises

The exemption for certificates under section 11(5) and 11(6) of the firearms Act needs to be properly defined and parity between shotguns and rifles needs to be established.

These exceptions have a place in the proper supervised use of firearms, particularly in terms of safe introduction and training.

Those revoked on public safety grounds should however be prevented from using such exemptions as a means to acquire firearms.

The definition of occupier should be defined in law.

26. Mandatory Training/Testing

Consideration should be given to some form of mandatory training and testing of individuals before certificates are granted to ensure safe handling and firing etc., similar to the provisions in Germany.