

POLICING AND CRIME ACT 2017 – Detailed Briefing

New definition of lethality

If the muzzle energy of a firearm is over 1 Joule (0.737 ft. lb) it is considered to be lethal and thus caught by the definition of firearm in the Firearms Act 1968. This new legal threshold imports clarity into the law. It simply enacts current practice into law. It does not alter the higher energy thresholds for air weapons as defined by s1(3)(b) of the Firearms Act 1968 (i.e. the 12ft lb and 6ft lb rules for air rifles/guns and pistols respectively).

Air soft imitations defined

'Airsoft guns' are defined as *"a barrelled weapon of any description which is designed to discharge only a small plastic missile (whether or not it is also capable of discharging any other kind of missile)", and "is not capable of discharging a missile (of any kind) with kinetic energy at the muzzle of the weapon that exceeds the permitted level"*

Permitted energy = Single shot: 2.5 Joule (1.85 ft. lb) Automatic*: 1.3 Joule (1 ft. lb)

*'Automatic' means *"a weapon which is capable of discharging two or more missiles successively without repeated pressure on the trigger"*.

"Small plastic missile" means a missile that –

- (a) is made wholly or partly from plastics,
- (b) is spherical, and
- (c) does not exceed 8 millimetres in diameter.

Additionally, the law says an 'airsoft gun' is not to be regarded as a firearm for the purposes of the Firearms Act 1968. As such, they are not "air weapons" However.....

'Single shot' airsoft guns with a muzzle energy in excess of 2.5 Joules fall into the 'air weapon' category defined by s1(3)(b) of the Firearms Act 1968. This is providing they remain under the higher thresholds listed in the Firearms (Dangerous Air Weapons) Rules 1969 (as amended) (i.e. the 12ft lb and 6ft lb rules for air rifles/guns and pistols respectively).

'Fully automatic' and 'semi-automatic' airsoft guns with a muzzle energy in excess of 1.3 Joules are prohibited weapons.

In Scotland due to the Air Weapons and Licensing (Scotland) Act 2015, people who possess airsoft guns exceeding the muzzle energies stated above will require an air weapons certificate.

Note: Air soft guns that fall under the relevant energy thresholds remain subject to existing imitation firearm laws.

Component parts defined

The component part of a firearm which is subject to licencing is defined for the first time as follows:

“barrel, chamber or cylinder, a frame, body or receiver, a breech block, bolt or other mechanism for containing the pressure of discharge at the rear of a chamber – but only where the item is capable of being used as a part of a lethal-barrelled weapon or a prohibited weapon.”

This amendment removes any doubt as to the status of other parts by defining finished major components. This does not apply to the components of a shotgun, just a Section 1 firearm. This results in no change for the shooting community as it enshrines current practice based on the Firearms Consultative Committee recommendations contained in its 9th annual report¹.

Antique firearms defined

This is to import clarity and certainty into the exemption at s58(2) of the Firearms Act 1968. The detail will be dealt with by Statutory Rules, for which there will be a consultation in due course. BASC will be part of that consultation.

An antique firearm must be either of a specified obsolete action type – flintlock, percussion etc. or it must be chambered for a cartridge on a list agreed by the Home Secretary. In practice there will be no real change for collectors, however the defence that something is “an old gun so it must be antique” will no longer apply.

Antique firearms held under s58(2) of the Firearms Act 1968 Act which will fall outside the description of those listed in new Statutory Rules will have to be added to a firearm or shotgun certificate. An applicant will not be refused a grant or renewal of a certificate in these circumstances. Good reason will not need to be made out. Certain firearms, if excluded, will revert to prohibited weapons status e.g. pistols. Private individuals who possess such firearms are exempt from the requirement of a prohibited weapons authority issued by the Home Office. Firearms dealers who possess such firearms as part of their business will require a prohibited weapons authority.

Conversion of imitation firearms into real ones

It will be an offence to possess tools etc. with the intention of using them to convert imitation guns into real ones. The major ingredient of this offence is “intent”.

Defectively deactivated weapons

The 2017 Act provides for the new offence of unlawful supply, or offer to supply, a defectively deactivated weapon to another person in the UK or any other Member State of the European Union. It enables law enforcement to take action against the availability of firearms deactivated to inappropriate standards which, consequently, can be ‘reactivated’ and used in crime. This is consistent with the Law Commission’s recommendation to enforce ‘approved standards’ and builds on the steps taken by the UK and other Member States to establish minimum technical standards for the lawful transfer of deactivated firearms within the European Union.

¹ <https://www.pdf-archive.com/2015/05/20/fcc-9th-report-1/fcc-9th-report-1.pdf>

Ammunition which expands on impact

This reverts to Section 1 and is a major success. This will be hugely beneficial to BASC members who stalk deer or shoot vermin. BASC has been campaigning for this since 1997 when expanding ammunition went into the prohibited category. The expanding missiles have no legal status as they are just inert lumps of metal/plastic. Until now, expanding ammunition could not be possessed on a Section 7 Temporary Permit where a certificate renewal was significantly delayed. This limited a person's ability to carry out pest, predator and deer management to protect livestock, growing crops and timber.

Expanding pistol ammunition will remain controlled in the UK. The EU Weapons Directive 91/477/EEC of the 18 June 1991 prohibited expanding pistol ammunition except for certain purposes e.g. humane dispatch. Pistol cartridge ammunition for rifles will be exempt where it is loaded specifically for rifles of the correct proof. The loading and ballistic qualities, i.e. chamber pressure, must be taken into account rather than the appearance or chamber dimensions.

Who will this help?

The gun trade will no longer require the Secretary of State's authority to manufacture. Couriers for the gun trade will no longer have to treat expanding ammunition as prohibited weapons for which extra requirements exist for its security and movement. Loose expanding bullets will not be subject to recording in a dealer's register of transactions.

For firearm certificate holders (personal purchases); couriers such as Royal Mail currently ban the movement of 'ammunition' and expanding bullets through their service because of the 'face-to-face' transfer requirement in law. As a result of this amendment, expanding bullets will no longer be caught by 'face to face' transfer requirement and will be able to be purchased via mail order, subject to service provider terms and conditions.

Mail order importation from abroad will no longer be prohibited as such bullets will fall outside import controls.

Owners of large calibre rifles designed for hunting dangerous game, e.g. .375 and above, are currently prohibited from possessing expanding ammunition for their rifles in this country. They may not therefore zero and practice in Britain with their rifles using the ammunition which they will be using overseas. They will now be able to do so.

Authorised lending and possession of firearms for hunting etc.

This amendment is the result of an attempt to simplify the shotgun and rifle exemptions within the 1968 and 1988 Firearms Acts for the purpose of lending a shotgun or rifle on land. They used terms not defined in law, especially "occupier".

The new exemption is drafted in quite broad terms so as to refer to the lender as "A person who has a right to allow others to enter the premises (it means land) for the purpose of hunting animals, shooting game or vermin". That person may authorise another in writing to lend a rifle or shotgun on those 'premises'. The following conditions have to be met for this to be lawful;

- The borrower of a rifle must be over 17.
- The borrower of a shotgun may be any age.
- The lender must be aged 18 or older (rifle and shotgun).
- The borrower must be in the presence of the lender i.e. in sight and earshot.

- The lender and borrower must comply with any conditions of the lender's certificate.
- The purpose of the loan is only for hunting animals, shooting game or vermin or shooting artificial targets.
- Written permission is required for the borrower where they do not have a right to allow others onto the land to shoot. Verbal permission is no longer permitted.

The current s11(6) exemption for shooting artificial targets with shotguns remains untouched.

Limited extension of firearm and shotgun certificates

If an application to renew a certificate is made eight weeks prior to expiry and if the outcome of the application is not determined by the Chief Officer before the certificate expires, then it is automatically renewed for an eight week extension.

This change in law will avoid the need to transfer guns to another authorised person or to a registered firearms dealer (RFD). Alternatively, it will reduce significantly the need for police to issue temporary permits to authorise continued possession.

Such permits do not authorise the possession of certain exempted prohibited weapons i.e. handguns for dispatch, trophies of war, heritage pistols, darting equipment and certain collectors' items. Permits also prevent the holder from purchasing section 1 ammunition or new firearms.

The practicalities of buying section 1 ammunition with an extended/expired certificate have yet to be explored.

Who will this help?

Many people depend on their firearms for their livelihood and the inability to use their shotguns and firearms would undermine their ability to work. Pest and predator control are vital to protect livestock, crops and timber. The UK's burgeoning deer population also needs constant attention. Additionally, every certificate holder should be permitted full use of their possessions under human rights legislation. Police delays caused by anything other than public safety concerns or national security fall foul of such legislation.

New powers to charge for prohibited weapon authorities & revision of fees for Home Office approved target shooting clubs and museums firearms certificates.

This will allow the Home Office to charge a fee for Section 5 dealers for the first time.

The Home Secretary's authority is needed to possess items contained in Section 5 of the Firearms Act 1968. This is in addition to being registered with the police as a firearms dealer.

The Guide on Firearms Licensing Law to be made statutory

Details of what parts of the current Home Office Guidance are to become statutory are yet to be finalised. BASC has been in early discussions and will be involved in the final process. It will involve licensing processes. One aim of the statutory guidance is to aid the courts when considering appeals. It may also help hold police to account outside the courts. This provision should go a long way towards consistency of administrative application of the law by the police.

Resources

Updated BASC fact sheet 'Borrowing Shotguns' -

<https://basc.org.uk/wp-content/plugins/download-monitor/download.php?id=39>

Updated BASC fact sheet 'Borrowing Rifles' -

<https://basc.org.uk/wp-content/plugins/download-monitor/download.php?id=38>

Deactivation of firearms –

<https://www.gov.uk/government/publications/the-adaptation-of-shotgun-magazines-and-the-deactivation-of-firearms-revised-2010>

<https://www.gov.uk/government/publications/deactivated-firearms-implementing-regulation-eu-20152403>

ENQUIRIES TO: Phone 01244-573010
E-mail: firearms@basc.org.uk

© BASC March 2017