



Home Office Circular

From: Crime Reduction and Community Safety Group (CRCSG) - Specialist Crime Directorate, Specialist Crime 1

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No Linked Circulars

THIS CIRCULAR IS ADDRESSED TO:
Chief Officers of Police (England, Wales & Scotland), Chief Crown Prosecutors

COPIES ARE BEING SENT TO :
Chief Clerk to the Crown Court, Clerk to the Magistrates Court Committee, Circuit Administrators

Broad Subject: Crime and Disorder

Sub Category: Firearms

This circular advises recipients of the commencement on 6 April 2007 of certain provisions in Part 2 of the Violent Crime Reduction Act 2006. The Commencement Order can be downloaded from the following link
<http://www.opsi.gov.uk/si/si2007/20070858.htm>.

Section 30: Minimum sentences for certain firearms offences

2. The Criminal Justice Act 2003 introduced a mandatory minimum sentence for anyone convicted of unlawful possession etc of certain prohibited weapons under section 5 of the Firearms Act 1968. The intention was that anyone charged with another offence involving the relevant prohibited weapons (for example, possession of a firearm with intent to injure) would also be charged and prosecuted for unlawful possession of that weapon, thereby attracting the minimum sentence. However, following a case in 2005 in which this did not happen and an offender escaped the minimum sentence, the Government was asked to apply the minimum sentence specifically to other serious firearms offences in order to simplify the charging process.

3. Section 30 achieves this by applying the minimum sentence provisions in section 51A of the 1968 Act to the following offences in that Act:

section 16 possession of firearm with intent to injure;

section 16A possession of firearm with intent to cause fear of violence;

section 17 use of firearm to resist arrest;

section 18 carrying firearm with criminal intent;

section 19 carrying a firearm in a public place; and

section 20(1) trespassing in a building with firearm.

4. The minimum sentence will apply to these offences only where the weapon (or ammunition) used was one to which the minimum sentence provisions already apply - ie, one falling under section 5(1)(a), (ab), (aba), (ac), (ad), (ae), (af) or (c) or section 5(1A)(a) of the 1968 Act.

Section 31: Prohibition on sale or transfer of air weapons except by registered dealers

5. This section makes it an offence for anyone to sell or transfer an air weapon by way of trade or business unless they are registered with the police as a firearms dealer under section 33 of the 1968 Act. The Commencement Order will bring into effect from 6 April only section 31(3) of the 2006 Act and only for the purposes of sections 33 to 39 and other specified parts of the 1968 Act in order to allow retailers to apply for registration and to enable the police to consider such applications. Police forces may wish to co-ordinate applications for registration and the entry of dealers in the register with the coming into force of the remainder of section 31, which will be subject to another commencement order. Forces will be further advised when this has been made.

6. It has been agreed with ACPO and ACPOS that security requirements for dealers trading only in air weapons should be normally equivalent to level 1 from the Firearms Security Handbook 2005 (available at www.police.homeoffice.gov.uk).

7. In accordance with section 58(2) of the 1968 Act, it will not be necessary to register as a dealer where sales or transfers involve only antique air weapons which are kept as curiosities or ornaments. Following consultation with the police and interested parties the Home Office is of the view that any air weapon manufactured before 1939 should normally be regarded as an antique for these purposes. This advice applies only in these very limited circumstances and does not apply to assessing whether other firearms are antiques under section 58(2), where the existing guidance in chapter 8 of *Firearms Law, Guidance to the Police 2002* should be used. 8. Section 31(2) of the 2006 Act will require dealers to keep a register of air weapon transactions. Regulations amending the Firearms Rules 1998 to specify what details a dealer must enter into the register are being prepared and will be published separately.

Section 35: Restriction on sale and purchase of primers

9. Previously, firearms law did not control component parts of ammunition. In recent years police have identified several cases where criminals have been found in possession of home-loaded ammunition. Section 35 addresses this concern by introducing controls on the purchase and sale of cap-type primers designed for

use in metallic ammunition for a firearm, including empty cartridge cases incorporating such primers. Section 35 makes it an offence to sell these items unless the purchaser:

- is a registered dealer;
- sells by way of trade or business either primers or empty cartridge cases incorporating primers;
- produces a certificate authorising him to possess a firearm of a relevant kind (ie a firearm other than a shotgun, an air weapon or a firearm chambered for rim-fire ammunition) or ammunition for such a firearm;
- is a duly authorised Crown servant;
- shows he is entitled under an enactment to possess a firearm or ammunition of a relevant kind without a certificate;
- shows he has authority to purchase primers on behalf of another certificate holder; or
- is authorised by regulations to purchase primers. This is a contingency provision and to date no regulations have been made.

10. Section 35 also makes it an offence to buy, or attempt to buy, primers unless the purchaser meets the same criteria.

11. The definitions used in section 35 mean that it does not apply to blank ammunition, shotgun primers or to percussion caps for muzzle-loading firearms.

12. The maximum penalty for an offence under this section is six months imprisonment or a £5,000 fine, or both.