

FIREARMS (NORTHERN IRELAND) ORDER 2004

S.I. 2004 No. 702 (N.I. 3)

EXPLANATORY MEMORANDUM

INTRODUCTION

The Firearms (Northern Ireland) Order 2004 No. 702 (N.I. 3) was made under paragraph 1(1) of the Schedule to the Northern Ireland Act 2000.

This Explanatory Memorandum has been prepared to assist the reader in understanding the Order and does not form part of the legislation.

POLICY OBJECTIVES

The Order seeks to provide a legislative framework for the control of firearms which is both effective and proportionate and strikes the right balance between public safety and the reasonable expectations of legitimate shooting enthusiasts. The opportunity was taken to reduce regulation where that could be done without compromising public safety.

BACKGROUND

The Order was prepared following a detailed review of Northern Ireland's firearms legislation, principally the Firearms (Northern Ireland) Order 1981, by the Northern Ireland Office. The review also examined the proposals for the reform of firearms controls in Great Britain contained in Lord Cullen's report of his Inquiry into the fatal shootings at Dunblane Primary School on 13 March 1996.

The Government proposals were subjected to consultation at various stages of the review and drew comment from a wide cross section of interested groups and organisations. A Proposal for a Draft Firearms Order was laid in Parliament on 22 July 2002 and consultation on it continued until 31 December. The Proposal was scrutinised by the Northern Ireland Affairs Committee as part of its Inquiry into Northern Ireland's firearms controls. The Committee published its Report on 4 February 2003 and the Government responded on 4 April. The Draft Order was also examined by the Committee. The Committee raised a small number of issues, mainly of a drafting and technical nature, which the Government addressed. The Committee subsequently confirmed that it was content with the Order.

MAIN ELEMENTS OF THE ORDER

Much of the 1981 Order was re-enacted, some with amendment. The Order also includes a number of new provisions which will improve public safety and lead to a simpler regulatory regime for the police and shooting enthusiasts. In particular the Order provides the following major changes:

- The replacement of the system of firearm certificate renewals with one of ongoing grants.
- a period of supervised shooting for first time certificate holders and those existing certificate holders seeking to acquire a firearm of a significantly different design or type from one already held;
- an extended firearm certificate from 3 years to 5 years.
- de-certification of low powered air guns (of 1 joule muzzle energy or less) and deactivated firearms;
- provision for the borrowing of shotguns and estate rifles;

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- provision for paintball;
- provision for firearms dealers, rather than the Chief Constable, to amend firearm certificates for those persons wishing to substitute one shotgun for another;
- provision for museum firearms licence;
- provision for an increased role for civilian support staff in firearms licensing.

NOTES ON ARTICLES

A short note on each article follows.

Article 1 - Title and Commencement

Cites the title of the Order and empowers the Secretary of State to bring the provisions into operation by commencement order. Commences Articles 79 – 81 on the expiration of one month from the date on which the Order is made.

Article 2 – Interpretation

Applies the Interpretation Act (Northern Ireland) 1954 to the Order and defines other terms.

Article 3 - Firearm certificate required

Makes it an offence to possess, purchase or acquire any firearm or ammunition without holding an appropriate firearm certificate for them. Schedule 1 sets out the exemptions to this requirement. The separate provision for handguns takes account of the Government's decision to provide for a mandatory minimum sentence for the illegal possession of certain prohibited weapons. Handguns are not prohibited in Northern Ireland, as they are in the rest of the United Kingdom, and separate provision is therefore required to ensure that their criminal misuse attracts the 5-year mandatory minimum sentence. The maximum sentence for the handgun offence has also been raised to 10 years thereby bringing Northern Ireland into line with Great Britain.

Article 4 - Application for firearm certificate

Provides the application procedure for the grant of a firearm certificate by the Chief Constable. It is an offence knowingly or recklessly to make any false statement to obtain a firearm certificate. The procedure includes new requirements for an applicant to provide the names of two appropriate persons to act as referees and to permit the Chief Constable to approach his general medical practitioner to obtain factual medical information relevant to the application.

Article 5 - Grant of firearm certificate

Provides the criteria whereby the Chief Constable may grant a firearm certificate. These have been recast to give primacy to public safety. A new criterion that the applicant must be a fit person to be entrusted with a firearm has been added. It also provides for the Chief Constable, to issue a duplicate certificate, on payment of the appropriate fee.

Article 6 - Conditions

Provides that the Chief Constable may when granting a firearm certificate attach conditions to it and may at any time attach new conditions, vary or revoke them. Where the applicant has not previously held a firearm certificate or is seeking to acquire a firearm of a significantly different type from any firearm previously held, the Chief Constable may attach a condition requiring him to be supervised by an experienced firearm user when in possession of the loaded firearm and when using it.

Article 7 - Grant of a firearm certificate to young persons

Provides that the Chief Constable may grant a firearm certificate to a young person of between 16 and 18 years. Where the young person resides and works on agricultural land he may be granted a certificate for an air gun, a shotgun or a .22 rimfire rifle for the purpose of pest control or the protection of livestock on those lands. A young person may also be granted a certificate for an air gun or a shotgun, for sporting purposes. He must be supervised for a period of at least 12 months when in possession of the firearm and any ammunition by someone of 21 years or over who has held a certificate for that type of firearm for at least 3 years.

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Article 8 - Content and duration of firearm certificate

Provides that a firearm certificate should contain a description of each firearm to which it relates and specify the quantities of ammunition which can be purchased or held at any one time. The certificate must also specify the conditions subject to which it is held and the date on which it expires. The following new provisions have been included - a requirement for the inclusion of the details of any firearms club of which the holder is a member, an increased duration period, from 3 to 5 years and an order making power for the Secretary of State to vary the duration of firearm certificates.

Article 9 – Revocation of firearm certificate

Provides that the Chief Constable shall revoke a firearm certificate where he is satisfied that the holder cannot be permitted to have it in his possession or to purchase or acquire a firearm or ammunition without danger to public safety or to the peace and where he is satisfied that the holder is prohibited under the Order from possessing a firearm. He may revoke a firearm certificate if he has reason to believe that the holder is not a fit person to be entrusted with a firearm or does not have a good reason for any firearm to which the certificate relates. He may also revoke a certificate if the holder fails to produce it when required to do so under Article 6(2). He may partially revoke a firearm certificate in relation to a firearm or ammunition where he has reason to believe that the holder does not have a good reason for them.

Article 10 – Consequences of revocation

Sets out the actions that the Chief Constable and the holder of a firearm certificate must take as a consequence of revocation. In particular the Chief Constable must require the holder to surrender his certificate and the relevant firearms and ammunition. In the case of partial revocation he must require the holder to produce the certificate for amendment and surrender the relevant firearms and ammunition. The holder is guilty of an offence if he fails to comply within 21 days or within such further time as the Chief Constable may in special circumstances allow. The Chief Constable may also require the holder to dispose of the firearms and ammunition within a specified time. In the event that the holder appeals against the revocation or partial revocation this will not apply unless the appeal is abandoned or dismissed, in which case it will apply with the date on which the appeal was abandoned or dismissed substituted for the original date of the Chief Constable's notice. If the holder does not dispose of the firearms the Chief Constable may order that they be destroyed or otherwise disposed of.

Article 11 – Variation of firearm certificate

Provides that the Chief Constable may vary a firearm certificate on the application by the holder, on payment of the appropriate fee. If the variation is for an additional firearm or ammunition it will attract the grant provisions of Article 5. A new provision enables a firearms dealer to vary a firearm certificate where the holder is seeking to replace a shotgun with another shotgun, a transaction commonly referred to as a "one for one". Both parties are required, under Article 40, to advise the Chief Constable of the details of the variation within 72 hours. There is no fee for this type of transaction.

Article 12 – Certificate for prohibited weapon

Provides that the Chief Constable shall not refuse to grant nor shall he revoke nor partially revoke a firearm certificate in respect of a prohibited weapon or ammunition if the applicant or holder is authorised by the Secretary of State to have the weapon or ammunition. It further provides that if that authorisation is revoked by the Secretary of State, the Chief Constable shall revoke, or partially revoke, the associated firearm certificate.

Article 13 – Surrender, etc. of firearms on expiration of firearm certificate

Provides that the Chief Constable may require the surrender of an expired firearm certificate together with the relevant firearms and ammunition. The holder shall be guilty of an offence if he fails to comply. The Chief Constable may require the holder to dispose of the firearms and ammunition and if he does not comply he may order that they be destroyed or otherwise disposed of.

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Article 14 – Museum firearms licence

Gives effect to Schedule 2 which provides for a museum firearms licence and exempts firearms and ammunition in museums and similar institutions from certain provisions of the Order.

Article 15 – Visitors’ firearm permits

Provides that the holder of a visitor’s firearm permit may possess any firearm specified in the permit and possess, purchase or acquire any ammunition in accordance with the permit without the requirement of a firearm certificate. The Article requires that an application for a permit is made on behalf of a visitor by a person resident in Northern Ireland, who may make a group application for up to 20 persons. This replaces the existing visitor’s firearm certificate procedure with arrangements similar to those in GB.

Article 16 – Revocation or variation of visitor’s firearm permit

Provides that the Chief Constable may revoke a visitor’s permit or vary its conditions and in order to do that he can require the holder to surrender it. It is an offence for the holder not to comply.

Article 17 – Firearm certificates and shotgun certificates granted in Great Britain

Provides for the holder of a firearm certificate or shotgun certificate granted in Great Britain to possess his firearms in Northern Ireland provided that he has obtained a certificate of approval from the Chief Constable.

Article 18 – Air Guns held without a firearm certificate in Great Britain

Provides that a Great Britain resident may possess an airgun in Northern Ireland without a firearm certificate if he may hold that air gun without a certificate in Great Britain, provided that he has obtained a certificate of approval from the Chief Constable.

Article 19 – Issue of European firearms pass

Provides for the issue of a European firearms pass to persons wishing to take their legally held firearms to another member State and prescribes the particulars which the pass must contain.

Article 20 - Duration of a European firearms pass.

Provides that a European firearms pass should be valid until the expiry date of the firearm certificate to which it relates.

Article 21 – Renewal of European firearms pass

Provides for the renewal of a European firearms pass, and where it has expired, without being renewed, for its surrender to the Chief Constable. Non-compliance is an offence.

Article 22 – Article 7 authorities

Provides for the issue of an Article 7 authority, which is a requirement of the European weapons directive whereby any EU resident who wishes to buy or acquire a category B firearm (firearms subject to authorisation), or ammunition for such a firearm, in another EU State must, unless he is exempt under the Directive, obtain the prior agreement of his own authorities.

Article 23 – Variation, endorsement, etc. of European documents

Provides that a European firearms pass may be varied, revoked or cancelled by the Chief Constable. He may also revoke an Article 7 document. The Article sets out the procedure to follow in the event of the loss or theft of a firearm identified on a pass.

Article 24 – Firearms dealer’s certificate required

Makes it an offence, subject to separate provisions for auctioneers and occasional permits, for any person to trade or operate as a firearms dealer without holding a firearms dealer’s certificate issued by the Chief Constable.

Article 25 – Application for firearms dealer’s certificate

Details the procedure and requirements for making an application to the Chief Constable for the grant of a firearms dealer’s certificate.

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Article 26 – Grant of firearms dealer’s certificate

Replaces the practice of registering firearms dealers and the issue of a certificate of registration with a more straightforward system of authorisation by way of the grant of a firearms dealer’s certificate and provides the criteria for the grant of a certificate. The Article brings the legislation into line with Great Britain by replacing the “need” criterion of the current Order with the requirement that the Chief Constable is satisfied that the applicant will engage in business as a firearms dealer to “a substantial extent or as an essential part of another trade or profession”.

Article 27 – Conditions

Provides that the Chief Constable may, when granting a certificate, attach conditions to it and that subsequently he may, by notice in writing, vary or revoke them. The powers of the Chief Constable include the power to restrict the types, numbers and quantities of firearms and ammunition which a dealer may hold. The Article gives the Secretary of State the power to give directions to the Chief Constable as to the conditions to be imposed, varied or revoked. In order to effect any of this the Chief Constable may require a dealer to produce his certificate to him and failure to do so may result in its revocation under Article 29.

Article 28 – Content and duration of firearms dealer’s certificate

Provides that a firearms dealer’s certificate should specify every place of business, any conditions, the date on which it ceases to be in force and that it should have a 5-year duration.

Article 29 – Revocation or variation of firearms dealer’s certificate

Provides for the revocation and variation of a firearms dealer’s certificate by the Chief Constable. The Chief Constable may also vary a firearms dealer’s certificate on the application of the holder.

Article 30 – Consequences of expiration or revocation of firearms dealer’s certificate

Provides that when a firearms dealer’s certificate has expired the Chief Constable may, or if it has been revoked, he must, require the surrender of the certificate, any records of transactions and stock of firearms and ammunition. Failure to comply constitutes an offence. If the holder appeals against revocation this requirement will not apply unless the appeal is abandoned or dismissed in which case it will apply with the date on which the appeal was abandoned or dismissed substituted for the original date of the Chief Constable’s notice of disposal. The Chief Constable may also require the dealer to dispose of the stock of firearms and ammunition and where this is not done he can order their destruction or disposal by some other means.

Article 31 – Places of business: addition to certificate

Provides for a firearms dealer to apply to the Chief Constable for a new place of business to be added to his certificate.

Article 32 – Places of business: removal from certificate

Provides for the removal of a place of business from a firearms dealer’s certificate by the Chief Constable.

Article 33 – Consequences where dealer convicted of an offence

Sets out the powers available to a court where a firearms dealer is convicted of an offence either under this Order or under the law relating to the import and export of firearms or ammunition. There is also an appeal provision for a person aggrieved by the decision of the court.

Article 34 – Exemptions from Article 24 for auctioneers

Provides an exemption from the requirement of a firearms dealer’s certificate for an auctioneer where he has a permit from the Chief Constable. The Chief Constable may at any time attach, vary or revoke conditions or revoke a permit.

Article 35 – Occasional permits

Provides for the issue of an occasional permit by the Chief Constable to allow a firearms dealer to trade at a place not specified on his certificate. The Article sets down the application process, the powers of the Chief Constable to grant, condition and limit the permit as well as specifying other details which it should contain. The Chief Constable may require the holder to surrender a permit

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to enable him to attach, vary or revoke any condition of the permit. Failure to do so may result in its revocation under Article 36. It is an offence not to comply with a condition of a permit.

Article 36 – Revocation or variation of occasional permit

Provides for the revocation or variation of an occasional permit by the Chief Constable. Specifically, he can revoke the permit where the holder fails to comply with a condition or fails to surrender it under Article 35. It is an offence not to comply with a written notice to surrender a permit which has been revoked. In the event of an appeal these provisions will not apply unless the appeal is abandoned or dismissed. A permit may also be varied on application of the holder.

Article 37 - Business and other transactions with firearms and ammunition

Makes it an offence for a person to sell, transfer, repair, test or prove any firearm or ammunition to or on behalf of any other person in the United Kingdom other than a firearms dealer, unless the other person produces a firearm certificate authorising his purchase, acquisition or possession of the firearm or shows that he is permitted by the Order to do so without holding a certificate. Where a person seeking to pursue any of the above produces a false certificate or other document, personates another person or makes a false statement he shall be guilty of an offence. It is an offence for a pawnbroker to take firearms or ammunition in pawn. It is not an offence for carriers and warehousemen or their employees to deliver any firearm or ammunition in the course of their business or employment as such.

Article 38 – Record of transactions in firearms

Requires firearms dealers to keep records of transactions and to retain all relevant documents for 2 years. The Article also specifies the information to be kept in the records, when they are to be made and that they are to be kept for a period of 5 years, which is a reduction on the previous 10-year requirement. There is provision for an authorised officer (a constable or a member of the police support staff) to enter a dealer's premises and inspect his stock, records and relevant documents. Where the record is held in an electronic form the dealer must ensure that it can be easily produced in a readable form which can be taken away. The Article does not apply to sale by auction in accordance with a permit issued under Article 34(1).

Article 39 – Transfers of firearms and ammunition to be in person

Provides the procedure and requirements in the case where a firearm or ammunition is sold, let on hire, lent or given by one person to another where neither person is a firearms dealer or is exempted from the requirement of a firearm certificate or visitor's permit. In particular it provides for the transfer to be in person. Failure to comply is an offence. This brings Northern Ireland into line with Great Britain.

Article 40 – Notification of dealings involving firearms

Provides that, where in Northern Ireland, a firearm is sold, let on hire, lent or given, and the parties involved are a firearms dealer or the holder of a firearm certificate or a visitor's permit they must notify the Chief Constable within 72 hours and provide him with required details. Failure to comply is an offence.

Article 41 – Notification of loss, repair or deactivation of firearms, etc.

Provides that where in Northern Ireland a firearm is lost or stolen the certificate or permit holder must notify the Chief Constable immediately. Where a firearm, which has been ballistically tested under Article 54, is subsequently repaired or altered, the certificate or permit holder must notify the Chief Constable within 72 hours. If a firearm is destroyed or deactivated, the Chief Constable must be notified within 7 days. The Article prescribes the content of the notice. Failure to comply is an offence.

Article 42 – Notification of disposal or destruction, etc. taking place outside Northern Ireland

Provides that where outside Northern Ireland any firearm is sold or otherwise disposed of or is deactivated, destroyed or lost or stolen or any ammunition is lost or stolen, the transferor or the certificate holder must notify the Chief Constable within 7 days. There is also provision for the content of the notice and an offence

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Article 43 – Purchase or acquisition of firearms in other member States

Provides that where a Northern Ireland resident purchases or acquires a firearm, falling within Category C (firearms subject to declaration) for the purposes of Annex 1 of the European weapons directive, in another member State, he must within 7 days advise the Chief Constable. He is not required to do so where the firearm is to be used in and is not to be removed from that member State. Neither is he required to do so where he holds a firearm certificate for the firearm and it contains a condition that he has it as part of a collection. Failure to comply is an offence.

Article 44 – Firearms acquired for export

Provides for a person, who does not hold a firearm certificate, to purchase a Category B firearm (firearm subject to authorisation for the purposes of Annex 1 to the European weapons directive) from a firearms dealer for export from Northern Ireland. The Article sets out the conditions and the documents required for such a purchase. A firearms dealer is required to notify the Chief Constable of the transaction within 48 hours. Failure to comply is an offence.

Article 45 – Weapons subject to general prohibition

Lists the categories of weapons and ammunition which are prohibited and which require the Secretary of State's authorisation for their possession, purchase, acquisition, manufacture, sale or transfer.

Article 46 – Exemptions from the requirement of authority under Article 45

Permits prohibited weapons to be purchased or acquired without the Secretary of State's authorisation in certain circumstances. In particular it provides that a person may purchase or acquire a weapon and ammunition designed or adapted for the purpose of tranquillising or otherwise treating animals provided it is held on a firearm certificate conditioned for that specific purpose. This brings Northern Ireland into line with Great Britain.

Article 47 – Possession of firearms on service premises

Provides for a person under the supervision of a member of the armed forces to possess a firearm and ammunition on service premises without the need for a firearm certificate or, in the case of a prohibited weapon, without the authority of the Secretary of State. The exemption extends to a person undergoing training and assessment under the supervision of a member of the Ministry of Defence police. It does not apply to a person providing security protection on service premises.

Article 48 - Power to prohibit movement of firearms and ammunition

Empowers the Secretary of State to prohibit by order the removal of a firearm or ammunition from one part of Northern Ireland to another or to Great Britain or for export unless it is authorised by the Chief Constable and any conditions imposed by the Secretary of State are met.

Article 49 - Authorisation of firearms clubs

Provides for the authorisation of firearms clubs and places the responsibility for it on the Chief Constable rather than the Secretary of State as at present. It also introduces a fee for authorisation, as is the practice in Great Britain, and extends the period of authorisation from 3 to 5 years.

Article 50 – Revocation or variation of authorisation

Provides for the revocation of a firearms club's authorisation by the Chief Constable on the grounds of public safety. The Article also provides for an officer of the club to apply for a variation of an authorisation.

Article 51 – Power of entry

Provides power of entry for a constable or a member of the police support staff authorised by the Chief Constable to enter and inspect firearms club premises and makes it an offence to obstruct such an inspection.

Article 52 - Power of search with warrant

Provides for the grant of a warrant by a Justice of the Peace authorising a constable or a member of the support staff to enter and search any premises or place where there is reasonable suspicion

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that an offence under this Order is being or is about to be committed and to seize and detain anything or any person in that connection. It is an offence to obstruct such a search.

Article 53 - Powers of constable to stop and search

Empowers a constable to stop any person, whom he suspects of having a firearm or ammunition in a public place or of carrying a firearm with criminal intent or of trespassing with a firearm, and to require him to hand them over for examination. Failure to comply is an offence. A constable may search a person if he suspects him of having a firearm or ammunition in contravention of the Order. He may stop and search any vehicle if he suspects it contains a firearm in a public place or that it is being or about to be used in connection with an offence under Article 60 or 62 elsewhere than in a public place. It is an offence for the person driving or in control of the vehicle to fail to stop or to allow the vehicle to be searched. In order to exercise the powers under this Article a constable may enter any place.

Article 54 - Production of firearms for ballistic and other tests

Provides that the Chief Constable may require the production of any firearm to have ballistic or other tests carried out on it. This requirement currently does not apply to shotguns and air guns.

Article 55 - Production of certificates, etc

Provides that a constable may, if he believes that a person has a firearm or ammunition, demand that he produces a firearm certificate or a European firearms pass. It is an offence for a person in possession of a firearm not to comply with such a demand. If he fails to do so and he fails to show that he is exempt from the requirement of a firearm certificate; or by reason of his place of residence he is not entitled to a European firearms pass for the firearm in question; or he, or the person on whose behalf he is holding the firearm, is recognised under the firearms law of another member State as a collector of firearms or a body concerned in the cultural or historical aspects of weapons, the constable may seize and detain the firearm or ammunition and require the person to declare his name and address. Refusal to declare is an offence.

Article 56 - Police powers in relation to firearms traffic

Provides that a constable may search for and seize any firearms or ammunition which he has reason to believe are being moved either in contravention of an order made under Article 48 or an order made by the Home Secretary prohibiting the removal of firearms or ammunition from Great Britain to Northern Ireland.

Article 57 - Seizure and detention of firearms and ammunition

Provides that in addition to any other powers conferred by this Order a constable may seize and detain any firearms or ammunition in the possession of a person whom he believes to have them in breach of any of the provisions of this Order.

Article 58 - Possession with intent

Makes it an offence for any person to have in his possession a firearm or ammunition with intent to endanger life or cause serious damage to property or to enable another person to do so, whether or not any injury or damage is actually caused. It also makes it an offence for any person who has in his possession a firearm or imitation firearm with intent to cause or enable someone else to cause any other person to believe that unlawful violence will be used against him or anyone else.

Article 59 - Use of firearm to resist arrest

Makes it an offence for a person to use a firearm or imitation firearm to resist or prevent the arrest or detention of either himself or another person. It is also an offence if a person is in possession of a firearm or imitation firearm at the time of committing, or being arrested for, an offence specified in Schedule 4, unless he shows that he had it for a lawful purpose.

Article 60 - Carrying firearm with criminal intent

Makes it an offence to carry a firearm or imitation firearm with intent to commit an indictable offence or to resist arrest or to prevent the arrest of someone else.

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Article 61 - Carrying or Discharging a firearm in a public place

Makes it an offence for a person to have in a public place a loaded shotgun or loaded air gun, or any other firearm, whether loaded or not, and ammunition for that firearm, or to discharge a firearm in a public place unless he has lawful authority or a reasonable excuse.

Article 62 - Trespassing with firearm

Makes it an offence for a person to trespass in a building or on any land with a firearm or imitation firearm without lawful authority or reasonable excuse.

Article 63 - Prohibition of possession, etc. of firearm by certain persons

Provides that a person convicted of a crime and sentenced to a period of imprisonment or detention in a young offenders centre of 3 years or more is prohibited for life from purchasing, acquiring or having a firearm or ammunition in his possession. Where the sentence is for a period of 3 months or more but less than 3 years he is prohibited for a period of 8 years. A person sentenced to detention during the pleasure of the Secretary of State under Article 45(1) of the Criminal Justice (Children) (Northern Ireland) Order 1998 is also prohibited for life.

A person subject to a recognizance to keep the peace or to be of good behaviour; or a probation order, a condition or requirement of which is that he shall not possess, use or carry a firearm; or a licence under Article 46 of the Criminal Justice (Children)(Northern Ireland) Order 1998, must not purchase, acquire or possess a firearm or ammunition. A person prohibited in Great Britain under section 21 of the Firearms Act 1968 is also prohibited in Northern Ireland. It is an offence to contravene any of the provisions of this Article.

A person prohibited under this Article may apply to the Secretary of State for the removal of the prohibition. It is an offence to sell, transfer, repair, test, etc. any firearm or ammunition to or for a prohibited person.

Article 64 - Possession of firearm or ammunition in suspicious circumstances

Makes it an offence for a person to have a firearm or ammunition in his possession in suspicious circumstances, unless he can show that he has it for a lawful purpose.

Article 65 - Possession of loaded firearm while drunk or under influence of drugs

Makes it an offence for a person to have a loaded firearm in his possession while drunk or under the influence of drugs.

Article 66 - Supplying firearm or ammunition to person who is drunk, etc.

Makes it an offence to sell or transfer any firearm or ammunition to a person who is drunk or under the influence of drugs or is suffering from a mental disorder.

Article 67 - Conversion of weapons

Makes it an offence for a person other than a firearms dealer to shorten the barrel of a shotgun to a length less than 60.96 centimetres or to convert into a firearm anything which, though having the appearance of a firearm, is incapable of discharging a missile. A person who possesses, purchases or acquires a shortened shotgun or a converted firearm without a firearm certificate shall be treated for the purposes of punishment as having committed the offence in an aggravated form.

Article 68 - Defences

Provides that in any proceedings for an offence under Articles 59(2), 61, 62, or 64 where the accused is required to show evidence of his innocence and he raises an issue to that effect, it is for the prosecution to prove the contrary beyond reasonable doubt.

Article 69 - Prosecution and punishment of offences

Provides for the manner in which offences under this Order are punishable on conviction and it is set out in Schedule 5.

Article 70 - Minimum sentence for certain offences

Provides for mandatory minimum sentences of 5 years (for persons aged 21 years and over) and 3 years (for those under 21) for the unauthorised possession of certain prohibited weapons under Articles 45(1),(a),(b),(c),(d),(e),(g) and (2)(a), provided the offender had attained the age of 16

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years at the time the offence was committed. It also applies the mandatory minimum sentences to the offence of purchase, acquisition or possession of a handgun under Article 3(1)(a). The Article provides the court with a discretionary power to impose an alternative penalty in exceptional circumstances.

Article 71 - Power by order to exclude application of minimum sentence to those under 18

Provides an order making power to enable the Secretary of State to amend Article 70 (1)(b) to raise the age requirement for the application of the mandatory minimum sentence from 16 to 18 years and to make any other necessary provision in connection with any amendment so made.

Article 72 - Forfeiture and disposal of firearms; cancellation of certificate by convicting court

Allows a court to order the forfeiture or disposal of firearms or ammunition and the cancellation of a firearm certificate. Where the court cancels a certificate it will advise the Chief Constable and he shall require the holder to surrender it. It is an offence to fail to do so. A constable may seize and detain any firearm or ammunition which is the subject of a forfeiture order. The Chief Constable may order the destruction of any firearm surrendered, seized, etc. for which a firearm certificate has not been granted. A court of summary jurisdiction may, on application of the Chief Constable, order the destruction of any firearm or ammunition seized under the Order. Where the holder of a firearm or ammunition is convicted of an offence under Article 48(4) or 56(3) the court may make an order as to their forfeiture. The Article provides for an appeal against the order of the court.

Article 73 - False statements

Makes it an offence for any person knowingly or recklessly to make a false statement to obtain the grant or variation of any certificate, licence, permit or authorisation under the Order, either for himself or someone else.

Article 74 - Appeal from decision of Chief Constable

Provides that a person aggrieved by certain decisions of the Chief Constable may appeal to the Secretary of State and in consideration of an appeal the Secretary of State may make such order as he thinks fit.

Article 75 - Fees

Gives effect to the fees payable in relation to any matter specified in Schedule 6. The Article also provides an order making power for the Secretary of State to vary or cancel any fee specified also to exempt certain matters from payment of a fee.

Article 76 - Application of Order to imitation firearms which are readily convertible into firearms

Applies the provisions of the Order, with certain exemptions, to imitation firearms which are readily convertible into firearms.

Article 77 - Application of Order to Crown servants

Exempts Crown servants, acting in their capacity as such, from certain (specified) articles of the Order where they relate to the possession of firearms and ammunition. In particular it provides an exemption from the requirement to hold a firearm certificate for persons in the service of the Crown, who either possess firearms in their capacity as such or who purchase firearms and ammunition for the public service.

Article 78 - Application of certain provisions of this Order to police

Provides an exemption from the requirement to hold a firearm certificate for members of the Police Service of Northern Ireland, police support staff, police trainees and police reserve trainees, and members of the Harbour and Airport Police, in so far as it relates to possession of a firearm in their capacity as such. In addition, it provides for the Chief Constable to purchase firearms and ammunition for police purposes, without the requirement of a firearm certificate.

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Article 79 - Delegation of functions

Provides that the Chief Constable may delegate any of his functions under the Order to other members of the Police Service and to police support staff. Formerly his delegation power was limited to police officers.

Article 80 - Regulations and orders

Provides that the Secretary of State may make regulations as to how the Chief Constable should carry out his duties under the Order or for generally carrying the Order into effect.

Article 81 - Saving and transitional provisions

Exempts antique firearms from the provisions of the Order and provides for the Secretary of State, by order, to make such other savings and transitional provisions as he thinks necessary or expedient. In addition, it provides that the provisions of the Order shall be in addition to and not in derogation of legislation relating to the keeping and sale of explosives.

Article 82 - Amendments and appeals

Gives effect to the consequential amendments in Schedule 7 and the repeals specified in Schedule 8.

Schedule 1 - Exemptions

Provides for persons to be exempted from the requirement of a firearm certificate in the following circumstances—

Paragraph 1 - Firearms dealers

A firearms dealer or his employee may possess, purchase or acquire a firearm or ammunition in the ordinary course of his business, including business at a place not specified on his firearms dealer's certificate, but see Article 35 (occasional permits). A customer may also possess a firearm or ammunition when under the supervision of a firearms dealer in the ordinary course of his business.

Paragraph 2 - Auctioneers, carriers and warehousemen

An auctioneer, carrier or warehouseman or his employee may possess a firearm or ammunition in the ordinary course of his business. He commits an offence if he fails to take reasonable precautions for the safe custody of such firearms or ammunition or if he fails to report their theft or loss to the Chief Constable.

Paragraph 3 - Slaughter of animals

A licensed slaughterer may have possession of a slaughtering instrument in a slaughterhouse in which he is employed, also the proprietor or a person appointed by him to take charge of the instruments.

Paragraph 4 - Equipment for ships and aircraft

A person may possess a firearm or ammunition on board a ship or a signalling apparatus on board an aircraft or at an aerodrome where it is part of the equipment. A person may remove such a signalling apparatus from an aircraft to a secure place of storage or between one aircraft and another at an aerodrome. A permit from the Chief Constable is necessary to cover any other case of removal of firearm or a signalling apparatus.

Paragraph 5 - Sporting purposes

A person may under instructions from another person, who holds a firearm certificate, carry a firearm or ammunition belonging to and for the use of the other person for sporting purposes only.

Paragraph 6 - Athletics meetings, etc.

A person may possess a firearm for controlling races at an athletics or other competitive meeting. Only blank ammunition as defined in Article 2 may be used.

*This Explanatory Memorandum refers to the Firearms
(Northern Ireland) Order 2004 No. 702 (N.I. 3)*

Paragraph 7 - Firearms clubs

A member of an authorised firearms club may possess a firearm and ammunition when engaged as a member of the club in or in connection with target shooting or drill.

Paragraph 8 - Recreation facilities

A person may possess an air gun, which has kinetic energy in excess of one joule and in the case of :-

- (i) a pistol, not more than 8.13 joules (6 foot pounds); or
- (ii) any other air gun, not more than 16.27 joules (12 foot pounds),

at a miniature rifle range, shooting gallery or a facility for combat games, providing the operator holds a firearm certificate for the air gun. In the case of combat games the exemption only applies to persons aged 16 years or more.

Paragraph 9 - Air guns and ammunition

Subject to certain, specified age restrictions, a person may possess, purchase or acquire an air gun which has kinetic energy of less than one joule. The following age restrictions to this apply:-

- (i) a person under the age of 14 years may only possess one when supervised by someone of 21 years or more; and
- (ii) only someone aged 17 years or more may purchase one.

Air gun ammunition may be possessed, purchased or acquired without restriction.

Paragraph 10 - Rifles

A person aged 18 years or more may borrow a rifle from the occupier of private premises, which includes any lands, and use it on those premises in the presence of the occupier or his employee provided the occupier holds a firearm certificate for it and the borrower complies with the certificate's conditions regarding borrowing and use. He may also purchase any ammunition up to the limit of the owner's authorisation for use with the rifle

Paragraph 11 - Shotguns

A person aged 18 years or more may borrow a shotgun from the occupier of private premises and use it on those premises in the occupier's presence. In addition, a person of that age may use a shotgun at a time and place approved by the Chief Constable for shooting at artificial targets.

Paragraph 12 - Theatre and cinema

A person taking part in a theatrical performance or in the production of a film intended for public exhibition may possess a firearm for use in connection with that. The Secretary of State may authorise a person in charge of a theatre performance or film production, and any other persons selected by him, to have possession of a prohibited weapon for use during the performance or production.

Schedule 2 – Firearms and ammunition in museums

Provides for all matters pertaining to the grant, variation and revocation of a museum firearms licence to a museum or similar institution which holds or intends to hold for the preservation of the public benefit a collection of firearms. The licence will allow those responsible for the management of a museum or their employees, without holding a firearm certificate, to possess, purchase or acquire for the museum, firearms or ammunition, including prohibited weapons and prohibited ammunition. The Secretary of State can attach conditions to the licence necessary for securing the safe custody of the firearms. Non-compliance constitutes an offence. The licence will operate for 5 years and the Secretary of State will have the power to extend or reduce its duration. He can revoke or vary the licence for which he can require its surrender. Non-compliance of such a requirement constitutes an offence. It will be a defence for anyone charged with an offence to prove that he took all reasonable precautions and exercised due diligence to avoid such an offence.