

SCHEDULES

SCHEDULE 11

Article 9

Amendments relating to firearms

Firearms (Northern Ireland) Order 2004

1. Amend the Firearms (Northern Ireland) Order 2004(1) as follows.
2. In Article 2(2) (definitions), at the appropriate place, insert—
“the Minister of Justice” means the Minister in charge of the Department of Justice;”.
3. In each of the following provisions for “Secretary of State” (wherever occurring) substitute “Department of Justice”—
 - (a) Article 2(7) (interpretation: ceasing to be a firearm);
 - (b) Article 8(3) (content and duration of firearms certificates);
 - (c) Article 23(1)(b) (variation of European firearms pass);
 - (d) Article 27(4) (conditions for firearms dealer’s certificate);
 - (e) Article 71(1) (power by order to exclude application of minimum sentence under Article 70 to those under 18);
 - (f) Article 75(3) (power to amend sum in Schedule 6);
 - (g) Article 77(2)(b) (persons in the service of the Crown in right of Her Majesty’s government in Northern Ireland);
 - (h) paragraphs 2(1), (3), (4) and (6), 3 and 4 of Schedule 2 (firearms and ammunition in museums).
- 4.—(1) Amend Article 48 (prohibition of movement of firearms and ammunition) as follows.
 - (2) In paragraphs (1) and (2) for “Secretary of State” substitute “appropriate authority”.
 - (3) After paragraph (4) insert—
 - (5) In this Article “the appropriate authority” means—
 - (a) in relation to prohibited weapons and prohibited ammunition, the Secretary of State;
 - (b) in relation to any other firearms or ammunition, the Department of Justice.”
- 5.—(1) Amend Article 63 (prohibition of possession etc. of firearm by certain persons) as follows.
 - (2) In paragraph (4) for “Secretary of State” substitute “Minister of Justice”.
 - (3) In paragraph (7) omit the words after “remove the prohibition”.
 - (4) After paragraph (7) insert—

(1) [S.I. 2004/702 \(N.I. 3\)](#), as amended by [S.I. 2005/1966 \(N.I. 16\)](#). There are other amendments of that Order, but none are relevant.

Status: This is the original version (as it was originally made).

“(7A) Where an application is made to the Secretary of State under paragraph (7) for the removal of a prohibition, the Secretary of State must—

- (a) remove the prohibition,
- (b) refuse the application, or
- (c) refer the application to the Minister of Justice.

(7B) But the Secretary of State may act under paragraph (7A)(a) or (b) only if the Secretary of State’s view that the prohibition should be removed or the application should be refused is arrived at (wholly or partly) on the basis of information the disclosure of which may, in the view of the Secretary of State, be against the interests of national security.

(7C) Where an application is referred to the Minister of Justice under paragraph (7A) (c), the Minister may remove the prohibition or refuse the application.”

6. In Article 71(1)(b) (power by order to exclude application of minimum sentence under Article 70 to those under 18) for “he” substitute “the Department of Justice”.

7.—(1) Amend Article 72 (forfeiture and disposal of firearms) as follows.

(2) In paragraph (1)(a) for “Secretary of State” substitute “Minister of Justice”.

8.—(1) Amend Article 74 (appeal from decision of Chief Constable) as follows.

(2) In paragraph (1) for “Secretary of State” substitute “relevant authority”.

(3) In paragraph (2) for “Secretary of State may make such order as he” substitute “relevant authority may make such order as the relevant authority”.

(4) After paragraph (4) insert—

“(5) In this Article “the relevant authority” means—

- (a) the Secretary of State, in any case where the Chief Constable’s decision was taken wholly or partly on the basis of information the disclosure of which may, in the view of the Secretary of State or of the Chief Constable, be against the interests of national security;
- (b) the Department of Justice, in any other case.

(6) Where the Chief Constable makes a decision within paragraph (3)(a) to (d), he must notify (as the case may be)—

- (a) the applicant, or
- (b) the holder of the certificate,

who the relevant authority is for the purposes of any appeal against the decision.

(7) An order under Article 72(4) must be accompanied by a written statement by the Chief Constable specifying who the relevant authority is for the purposes of any appeal against the order.”

(5) Sub-paragraph (6) below applies to an appeal made, but not determined, under Article 74 before the coming into force of this Order.

(6) The Secretary of State must determine who the relevant authority (as defined in Article 74(5) (as inserted by sub-paragraph (4) above)) is for the purposes of the appeal and then—

- (a) if the relevant authority is determined to be the Secretary of State, must proceed to determine the appeal;
- (b) if not, must refer the appeal to the Department of Justice for determination.

9. In Article 75 (fees)—

- (a) in paragraph (3) for “Treasury” substitute “Department of Finance and Personnel”; and
- (b) omit paragraph (4).

10.—(1) For Article 80 (regulations and orders) substitute—

“Regulations and orders

80.—(1) The Department of Justice may make regulations—

- (a) as to the manner in which the Chief Constable is to carry out his duties under this Order;
- (b) generally for carrying this Order into effect.

(2) The Secretary of State may, for purposes connected with national security or any function of the Secretary of State under this Order, make regulations—

- (a) as to the manner in which the Chief Constable is to carry out his duties under this Order;
- (b) generally for carrying this Order into effect.

(3) Regulations under paragraph (2) may (in particular) make provision about the holding or use of information the disclosure of which may be against the interests of national security.

(4) Regulations made by the Department of Justice under paragraph (1) have effect subject to regulations made by the Secretary of State under paragraph (2).

(5) Regulations and orders made by the Department of Justice under this Order are subject to negative resolution.

(6) Regulations and orders made by the Secretary of State under this Order, except orders under Article 1, are subject to annulment in pursuance of a resolution of either House of Parliament in like manner as a statutory instrument, and section 5 of the Statutory Instruments Act 1946(2) applies accordingly.”

(2) Any regulations in effect under Article 80(1) immediately before the coming into force of this Order continue in effect as if made by the Department of Justice under Article 80(1) (as inserted by sub-paragraph (1) above) and any functions of the Secretary of State under those regulations are transferred to the Department of Justice.

11.—(1) Amend Article 81 (saving and transitional provisions) as follows.

(2) After paragraph (2) insert—

“(2A) The Department of Justice may by order under Article 8(3) or paragraph 2(6) of Schedule 2 make such saving and transitional provisions as appear to the Department of Justice to be necessary or expedient.”

(3) In paragraph (3)—

- (a) omit “, 8(3)”; and
- (b) after “Schedule 2” insert “(as applied by paragraph 3A(4) of that Schedule)”.

12.—(1) Amend Schedule 2 (firearms and ammunition in museums) as follows.

(2) In paragraph 2—

- (a) in sub-paragraph (2) after “While a licence” insert “granted by the Department of Justice”; and
- (b) omit the word “and” at the end of sub-paragraph (2)(a);

(2) 1946 c. 36.

Status: This is the original version (as it was originally made).

- (c) omit sub-paragraph (2)(b);
 - (d) in sub-paragraph (3) for “he” substitute “the Department of Justice”;
 - (e) in sub-paragraphs (4) and (5) after “licence” insert “granted by the Department of Justice”.
- (3) In paragraph 3—
- (a) in sub-paragraph (1)(a) for “held” substitute “granted by the Department of Justice”;
 - (b) in sub-paragraph (2) for “him” substitute “the Department of Justice”;
 - (c) in sub-paragraph (3) for “held” substitute “granted by the Department of Justice”;
 - (d) in sub-paragraph (3)(a) for “he” substitute “the Department of Justice”;
 - (e) in sub-paragraph (4) after “licence” (where it first occurs) insert “granted by the Department of Justice”;
 - (f) in sub-paragraph (4) for “him” substitute “the Department of Justice”.
- (4) After paragraph 3 insert—

“Secretary of State’s power to grant museum firearms licences

3A.—(1) The Secretary of State may, on an application in writing made on behalf of a museum, grant a licence in respect of that museum.

(2) While a licence granted by the Secretary of State is in force in respect of a museum the persons responsible for its management and their employees may, without the authority of the Secretary of State under Article 45, have in their possession, purchase or acquire for the purposes of the museum any prohibited weapons and ammunition which are or are to be normally exhibited or kept on its premises or on such of them as are specified in the licence.

(3) The Secretary of State shall not grant a licence in respect of a museum unless the Secretary of State is satisfied that the arrangements for exhibiting and keeping the prohibited weapons and ammunition in question are or will be such as not to endanger public safety or the peace.

(4) Paragraphs 2(4) to (6) and 3 apply in relation to licences granted by the Secretary of State; and for this purpose references to the Department of Justice are to be read as references to the Secretary of State.”

- (5) In paragraph 4 after “licence” insert “by the Department of Justice”.
- (6) In paragraph 5—
- (a) in sub-paragraph (1) for “the licence” substitute “a licence”;
 - (b) in sub-paragraph (2) after “paragraph 3” insert “(including as applied by paragraph 3A(4))”.
- (7) A licence in force under Schedule 2 immediately before the coming into force of this Order which does not contain any provision within what was paragraph 2(2)(b) of Schedule 2 (before its repeal by sub-paragraph (2)(c) above) continues in force as if granted by the Department of Justice under paragraph 2 of Schedule 2.
- (8) Any other licence in force under Schedule 2 immediately before the coming into force of this Order continues in force ignoring any amendments of Schedule 2 made by this Order and paragraph 13 below.

13. In Schedule 6 (fees)—

- (a) in paragraph 5 after “licence” insert “by the Department of Justice”;
- (b) in paragraph 6 after “licence” insert “granted by the Department of Justice”.

Violent Crime Reduction Act 2006

14. Amend Schedule 2 to the Violent Crime Reduction Act 2006⁽³⁾ (weapons etc.: corresponding provisions for Northern Ireland) as follows.

15.—(1) Amend paragraph 4 (manufacture, import and sale of realistic imitation firearms) as follows.

(2) After sub-paragraph (2) insert—

“(2A) The Department of Justice may by regulations—

- (a) provide for exceptions and exemptions from the offence under sub-paragraph (1) (a), (b) or (c); and
- (b) provide for it to be a defence in proceedings for such an offence to show the matters specified or described in the regulations.”

(3) In sub-paragraph (3) for “(1)” substitute “(1)(d)”.

(4) In sub-paragraph (4)—

- (a) for “(3)” substitute “(2A) or (3)”; and
- (b) in paragraph (c) after “as” insert “the Department of Justice or (as the case may be)”.

(5) After sub-paragraph (4) insert—

“(4A) The power of the Department of Justice to make regulations under sub-paragraph (2A) shall be exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979⁽⁴⁾.

(4B) That power includes power—

- (a) to make different provision for different cases;
- (b) to make provision subject to such exemptions and exceptions as the Department of Justice thinks fit; and
- (c) to make such incidental, supplemental, consequential and transitional provision as the Department of Justice thinks fit.

(4C) Regulations under sub-paragraph (2A) shall be subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954⁽⁵⁾.)”

16.—(1) Amend paragraph 5 (defences to offence under paragraph 4) as follows.

(2) In sub-paragraph (2)(e) for “Secretary of State” substitute “appropriate authority”.

(3) After sub-paragraph (2) insert—

“(2A) In sub-paragraph (2)(e) “the appropriate authority” means—

- (a) in relation to the offence under paragraph 4(1)(a), (b) or (c), the Department of Justice;
- (b) in relation to the offence under paragraph 4(1)(d), the Secretary of State.”

(4) After sub-paragraph (4) insert—

“(4A) The power of the Department of Justice to make regulations under this paragraph shall be exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979.

(4B) That power includes power—

⁽³⁾ 2006 c. 38, to which there are amendments not relevant to this Order.

⁽⁴⁾ S.I. 1979/1573 (N.I. 12).

⁽⁵⁾ 1954 c. 33 (N.I.). Section 41(6) was amended by S.I. 1999/663.

Status: This is the original version (as it was originally made).

- (a) to make different provision for different cases;
- (b) to make provision subject to such exemptions and exceptions as the Department of Justice thinks fit; and
- (c) to make such incidental, supplemental, consequential and transitional provision as the Department of Justice thinks fit.

(4C) Regulations made by the Department of Justice under this paragraph shall be subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954(6)).”

17.—(1) Amend paragraph 6 (meaning of “realistic imitation firearm”) as follows.

(2) In sub-paragraph (4) for “Secretary of State” substitute “appropriate authority”.

(3) After sub-paragraph (4) insert—

“(4A) In sub-paragraph (4) “the appropriate authority” means—

- (a) in the application of this paragraph for the purposes of the offence under paragraph 4(1)(a), (b) or (c), the Department of Justice;
- (b) in the application of this paragraph for the purposes of the offence under paragraph 4(1)(d) or for the purposes of paragraph 4(7), the Secretary of State.

(4B) The power of the Department of Justice to make regulations under this paragraph shall be exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979.

(4C) That power includes power—

- (a) to make different provision for different cases;
- (b) to make provision subject to such exemptions and exceptions as the Department of Justice thinks fit; and
- (c) to make such incidental, supplemental, consequential and transitional provision as the Department of Justice thinks fit.

(4D) Regulations made by the Department of Justice under this paragraph shall be subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954).”

18.—(1) Amend paragraph 7 (specification for imitation firearms) as follows.

(2) Before sub-paragraph (1) insert—

“(A1) For the purposes of sub-paragraph (2)(a) to (c), the Department of Justice may by regulations make provision requiring imitation firearms to conform to specifications which are—

- (a) set out in the regulations; or
- (b) approved by such persons and in such manner as may be so set out.”

(3) In sub-paragraph (1) for “The” substitute “For the purposes of sub-paragraph (2)(d), the”.

(4) In sub-paragraph (2)—

- (a) in paragraph (a) for “this paragraph” substitute “sub-paragraph (A1)”; and
- (b) in paragraph (d) for “so required of it” substitute “required of it by regulations under sub-paragraph (1)”.

(5) In sub-paragraph (4)—

(6) 1954 c. 33 (N.I.). Section 41(6) was amended by S.I. 1999/663.

- (a) for “this paragraph”, where it occurs first, substitute “sub-paragraph (A1) or (1)”;
 - (b) for “this paragraph”, where it occurs second, substitute “sub-paragraph (2)(a) to (c) or (as the case may be) sub-paragraph (2)(d)”.
- (6) In sub-paragraph (5) for “this paragraph” substitute “sub-paragraph (1)”.
- (7) After sub-paragraph (6) insert—
- “(6A) The power of the Department of Justice to make regulations under this paragraph shall be exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979(7).
 - (6B) That power includes power—
 - (a) to make different provision for different cases;
 - (b) to make provision subject to such exemptions and exceptions as the Department of Justice thinks fit; and
 - (c) to make such incidental, supplemental, consequential and transitional provision as the Department of Justice thinks fit.
 - (6C) Regulations made by the Department of Justice under this paragraph shall be subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954(8)).”

(7) S.I. 1979/1573 (N.I. 12).

(8) 1954 c. 33 (N.I.). Section 41(6) was amended by S.I. 1999/663.