Draft Order in Council laid before Parliament under paragraph 2(1)(a) of the Schedule to the Northern Ireland Act 2000, for approval by resolution of each House of Parliament

DRAFT STATUTORY INSTRUMENTS

2004 No. (N.I.)

NORTHERN IRELAND

The Firearms (Northern Ireland) Order 2004

Made - - - - 2004

Coming into operation in accordance with Article 1

At the Court at Buckingham Palace, the ** day of ** 2004

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order in Council has been approved by resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1(1) of the Schedule to the Northern Ireland Act 2000 (c. 1) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:–

PART I

INTRODUCTORY

Title and commencement

1.—(1) This Order may be cited as the Firearms (Northern Ireland) Order 2004.

(2) This Part and Articles 79 to 81 shall come into operation on the expiration of one month from the day on which this Order is made.

(3) The remaining provisions of this Order shall come into operation on such day or days as the Secretary of State may by order appoint.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 (c. 33) applies to this Order as it applies to an Act of the Assembly.

(2) In this Order—

"acquire" means hire, accept as a gift or borrow;

"air gun" means a firearm powered by compressed air or compressed gas;

"ammunition" means ammunition for any firearm except blank cartridges which are not more than 25.4 millimetres in diameter measured immediately in front of the rim or cannelure of the base of the cartridge and includes—

(a) grenades, bombs and other like missiles, whether capable of use with a firearm or not; and

(b) prohibited ammunition;

"another member State" means a member State other than the United Kingdom;

"appropriate fee" shall be construed in accordance with Article 75(2);

"armed forces" means any of the naval, military or air forces of the Crown;

"Article 7 authority" has the meaning given by Article 22(1);

"component part", in relation to a firearm, means—

(a) any barrel, chamber or cylinder;

(b) any frame, action, body or receiver;

(c) any breech block, bolt or other mechanism for containing the pressure of discharge at the rear of the chamber;

(d) any part of a firearm which directly bears the pressure caused by firing; and

(e) any magazine;

"European firearms pass" has the meaning given by Article 19(2);

"European weapons directive" means the directive of the Council of the European Communities No.91/477/EEC (directive on the control of the acquisition and possession of weapons);

"firearm" means a lethal barrelled weapon of any description from which any shot, bullet or other missile can be discharged and includes—

(a) any prohibited weapon, whether it is such a lethal weapon or not;

(b) any component part of such a lethal or prohibited weapon; and

(c) any accessory to any such weapon designed or adapted to diminish the noise or flash caused by firing the weapon;

"firearm certificate" means, subject to paragraph (5), a certificate granted under Article 5;

"firearms club" means a club established for the purpose of promoting and practising skill in the use of firearms (other than shotguns) and includes a cadet corps;

"firearms dealer" means a person who by way of trade or business manufactures, sells, transfers, repairs, tests or proves firearms or ammunition;

"firearms dealer's certificate" means a certificate granted under Article 26;

"handgun" means any firearm which either has a barrel less than 30 centimetres in length or is less than 60 centimetres in length overall, other than an air gun, a muzzle-loading firearm or a firearm designed as a signalling apparatus;

"holder of a firearms dealer's certificate" includes a person registered under section 33 of the Firearms Act 1968 (c. 27);

"imitation firearm" means anything which has the appearance of being a firearm, whether or not it is capable of discharging any shot, bullet or other missile;

"mental disorder" has the same meaning as in the Mental Health (Northern Ireland) Order 1986 (NI 4);

"prohibited weapon" and "prohibited ammunition" respectively mean a weapon and ammunition prohibited under Article 45 (including, in the case of ammunition, any missiles falling within paragraph (2)(g) of that Article);

"readable" means—

(a) visible and legible; or

(b) capable of being readily produced in a visible and legible form;

"relative", in relation to a person, means—

(a) the father, mother, stepfather, stepmother, son, daughter, stepson, stepdaughter, grandmother, grandfather, grandson or granddaughter of that person or of that person's spouse or former spouse, or

(b) the brother, sister, uncle, aunt, niece or nephew (whether of the full blood or of the half blood or by affinity) of that person or of that person's spouse or former spouse,

and includes, in relation to a person who is living or has lived with another person as husband and wife, any person who would fall within paragraph (a) or (b) if the parties were married to each other;

"revolver" means a firearm containing a series of chambers which revolves when it is fired;

"self-loading" and "pump action", in relation to any firearm, mean respectively that it is designed or adapted (otherwise than as mentioned in Article 45(1)(a)) so that it is automatically reloaded or that it is so designed or adapted that it is reloaded by the manual operation of the fore-end or forestock of the firearm;

"shotgun" means a smoothbore firearm with a barrel not less than 60.96 centimetres in length, not being an air gun;

"shotgun certificate" means a certificate granted in Great Britain under section 28 of the Firearms Act 1968 (c. 27) and authorising a person to possess shotguns;

"slaughtering instrument" means a firearm which is specially designed or adapted for the instantaneous slaughter of animals or for the instantaneous stunning of animals with a view to slaughtering them;

"statutory provision" has the meaning given by section 1(f) of the Interpretation Act (Northern Ireland) 1954 (c. 33);

"transfer" includes let on hire, give, lend and part with possession;

"visitor's firearm permit" means a permit granted under Article 15(2).

(3) For the purposes of this Order the length of the barrel of a firearm shall be measured from the muzzle to the point at which the charge is exploded on firing.

(4) For the purposes of this Order a shotgun or an air gun shall be deemed to be loaded if there is ammunition in the chamber or barrel or in any magazine or other device which is in such a position that the ammunition can be fed into the chamber or barrel by the manual or automatic operation of some part of the firearm.

(5) In this Order—

(a) any reference to a firearm certificate includes a reference to a firearm certificate and a shotgun certificate granted under the law in Great Britain and having effect in Northern Ireland by virtue of Article 17; and

(b) any reference to a condition subject to which a firearm certificate is held includes a reference to a condition subject to which a firearm certificate or shotgun certificate is held

under the law in Great Britain as that condition has effect in Northern Ireland by virtue of Article 17.

(6) For the purpose of any reference in this Order to the use of any firearm or ammunition for a purpose not authorised by the European weapons directive, the directive shall be taken to authorise the use of a firearm or ammunition as or with a slaughtering instrument and the use of a firearm or ammunition—

(a) for sporting purposes;

(b) for the shooting of pests, or, in the course of carrying on activities in connection with the management of any estate, of other wildlife; and

(c) for competition purposes and target shooting (whether or not for competition purposes).

(7) For the purposes of this Order it shall be presumed, unless the contrary is shown, that a firearm has been rendered incapable of discharging any shot, bullet or other missile, and has consequently ceased to be a firearm within the meaning of this Order, if either—

(a) it bears a mark which—

(i) has been approved by the Secretary of State for denoting that fact, and

(ii) has been made by a person approved by the Secretary of State for the purposes of this paragraph; and

(b) that person has certified in writing that work has been carried out in a manner approved by the Secretary of State for rendering it incapable of discharging any shot, bullet or other missile,

or it satisfies the requirements of section 8 of the Firearms (Amendment) Act 1988 (c. 45) (corresponding provision for Great Britain) by virtue of work carried out on or after 1st October 1995.

PART II

FIREARM CERTIFICATES, ETC.

Firearm certificates

Firearm certificate required

3.—(1) A person who—

(a) has in his possession, or purchases or acquires, a handgun without holding a firearm certificate or otherwise than as authorised by a firearm certificate, or

(b) has in his possession, or purchases or acquires, a firearm other than a handgun without holding a firearm certificate or otherwise than as authorised by a firearm certificate,

shall be guilty of an offence.

(2) A person who has in his possession, or purchases or acquires, any ammunition without holding a firearm certificate or otherwise than as authorised by a firearm certificate or in quantities in excess of those so authorised shall be guilty of an offence.

(3) Paragraphs (1) and (2) have effect subject to Schedule 1 and the other provisions of this Order.

(4) Schedule 1 (exemptions) shall have effect.

Application for firearm certificate

4.—(1) An application for the grant of a firearm certificate must—

(a) be made to the Chief Constable on a form provided by him for the purpose;

(b) contain such information as may be required by the form; and

(c) comply with any other requirements specified in the form.

(2) The application must be accompanied in accordance with any requirements specified in the form by—

(a) the appropriate fee (if any);

(b) two photographs of the applicant; and

(c) the names and addresses of two appropriate persons who have agreed to act as referees.

(3) Subject to paragraphs (4) to (6), a person is an appropriate person for the purposes of paragraph (2)(c) if he has known the applicant for at least two years and is of good character.

(4) A person is not an appropriate person for the purposes of paragraph (2)(c) if he is—

(a) a relative of the applicant;

(b) a firearms dealer;

(c) a police officer or a member of the police support staff; or

(d) resident outside the United Kingdom.

(5) If the application includes a statement that the applicant—

(a) is a member of a firearms club authorised under Article 49; and

(b) requires any firearm or ammunition in respect of which the application is made wholly or partly for target shooting,

paragraph (6) applies instead of paragraphs (3) and (4) and in paragraph (6) "firearms club" means a firearms club authorised under Article 49.

(6) For the purposes of paragraph (2)(c)—

(a) one person is an appropriate person if he—

(i) is an officer of a firearms club of which the applicant is a member but not a relative of the applicant or resident outside the United Kingdom; and

(ii) has known the applicant for at least one year and is of good character;

(b) the other is an appropriate person if he—

(i) is not a member of any firearms club or a person described in paragraph (4); and

(ii) has known the applicant for at least two years and is of good character.

(7) Before considering the application the Chief Constable must have—

(a) permission from the applicant to approach his general practitioner to obtain factual details of his medical history which the general practitioner considers relevant to the application; and

(b) the following provided by each referee in such manner as the Chief Constable may require —

(i) verification of any information provided by the applicant;

(ii) verification of the likeness to the applicant of the photographs submitted with the application;

(iii) a statement that he knows of no reason why the applicant should not be permitted to possess a firearm; and