

# Firearms Act 1968<sup>1, 2</sup>

(1968 c 27)

## Part I

Provisions as to Possession, Handling and Distribution of Weapons and Ammunition;  
Prevention of Crime and Measures to Protect Public Safety

*General restrictions on possession and handling of firearms and ammunition*

8–10370

### 1 Requirement of firearm certificate<sup>3</sup>

- (1) Subject to any exemption<sup>4</sup> under this Act, it is an offence<sup>5</sup> for a person—
- (a) to have in his possession<sup>6</sup>, or to purchase or acquire<sup>7</sup> a firearm<sup>8</sup> to which this section applies without holding a firearm certificate<sup>7</sup> in force at the time, or otherwise than as authorised<sup>8a</sup> by such a certificate;
  - (b) to have in his possession<sup>6</sup>, or to purchase or acquire<sup>8</sup>, any ammunition<sup>9</sup> to which this section applies without holding a firearm certificate in force at the time, or otherwise than as authorised by such a certificate, or in quantities in excess of those so authorised.
- (2) It is an offence<sup>10</sup> for a person to fail to comply with a condition subject to which a firearm certificate is held by him.
- (3) This section applies to every firearm except—
- (a) a shot gun within the meaning of this Act, that is to say a smooth-bore<sup>11</sup> gun (not being an air gun) which—
    - (i) has a barrel not less than 24 inches in length and does not have any barrel with a bore exceeding 2 inches in diameter;
    - (ii) either has no magazine or has a non-detachable magazine incapable of holding more than two cartridges; and
    - (iii) is not a revolver gun; and
  - (b) an air weapon (that is to say, an air rifle, air gun or air pistol not of a type declared by rules made by the Secretary of State under section 53 of this Act to be specially dangerous)<sup>12</sup>.
- (3A) A gun which has been adapted to have such a magazine as is mentioned in subsection (3)(a)(ii) above shall not be regarded as falling within that provision unless the magazine bears a mark approved by the Secretary of State for denoting that fact and that mark has been made, and the adaptation has been certified in writing as having been carried out in a manner approved by him, either by one of the two companies mentioned in section 58(1) of this Act or by such other person as may be approved by him for that purpose.

(4) This section applies to any ammunition for a firearm, except the following articles, namely:

- (a) cartridges containing five or more shot, none of which exceeds .36 inch in diameter;
- (b) ammunition for an air gun, air rifle or air pistol; and
- (c) blank cartridges not more than one inch in diameter measured immediately in front of the rim or cannellure of the base of the cartridge.

[Firearms Act 1968, s 1 as amended by the Firearms (Amendment) Act 1988, s 2.]

<sup>1</sup> This Act, the Firearms Act 1982 and the Firearms (Amendment) Acts 1988, 1992 and 1997 may be cited together as the Firearms Acts 1968 to 1997. The provisions of this Act should be read in conjunction with those of the Firearms (Amendment) Act 1988, this title, post. Sections 46, 51(4) and 52 of the Firearms Act 1968 (powers of search, time-limit for prosecutions and forfeiture and cancellation orders on conviction) shall, subject to certain exceptions, apply also to offences under the Firearms (Amendment) Act 1988; as to interpretation and construction of these Acts, see generally s 25 of the Firearms (Amendment) Act 1988, post.

<sup>2</sup> The Firearms Act 1968 and the Firearms Amendment Act 1988 are amended by the Firearms Acts (Amendment) Regulations 1992, SI 1992/2823 for the purpose of implementing the requirements of EEC Council Directive 91/477. In addition provision is made for the exchange of information by removing any obligation as to confidentiality or secrecy with regard to the disclosure of information which is required to be disclosed in pursuance of the Directive:

**10.**—(1) No obligation as to secrecy or other restriction upon the disclosure of information imposed by statute or otherwise shall preclude—

- (a) the disclosure by the Secretary of State or an officer of his to the competent authorities of a member State other than the United Kingdom of any information which is required to be disclosed in pursuance of the directive of the Council of the European Communities No 91/477/EEC (directive on the control of the acquisition and possession of weapons); or
- (b) the disclosure to the Secretary of State or any officer of his by a chief officer of police, or by any government department or officer of a government department, of any information required by the Secretary of State for the purpose of facilitating the communication or exchange of information in pursuance of that directive.

(2) The reference in paragraph (1) above to the competent authorities of a member State is a reference to the persons appointed by that member State to deal with the communication or exchange of information in pursuance of the directive mentioned in that paragraph.

(SI 1992/2823, reg 10.)

<sup>3</sup> For further provisions as to firearm certificates, see ss 26, 27 and 29–32, post.

<sup>4</sup> See ss 8–15, 54 and 58(1) and (2), post.

<sup>5</sup> This section is to be construed strictly and proof of *mens rea* is unnecessary (**R v Howells** [1977] QB 614, [1977] 3 All ER 417, 141 JP 641). It is immaterial that the accused did not know the nature of the article in his possession (**R v Hussain** [1981] 2 All ER 287, [1981] 1 WLR 416; **R v Waller** [1991] Crim LR 381, CA approved in **R v Vann and Davis** [1996] Crim LR 52, CA) or that possession of a container was for a matter of minutes without opportunity to discover that it contained a firearm (**R v Steele** [1993] Crim LR 298, CA). For prosecution and punishment, see Sch 6, post.

<sup>6</sup> The word “possession” is to be construed strictly; see **Woodage v Moss** [1974] 1 All ER 584, 138 JP 233. So a person who keeps the firearms in a place other than where he lives may nevertheless have possession of them: see **Sullivan v Earl of Caithness** [1976] QB 966, [1976] 1 All ER 844, 140 JP 277.

<sup>7</sup> For definition see s 57(4), post.

<sup>8</sup> For definition see s 57(1), post. See also sub-s (3) for exceptions.

<sup>8a</sup> The interpretation of what is authorised by a particular certificate is a matter of law. The commission of an absolute offence of transferring a firearm requiring a certificate to someone who does not produce a certificate authorising its acquisition does not depend on the transferee’s intended use of it (**R v Paul** [1999] Crim LR 79,

CA (transferee possessing a certificate for a “humane killer” not entitled to acquire a Ruger–357 revolver where the revolver was wanted to shoot pigs)).

- <sup>9</sup> For definition see s 57(2), post. See also sub-s (4) for exceptions.
- <sup>10</sup> For prosecution and punishment, see Sch 6, post.
- <sup>11</sup> For effect of removal of rifling from a rifle, see **R v Hucklebridge, A-G’s Reference** (*No 3 of 1980*) [1980] 3 All ER 273, [1980] 1 WLR 1284, 145 JP 13 (decided on the original wording of s 1(3)(a) before its amendment by the Firearms (Amendment) Act 1988, s 2).
- <sup>12</sup> See the Firearms (Dangerous Air Weapons) Rules 1969, SI 1969/47 amended by SI 1993/1490, declaring certain air weapons to be specially dangerous. The meaning of “air weapon” was not expanded to include a revolver powered by compressed carbon dioxide in **R v Thorpe** [1987] 2 All ER 108, [1987] 1 WLR 383.

## 8–10371

### 2 Requirement of certificate for possession of shot guns

(1) Subject to any exemption<sup>1</sup> under this Act, it is an offence<sup>2</sup> for a person to have in his possession, or to purchase or acquire, a shot gun<sup>3</sup> without holding a certificate<sup>4</sup> under this Act authorising him to possess shot guns.

(2) It is an offence<sup>2</sup> for a person to fail to comply with a condition subject to which a shot gun certificate is held by him.

[Firearms Act 1968, s 2.]

- <sup>1</sup> See ss 8–15, 54 and 58(1) and (2), post.
- <sup>2</sup> For prosecution and punishment, see Sch 6, post. The offence is not technical as the purpose of a licence is to enable the keeping of shotguns to be inspected and monitored. In fixing an accused, the value of the shotgun has no relevance in assessing the amount of the fine (**R v Cowley** (1995) Times, 2 February).
- <sup>3</sup> For definition of shot gun see s 1(3)(a), ante.
- <sup>4</sup> For definition see s 57(4), post.

## 8–10372

### 3 Business and other transactions with firearms and ammunition

- (1) A person commits an offence<sup>1</sup> if, by way of trade or business, he—
- (a) manufactures, sells, transfers<sup>2</sup>, repairs, tests or proves any firearm or ammunition to which section 1 of this Act applies, or a shot gun; or
  - (b) exposes for sale or transfer<sup>2</sup>, or has in his possession for sale, transfer, repair, test or proof any such firearm or ammunition, or a shot gun,

without being registered under this Act as a firearms dealer.

(2) It is an offence<sup>3</sup> for a person to sell<sup>4</sup> or transfer<sup>2</sup> to any other person in the United Kingdom, other than a registered firearms dealer, any firearm or ammunition to which section 1 of this Act applies, or a shot gun, unless that other produces a firearm certificate<sup>5</sup> authorising him to purchase or acquire it or, as the case may be, his shot gun certificate, or shows that he is by virtue of this Act entitled to purchase or acquire it without holding a certificate.

(3) It is an offence<sup>3</sup> for a person to undertake the repair, test or proof of a firearm or ammunition to which section 1 of this Act applies, or of a shot gun, for any other person in the United Kingdom other than a registered firearm dealer as such, unless that other produces or causes to be produced a firearm certificate authorising him to have possession of the firearm or

ammunition or, as the case may be, his shot gun certificate, or shows that he is by virtue of this Act entitled to have possession of it without holding a certificate.

(4) Subsections (1) to (3) above have effect subject to any exemption under subsequent provisions of this Part of this Act<sup>1</sup>.

(5) A person commits an offence<sup>3</sup> if, with a view to purchasing or acquiring, or procuring the repair, test or proof of, any firearm or ammunition to which section 1 of this Act applies, or a shot gun, he produces a false certificate or a certificate in which any false entry has been made, or personates a person to whom a certificate has been granted, or knowingly or recklessly makes a statement false in any material particular.

(6) It is an offence<sup>1</sup> for a pawnbroker to take in pawn any firearm or ammunition to which section 1 of this Act applies, or a shot gun.

[Firearms Act 1968, s 3 as amended by the Firearms (Amendment) Act 1997, Sch 2.]

<sup>1</sup> For prosecution and punishment, see Sch 6, post.

<sup>2</sup> For definition of “transfer” see s 57(4), post, and note thereto.

<sup>3</sup> The prohibition on the sale of firearms imposed by this subsection is not avoided by a collateral arrangement that possession of the firearm shall be retained by the seller, and its use by the buyer permitted only on a lawful occasion, eg, as a member of a rifle club (**Watts v Seymour** [1967] 2 QB 647, [1967] 1 All ER 1044, 131 JP 309).

<sup>4</sup> See ss 7 to 15 and 54, post.

<sup>5</sup> A firearm certificate gives specific authority for a particular firearm by reference to name, type calibre and serial number; accordingly, variation of a firearm certificate is required prior to a certificate holder changing the firearm in his possession, and shown in the certificate, for one of the same type and calibre (**Wilson v Coombe** [1989] 1 WLR 78, 88 Cr App Rep 322).

## 8-10373

### 4 Conversion of weapons

(1) Subject to this section, it is an offence<sup>1</sup> to shorten the barrel of a shot gun to a length less than 24 inches<sup>2</sup>.

(2) It is not an offence under subsection (1) above for a registered firearms dealer to shorten the barrel of a shot gun for the sole purpose of replacing a defective part of the barrel so as to produce a barrel not less than 24 inches in length<sup>2</sup>.

(3) It is an offence<sup>1</sup> for a person other than a registered firearms dealer to convert into a firearm anything which, though having the appearance of being a firearm, is so constructed as to be incapable of discharging any missile through its barrel.

(4) A person who commits an offence under section 1 of this Act by having in his possession, or purchasing or acquiring, a shot gun which has been shortened contrary to subsection (1) above or a firearm which has been converted as mentioned in subsection (3) above (whether by a registered firearms dealer or not), without holding a firearm certificate authorising him to have it in his possession, or to purchase or acquire it, shall be treated for the purposes of provisions of this Act relating to the punishment of offences as committing that offence in an aggravated form.

[Firearms Act 1968, s 4 as amended by the Firearms (Amendment) Act 1988, s 23.]

<sup>1</sup> For prosecution and punishment, see Sch 6, post.

<sup>2</sup> For interpretation of “length”, see s 57(6)(a), post.

*Prohibition of certain weapons and control of arms traffic*

8-10374

**5 Weapons subject to general prohibition<sup>1</sup>**

(1) A person commits an offence<sup>2</sup> if, without the authority of the Defence Council<sup>3</sup>, he has in his possession, or purchases or acquires<sup>4</sup>, or manufactures, sells or transfers<sup>4</sup>—

- (a) any firearm<sup>5</sup> which is so designed or adapted<sup>6</sup> that two or more missiles can be successively discharged without repeated pressure on the trigger;
- (ab) any self-loading or pump-action rifled gun other than one which is chambered for .22 rim-fire cartridges;
- (aba) 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 weapon, a muzzle-loading gun or a firearm as signalling apparatus;
- (ac) any self-loading or pump-action smooth-bore gun which is not an air weapon or chambered for .22 rim-fire cartridges and either has a barrel less than 24 inches in length or an air weapon or is less than 40 inches in length overall;
- (ad) any smooth-bore revolver gun other than one which is chambered for 9 mm rim-fire cartridges or a muzzle-loading gun;
- (ae) any rocket launcher, or any mortar, for projecting a stabilised missile, other than a launcher or mortar designed for line-throwing or pyrotechnic purposes or as signalling apparatus;
- (b) any weapon of whatever description designed or adapted<sup>7</sup> for the discharge<sup>8</sup> of any noxious liquid, gas or other thing; and
- (c) any cartridge with a bullet designed to explode on or immediately before impact, any ammunition containing or designed or adapted to contain any such noxious thing as is mentioned in paragraph (b) above and, if capable of being used with a firearm of any description, any grenade, bomb (or other like missile), or rocket or shell designed to explode as aforesaid.

(1A) Subject to section 5A of this Act, a person commits an offence if, without the authority of the Secretary of State, he has in his possession, or purchases or acquires, or sells or transfers—

- (a) any firearm which is disguised as another object;
- (b) any rocket or ammunition not falling within paragraph (c) of subsection (1) of this section which consists in or incorporates a missile designed to explode on or immediately before impact and is for military use;
- (c) any launcher or other projecting apparatus not falling within paragraph (ae) of that subsection which is designed to be used with any rocket or ammunition falling within paragraph (b) above or with ammunition which would fall within that paragraph but for its being ammunition falling within paragraph (c) of that subsection;

- (d) any ammunition for military use which consists in or incorporates a missile designed so that a substance contained in the missile will ignite on or immediately before impact;
  - (e) any ammunition for military use which consists in or incorporates a missile designed, on account of its having a jacket and hard-core, to penetrate armour plating, armour screening or body armour;
  - (f) any ammunition which incorporates a missile designed or adapted to expand on impact;
  - (g) anything which is designed to be projected as a missile from any weapon and is designed to be, or has been, incorporated in—
    - (i) any ammunition falling within any of the preceding paragraphs; or
    - (ii) any ammunition which would fall within any of those paragraphs but for its being specified in subsection (1) of this section.
- (2) The weapons and ammunition specified in subsections (1) and (1A) of this section (including, in the case of ammunition, any missiles falling within subsection (1A)(g) of this section) are referred to in this Act as “prohibited weapons” and “prohibited ammunition” respectively.
- (3) An authority given to a person by the Defence Council<sup>f</sup> under this section shall be in writing and be subject to conditions specified therein.
- (4) The conditions of the authority shall include such as the Defence Council<sup>f</sup>, having regard to the circumstances of each particular case, think fit to impose for the purpose of securing that the prohibited weapon or ammunition to which the authority relates will not endanger the public safety or the peace.
- (5) It is an offence<sup>2</sup> for a person to whom an authority is given under this section to fail to comply with any condition of the authority.
- (6) The Defence Council<sup>f</sup> may at any time, if they think fit, revoke an authority given to a person under this section by notice in writing requiring him to deliver up the authority to such person as may be specified in the notice within twenty-one days from the date of the notice; and it is an offence<sup>2</sup> for him to fail to comply with that requirement.
- (7) For the purposes of this section and section 5A of this Act—
- (a) any rocket or ammunition which is designed to be capable of being used with a military weapon shall be taken to be for military use;
  - (b) references to a missile designed so that a substance contained in the missile will ignite on or immediately before impact include references to any missile containing a substance that ignites on exposure to air; and
  - (c) references to a missile’s expanding on impact include references to its deforming in any predictable manner on or immediately after impact.
- (8) For the purposes of subsection (1)(aba) and (ac) above, any detachable, folding, retractable or other movable butt-stock shall be disregarded in measuring the length of any firearm.

(9) Any reference in this section to a muzzle-loading gun is a reference to a gun which is designed to be loaded at the muzzle end of the barrel or chamber with a loose charge and a separate ball (or other missile).

[Firearms Act 1968, s 5 as amended by the Firearms (Amendment) Act 1988, s 1, SI 1992/2823 and the Firearms (Amendment) Act 1997, ss 1, 9 and Sch 3 and the Firearms (Amendment)(No 2) Act 1997, s 1 and Sch.]

<sup>1</sup> The provisions of s 5, in relation to certain small firearms etc, must be read in conjunction with ss 1 to 8 of the Firearms (Amendment) Act 1997, post. If it appears to the Secretary of State that the provisions of section 5 relating to prohibited weapons or ammunition should apply to—

(a) any firearm (not being an air weapon) which is not for the time being specified in section 5(1), was not lawfully on sale in Great Britain in substantial numbers at any time before 1988 and appears to him to be

—  
(i) specially dangerous; or

(ii) wholly or partly composed of material making it not readily detectable by apparatus used for detecting metal objects; or

(b) any ammunition which is not for the time being specified in that subsection but appears to him to be specially dangerous,

he may by order add it to the weapons or ammunition specified in that subsection whether by altering the description of any weapon or ammunition for the time being there specified or otherwise.

(Firearms (Amendment) Act 1988, s 1(4).)

<sup>2</sup> This section creates an absolute offence, and it is not open to the defence to prove that the accused did not know and could not reasonably have been expected to know that he was in possession of a prohibited weapon (**R v Bradish** [1990] 1 QB 981, [1990] 1 All ER 460, 154 JP 21, CA). For prosecution and punishment, see Sch 6, post.

<sup>3</sup> By the Transfer of Functions (Prohibited Weapons) Order 1968, SI 1968/1200, the functions of the Defence Council were transferred to the Secretary of State.

<sup>4</sup> For definition of “acquire” and “transfer”, see s 57(4), post.

<sup>5</sup> A firearm which is designed or adapted for automatic fire still remains so designed, and is therefore a prohibited weapon, despite the fact that an essential component such as the trigger may be missing (**R v Clarke** [1986] 1 All ER 846, [1986] 1 WLR 209, CA).

<sup>6</sup> The weapon does not have to be designed or adapted for the purpose of burst or repeated fire; it is sufficient if it is capable of such fire even if only in the hands of an expert (**R v Law** [1999] Crim LR 837, CA).

<sup>7</sup> An empty bottle of Fairy Liquid filled with hydrochloric acid was held not to be a weapon designed or adapted for the discharge of the acid within the meaning of this paragraph because there had been no alteration to the bottle so as to make it fit for such use (**R v Formosa** [1991] 2 QB 1, [1991] 1 All ER 131, 155 JP 97, CA).

<sup>8</sup> The emission of electricity from a stun device amounts to a “discharge”; accordingly, a Lightning Strike hand-held electric stun device was held to be a weapon designed for the discharge of a noxious thing (**Flack v Baldry** [1988] 1 All ER 673, [1988] 1 WLR 393, 152 JP 418, HL).

## 8–10374A

### 5A Exemptions from requirement of authority under s 5

(1) Subject to subsection (2) below, the authority of the Secretary of State shall not be required by virtue of subsection (1A) of section 5 of this Act for any person to have in his possession, or to purchase, acquire, sell or transfer, any prohibited weapon or ammunition if he is authorised by a certificate under this Act to possess, purchase or acquire that weapon or ammunition subject to a condition that he does so only for the purpose of its being kept or exhibited as part of a collection.

(2) No sale or transfer may be made under subsection (1) above except to a person who—

- (a) produces the authority of the Secretary of State under section 5 of this Act for his purchase or acquisition; or
- (b) shows that he is, under this section or a licence under the Schedule to the Firearms (Amendment) Act 1988 (museums etc), entitled to make the purchase or acquisition without the authority of the Secretary of State.

(3) The authority of the Secretary of State shall not be required by virtue of subsection (1A) of section 5 of this Act for any person to have in his possession, or to purchase or acquire, any prohibited weapon or ammunition if his possession, purchase or acquisition is exclusively in connection with the carrying on of activities in respect of which—

- (a) that person; or
- (b) the person on whose behalf he has possession, or makes the purchase or acquisition,

is recognised, for the purposes of the law of another member State relating to firearms, as a collector of firearms or a body concerned in the cultural or historical aspects of weapons.

(4) The authority of the Secretary of State shall not be required by virtue of subsection (1A) of section 5 of this Act for any person to have in his possession, or to purchase or acquire, or to sell or transfer, any expanding ammunition or the missile for any such ammunition if—

- (a) he is authorised by a firearm certificate or visitor's firearm permit to possess, or purchase or acquire, any expanding ammunition; and
- (b) the certificate or permit is subject to a condition restricting the use of any expanding ammunition to use in connection with any one or more of the following, namely—
  - (i) the lawful shooting of deer;
  - (ii) the shooting of vermin or, in the course of carrying on activities in connection with the management of any estate, other wildlife;
  - (iii) the humane killing of animals;
  - (iv) the shooting of animals for the protection of other animals or humans.

(5) The authority of the Secretary of State shall not be required by virtue of subsection (1A) of section 5 of this Act for any person to have in his possession any expanding ammunition or the missile for any such ammunition if—

- (a) he is entitled, under section 10 of this Act, to have a slaughtering instrument and the ammunition for it in his possession; and
- (b) the ammunition or missile in question is designed to be capable of being used with a slaughtering instrument.

(6) The authority of the Secretary of State shall not be required by virtue of subsection (1A) of section 5 of this Act for the sale or transfer of any expanding ammunition or the missile for any such ammunition to any person who produces a certificate by virtue of which he is authorised under subsection (4) above to purchase or acquire it without the authority of the Secretary of State.

(7) The authority of the Secretary of State shall not be required by virtue of subsection (1A) of section 5 of this Act for a person carrying on the business of a firearms dealer, or any servant of his, to have in his possession, or to purchase, acquire, sell or transfer, any expanding ammunition or the missile for any such ammunition in the ordinary course of that business.

(8) In this section—

- (a) references to expanding ammunition are references to any ammunition which incorporates a missile which is designed to expand on impact; and
- (b) references to the missile for any such ammunition are references to anything which, in relation to any such ammunition, falls within section 5(1)(g) of this Act.

[Firearms Act 1968, s 5A inserted by SI 1992/2823 and amended by the Firearms (Amendment) Act 1997, s 10 and Sch 3.]

8-10375

## 6 Power to prohibit movement of arms and ammunition

(1) The Secretary of State may by order prohibit the removal of firearms or ammunition—

- (a) from one place to another in Great Britain; or
- (b) *(Repealed)*;
- (c) for export from Great Britain,

unless the removal is authorised by the chief officer of police for the area from which they are to be removed, and unless such other conditions as may be specified in the order are complied with.

(1A) The Secretary of State may by order<sup>1</sup> prohibit the removal of firearms or ammunition from Great Britain to Northern Ireland unless—

- (a) the removal is authorised by the chief officer of police for the area from which they are to be removed and by the Chief Constable of the Royal Ulster Constabulary; and
- (b) such conditions as may be specified in the order or imposed by the chief officer of police or the Chief Constable are complied with.

(2) An order under this section may apply—

- (a) either generally to all such removals, or to removals from and to particular localities specified in the order; and
- (b) either to all firearms and ammunition or to firearms and ammunition of such classes and descriptions as may be so specified; and
- (c) either to all modes of conveyance or to such modes of conveyance as may be so specified;

but no such order shall prohibit the holder of a firearm certificate from carrying with him any firearm or ammunition authorised by the certificate to be so carried.

(3) It is an offence<sup>2</sup> to contravene any provision of—

- (a) an order made under this section; or
  - (b) an order made under section 9 of the Firearms Act 1920 (the former enactment corresponding to section 18 of the Firearms Act 1937, and this section); or
  - (c) any corresponding Northern Irish order, that is to say an order made under the said section 9 as extending to Northern Ireland or under any enactment of the Parliament of Northern Ireland repealing and re-enacting that section, prohibiting the removal of firearms or ammunition from Northern Ireland to Great Britain.
- (4) An order under this section shall be made by statutory instrument and may be varied or revoked by a subsequent order made thereunder by the Secretary of State.

[Firearms Act 1968, s 6 as amended by the Firearms (Amendment) Act 1988, s 20.]

<sup>1</sup> The Firearms (Removal to Northern Ireland) Order 1990, SI 1990/2621 has been made.

<sup>2</sup> For prosecution and punishment, see Sch 6, post. Note also forfeiture power in Part II thereof.

### *Special exemptions from sections 1 to 5*

#### **8–10376**

#### **7 Police permit**

(1) A person who has obtained from the chief officer of police<sup>1</sup> for the area in which he resides a permit for the purpose in the prescribed<sup>2</sup> form may, without holding a certificate under this Act, have in his possession a firearm and ammunition in accordance with the terms of the permit.

(2) It is an offence<sup>3</sup> for a person knowingly or recklessly to make a statement false in any material particular for the purpose of procuring, whether for himself or for another person, the grant of a permit under this section.

[Firearms Act 1968, s 7 as amended by the Firearms (Amendment) Act 1997, Sch 2.]

<sup>1</sup> See s 62 and Sch 8 of the Police Act 1964, title Police, post; and s 55, post. As to the adoption of a policy when considering applications, see **R v Crown Court at Wakefield, ex p Oldfield** [1978] CrimLR 164.

<sup>2</sup> The form is contained in the Schedule to the Firearms Rules 1998, see r 9(1), this title, post.

<sup>3</sup> For prosecution and punishment, see Sch 6, post.

#### **8–10377**

#### **8 Authorised dealing with firearms**

(1) A person carrying on the business of a firearms dealer<sup>1</sup> and registered<sup>1</sup> as such under this Act, or a servant of such a person may, without holding a certificate, have in his possession, or purchase or acquire, a firearm or ammunition in the ordinary course of that business.

(1A) Subsection (1) above applies to the possession, purchase or acquisition of a firearm or ammunition in the ordinary course of the business of a firearms dealer notwithstanding that the firearm or ammunition is in the possession of, or purchased or acquired by, the dealer or his servant at a place which is not a place of business of the dealer or which he has not registered as a place of business under section 33 or 37 of this Act.

(2) It is not an offence under section 3(2) of this Act for a person—

- (a) to part with the possession of any firearm or ammunition, otherwise than in pursuance of a contract of sale or hire or by way of gift or loan, to a person who shows that he is by virtue of this Act entitled to have possession of the firearm or ammunition without holding a certificate; or
- (b) to return to another person a shot gun which he has lawfully undertaken to repair, test or prove for the other.

[Firearms Act 1968, s 8 as amended by the Firearms (Amendment) Act 1997, s 42.]

<sup>1</sup> Defined in s 57(4), post.

## 8–10378

### 9 Carriers, auctioneers, etc

(1) A person carrying on the business of an auctioneer, carrier or warehouseman, or a servant of such a person, may, without holding a certificate, have in his possession a firearm or ammunition in the ordinary course of that business.

(2) It is not an offence under section 3(1) of this Act for an auctioneer to sell by auction, expose for sale by auction or to have in his possession for sale by auction a firearm or ammunition without being registered as a firearms dealer, if he has obtained from the chief officer of police for the area in which the auction is held a permit for that purpose in the prescribed<sup>1</sup> form and complies with the terms of the permit.

(3) It is an offence<sup>2</sup> for a person knowingly or recklessly to make a statement false in any material particular for the purpose of procuring, either for himself or for another person, the grant of a permit under subsection (2) of this section.

(4) It is not an offence under section 3(2) of this Act for a carrier or warehouseman, or a servant of a carrier or warehouseman, to deliver any firearm or ammunition in the ordinary course of his business or employment as such.

[Firearms Act 1968, s 9 as amended by the Firearms (Amendment) Act 1997, Sch 2.]

<sup>1</sup> The form is contained in the Schedule to the Firearms Rules 1998, see r 9(2), this title, post.

<sup>2</sup> For prosecution and punishment, see Sch 6, post.

## 8–10379

### 10 Slaughter of animals

(1) A person licensed under the Welfare of Animals (Slaughter or Killing) Regulations 1995<sup>1</sup> to slaughter horses, cattle, sheep, swine or goats, may, without holding a certificate, have in his possession a slaughtering instrument<sup>2</sup> and ammunition therefor in any slaughterhouse or knacker's yard in which he is employed.

(2) The proprietor of a slaughterhouse or knacker's yard or a person appointed by him to take charge of slaughtering instruments and ammunition therefor for the purpose of storing them in safe custody at that slaughterhouse or knacker's yard<sup>3</sup> may, without holding a certificate, have in his possession a slaughtering instrument or ammunition therefor for that purpose.

[Firearms Act 1968, s 10, as amended by the Slaughterhouses Act 1974, Sch 3 and SI 1995/731.]

<sup>1</sup> SI 1995/731.

<sup>2</sup> Defined in s 57(4), post.

<sup>3</sup> Cf definition of “knacker’s yard” in s 45 of the Slaughterhouses Act 1974, for the purposes of that Act, title Animals, ante.

## 8–10380

### 11 Sports, athletics and other approved activities

(1) A person carrying a firearm or ammunition belonging to another person holding a certificate under this Act may, without himself holding such a certificate, have in his possession that firearm or ammunition under instructions from, and for the use of, that other person for sporting purposes<sup>1</sup> only.

(2) A person may, without holding a certificate, have a firearm in his possession at an athletic meeting for the purpose of starting races at that meeting.

(3) *(Repealed)*.

(4) A person conducting or carrying on a miniature rifle range (whether for a rifle club or otherwise) or shooting gallery at which no firearms are used other than air weapons or miniature rifles not exceeding .23 inch calibre may, without holding a certificate, have in his possession, or purchase or acquire, such miniature rifles and ammunition suitable therefor; and any person may, without holding a certificate, use any such rifle and ammunition at such a range or gallery.

(5) A person may, without holding a shot gun certificate, borrow a shot gun from the occupier of private premises<sup>2</sup> and use it on those premises<sup>2</sup> in the occupier’s presence.

(6) A person may, without holding a shot gun certificate, use a shot gun at a time and place approved for shooting at artificial targets by the chief officer of police for the area in which that place is situated.

[Firearms Act 1968, s 11 as amended by the Firearms (Amendment) Act 1988, s 15, the Armed Forces Act 1996, Sch 7 and the Firearms (Amendment) Act 1997, Sch 2.]

<sup>1</sup> Shooting rats is not a “sporting purpose” (*Morton v Chaney* [1960] 3 All ER 632, 125 JP 37).

<sup>2</sup> “Premises” includes any land: s 57(4), post.

## 8–10381

### 12 Theatre and cinema

(1) A person taking part in a theatrical performance or a rehearsal thereof, or in the production of a cinematograph film, may, without holding a certificate, have a firearm in his possession during and for the purpose of the performance, rehearsal or production.

(2) Where the Defence Council<sup>1</sup> are satisfied, on the application of a person in charge of a theatrical performance, a rehearsal of such a performance or the production of a cinematograph film, that a prohibited weapon is required for the purpose of the performance, rehearsal or production, they may under section 5 of this Act, if they think fit, not only authorise that person to have possession of the weapon but also authorise such other persons as he may select to have possession of it while taking part in the performance, rehearsal or production.

[Firearms Act 1968, s 12 as amended by the Firearms (Amendment) Act 1988, s 23.]

<sup>1</sup> By the Transfer of Functions (Prohibited Weapons) Order 1968 (SI 1968/1200) the functions of the Defence Council were transferred to the Secretary of State.

## 8–10382

**13 Equipment for ships and aircraft**

- (1) A person may, without holding a certificate,—
- (a) have in his possession a firearm or ammunition on board a ship or a signalling apparatus or ammunition therefor on board an aircraft or at an aerodrome, as part of the equipment of the ship, aircraft or aerodrome;
  - (b) remove a signalling apparatus or ammunition therefor, being part of the equipment of an aircraft, from one aircraft to another at an aerodrome, or from or to an aircraft at an aerodrome to or from a place appointed for the storage thereof in safe custody at that aerodrome, and keep any such apparatus or ammunition at such a place; and
  - (c) if he has obtained from a constable a permit for the purpose in the prescribed<sup>1</sup> form, remove a firearm from or to a ship, or a signalling apparatus from or to an aircraft or aerodrome, to or from such place and for such purpose as may be specified in the permit.

(2) It is an offence<sup>2</sup> for a person knowingly or recklessly to make a statement false in any material particular for the purpose of procuring, either for himself or for another person, the grant of a permit under subsection (1)(c) of this section.

[Firearms Act 1968, s 13 as amended by the Firearms (Amendment) Act 1988, s 23 and the Firearms (Amendment) Act 1997, Sch 2.]

<sup>1</sup> The form is contained in the Schedule to the Firearms Rules 1998, see r 9(3), this title, post.

<sup>2</sup> For prosecution and punishment, see Sch 6, post.

8–10383

**14 Persons temporarily in Great Britain**

A person who has been in Great Britain for not more than thirty days in all the preceding twelve months may have in his possession, or purchase or acquire, a shot gun without holding a shot gun certificate.

[Firearms Act 1968, s 14.]

8–10384

**15 Holder of Northern Irish certificate**

Section 2(1) of this Act does not apply to a person holding a firearm certificate issued in Northern Ireland authorising him to possess a shot gun.

[Firearms Act 1968, s 15.]

*Prevention of crime and preservation of public safety*

8–10385

**16 Possession of firearm with intent<sup>1</sup> to injure**

It is an offence<sup>2</sup> for a person to have in his possession any firearm<sup>3</sup> or ammunition<sup>4</sup> with intent by means thereof to endanger life<sup>5</sup>, or to enable another person by means thereof to endanger life, whether any injury has been caused or not.

[Firearms Act 1968, s 16, as amended by the Criminal Damage Act 1971, Sch]

- <sup>1</sup> Since both limbs of s 16 are concerned with possession not supply, it is the state of mind of the possessor of the firearm or ammunition that must be considered; the intent required is a specific intent (**R v Jones** [1997] 2 WLR 792).
- <sup>2</sup> For prosecution and punishment, see Sch 6, post. See **R v Bentham** [1973] QB 357, [1972] 3 All ER 271; and **R v El-Hakkaoui** [1975] 2 All ER 146, 139 JP 467.
- <sup>3</sup> Defined in s 57(1), post.
- <sup>4</sup> Defined in s 57(2), post.
- <sup>5</sup> It will not be an offence if he intended suicide, and not to endanger the life of another; see **R v Norton** and commentary thereon at [1977] CrimLR 478. Lawful self-defence constitutes a defence to a charge under this section (**R v Georgiades** [1989] 1 WLR 759, 89 Cr App Rep 206, CA).

## 8-10386

### 16A Possession of firearm with intent to cause fear of violence

It is an offence for a person to have in his possession any firearm or imitation firearm with intent

- (a) by means thereof to cause, or
- (b) to enable another person by means thereof to cause,

any person to believe that unlawful violence will be used against him or another person.

[Firearms Act 1968, s 16A, as inserted by the Firearms (Amendment) Act 1994, s 1.]

## 8-10387

### 17 Use of firearm to resist arrest<sup>1</sup>

- (1) It is an offence<sup>2</sup> for a person to make or attempt to make any use whatsoever of a firearm<sup>3</sup> or imitation firearm<sup>4</sup> with intent to resist or prevent the lawful arrest or detention of himself or another person.
- (2) If a person, at the time of his committing or being arrested<sup>5</sup> for an offence specified in Schedule 1 to this Act, has in his possession a firearm or imitation firearm, he shall be guilty of an offence<sup>2</sup> under this subsection unless he shows that he had it in his possession for a lawful object.
- (3) (*Repealed*).
- (4) For purposes of this section, the definition of "firearm" in section 57(1) of this Act shall apply without paragraphs (b) and (c) of that subsection, and "imitation firearm" shall be construed accordingly.
- (5) In the application of this section to Scotland, a reference to Schedule 2 to this Act shall be substituted for the reference in subsection (2) to Schedule 1.

[Firearms Act 1968, s 17, as amended by the Theft Act 1968.]

- <sup>1</sup> If the defendant is also charged with an offence listed in Schedule 1 to the Magistrates' Courts Act 1980, see the special procedure set out in Sch 6 para 3, post.
- <sup>2</sup> For prosecution and punishment, see Sch 6, post.
- <sup>3</sup> Defined in s 57(1), post.

<sup>4</sup> Defined in s 57(4), post.

<sup>5</sup> The apprehension must be for an offence mentioned in Sch 1, post, and conviction may only be on proof that the offence had in fact been committed by the prisoner (**R v Baker** [1962] 2 QB 530, [1961] 3 All ER 703, 125 JP 650).

## 8–10388

### 18 Carrying firearms with criminal intent

(1) It is an offence<sup>1</sup> for a person to have with him<sup>2</sup> a firearm<sup>3</sup> or imitation firearm<sup>4</sup> with intent<sup>5</sup> to commit an indictable offence, or to resist arrest or prevent the arrest of another, in either case while he has the firearm or imitation firearm with him.

(2) In proceedings for an offence under this section proof that the accused had a firearm or imitation firearm with him and intended to commit an offence, or to resist or prevent arrest, is evidence that he intended to have with him while doing so.

(3) *Applies to Scotland.*

[Firearms Act 1968, s 18.]

<sup>1</sup> For prosecution and punishment, see Sch 6, post.

<sup>2</sup> To prove that the accused had with him a firearm the prosecution must establish more than mere possession, namely that the accused had a close physical link and immediate control over the firearm; but it is not necessary to establish that he had been carrying it (**R v Kelt** [1977] 3 All ER 1099, 142 JP 60 and see **R v Pawlicki and R v Swindell** [1992] 1 WLR 827, [1992] Crim LR 584, CA).

<sup>3</sup> Defined in s 57(1), post. It is not necessary to prove that the accused intended to use the weapon in the crime as the section is wide enough to embrace those who set out to commit an indictable offence whilst intentionally carrying a firearm (**R v Stoddart** [1998] 2 Cr App Rep 25, 162 JP 78, CA).

<sup>4</sup> Defined in s 57(4), post.

<sup>5</sup> Where a defendant pulled an imitation firearm from a shoulder holster, it was held that it was not essential for the intent to have been formed before the imitation firearm was pulled out of the holster (**R v Houghton** [1982] Crim LR 112).

## 8–10389

### 19 Carrying firearm in a public place

A person commits an offence<sup>1</sup> if, without lawful authority<sup>2</sup> or reasonable excuse (the proof<sup>3</sup> whereof lies on him) he has with him<sup>4</sup> in a public place<sup>5</sup> a loaded shot gun<sup>6</sup> or loaded air weapon<sup>7</sup>, or any other firearm<sup>6</sup> (whether loaded or not) together with ammunition suitable for use in that firearm.

[Firearms Act 1968, s 19.]

<sup>1</sup> For prosecution and punishment, see Sch 6, post.

<sup>2</sup> A valid shotgun certificate does not give a person lawful authority to have with him a loaded shotgun in a public place (**Ross v Collins** [1982] Crim LR 368). The same reasoning applies *a fortiori* to a firearms certificate and a firearm. Mistaken belief that a certificate is valid and constitutes lawful authority is not a defence (**R v Clarke** (1994) Times, 19 August); followed in **R v Jones (TM)** [1995] QB 235, 159 JP 94, CA where it was held that a certificate for a firearm and ammunition was not in itself lawful authority for the holder of the certificate to have the firearm and ammunition for it in a public place.

<sup>3</sup> The onus of proof is less than that which lies on the prosecution in proving a case beyond reasonable doubt and it may be discharged by evidence of probability (**R v Carr-Briant** [1943] KB 607, [1943] 2 All ER 156, 107 JP 167). The mistaken belief by the holder of an invalid firearm certificate that it was valid and that it was lawful authority is not capable of being a reasonable excuse (**R v Jones (TM)** [1995] QB 235, 159 JP 94, CA).

<sup>4</sup> See note 2 at para 8–10388.

<sup>5</sup> Defined in s 57(4), post. See **Anderson v Miller** [1976] Crim LR 743.

<sup>6</sup> Defined in s 57(1), post.

<sup>7</sup> Defined in s 57(6),(b), post.

## 8–10390

### 20 Trespassing with firearm

(1) A person commits an offence<sup>1</sup> if, while he has a firearm or imitation firearm<sup>2</sup> with him<sup>3</sup>, he enters or is in any building or part of a building as a trespasser and without reasonable excuse (the proof<sup>4</sup> whereof lies on him).

(2) A person commits an offence<sup>1</sup> if, while he has a firearm or imitation firearm<sup>2</sup> with him<sup>3</sup>, he enters or is on any land as a trespasser and without reasonable excuse (the proof<sup>4</sup> whereof lies on him).

(3) In subsection (2) of this section the expression “land” includes land covered with water.

[Firearms Act 1968, s 20 as amended by the Firearms (Amendment) Act 1994, s 2.]

<sup>1</sup> For prosecution and punishment, see Sch 6, post.

<sup>2</sup> Defined in s 57(1), post.

<sup>3</sup> To prove that the accused had with him a firearm the prosecution must establish more than mere possession, namely that the accused had a close physical link and immediate control over the firearm; but it is not necessary to establish that he had been carrying it (**R v Kelt** [1977] 3 All ER 1099, 142 JP 60).

<sup>4</sup> The onus of proof is less than that which lies on the prosecution in proving a case beyond reasonable doubt and it may be discharged by evidence of probability (**R v Carr-Briant** [1943] KB 607, [1943] 2 All ER 156, 107 JP 167).

## 8–10400

### 21 Possession of firearms by persons previously convicted of crime

(1) A person who has been sentenced to custody for life or to preventative detention, or to imprisonment or to corrective training for a term of three years or more<sup>1</sup> or to youth custody or detention in a young offender institution for such a term, or who has been sentenced to be detained for such a term in a young offenders institution in Scotland, shall not at any time have a firearm or ammunition in his possession.

(2) A person who has been sentenced to imprisonment<sup>2</sup> for a term of three months or more but less than three years or to youth custody or detention in a young offender institution for such a term, or who has been sentenced to be detained for such a term in a detention centre or in a young offenders institution in Scotland or who has been subject to a secure training order or a detention and training order, shall not at any time before the expiration of the period of five years from the date of his release have a firearm or ammunition in his possession.

(2A) For the purposes of subsection (2) above, “the date of his release” means—

- (a) in the case of a person sentenced to imprisonment with an order under section 47(1) of the Criminal Law Act 1977 (prison sentence partly served and partly suspended), the date on which he completes service of so much of the sentence as was by that order required to be served in prison;
- (b) in the case of a person who has been subject to a secure training order—

- (i) the date on which he is released from detention under the order;
- (ii) the date on which he is released from detention ordered under section 4 of the Criminal Justice and Public Order Act 1994; or
- (iii) the date halfway through the total period specified by the court in making the order,

whichever is the later;

- (c) in the case of a person who has been subject to a detention and training order—

- (i) the date on which he is released from detention under the order;
- (ii) the date on which he is released from detention ordered under section 77 of the Crime and Disorder Act 1998; or
- (iii) the date of the halfway point of the term of the order,

whichever is the later.

- (3) A person who—

- (a) is the holder of a licence issued under section 53 of the Children and Young Persons Act 1933, or section 57 of the Children and Young Persons (Scotland) Act 1937 (which sections provide for the detention of children and young persons convicted of serious crime, but enable them to be discharged on licence by the Secretary of State); or
- (b) is subject to a recognisance to keep the peace or to be of good behaviour, a condition of which is that he shall not possess, use or carry a firearm, or is subject to a probation order containing a requirement that he shall not possess, use or carry a firearm; or
- (c) has, in Scotland, been ordained to find caution a condition of which is that he shall not possess, use or carry a firearm;

shall not, at any time during which he holds the licence or is so subject or has been so ordained, have a firearm or ammunition in his possession.

(3A) Where by section 19 of the Firearms Act (Northern Ireland) 1969, or by any other enactment for the time being in force in Northern Ireland and corresponding to this section, a person is prohibited in Northern Ireland from having a firearm or ammunition in his possession, he shall also be so prohibited in Great Britain at any time when to have it in his possession in Northern Ireland would be a contravention of the said section 19 or corresponding enactment.

(4) It is an offence<sup>3</sup> for a person to contravene any of the foregoing provisions of this section.

(5) It is an offence<sup>3</sup> for a person to sell or transfer<sup>4</sup> a firearm or ammunition to, or to repair, test or prove a firearm or ammunition for, a person whom he knows or has reasonable ground for believing to be prohibited by this section from having a firearm or ammunition in his possession.

(6) A person prohibited under subsection (1),(2),(3) or (3A) of this section from having in his possession a firearm or ammunition may apply to the Crown Court<sup>5</sup> or, in Scotland, in

accordance with Act of Sederunt to the sheriff for a removal of the prohibition; and if the application is granted that prohibition shall not then apply to him.

(7) Schedule 3 to this Act shall have effect with respect to the courts with jurisdiction to entertain an application under this section and to the procedure appertaining thereto.

[Firearms Act 1968, s 21, as amended by the Courts Act 1971, Sch 9, the Criminal Law Act 1977, Sch 9, the Criminal Justice Act 1982, Sch 14, the Criminal Justice Act 1988, Schs 8 and 16, the Criminal Justice and Public Order Act 1994, Sch 10 and the Crime and Disorder Act 1998, Sch 8.]

- <sup>1</sup> Where there are several separate shorter sentences it is the total which counts for this purpose (**Davies v Tomlinson** (1980) 71 Cr App Rep 279—two concurrent and one consecutive sentence totalling<sup>2</sup>/<sub>4</sub> years imprisonment plus an activated suspended sentence of six months).
- <sup>2</sup> The prohibition in subsection (2) was held not to apply to a person whose sentence was suspended: **R v Fordham** [1970] 1 QB 77,[1969] 3 All ER 532, 133 JP 626.
- <sup>3</sup> For prosecution and punishment, see Sch 6, post.
- <sup>4</sup> Defined in s 57(4), post.
- <sup>5</sup> The chief officer of police shall not be ordered to pay the costs of the applicant (Sch 3, para 7).

## 8–10401

### 22 Acquisition and possession of firearms by minors

(1) It is an offence<sup>1</sup> for a person under the age of seventeen<sup>2</sup> to purchase or hire any firearm<sup>3</sup> or ammunition<sup>4</sup>.

(1A) Where a person under the age of eighteen is entitled, as the holder of a certificate under this Act, to have a firearm in his possession, it is an offence for that person to use that firearm for a purpose not authorised by the European weapons directive.

(2) It is an offence<sup>1</sup> for a person under the age of fourteen<sup>2</sup> to have in his possession any firearm<sup>3</sup> or ammunition<sup>4</sup> to which section 1 of this Act applies, except in circumstances where under section 11(1),(3) or (4) of this Act or section 15 of the Firearms (Amendment) Act 1988<sup>5</sup> he is entitled to have possession of it without holding a firearm certificate.

(3) It is an offence<sup>1</sup> for a person under the age of fifteen<sup>2</sup> to have with him<sup>6</sup> an assembled shot gun<sup>7</sup> except while under the supervision of a person of or over the age of twenty-one, or while the shot gun is so covered with a securely fastened gun cover that it cannot be fired.

(4) Subject to section 23 below, it is an offence<sup>1</sup> for a person under the age of fourteen<sup>2</sup> to have with him<sup>6</sup> an air weapon<sup>8</sup> or ammunition for an air weapon.

(5) Subject to section 23 below, it is an offence<sup>2</sup> for a person under the age of seventeen<sup>1</sup> to have an air weapon<sup>8</sup> with him<sup>6</sup> in a public place, except an air gun or air rifle which is so covered with a securely fastened gun cover that it cannot be fired.

[Firearms Act 1968, s 22 as amended by the Firearms (Amendment) Act 1988, s 23 and SI 1992/2823.]

- <sup>1</sup> For prosecution and punishment, see Sch 6, post and note forfeiture powers under Part II thereof.
- <sup>2</sup> The onus of proving that the person is under the relevant age will be on the prosecution.
- <sup>3</sup> Defined in s 57(1), post.
- <sup>4</sup> Defined in s 57(2), post.
- <sup>5</sup> See, post.

<sup>6</sup> See note 2 to s 18(1), ante.

<sup>7</sup> Defined in s 1(3)(a), ante.

<sup>8</sup> Defined in s 1(3)(b), ante.

## 8-10402

### 23 Exceptions from section 22(4) and (5)

(1) It is not an offence under section 22(4) of this Act for a person to have with him an air weapon or ammunition while he is under the supervision of a person of or over the age of twenty-one; but where a person has with him an air weapon on any premises<sup>1</sup> in circumstances where he would be prohibited from having it with him but for this subsection, it is an offence<sup>2</sup>—

- (a) for him to use it for firing any missile beyond those premises; or
- (b) for the person under whose supervision he is to allow him so to use it.

(2) It is not an offence under section 22(4) or (5) of this Act for a person to have with him an air weapon or ammunition at a time when—

- (a) being a member of a rifle club or miniature rifle club for the time being approved by the Secretary of State for the purposes of this section or section 15 of the Firearms (Amendment) Act 1988<sup>3</sup>, he is engaged as such a member in connection with target shooting; or
- (b) he is using the weapon or ammunition at a shooting gallery where the only firearms used are either air weapons or miniature rifles not exceeding .23 inch calibre.

[Firearms Act 1968, s 23 as amended by the Firearms (Amendment) Act 1988, s 23 and the Firearms (Amendment) Act 1997, Schs 2 and 3.]

<sup>1</sup> Defined in s 57(4), post.

<sup>2</sup> For prosecution and punishment, see Sch 6, post and note forfeiture powers under Part II thereof.

<sup>3</sup> See, post.

## 8-10403

### 24 Supplying firearms to minors

(1) It is an offence<sup>1</sup> to sell<sup>2</sup> or let on hire any firearm<sup>3</sup> or ammunition<sup>4</sup> to a person under the age of seventeen<sup>5</sup>.

(2) It is an offence<sup>1</sup>—

- (a) to make a gift or lend any firearm<sup>3</sup> or ammunition<sup>4</sup> to which section 1 of this Act applies to a person under the age of fourteen<sup>5</sup>; or
- (b) to part with the possession of any such firearm or ammunition to a person under that age<sup>5</sup>, except in circumstances where that person is entitled under section 11(1),(3) or (4) of this Act or section 15 of the Firearms (Amendment) Act 1988<sup>6</sup> to have possession thereof without holding a firearm certificate.

(3) It is an offence<sup>1</sup> to make a gift of a shot gun<sup>7</sup> or ammunition for a shot gun to a person under the age of fifteen<sup>5</sup>.

(4) It is an offence<sup>1</sup>—

- (a) to make a gift of an air weapon<sup>8</sup> or ammunition for an air weapon to a person under the age of fourteen<sup>5</sup>; or
- (b) to part with the possession of an air weapon or ammunition for an air weapon to a person under that age<sup>5</sup> except where by virtue of section 23 of this Act the person is not prohibited from having it with him.

(5) In proceedings for an offence under any provision of this section it is a defence to prove that the person charged with the offence believed the other person to be of or over the age mentioned in that provision and had reasonable ground for the belief.

[Firearms Act 1968, s 24 as amended by the Firearms (Amendment) Act 1988, s 23.]

- <sup>1</sup> For prosecution and punishment, see Sch 6, post and note forfeiture powers under Part II thereof.
- <sup>2</sup> The prohibition on the sale of firearms is not avoided by a collateral arrangement that possession of the firearm shall be retained by the seller (**Watts v Seymour** [1967] 2 QB 647,[1967] 1 All ER 1044, 131 JP 309).
- <sup>3</sup> Defined in s 57(1), post.
- <sup>4</sup> Defined in s 57(2), post.
- <sup>5</sup> The onus of proving that the person is under the relevant age will be on the prosecution.
- <sup>6</sup> See, post.
- <sup>7</sup> Defined in s 1(3)(a), ante.
- <sup>8</sup> Defined in s 1(3)(b), ante.

## 8-10404

### 25 Supplying firearm to person drunk or insane

It is an offence<sup>1</sup> for a person to sell or transfer any firearm or ammunition to, or to repair, prove or test any firearm or ammunition for, another person whom he knows or has reasonable cause for believing to be drunk or of unsound mind.

[Firearms Act 1968, s 25.]

- <sup>1</sup> For prosecution and punishment, see Sch 6, post.

## Part II

### Firearm and Shot Gun Certificates; Registration of Firearms Dealers

#### *Grant, renewal, variation and revocation of firearm and shot gun certificates*

## 8-10405

### 26A Application for firearm certificates

(1) An application for the grant of a firearm certificate shall be made in the prescribed form<sup>1</sup> to the chief officer of police<sup>2</sup> for the area<sup>3</sup> in which the applicant resides<sup>4</sup> and shall state such particulars as may be required by the form.

(2) Rules<sup>1</sup> made by the Secretary of State under section 53 of this Act may require any application for a certificate to be accompanied by up to four photographs of the applicant and by the names and addresses of two persons who have agreed to act as referees.

(3) The rules may require that, before considering an application for a firearm certificate, the chief officer of police has the following from each referee nominated by the applicant—

- (a) verification in the prescribed manner of—

- (i) any prescribed particulars; and
  - (ii) the likeness to the applicant of the photographs submitted with the application;
- (b) a statement in the prescribed form to the effect that he knows of no reason why the applicant should not be permitted to possess a firearm; and
  - (c) such other statements or information in connection with the application or the applicant as may be prescribed

[Firearms Act 1968, s 26A, as inserted by the Firearms (Amendment) Act 1997, ss 37.]

<sup>1</sup> “Prescribed” means prescribed by rules made by the Secretary of State under s 53 (s 57(4)). See the Firearms Rules 1998, this title, post.

<sup>2</sup> “Chief officer of police” is defined in the Police Act 1996, s 101(1), title Police, post, and that definition is applied to this Act by the Interpretation Act 1978, Sch 1, in Part II: Evidence, ante.

<sup>3</sup> “Area” means a police area, see s 57(4).

<sup>4</sup> Ownership of property which does not carry with it the right of occupation is not sufficient to show that the applicant resides within the area in which he applies for the certificate (**Burditt v Joslin** [1981] 3 All ER 203).

## 8-10405A

### 26B Applications for shot gun certificates

(1) An application for the grant of a shot gun certificate shall be made in the prescribed<sup>1</sup> form to the chief officer of police<sup>2</sup> for the area<sup>3</sup> in which the applicant resides<sup>4</sup> and shall state such particulars as may be required by the form.

(2) Rules made by the Secretary of State under section 53 of this Act may—

- (a) require any application for a certificate to be accompanied by up to four photographs of the applicant;
- (b) require the verification in the prescribed manner of any prescribed particulars and of the likeness of those photographs to the applicant;
- (c) require any application for a certificate to be accompanied by a statement by the person verifying the matters mentioned in paragraph (b) above to the effect that he knows of no reason why the applicant should not be permitted to possess a shot gun.

[Firearms Act 1968, s 26B, as inserted by the Firearms (Amendment) Act 1997, s 37.]

<sup>1</sup> “Prescribed” means prescribed by rules made by the Secretary of State under s 53 (s 57(4)). See the Firearms Rules 1998, this title, post.

<sup>2</sup> “Chief officer of police” is defined in the Police Act 1996, s 101(1), title Police, post, and that definition is applied to this Act by the Interpretation Act 1978, Sch 1, in Part II: Evidence, ante.

<sup>3</sup> “Area” means a police area; see s 57(4), post.

<sup>4</sup> Ownership of property which does not carry with it the right of occupation is not sufficient to show that the applicant resides within the area in which he applies for the certificate (**Burditt v Joslin** [1981] 3 All ER 203).

## 8-10406

### 27 Special provisions about firearm certificates

(1) A firearm certificate shall be granted where the chief officer of police is satisfied—

- (a) that the applicant is fit to be entrusted with a firearm to which section 1 of this Act applies and is not a person prohibited by this Act from possessing such a firearm;
- (b) that he has a good reason for having in his possession, or for purchasing or acquiring, the firearm or ammunition in respect of which the application is made<sup>1</sup>; and
- (c) that in all the circumstances the applicant can be permitted to have the firearm or ammunition in his possession without danger to the public safety or to the peace.

(1A) For the purposes of subsection (1) above a person under the age of eighteen shall be capable of having a good reason for having a firearm or ammunition in his possession, or for purchasing or acquiring it, only if he has no intention of using the firearm or ammunition, at any time before he attains the age of eighteen, for a purpose not authorised by the European weapons directive.

(2) A firearm certificate shall be in the prescribed form<sup>2</sup> and shall specify the conditions (if any) subject to which it is held, the nature and number of the firearms to which it relates, including if known their identification numbers, and, as respects ammunition, the quantities authorised to be purchased or acquired and to be held at any one time thereunder.

(3) This section applies to the renewal of a firearm certificate as it applies to a grant.

[Firearms Act 1968, s 27 as amended by the Firearms (Amendment) Act 1988, s 23, SI 1992/2823 and the Firearms (Amendment) Act 1997, s 38.]

<sup>1</sup> Firearm certificates will normally be specific rather than general, necessitating a fresh certificate whenever the original firearm is exchanged (**R v Wilson** [1989] Crim LR 146).

<sup>2</sup> The power to prescribe the form of a firearm certificate includes power to require the certificate to bear a photograph of the holder (Firearms (Amendment) Act 1988, s 9).  
The form of certificate is given in the Firearms Rules 1998 and certain standard conditions are prescribed by r 3(4); see this title, post.

## 8-10407

### 28 Special provisions about shot gun certificates

(1) Subject to subsection (1A) below, a shot gun certificate shall be granted or, as the case may be, renewed by the chief officer of police if he is satisfied that the applicant can be permitted to possess a shot gun without danger to the public safety or to the peace.

(1A) No such certificate shall be granted or renewed if the chief officer of police—

- (a) has reason to believe that the applicant is prohibited by this Act from possessing a shot gun; or
- (b) is satisfied that the applicant does not have a good reason for possessing, purchasing or acquiring one.

(1B) For the purposes of paragraph (b) of subsection (1A) above an applicant shall, in particular, be regarded as having a good reason if the gun is intended to be used for sporting or competition purposes or for shooting vermin; and an application shall not be refused by virtue of that paragraph merely because the applicant intends neither to use the gun himself nor to lend it for anyone else to use.

(1C) A person under the age of eighteen shall be regarded for the purposes of paragraph (b) of subsection (1A) above as not having a good reason for possessing, purchasing or acquiring

a shot gun if it is his intention to use the shot gun, at any time before he attains the age of eighteen, for a purpose not authorised by the European weapons directive.

- (2) A shot gun certificate shall be in the prescribed form<sup>1</sup> and shall—
- (a) be granted or renewed subject to any prescribed conditions and no others; and
  - (b) specify the conditions, if any, subject to which it is granted or renewed.

(2A) A shot gun certificate shall specify the description of the shot guns to which it relates including, if known, the identification numbers of the guns.

(3) *(Repealed)*.

[Firearms Act 1969, s 28 as amended by the Firearms (Amendment) Act 1988, s 3, SI 1992/2823 and the Firearms (Amendment) Act 1997, Sch 3.]

<sup>1</sup> The power to prescribe the form of a shot gun certificate includes power to require the certificate to bear a photograph of the holder (Firearms (Amendment) Act 1988, s 9).  
The form of certificate is given in the Firearms Rules 1998 and certain standard conditions are prescribed by r 5(4); see this title, post.

## 8-10407A

### 28A Certificates: supplementary

- (1) A certificate shall, unless previously revoked or cancelled, continue in force for five years from the date when it was granted or last renewed, but shall be renewable for a further period of five years by the chief officer of police for the area in which the holder resides.
- (2) The provisions of this Act apply to the renewal of a certificate as they apply to a grant; but, subject to the power of renewal conferred by this subsection, a certificate granted or last renewed in Northern Ireland shall not continue in force for a period longer than that for which it was so granted or last renewed.
- (3) The Secretary of State may by order amend subsection (1) above so as to substitute for any reference to a period for the time being specified in that subsection a reference to such other period as may be specified in the order.
- (4) An order made under subsection (3) above shall apply only to certificates granted or renewed after the date on which the order comes into force.
- (5) The power to make orders under subsection (3) above shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) A person aggrieved by the refusal of a chief officer of police to grant or to renew a certificate under this Act may in accordance with section 44 of this Act appeal against the refusal.
- (7) It is an offence<sup>1</sup> for a person knowingly or recklessly to make any statement which is false in any material particular for the purpose of procuring (whether for himself or another) the grant or renewal of a certificate under this Act.

[Firearms Act 1968, s 28A as inserted by the Firearms (Amendment) Act 1997, Sch 2.]

<sup>1</sup> For prosecution and punishment, see Sch 6, post.

**8-10408****29 Variation of firearm certificates**

(1) The chief officer of police for the area in which the holder of a firearm certificate resides may at any time by notice in writing vary the conditions subject to which the certificate is held, except such of them as may be prescribed, and may by the notice require the holder to deliver up the certificate to him within twenty-one days from the date of the notice for the purpose of amending the conditions specified therein.

(2) A firearm certificate may also, on the application of the holder, be varied from time to time by the chief officer of police for the area in which the holder for the time being resides; and a person aggrieved by the refusal of a chief officer of police to vary a firearm certificate may in accordance with section 44 of this Act appeal<sup>1</sup> against the refusal.

(3) It is an offence<sup>2</sup> for a person knowingly or recklessly to make a statement false in any material particular for the purpose of procuring, whether for himself or another person, the variation of a firearm certificate.

[Firearms Act 1968, s 29 as amended by the Firearms (Amendment) Act 1997, Sch 2.]

<sup>1</sup> There is not right of appeal to the Crown Court against a decision not to vary the conditions on a firearm certificate **R v Cambridge Crown Court, ex p Buckland** [1998] 32 LS Gaz R 29.

<sup>2</sup> For prosecution and punishment, see Sch 6, post.

**8-10409****30A Revocation of firearm certificates**

(1) A firearm certificate may be revoked by the chief officer of police for the area in which the holder resides on any of the grounds mentioned in subsection (2) to (5) below.

(2) The certificate may be revoked if the chief officer of police has reason to believe—

- (a) that the holder is of intemperate habits or unsound mind or is otherwise unfitted to be trusted with a firearm; or
- (b) that the holder can no longer be permitted to have the firearm or ammunition to which the certificate relates in his possession without danger<sup>1</sup> to the public safety or to the peace.

(3) The certificate may be revoked if the chief officer of police is satisfied that the holder is prohibited by this Act from possessing a firearm to which section 1 of this Act applies.

(4) The certificate may be revoked if the chief officer of police is satisfied that the holder no longer has a good reason for having in his possession, or for purchasing or acquiring, the firearm or ammunition which he is authorised by virtue of the certificate to have in his possession or to purchase or acquire.

(5) A firearm certificate may be revoked if the holder fails to comply with a notice under section 29(1) of this Act requiring him to deliver up the certificate.

(6) A person aggrieved by the revocation of a certificate under subsection (2),(3) or (4) of this section may in accordance with section 44 of this Act appeal against the revocation.

[Firearms Act 1968, s 30A, as inserted by the Firearms (Amendment) Act 1997, s 40.]

<sup>1</sup> See note 1 to s 30C(1), post.

**8-10409A****30B Partial revocation of firearm certificates**

(1) The chief officer of police for the area in which the holder of a firearm certificate resides may partially revoke the certificate, that is to say, he may revoke the certificate in relation to any firearm or ammunition which the holder is authorised by virtue of the certificate to have in his possession or to purchase or acquire.

(2) A firearm certificate may be partially revoked only if the chief officer of police is satisfied that the holder no longer has a good reason for having in his possession, or for purchasing or acquiring, the firearm or ammunition to which the partial revocation relates.

(3) A person aggrieved by the partial revocation of a certificate may in accordance with section 44 of this Act appeal against the partial revocation.

[Firearms Act 1968, s 30B, as inserted by the Firearms (Amendment) Act 1997, s 40.]

**8-10409B****30C Revocation of shot gun certificates**

(1) A shot gun certificate may be revoked by the chief officer of police for the area in which the holder resides if he is satisfied that the holder is prohibited by this Act from possessing a shot gun or cannot be permitted to possess a shot gun without danger<sup>1</sup> to the public safety or to the peace.

(2) A person aggrieved by the revocation of a shot gun certificate may in accordance with section 44 of this Act appeal against the revocation.

[Firearms Act 1968, s 30C, as inserted by the Firearms (Amendment) Act 1997, s 40.]

<sup>1</sup> This need not just be a danger of violence; use of the gun for poaching can justify revocation (*Ackers v Taylor* [1974] 1 All ER 771, 138 JP 269). The danger to the peace which must be considered must be a danger to the peace involving the use of a shot gun (*Spencer-Stewart v Chief Constable of Kent* (1988) 89 Cr App Rep 307). Where the holder of a shotgun certificate was married to a man with previous convictions for drug offences, and both she and her husband still associated with drug users, it was held that there was some danger to the public and that the requirements for revocation of the shotgun certificate had been satisfied (*Dabek v Chief Constable of Devon and Cornwall* (1990) 155 JP 55, DC). Similarly, a chief constable is entitled in the exercise of his discretion to take account of irresponsible and uncontrolled conduct not involving a shotgun but analogous to it (*Chief Constable of Essex v Germain* (1991) 156 JP 109).

**8-10409C****30D Revocation of certificates: supplementary**

(1) Where a certificate is revoked under section 30A or 30C of this Act the chief officer of police shall by notice in writing require the holder to surrender the certificate.

(2) Where a certificate is partially revoked under section 30B of this Act the chief officer of police shall by notice in writing require the holder to deliver up the certificate for the purpose of amending it.

(3) It is an offence<sup>1</sup> for the holder of a certificate to fail to comply with a notice under subsection (1) or (2) above within twenty-one days from the date of the notice.

(4) If an appeal is brought against a revocation or partial revocation—

- (a) this section shall not apply to that revocation or partial revocation unless the appeal is abandoned or dismissed; and

- (b) it shall then apply with the substitution, for the reference to the date of the notice, of a reference to the date on which the appeal was abandoned or dismissed.

(5) This section shall not apply in relation to—

- (a) the revocation of a firearm certificate on any ground mentioned in section 30A(2),(3) or (4) of this Act;
- (b) the revocation of a shot gun certificate,

if the chief officer of police serves a notice on the holder under section 12 of the Firearms Act 1968 requiring him to surrender forthwith his certificate and any firearms and ammunition in his possession by virtue of the certificate.

[Firearms Act 1968, s 30D, as inserted by the Firearms (Amendment) Act 1997, s 40.]

<sup>1</sup> For prosecution and punishment, see Sch 6, post.

## 8-10410

### 31 Certificate for prohibited weapon

(1) A chief officer of police shall not refuse to grant or renew, and shall not revoke, a firearm certificate in respect of a prohibited weapon or prohibited ammunition if the applicant for the certificate is for the time being authorised by the Defence Council under section 5 of this Act to have possession of that weapon or ammunition.

(2) Where an authority of the Defence Council under that section to have possession of, or to purchase or acquire, a prohibited weapon or prohibited ammunition is revoked, the firearm certificate relating to that weapon or ammunition shall be revoked or varied accordingly by the chief officer of police by whom it was granted.

[Firearms Act 1968, s 31.]

## 8-10411

### 32 Fee for certificate and exemption from paying it in certain cases

(1) Subject to this Act, there shall be payable—

- (a) on the grant of a firearm certificate, a fee of £56;
- (b) on the renewal of a firearm certificate, a fee of £46;
- (c) on any variation of a firearm certificate (otherwise than when it is renewed at the same time) so as to increase the number of firearms to which the certificate relates, a fee of £26;
- (cc) on the replacement of a firearm certificate which has been lost or destroyed, a fee of £9;
- (d) on the grant of a shot gun certificate, a fee of £43;
- (e) on the renewal of a shot gun certificate, a fee of £18, and
- (f) on the replacement of a shotgun certificate which has been lost or destroyed, a fee of £8.

(2) No fee shall be payable on the grant to a responsible officer of a rifle club, miniature rifle club or muzzle-loading pistol club which is approved under section 15 of the Firearms (Amendment) Act 1988 of a firearm certificate in respect of rifles, miniature rifles or muzzle-loading pistols, or ammunition, to be used solely for target shooting by the members of the club, or on the variation or renewal of a certificate so granted.

(2A) Subsection (2) above—

- (a) does not apply if the operation of subsection (1) of section 15 of the Firearms (Amendment) Act 1988 is excluded in relation to the club by a limitation in the approval; or
- (b) if the operation of subsection (1) of that section in relation to the club is limited by the approval to target shooting with specified types of rifles, miniature rifles or muzzle-loading pistols, only applies to a certificate in respect of rifles, miniature rifles or pistols of those types.

(2B) *(Repealed)*.

(3) No fee shall be payable on the grant, variation or renewal of a firearm certificate if the chief officer of police is satisfied that the certificate relates solely to and, in the case of a variation, will continue when varied to relate solely to—

- (a) a firearm or ammunition which the applicant requires as part of the equipment of a ship; or
- (b) a signalling apparatus, or ammunition therefor, which the applicant requires as part of the equipment of an aircraft or aerodrome; or
- (c) a slaughtering instrument, or ammunition therefor, which the applicant requires for the purpose of the slaughter of animals.

(3A) No fee shall be payable on the grant, variation or renewal of a firearm certificate which relates solely to and, in the case of a variation, will continue when varied to relate solely to a signalling device, which, when assembled and ready to fire, is not more than eight inches long and which is designed to discharge a flare, or to ammunition for such a device.

(4) No fee shall be payable—

- (a) on the grant or renewal of a firearm certificate relating solely to a firearm which is shown to the satisfaction of the chief officer of police to be kept by the applicant as a trophy of war; or
- (b) on any variation of a certificate the sole effect of which is to add such a firearm as aforesaid to the firearms to which the certificate relates,

if the certificate is granted, renewed or varied subject to the condition that the applicant shall not use the firearm.

[Firearms Act 1968, s 32, as amended by the Firearms (Variation of Fees) Orders 1980, SI 1980/574 and 1986, the Firearms (Amendment) Act 1988, s 15, SI 1994/2615, the Firearms (Amendment) Act 1997, Sch 2 and the Firearms (Amendment)(No 2) Act 1997, Sch.]

*Issue etc in Great Britain of documents for European purposes*

**32A Documents for European purposes**

(1) Where a person is granted, or is the holder of, a certificate under this Act, he shall be entitled to be issued by the chief officer of police for the area in which he resides with—

- (a) a document ('a European firearms pass') containing the required particulars; and
- (b) a document stating that, for the purposes of Article 7 of the European weapons directive, the holder of the certificate has the agreement of the United Kingdom authorities, for so long as the certificate remains in force, to any purchase or acquisition by him in another member State of any firearm or ammunition to which the certificate relates;

and an application for the issue of a document falling within paragraph (a) or (b) above may be made at the same time as any application for a certificate the grant of which will entitle him to the issue of the document or subsequently while the certificate is in force.

(2) Where—

- (a) a person who resides in Great Britain is proposing to purchase or acquire any firearm or ammunition in another member State;
- (b) that person is not for the time being the holder of a certificate under this Act relating to that firearm or ammunition;
- (c) the firearm falls within category B for the purposes of Annex I to the European weapons directive or the ammunition is capable of being used with such a firearm; and
- (d) that person satisfies the chief officer of police for the area where he resides that he is not proposing to bring that firearm or ammunition into the United Kingdom,

the chief officer of police may, if he thinks fit, issue that person with a document stating that, for the purposes of Article 7 of the European weapons directive, that person has the agreement of the United Kingdom authorities to any purchase or acquisition by him in another member State of that firearm or ammunition.

(3) For the purposes of subsection (1) above the required particulars, in relation to a person issued with a European firearms pass, are—

- (a) particulars identifying that person;
- (b) particulars identifying every firearm which—
  - (i) that person has applied to have included in a European firearms pass; and
  - (ii) is a firearm in relation to which a certificate granted to that person is for the time being in force;
- (c) a statement in relation to every firearm identified in the pass as to the category into which it falls for the purposes of Annex I to the European weapons directive;
- (d) the date of the issue of the pass and the period from its issue for which the pass is to be valid;

- (e) the statements required by paragraph (f) of Annex II to that directive (statements as to travel in the member States with the firearms identified in the pass).

(4) For the purposes of this section the particulars of the firearms to which a shot gun certificate relates which are to be contained in a European firearms pass by virtue of subsection (3)(b) above are—

- (a) a description of the shot guns to which that certificate relates; and
- (b) any identification numbers specified in or entered on that certificate in pursuance of section 28(2A) of this Act or in consequence of any person's compliance, in accordance with section 32(2)(b) of the Firearms (Amendment) Act 1997 (requirements relating to transfers of firearms), with any instructions contained in the certificate;

and, accordingly, references in this Act to a firearm identified in such a pass shall include references to any shot gun of a description specified in that pass.

(5) A European firearms pass shall contain space for the making of entries by persons authorised to do so under the law of any member State.

(6) The period specified in a European firearms pass as the period for which it is to be valid shall be whichever is the shorter of the following—

- (a) the period until the earliest time when a certificate relating to a firearm identified in the pass expires; and
- (b) the maximum period for the duration of that pass.

(7) For the purposes of subsection (6) above the maximum period for the duration of a European firearms pass is—

- (a) in the case of a pass identifying only a firearm or firearms stated in the pass to fall within category D for the purposes of Annex I to the European weapons directive, ten years; and
- (b) in any other case, five years.

[Firearms Act 1968, s 32A inserted by SI 1992/2823 and amended by the Firearms (Amendment) Act 1997, Sch 2.]

**8-10413**

### **32B**

(1) On an application for the renewal by a chief officer of police of a certificate under this Act relating to a firearm identified in a European firearms pass, the holder of the certificate may apply to the chief officer of police for the renewal of the pass.

(2) Where—

- (a) a certificate relating to a firearm identified in a European firearms pass is to expire without being renewed; but
- (b) a certificate relating to another firearm identified in that pass will continue in force after the other certificate expires,

the holder of the pass may apply to the chief officer of police for the area in which he resides for the renewal of the pass subject to the deletion of the reference to any firearm to which the expiring certificate relates.

- (3) Where, on an application to a chief officer of police under subsection (1) or (2) above—
- (a) the pass in question is produced to him; and
  - (b) a certificate relating to a firearm identified in the pass is renewed or will continue in force after the time when the pass would (apart from its renewal) have ceased to be valid,

he shall renew that pass, subject to any appropriate deletion, from that time for whichever is the shorter of the periods specified in section 32A(6)(a) and (b) of this Act.

(4) Where a European firearms pass ceases to be valid without being renewed under this section, the chief officer of police for the area in which the person to whom it was issued resides may, by notice in writing, require that person, within twenty-one days of the date of the notice, to surrender the pass to him.

(5) It is an offence for any person to fail to comply with a notice given to him under subsection (4) above.

[Firearms Act 1968, s 32B inserted by SI 1992/2823.]

## 8-10414

### 32C

- (1) Where—
- (a) a certificate relating to a firearm identified in a European firearms pass or a certificate in respect of which an Article 7 authority has been issued is varied, revoked or cancelled under this Act;
  - (b) the Secretary of State gives notice that any European firearms pass needs to be modified by the addition or variation of any such statement as is mentioned in section 32A(3)(e) of this Act; or
  - (c) the holder of a European firearms pass applies to have particulars of another firearm added to the pass,

it shall be the duty of the chief officer of police for the area in which the holder of the pass or authority resides to make such variations of the pass or authority as are appropriate in consequence of the variation, revocation, cancellation, notice or application or, where appropriate, to cancel it.

(2) For the purpose of performing his duty under subsection (1) above the chief officer of police for the area in which any person who is or has been the holder of any certificate resides may, by notice in writing, require that person, within twenty-one days of the date of the notice, to produce or surrender to him any European firearms pass or Article 7 authority issued to that person.

(3) Where a person is for the time being the holder of an Article 7 authority issued under section 32A(2) of this Act by the chief officer of police for any area, the chief officer of police for that area may, if he thinks fit, at any time—

- (a) revoke that authority; and
  - (b) by notice in writing require that person, within twenty-one days of the date of the notice, to surrender that authority to him.
- (4) Where a firearm identified in a European firearms pass which is for the time being valid, is lost or stolen, the holder of the pass shall immediately—
- (a) inform the chief officer of police for the area in which he resides about the loss or theft; and
  - (b) produce the pass to that chief officer for him to endorse particulars of that loss or theft on the pass.
- (5) Where a firearm to which an endorsement under subsection (4) above relates is returned to the possession of the holder of the pass in question, the chief officer of police for the area in which that person resides may, on the production to him of that pass, make such further endorsement on that pass as may be appropriate.
- (6) It is an offence for any person to fail to comply with a notice given to him under subsection (2) or (3) above or with any obligation imposed on him by virtue of subsection (4)(a) or (b) above.
- (7) Any reference in this section to the variation of a certificate includes a reference to the making of any entry on a shot gun certificate in pursuance of the requirement under section 32(2)(b) of the Firearms (Amendment) Act 1997 (requirements relating to transfers of firearms) to comply with instructions contained in the certificate.

[Firearms Act 1968, s 32C inserted by SI 1992/2823 and amended by the Firearms (Amendment) Act 1997, Sch 2.]

#### *Registration of firearms dealers*

**8-10415**

### **33 Police register**

- (1) For purposes of this Act, the chief officer of police for every area shall keep in the prescribed<sup>1</sup> form a register of firearms dealers.
- (2) Except as provided by section 34 of this Act, the chief officer of police shall enter in the register the name of any person<sup>2</sup> who, having or proposing to have a place of business in the area, applies to be registered as a firearms dealer.
- (3) An applicant for registration as a firearms dealer must furnish the chief officer of police with the prescribed particulars, which shall include particulars of every place of business<sup>3</sup> at which he proposes to carry on business in the area as a firearms dealer and, except as provided by this Act, the chief officer of police shall (if he registers the applicant as a firearms dealer) enter every such place of business in the register.
- (4) When a person is registered, the chief officer of police shall grant or cause to be granted to him a certificate of registration<sup>4</sup>.
- (5) A person for the time being registered shall, on or before the expiration of the period of three years from the grant of the certificate of registration for the time being held by him—
- (a) surrender his certificate to the chief officer of police; and

(b) apply in the prescribed form for a new certificate;

and thereupon the chief officer of police shall, subject to sections 35(3) and 38(1) below, grant him a new certificate of registration.

[Firearms Act 1968, s 33 as amended by the Firearms (Amendment) Act 1988, s 13 and the Firearms (Amendment) Act 1997, s 42.]

- <sup>1</sup> See the Firearms Rules 1998, this title, post.
- <sup>2</sup> Where a company carries on business, it should be registered, and not the managing director. See **Staravia Ltd v Gordon** [1973] Crim LR 298.
- <sup>3</sup> The words “every place of business at which he proposes to carry on business in the area as a firearms dealer” should be given a wide construction. Accordingly, a barn at which a registered firearms dealer stored ammunition was held to be a place of business of which particulars were required to be furnished under s 33(3) of the Act (**R v Bull** (1993) 99 Cr App Rep 193, [1994] CrimLR 224).
- <sup>4</sup> As to power to impose conditions, see s 36, post.

## 8–10416

### 34 Grounds for refusal of registration

(1) The chief officer of police shall not register an applicant as a firearms dealer if he is prohibited to be so registered by order of a court in Great Britain made under section 45 of this Act, or by order of a court in Northern Ireland under section 8(5) of the Firearms Act 1920, or any enactment of the Parliament of Northern Ireland amending or substituted for that section.

(1A) The chief officer of police may refuse to register an applicant unless he 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, business or profession.

(2) Subject to subsection (3) below, the chief officer of police may refuse to register an applicant, if he is satisfied that the applicant cannot be permitted to carry on business as a firearms dealer without danger to the public safety or to the peace.

(3) In the case of a person for the time being authorised by the Defence Council under section 5 of this Act to manufacture, sell or transfer prohibited weapons or ammunition, the chief officer of police shall not refuse to enter his name in the register on the ground that he cannot be permitted to carry on business as a firearms dealer without danger to the public safety or to the peace.

(4) The chief of police, if he is satisfied that a place of business notified to him under section 33(3) of this Act by an applicant for registration is a place at which the person cannot be permitted to carry on business as a firearms dealer without danger to the public safety or to the peace, may refuse to enter that place of business in the register.

(5) A person aggrieved by the refusal of a chief officer of police to register him as a firearms dealer, or to enter in the register a place of business of his, may in accordance with section 44 of this Act appeal against the refusal.

[Firearms Act 1968, s 34 as amended by the Firearms (Amendment) Act 1988, s 13.]

## 8–10417

### 35 Fee for registration and renewal thereof

(1) Subject to this Act, on the registration of a person as a firearms dealer there shall be payable by him a fee of £118.

(1A) If the chief officer of police for the area in which the applicant has applied to be registered is satisfied—

- (a) that the only place of business in respect of which the application is made is at a game fair, trade fair or exhibition, agricultural show or an event of a similar character, and
- (b) that the applicant's principal place of business is entered in the register for another area,

the fee payable shall be £12.

(2) No fee shall be payable if the chief officer of police for the area in which the applicant has applied to be registered is satisfied that the only place of business in respect of which the application is made—

- (a) has become situated in that area because of an alteration in the boundary of the area and was previously entered in the register for another area; or
- (b) is one to which the applicant proposes to transfer the business previously carried on by him at a place entered in the register for another area.

(3) Before a person for the time being registered as a firearms dealer can be granted a new certificate of registration under section 33(5) of this Act, he shall pay a fee of £50.

[Firearms Act 1968, s 35, as amended by SI 1980/574 and SI 1994/2615.]

## 8-10418

### 36 Conditions of registration

(1) The chief officer of police may at any time impose conditions subject to which the registration of a person as a firearms dealer is to have effect and may at any time, of his own motion or on the application of the dealer, vary or revoke any such condition.

(2) The chief officer of police shall specify the conditions for the time being in force under this section in the certificate of registration granted to the firearms dealer and, where any such condition is imposed, varied or revoked during the currency of the certificate of registration, the chief officer of police—

- (a) shall give to the dealer notice in writing of the condition or variation (giving particulars) or of the revocation, as the case may be; and
- (b) may by that notice require the dealer to deliver up to him his certificate of registration within twenty-one days from the date of the notice, for the purpose of amending the certificate.

(3) A person aggrieved by the imposition or variation of, or refusal to vary or revoke, any condition of a firearms dealer's registration may in accordance with section 44 of this Act appeal against the imposition, variation or refusal.

[Firearms Act 1968, s 36.]

## 8-10419

### 37 Registration of new place of business

(1) A person registered in any area as a firearms dealer and proposing to carry on business as such at a place of business in that area which is not entered in the register, shall notify the chief officer of police for that area and furnish him with such particulars as may be prescribed<sup>1</sup>; and the officer shall, subject to the provisions of this section, enter that place of business in the register.

(2) The chief officer of police, if he is satisfied that a place of business notified to him by a person under subsection (1) of this section is a place at which that person cannot be permitted to carry on business as a firearms dealer without danger to the public safety or to the peace, may refuse to enter it in the register.

(3) A person aggrieved by the refusal by a chief officer of police to enter in the register a place of business of his may in accordance with section 44 of this Act appeal against the refusal.

[Firearms Act 1968, s 37.]

<sup>1</sup> See the Firearms Rules 1998, this title, post.

## 8-10420

### 38 Removal from register of dealer's name or place of business

(1) If the chief officer of police, after giving reasonable notice to a person whose name is on the register, is satisfied that the person—

- (a) is no longer carrying on business as a firearms dealer; or
- (b) has ceased to have a place of business in the area; or
- (c) cannot be permitted to continue to carry on business as a firearms dealer without danger to the public safety or to the peace,

he shall (subject to this section) cause the name of that person to be removed from the register.

(2) In the case of a person for the time being authorised by the Defence Council under section 5 of this Act to manufacture, sell or transfer prohibited weapons or ammunition, the chief officer of police shall not remove his name from the register on the ground that he cannot be permitted to continue to carry on business as a firearms dealer without danger to the public safety or to the peace.

(3) If the chief officer of police is satisfied that a person registered as a firearms dealer has failed to comply with any of the conditions of registration in force under section 36 of this Act, he may remove from the register either that person's name or any place of business of his to which the condition relates.

(4) If the chief officer of police is satisfied that a place entered in the register as a person's place of business is one at which that person cannot be permitted to carry on business as a firearms dealer without danger to the public safety or to the peace, he may remove that place from the register.

(5) The chief officer of police shall cause the name of a person to be removed from the register if the person so desires.

(6) If a person for the time being registered fails to comply with any requirement of section 33(5) of this Act, the chief officer of police shall by notice in writing require him to comply with that requirement and, if the person fails to do so within twenty-one days from the date of the

notice or within such further time as the chief officer may in special circumstances allow, shall cause his name to be removed from the register.

(7) A person aggrieved by the removal of his name from the register, or by the removal from the register of a place of business of his, may in accordance with section 44 of this Act appeal against the removal.

(8) Where the chief officer of police causes the name of a firearms dealer to be removed from the register, he shall by notice in writing require the dealer to surrender his certificate of registration and the register of transactions kept by him under section 40 of this Act (or, if the register is kept by means of a computer, a copy of the information comprised in that register in a visible and legible form); and it is an offence<sup>1</sup> for the dealer to fail to do so within twenty-one days from the date of the notice:

Provided that, if an appeal is brought against the removal, this subsection shall not apply to that removal unless the appeal is abandoned or dismissed and shall then apply with the substitution, for the reference to the date of the notice, of a reference to the date on which the appeal was abandoned or dismissed.

[Firearms Act 1968, s 38 as amended by the Firearms (Amendment) Act 1988, s 13 and the Firearms (Amendment) Act 1997, Sch 2.]

<sup>1</sup> For prosecution and punishment, see Sch 6, post.

## 8-10421

### 39 Offences in connection with registration

(1) A person commits an offence<sup>1</sup> if, for the purpose—

- (a) of procuring the registration of himself or another person as a firearms dealer; or
- (b) of procuring, whether for himself or another person, the entry of any place of business in a register of firearms dealers,

he knowingly or recklessly makes a statement false in any material particular.

(2) A person commits an offence<sup>1</sup> if, being a registered firearms dealer, he has a place of business which is not entered in the register for the area in which the place of business is situated and carries on business as a firearms dealer at that place.

(3) Without prejudice to section 38(3) above, a person commits an offence<sup>1</sup> if he fails to comply with any of the conditions of registration imposed on him by the chief officer of police under section 36 of this Act.

[Firearms Act 1968, s 39 as amended by the Firearms (Amendment) Act 1997, Sch 2.]

<sup>1</sup> For prosecution and punishment, see Sch 6, post.

## *Supplementary*

## 8-10422

### 40 Compulsory register of transaction in firearms

(1) Subject to section 41 of this Act, every person who by way of trade or business manufactures, sells or transfers firearms or ammunition shall provide and keep a register of transactions and shall enter or cause to be entered therein the particulars specified in Schedule 4 to this Act.

(2) In subsection (1) above and in the said Schedule 4, any reference to firearms is to be construed as not including a reference to air weapons or component parts of, or accessories to, air weapons; and any reference therein to ammunition is to be construed as not including—

- (a) cartridges containing five or more shot, none of which exceeds .36 inch in diameter;
- (b) ammunition for an air gun, air rifle or air pistol; or
- (c) blank cartridges not more than one inch in diameter measured immediately in front of the rim or cannellure of the base of the cartridge<sup>1</sup>.

(3) Every entry required by subsection (1) of this section to be made in the register shall be made within twenty-four hours after the transaction to which it relates took place and, in the case of a sale or transfer, every person to whom that subsection applies shall at the time of the transaction require the purchaser or transferee, if not known to him, to furnish particulars sufficient for identification and shall immediately enter the said particulars in the register.

(3A) Every person keeping a register in accordance with this section shall (unless required to surrender the register under section 38(8) of this Act) keep it for such a period that each entry made after the coming into force of this subsection will be available for inspection for at least five years from the date on which it was made.

(4) Every person keeping a register in accordance with this section shall on demand allow a constable or a civilian officer, duly authorised in writing in that behalf by the chief officer of police, to enter and inspect all stock in hand and shall on request by a constable or a civilian officer so authorised or by an officer of customs and excise produce the register (or if the register is kept by means of a computer, a copy of the information comprised in that register in a visible and legible form); for inspection<sup>2</sup>:

Provided that, where a written authority is required by this subsection, the authority shall be produced on demand.

(4A) Every person keeping a register in accordance with this section by means of a computer shall secure that the information comprised in the register can readily be produced in a form in which it is visible and legible and can be taken away.

(5) It is an offence<sup>3</sup> for a person to fail to comply with any provision of this section or knowingly to make any false entry in the register required to be kept thereunder.

(6) Nothing in this section applies to the sale of firearms or ammunition by auction in accordance with the terms of a permit issued under section 9(2) of this Act.

(7) Rules<sup>4</sup> made by the Secretary of State under section 53 of this Act may vary or add to Schedule 4 to this Act, and references in this section to that Schedule shall be construed as references to the Schedule as for the time being so varied or added to.

[Firearms Act 1968, s 40 as amended by the Firearms (Amendment) Act 1988, ss 13 and 23 and the Firearms (Amendment) Act 1997, Sch 2.]

<sup>1</sup> Therefore these cartridges are included (**Burfitt v A and E Kille** [1939] 2 KB 743, [1939] 2 All ER 372).

<sup>2</sup> This includes the right to take notes of the entries therein. Cf **Hart v Cohen and Van der Laan** (1902) 4 F 445.

<sup>3</sup> For prosecution and punishment, see Sch 6, post.

<sup>4</sup> See the Firearms Rules 1998, this title, post.

**41 Exemption from s 40 in case of trade in shot gun components**

If it appears to the chief officer of police that—

- (a) a person required to be registered as a firearms dealer carries on a trade or business in the course of which he manufactures, tests or repairs component parts or accessories for shot guns, but does not manufacture, test or repair complete shot guns; and
- (b) it is impossible to assemble a shot gun from the parts likely to come into that person's possession in the course of that trade or business,

the chief officer of police may, if he thinks fit, by notice in writing given to that person exempt his transactions in those parts and accessories, so long as the notice is in force, from all or any of the requirements of section 40 of this Act and Schedule 4 thereto.

[Firearms Act 1968, s 41.]

8-10425

**42A Information as to transactions under visitors' permits**

- (1) A person who sells, lets on hire, gives or lends a shot gun with a magazine to another person who—
  - (a) shows that he is entitled to purchase or acquire the weapon as the holder of a visitor's shot gun permit under section 17 of the Firearms (Amendment) Act 1988; but
  - (b) fails to show that the purchase or acquisition falls within subsection (1A)(c) or (d) of that section (temporary acquisitions or purchases or acquisitions by collectors etc) or that he resides outside the member States.

shall, within forty-eight hours of the transaction, send by registered post or the recorded delivery service notice of the transaction to the chief officer of police who granted that permit.

- (2) A notice under subsection (1) above shall—
  - (a) contain a description of the shot gun (giving the identification number if any);
  - (b) state the nature of the transaction (giving the name of the person to whom the gun has been sold, let on hire, given or lent, his address in the member State where he resides and the number and place of issue of his passport, if any); and
  - (c) set out the particulars of any licence granted for the purposes of an order made under section 1 of the Import, Export and Customs Powers (Defence) Act 1939 by virtue of which the transaction is authorised under section 17 of that Act of 1988.

- (3) It is an offence for a person to fail to comply with this section.

[Firearms Act 1968, s 42A inserted by SI 1992/2823.]

8-10432

**43**

*Power of Secretary of State to alter fees.*

8-10433

**44 Appeals against police decisions**

*Appeals under ss 28A, 29, 30A, 30B, 30C, 34, 36, 37 or 38 lie to the Crown Court<sup>1</sup>.*

[Firearms Act 1968, s 44, substituted by the Firearms (Amendment) Act 1997, s 41.]

<sup>1</sup> The procedure on appeal is set out in Sch 5. By para 8 any costs ordered are recoverable summarily as a civil debt. The decision on appeal is within the discretion of the Crown Court and will not be set aside unless there is some error in law (*Greenly v Lawrence* [1949] 1 All ER 241, 113 JP 120).

8-10434

**45 Consequences where registered dealer convicted of offence**

(1) Where a registered firearms dealer is convicted of an offence relevant for the purposes of this section the court may order—

- (a) that the name of the dealer be removed from the register; and
- (b) that neither the dealer nor any person who acquires his business, nor any person who took part in the management of the business and was knowingly a party to the offence, shall be registered as a firearms dealer; and
- (c) that any person who, after the date of the order, knowingly employs in the management of his business the dealer convicted of the offence or any person who was knowingly a party to the offence, shall not be registered as a firearms dealer or, if so registered, shall be liable to be removed from the register; and
- (d) that any stock-in-hand of the business shall be disposed of by sale or otherwise in accordance with such directions as may be contained in the order.

(2) The offences relevant for the purposes of this section are:

- (a) all offences under this Act, except an offence under section 2, 22(3) or 24(3) or an offence relating specifically to air weapons<sup>1</sup>; and
- (b) offences against the enactments for the time being in force relating to customs or excise in respect of the import or export of firearms or ammunition to which section 1 of this Act applies, or of shot guns.

(3) A person aggrieved by an order made under this section may appeal against the order in the same manner as against the conviction, and the court may, if it thinks fit, suspend the operation of the order pending the appeal.

[Firearms Act 1968, s 45, as amended by the Customs and Excise Management Act 1979, Sch 4.]

<sup>1</sup> See s 57(3), post.

Part III  
Law Enforcement and Punishment of Offences

8-10435

**46 Power of search with warrant**

(1) If a justice of the peace or, in Scotland, the sheriff, is satisfied by information on oath that there is reasonable ground for suspecting—

- (a) that an offence relevant for the purposes of this section has been, is being, or is about to be committed; or
- (b) that, in connection with a firearm or ammunition, there is a danger to the public safety or to the peace,

he may grant a warrant<sup>1</sup> for any of the purposes mentioned in subsection (2) below.

(2) A warrant under this section may authorise a constable or civilian officer—

- (a) to enter at any time any premises<sup>2</sup> or place named in the warrant, if necessary by force, and to search the premises or place and every person found there;
- (b) to seize and detain anything which he may find on the premises or place, or on any such person, in respect of which or in connection with which he has reasonable ground for suspecting—
  - (i) that an offence relevant for the purposes of this section has been, is being, or is about to be committed; or
  - (ii) that in connection with a firearm, imitation firearm or ammunition there is a danger to the public safety or to the peace.

(3) The power of a constable or civilian officer under subsection (2)(b) above to seize and detain anything found on any premises or place shall include power to require any information which is kept by means of a computer and is accessible from the premises or place to be produced in a form in which it is visible and legible and can be taken away.

(4) The offences relevant for the purposes of this section are all offences under this Act except an offence under section 22(3) or an offence relating specifically to air weapons<sup>3</sup>.

(5) It is an offence<sup>4</sup> for any person intentionally to obstruct a constable or civilian officer in the exercise of his powers under this section.

[Firearms Act 1968, s 46, as substituted by the Firearms (Amendment) Act 1997, s 43.]

<sup>1</sup> The issue and execution of the warrant must be in conformity with the Police and Criminal Evidence Act 1984, ss 15 and 16, ante in Part II: Evidence.

<sup>2</sup> “Premises” includes any land (s 57(4)).

<sup>3</sup> See s 57(3), post.

<sup>4</sup> For prosecution and punishment, see Sch 6, post.

## 8–10436

### 47 Powers of constables to stop and search

(1) A constable may require any person whom he has reasonable cause to suspect—

- (a) of having a firearm<sup>1</sup>, with or without ammunition<sup>2</sup>, with him in a public place; or
- (b) to be committing or about to commit, elsewhere than in a public place<sup>3</sup>, an offence relevant<sup>4</sup> for the purposes of this section,

to hand over the firearm or any ammunition for examination by the constable.

(2) It is an offence<sup>5</sup> for a person having a firearm or ammunition with him to fail to hand it over when required to do so by a constable under subsection (1) of this section.

(3) If a constable has reasonable cause to suspect a person of having a firearm with him in a public place, or to be committing or about to commit, elsewhere than in a public place, an offence relevant for the purposes of this section, the constable may search that person and may detain him for the purpose of doing so.

(4) If a constable has reasonable cause to suspect that there is a firearm in a vehicle in a public place, or that a vehicle is being or is about to be used in connection with the commission of an offence relevant for the purposes of this section elsewhere than in a public place, he may search the vehicle and for that purpose require the person driving or in control of it to stop it.

(5) For the purpose of exercising the powers conferred by this section a constable may enter any place.

(6) The offences relevant for the purpose of this section are those, under sections 18(1) and (2) and 20 of this Act.

[Firearms Act 1968, s 47.]

<sup>1</sup> Defined in s 57(1), post.

<sup>2</sup> Defined in s 57(2), post.

<sup>3</sup> Defined in s 57(4), post.

<sup>4</sup> See sub-s (6).

<sup>5</sup> For prosecution and punishment, see Sch 6, post.

## 8-10437

### 48 Production of certificates

(1) A constable may demand, from any person whom he believes to be in possession of a firearm or ammunition to which section 1 of this act applies, or of a shot gun, the production of his firearm certificate or, as the case may be, his shot gun certificate.

(1A) Where a person upon whom a demand has been made by a constable under subsection (1) above and whom the constable believes to be in possession of a firearm fails—

- (a) to produce a firearm certificate or, as the case may be, a shot gun certificate;
- (b) to show that he is a person who, by reason of his place of residence or any other circumstances, is not entitled to be issued with a document identifying that firearm under any of the provisions which in the other member States correspond to the provisions of this Act for the issue of European firearms passes; or
- (c) to show that he is in possession of the firearm exclusively in connection with the carrying on of activities in respect of which, he or the person on whose behalf he has possession of the firearm, is recognised, for the purposes of the law of another member State relating to firearms, as a collector of firearms or a body concerned in the cultural or historical aspects of weapons,

the constable may demand from that person the production of a document which has been issued to that person in another member State under any such corresponding provisions, identifies that firearm as a firearm to which it relates and is for the time being valid.

(2) If a person upon whom a demand is made under this section fails to produce the certificate or document or to permit the constable to read it, or to show that he is entitled by virtue of this Act to have the firearm, ammunition or shot gun in his possession without holding a certificate, the constable may seize and detain the firearm, ammunition or shot gun and may require the person to declare to him immediately his name and address.

(3) If under this section a person is required to declare to a constable his name and address, it is an offence<sup>1</sup> for him to refuse to declare it or to fail to give his true name and address.

(4) It is an offence for a person who is in possession of a firearm to fail to comply with a demand under subsection (1A) above.

[Firearms Act 1968, s 48 amended by SI 1992/2823.]

<sup>1</sup> For prosecution and punishment, see Sch 6, post.

## 8-10438

### 49 Police powers in relation to arms traffic

(1) A constable may search for and seize any firearms or ammunition which he has reason to believe are being removed, or to have been removed, in contravention of an order made under section 6 of this Act or of a corresponding Northern Irish order within the meaning of subsection (3)(c) of that section.

(2) A person having the control or custody of any firearms or ammunition in course of transit shall, on demand by a constable, allow him all reasonable facilities for the examination and inspection thereof and shall produce any documents in his possession relating thereto.

(3) It is an offence<sup>1</sup> for a person to fail to comply with subsection (2) of this section.

[Firearms Act 1968, s 49 as amended by the Firearms (Amendment) Act 1988, s 23.]

<sup>1</sup> For prosecution and punishment, see Sch 6, post.

## 8-10438A

### 50

*(Repealed).*

## 8-10439

### 51 Prosecution and punishment of offences

(1)–(3) *Modes of prosecution, maximum punishment and powers of the court on conviction to be as set out in Schedule 6.*

(4) Notwithstanding section 127(1) of the Magistrates' Courts Act 1980, or section 23 of the Summary Jurisdiction (Scotland) Act 1954 (limitation of time for taking proceedings) summary proceedings for an offence under this Act, other than an offence under section 22(3) or an offence relating specifically to air weapons, may be instituted at any time within four years after the commission of the offence:

Provided that no such proceedings shall be instituted in England after the expiration of six months after the commission of the offence unless they are instituted by, or by the direction of, the Director of Public Prosecutions.

[Firearms Act 1968, s 51, as amended by the Magistrates' Courts Act 1980, Sch 7.]

8–10440

**52 Forfeiture and disposal of firearms; cancellation of certificate by convicting court**

- (1) Where a person—
- (a) is convicted of an offence under this Act (other than an offence under section 22(3) or an offence relating specifically to air weapons)<sup>1</sup> or is convicted of a crime for which he is sentenced to imprisonment, or detention in a detention centre or in a young offenders' institution in Scotland or is subject to a detention and training order; or
  - (b) has been ordered to enter into a recognisance to keep the peace or to be of good behaviour, a condition of which is that he shall not possess, use or carry a firearm; or
  - (c) is subject to a probation order containing a requirement that he shall not possess, use or carry a firearm; or
  - (d) has, in Scotland, been ordained to find caution a condition of which is that he shall not possess, use or carry a firearm,

the court by or before which he is convicted, or by which the order is made, may make such orders as to the forfeiture<sup>2</sup> or disposal of any firearm or ammunition found in his possession as the court thinks fit and may cancel any firearm certificate or shot gun certificate held by him.

- (2) Where the court cancels a certificate under this section—
- (a) the court shall cause notice to be sent to the chief officer of police by whom the certificate was granted; and
  - (b) the chief officer of police shall by notice in writing require the holder of the certificate to surrender it; and
  - (c) it is an offence<sup>3</sup> for the holder to fail to surrender the certificate within twenty-one days from the date of the notice given him by the chief officer of police.
- (3) A constable may seize and detain any firearm or ammunition which may be the subject of an order for forfeiture under this section.
- (4) A court of summary jurisdiction or, in Scotland, the sheriff may, on the application of the chief officer of police, order any firearm or ammunition seized and detained by a constable under this Act to be destroyed or otherwise disposed of.

[Firearms Act 1968, s 52 as amended by the Criminal Justice Act 1988, Sch 16, the Criminal Justice and Public Order Act 1994, Sch 10 and the Crime and Disorder Act 1998, Sch 8.]

<sup>1</sup> The effect of this provision, when read with s 57(3), post, is that there is no power to order forfeiture *under this section* in respect of offences against ss 22(3),(4) and (5), 23(1) and 24(1). The power to order forfeiture on conviction of those offences is contained in Schedule 6 to the Act and, in this work, is noted to each of the subsections referred to.

<sup>2</sup> For manner of disposal of such a forfeiture, see s 140 of the Magistrates' Courts Act 1980, ante.

<sup>3</sup> For prosecution and punishment, see Sch 6, post.

Part IV  
Miscellaneous and General

**8-10441**

**53**

*Power to make rules<sup>1</sup>.*

<sup>1</sup> See the Firearms Rules 1998, this title, post.

**8-10442**

**54 Application on Parts I and II to Crown servants\***

(1) Sections 1, 2, 7 to 13 and 26A to 32 of this Act apply, subject to the modifications specified in subsection (2) of this section, to persons in the service of Her Majesty in their capacity as such<sup>1</sup> so far as those provisions relate to the purchase and acquisition, but not so far as they relate to the possession, of firearms.

(2) The modifications referred to above are the following—

- (a) a person in the service of Her Majesty<sup>2</sup> duly authorised in writing in that behalf may purchase or acquire firearms and ammunition for the public service without holding a certificate under this Act;
- (b) a person in the naval, military or air service of Her Majesty shall, if he satisfies the chief officer of police on an application under section 26A of this Act that he is required to purchase a firearm or ammunition for his own use in his capacity as such, be entitled without payment of any fee to the grant of a firearm certificate authorising the purchase or acquisition or, as the case may be, to the grant of a shot gun certificate.

(3) For the purposes of this section and of any rule of law whereby any provision of this Act does not bind the Crown, a person shall be deemed to be in the service of Her Majesty if he is

—

- (a) a member of a police force, or
- (b) a person employed by a police authority who is under the direction and control of a chief officer of police, or
- (c) a member of the National Criminal Intelligence Service or the National Crime Squad.

(4) For the purposes of this section and any rule of law whereby any provision of this Act does not bind the Crown, the persons specified in subsection (5) of this section shall be deemed to be in the naval, military or air service of Her Majesty, insofar as they are not otherwise in, or treated as being in, any such service.

(5) The persons referred to in subsection (4) of this section are the following—

- (a) members of any foreign force when they are serving with any of the naval, military or air forces of Her Majesty;
- (b) members of any cadet corps approved by the Secretary of State when—

- (i) they are engaged as members of the corps in connection with, drill or target practice; and
  - (ii) in the case of possession of prohibited weapons or prohibited ammunition when engaged in target practice, they are on service premises; and
  - (c) persons providing instruction to any members of a cadet corps who fall within paragraph (b).
- (6) In subsection (5) of this section—
- “foreign force” means any of the naval, military or air forces of a country other than the United Kingdom; and
- “service premises” means premises, including any ship or aircraft, used for any purpose of any of the naval, military or air forces of Her Majesty.

[Firearms Act 1968, s 54 amended by the Police and Magistrates’ Courts Act 1994, s 42<sup>3</sup>, the Armed Forces Act 1996, s 28, the Firearms (Amendment) Act 1997, Schs 2 and 3 and Police Act 1997 Sch 9.]

<sup>1</sup> Therefore possession by a person in the service of Her Majesty otherwise than in his capacity as such, is an offence (**Heritage v Claxton** (1941) 85 Sol Jo 323; **Tartelin v Bowen** [1947] 2 All ER 837, 112 JP 99).

<sup>2</sup> A constable of the United Kingdom Atomic Energy Authority is deemed to be a person in the service of Her Majesty: Atomic Energy Authority (Special Constables) Act 1976, s 1.

<sup>3</sup> For comprehensive application of this section to the service authorities and members of a visiting force, or of an international headquarters, see Visiting Forces and International Headquarters (Application of Law) Order 1965, SI 1965/1536 amended by Post Office Act 1969, Sch 4, British Telecommunications Act 1981, s 87, SI 1987/928, SI 1989/1330 and 2169, SI 1994/1643 and SI 1998/253; and see Art 12 and Schs 2 and 3.

## 8–10443

### 55 Exercise of police functions

- (1) Rules<sup>1</sup> made under section 53 of this Act may—
- (a) regulate the manner in which chief officers of police are to carry out their duties under this Act;
  - (b) enable all or any of the functions of a chief officer of police to be discharged by a deputy in the event of his illness or absence, or of a vacancy in the office of chief officer of police.
- (2) Without prejudice to subsection (1)(b) of this section, the functions of a chief officer of police under this Act shall be exercisable on any occasion by a person, or a person of a particular class, authorised by the chief officer of police to exercise that function on that occasion, or on occasions of that class or on all occasions.

[Firearms Act 1968, s 55.]

<sup>1</sup> See the Firearms Rules 1998, this title, post.

## 8–10444

### 56 Service of notices

Any notice required or authorised by this Act to be given to a person may be sent by registered post or by the recorded delivery service in a letter addressed to him at his last or usual place of abode or, in the case of a registered firearms dealer, at any place of business in respect of which he is registered.

[Firearms Act 1968, s 56.]

**8-10445**

**57 Interpretation**

(1) In this Act, the expression “firearm” means a lethal barrelled weapon<sup>1</sup> of any description from which any shot, bullet or other missile can be discharged and includes—

- (a) any prohibited weapon<sup>2</sup>, whether it is such a lethal weapon as aforesaid or not; and
- (b) any component part<sup>3</sup> of such a lethal or prohibited weapon; and
- (c) any accessory<sup>4</sup> to any such weapon designed or adapted to diminish the noise or flash caused by firing the weapon;

and so much of section 1 of this Act as excludes any description of firearm from the category of firearms to which that section applies shall be construed as also excluding component parts of, and accessories to, firearms of that description.

(1A) (*Repealed*).

(2) In this Act, the expression “ammunition” means ammunition for any firearm and includes grenades, bombs and other like missiles, whether capable of use with a firearm or not, and also includes prohibited ammunition<sup>5</sup>.

(2A) In this Act “self-loading” and “pump action” in relation to any weapon mean respectively that it is designed or adapted (otherwise than as mentioned in section 5(1)(a)) so that it is automatically re-loaded or that it is so designed or adapted that it is re-loaded by the manual operation of the fore-end or forestock of the weapon.

(2B) In this Act “revolver”, in relation to a smooth-bore gun, means a gun containing a series of chambers which revolve when the gun is fired.

(3) For purposes of sections 45, 46, 50, 51(4) and 52 of this Act, the offences under this Act relating specifically to air weapons are those under section 22(4), 22(5), 23(1) and 24(4).

(4) In this Act—

“acquire” means hire, accept as a gift or borrow and “acquisition” shall be construed accordingly;

“air weapon” has the meaning assigned to it by section 1(3)(b) of this Act;

“another member State” means a member State other than the United Kingdom, and “other member States” shall be construed accordingly;

“area” means a police area<sup>6</sup>,

“Article 7 authority” means a document issued by virtue of section 32A(1)(b) or (2) of this Act;

“certificate” (except in a context relating to the registration of firearms dealers) and  
“certificate under this Act” mean a firearm certificate or a shot gun certificate and—

(a) “firearm certificate” means a certificate granted by a chief officer of police under this Act in respect of any firearm or ammunition to which section 1 of this Act applies and includes a certificate granted in Northern Ireland under section 1 of the Firearms Act 1920, or under an enactment of the Parliament of Northern Ireland amending or substituted for that section; and

(b) “shot gun certificate” means a certificate granted by a chief officer of police under this act and authorising a person to possess shot guns;

“civilian officer” means—

(a) a person employed by a police authority or the Corporation of the City of London who is under the direction and control of a chief officer of police; or

(b) a person employed under the Commissioner of Police for the Metropolis or the Receiver of the Metropolitan Police District who is not a constable and whose salary is paid out of the Metropolitan Police Fund.

“European firearms pass” means a document to which the holder of a certificate under this Act is entitled by virtue of section 32A(1)(a) of this Act;

“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);

“firearms dealer” means a person who, by way of trade or business, manufactures, sells, transfers, repairs, tests or proves firearms or ammunition to which section 1 of this Act applies, or shot guns;

“imitation firearm” means any thing which has the appearance<sup>7</sup> of being a firearm (other than such a weapon as is mentioned in section 5(1)(b) of this Act) whether or not it is capable of discharging any shot, bullet or other missile;

“premises” includes any land;

“prescribed” means prescribed by rules made by the Secretary of State under section 53 of this Act;

“prohibited weapon” and “prohibited ammunition” have the meanings assigned to them by section 5(2) of this Act;

“public place” includes any highway and any other premises or place to which at the material time the public have or are permitted to have access, whether on payment or otherwise<sup>8</sup>;

“registered”, in relation to a firearms dealer, means registered either—

(a) in Great Britain, under section 33 of this Act, or

(b) in Northern Ireland, under section 8 of the Firearms Act 1920, or any enactment of the Parliament of Northern Ireland amending or substituted for that section,

and references to “the register”, “registration” and a “certificate of registration” shall be construed accordingly, except in section 40;

“rifle” includes carbine;

“shot gun” has the meaning assigned to it by section 1(3)(a) of this Act and, in sections 3(1) and 45(2) of this Act and in the definition of “firearms dealer”, includes any component part of a shot gun and any accessory to a shot gun designed or adapted to diminish the noise or flash caused by firing the gun;

“slaughtering instruments” 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; and

“transfer” includes let on hire, give, lend and part with possession<sup>9</sup>, and “transferee” and “transferor” shall be construed accordingly.

(4A) For the purposes of any reference in this Act 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 and ammunition—

- (a) for sporting purposes;
- (b) for the shooting of vermin, 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 outside competitions.

(5) The definitions in subsections (1) to (3) above apply to the provisions of this Act except where the context otherwise requires.

(6) For purposes of this Act—

- (a) 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; and
- (b) a shot gun or an air weapon 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 gun or weapon.

[Firearms Act 1968, s 57 as amended by the Firearms (Amendment) Act 1988, s 25, SI 1992/2823, the Firearms (Amendment) Act 1997, ss 1 and 43 and the Firearms (Amendment)(No 2) Act 1997, Sch.]

<sup>1</sup> “Lethal weapon” includes a weapon not designed to kill or inflict injury but capable of doing so if misused (**Read v Donovan** [1947] KB 326, [1947] 1 All ER 37, 111 JP 46 (signal pistol); **Moore v Gooderham** [1960] 3 All ER 575, 124 JP 513 (air gun)); **R v Thorpe** [1987] 2 All ER 108, [1987] 1 WLR 383 (revolver powered by compressed carbon dioxide); **R v Singh** [1989] Crim LR 724 (flare launcher). Nevertheless, an air gun as a species of weapon is not, as a matter of law, a lethal weapon; the prosecution must prove that fact, either by expert evidence or by evidence of someone who has seen the gun fired and can indicate not only that it did work but what its observed effect was when it was fired (**Grace v DPP** (1988) 153 JP 491, DC). However, air rifles which had been tested and classified as in normal working order and capable of killing small vermin or of being used in target practice were held to have been properly found to be lethal barrelled weapons. (**Castle v DPP** (1998) Times 3 April.)

<sup>2</sup> See s 5, ante. This includes stripped-down weapons (**R v Pannell** [1982] Crim LR 752, [1982] LS Gaz R 1257, CA).

- <sup>3</sup> A weapon incapable of discharging a missile because the barrel is solid but capable of being adapted to fire missiles by boring the barrel may fall within the definition of “firearm” as being a part of a firearm: see **Cafferata v Wilson** [1936] 3 All ER 149, 100 JP 489; **R v Freeman** [1970] 2 All ER 413, 134 JP 462. A telescopic sight is not a component part which requires to be included in a firearm certificate (**Watson v Herman** [1952] 2 All ER 70, 116 JP 395).
- <sup>4</sup> Whether a silencer is an accessory to a firearm for the purposes of s 57(1) is a question of fact which must be answered by considering whether the silencer could be used with that firearm and whether the defendant had it for that purpose; see **R v Buckfield** [1998] Crim LR 673.
- <sup>5</sup> Cartridges containing only primer are ammunition (**R v Stubbings** [1990] Crim LR 811, CA).
- <sup>6</sup> For meaning of “police area”, see s 62 and Sch 8 of the Police Act 1964, title Police, post.
- <sup>7</sup> The test is whether the thing looked like a firearm at the time when the accused actually had it with him. (**R v Morris and King** (1984) 149 JP 60, 79 Cr App Rep 104, CA).
- <sup>8</sup> The space behind a counter in a shop was held to be a public place (**Anderson v Miller** [1976] Crim LR 743).
- <sup>9</sup> The phrase “part with possession” is to be read disjunctively from the word “lend”. Where an owner of shotguns left them for safekeeping at the home of a friend who did not have a shotgun certificate, it was held that, although the owner had retained proprietary possession, there had been a parting of possession, and thereby a transfer of the shotguns, because the friend had acquired custodial possession of them (**Hall v Cotton** [1987] QB 504, [1986] 3 All ER 332).

## 8–10446

### 58 Particular savings

(1) Nothing in this Act shall apply to the proof houses of the Master, Wardens and Society of the Mystery of Gunmakers of the City of London and the Guardians of the Birmingham Proof House or the rifle range at Small Heath in Birmingham where firearms are sighted and tested, so as to interfere in any way with the operations of those two companies in proving firearms under the provisions of the Gun Barrel Proof Act 1868, or any other Acts for the time being in force, or to any person carrying firearms to or from any such proof house when being taken to such proof house for the purposes of proof or being removed therefrom after proof.

(2) Nothing in this Act relating to firearms shall apply to an antique firearm which is sold, transferred, purchased, acquired or possessed as a curiosity or ornament<sup>1</sup>.

(3) The provisions of this Act relating to ammunition shall be in addition to and not in derogation of any enactment relating to the keeping and sale of explosives.

(4) The powers of arrest and entry conferred by Part III of this Act shall be without prejudice to any power of arrest or entry which may exist apart from this Act; and section 52(3) of this Act is not to be taken as prejudicing the power of a constable, when arresting a person for an offence, to seize property found in his possession or any other power of a constable to seize firearms, ammunition or other property, being a power exercisable apart from that subsection.

(5) Nothing in this Act relieves any person using or carrying a firearm from his obligation to take out a licence to kill game under the enactments requiring such a licence.

[Firearms Act 1968, s 58.]

<sup>1</sup> This subsection does not apply to a firearm which is honestly and reasonably believed to be an antique if in fact it is not an antique (**R v Howells** [1977] QB 614, [1977] 3 All ER 417). Whether a firearm is an antique is a matter of fact and degree in each case (**Richards v Curwen** [1977] 3 All ER 426, 141 JP 651), but a firearm manufactured this century cannot be regarded an antique (**Bennett v Brown** (1980) 71 Cr App Rep 109).

## 8–10447

### 59 Repeals and general savings

(1) *Repeals.*

(2) In so far as any certificate, authority or permit granted, order or rule made, registration effected, or other thing done under an enactment repealed by this Act could have been granted, made, effected or done under a corresponding provision of this Act, it shall not be invalidated by the repeal of that enactment but shall have effect as if granted, made, effected or done under that corresponding provision; and for the purposes of this provision anything which under section 33(1) or (2) of the Firearms Act 1937, had effect as if done under any enactment in that Act shall, so far as may be necessary for the continuity of the law, be treated as done under the corresponding enactment in this Act.

(3) Any document referring to an enactment repealed by this Act or by the Firearms Act 1937, shall, so far as may be necessary for preserving its effect, be construed as referring, or as including a reference, to the corresponding enactment in this Act.

(4) The mention of particular matters in this section shall not be taken to affect the general application of section 38 of the Interpretation Act 1889, with regard to the effect of repeals.

[Firearms Act 1968, s 59.]