

OFFENSIVE WEAPONS BILL

SUPPLEMENTARY DELEGATED POWERS MEMORANDUM

The Government is supporting amendments to the Offensive Weapons Bill for Lords Report Stage that will place a duty on the Secretary of State and the Northern Ireland Department of Justice to make rules/regulations governing the safe storage and transportation of certain high muzzle energy rifles. This supplementary memorandum explains why this new power is being taken.

New section 27A(2) of the Firearms Act 1968 and new Article 6A(2) of the Firearms (Northern Ireland) Order 2004 – Conditions for storage etc of certain firearms

Power conferred on: Secretary of State and Northern Ireland Department of Justice

Power exercisable by: Statutory Instrument

Parliamentary procedure: Negative

Context and purpose

1. Part 5 of the Bill includes provisions that will amend section 5 of the Firearms Act 1968 and the Firearms (Northern Ireland) Order 2004 to prohibit certain firearms in the UK by bringing them within the list of firearms subject to general prohibition under those provisions. The firearms concerned are rapid firing rifles and a device known as a “bump stock” which increases the rate of fire of rifles.
2. When the Bill was originally introduced in the House of Commons it also sought to prohibit certain high muzzle energy rifles (that is, those from which a shot, bullet or other missile, with kinetic energy of more than 13,600 joules at the muzzle of the weapon can be discharged). This rifle type was included because of concerns by law enforcement agencies about the risk that these particular rifles would pose to public safety, given their power and range, should they fall in to the hands of criminals or terrorists following theft or loss. During the passage of the Bill through the House of Commons, and taking in to account further advice from the National Crime Agency and the police, the Government decided that further detailed consideration was required on whether there were safe alternatives to prohibition of these rifles, which the Government has now committed to exploring through a public consultation following Royal Assent. The prohibition was therefore removed from the Bill at Commons Report. At Lords Committee stage amendments were tabled to restore the prohibition of these rifles, together with alternative amendments to provide for the safe storage of such rifles; the Government undertook to consider the latter amendments.
3. Lord Attlee has tabled for Report stage two new clauses: “*Conditions applying to certain firearms: England and Wales and Scotland*” and “*Conditions applying to*

certain firearms: Northern Ireland". These new clauses insert new section 27A into the Firearms Act 1968 (the 1968 Act) and new Article 6A into the Firearms (Northern Ireland) Order 2004 (the 2004 Order) respectively. New section 27A of the 1968 Act and new Article 6A of the 2004 Order impose a duty on the Secretary of State / Northern Ireland Department of Justice to make rules/regulations governing the safe storage and transportation of these rifles. Such rules/regulations are intended to ensure that these high muzzle energy rifles are stored and transported as securely and safely as possible in order to reduce the risk they pose to public safety. The Secretary of State, and the Department of Justice, will be required to consult with such persons that are considered likely to be affected before making rules/regulations under new section 27A of the 1968 Act and new Article 6A of the 2004 Order.

Justification for taking the power

4. High muzzle energy rifles are licensed by the police under either section 1 of the 1968 Act or Article 3 of the 2004 Order. Firearms certificates issued by the police under these provisions include standard conditions that require the holder to store their firearms securely so as to prevent, so far as is reasonably practicable, access to the firearm by any unauthorised persons when not in use or when in transit (in the case of England and Wales and Scotland, see Rule 3(4)(IV)(a) of the Firearms Rules 1998). It is open to the police to attach any additional conditions to the firearms certificate that they consider to be appropriate to ensure the safety of the certificate holder and others. The Home Office [Firearms Security Handbook 2005](#) addresses what may be considered to fulfil these standard conditions in the more usual circumstances. The purpose of the new section 27A of the 1968 Act and new Article 6A of the 2004 Order is to mandate safe storage and transportation requirements for all high muzzle energy rifles.
5. As will be seen from the Firearms Security Handbook, the requirements in respect of the safe storage and transportation of firearms are necessarily both technical and detailed in nature and include, for example, technical specifications in respect of cabinets and locks. Such requirements and specifications are properly a matter for secondary legislation. Including these in rules/regulations will also enable the prescribed storage requirements to be readily updated to reflect changes in national standards or changes to the security threat pointing to the need for heightened security requirements.

Justification for the procedure

6. Rules made under section 53 of the 1968 Act are not subject to any parliamentary procedure. However, subsection (3) of new clause *Conditions applying to certain firearms: England and Wales and Scotland* amends section 53 to provide that rules made under that section prescribing conditions for the storage and transportation of high muzzle energy rifles are subject to the negative resolution procedure. This enhanced level of parliamentary scrutiny for such Rules is considered appropriate given that such rules will be specifying standard security requirements to apply to a particular class of rifles which may impact on holders of firearms certificates authorising ownership and use of such

rifles. By virtue of Article 80(5) of the 2004 Order, regulations made under new Article 6A will similarly be subject to the negative procedure in the Northern Ireland Assembly.

Home Office
28 February 2019