



## DWA Briefing Paper – Clause NC29 of the Offensive Weapons Bill

September 2018

On or around 6<sup>th</sup> September 2018, a new clause was added to the Offensive Weapons Bill which is currently at the committee stage of the parliamentary process. Clause NC29 was submitted by reads as follows:

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**NC29**

To move the following Clause—

### **“Controls on deactivated weapons**

(1) The Firearms (Amendment) Act 1988 is amended as follows.

(2) After section 8(A)(1)(b) insert—

“(1A) Deactivated firearms must meet the technical specifications set out under Section 8(A) of this Act to be considered deactivated.””

### *Member’s explanatory statement*

*This new clause would make it a requirement for anyone possessing deactivated weapons to meet the technical specifications the Secretary of State is required to publish by section 8A(5) of the Firearms (Amendment) Act 1988, for it to be considered deactivated and therefore not require a certificate.*

Section 8A of the Firearms Act is the section introduced by the Policing and Crime Act relating to defectively deactivated firearms. Whilst the amendment does not really seem to fit where indicated (after A(A)(1)(b)), the aim is clear from the Member’s statement; to require owners of legacy deactivated firearms (i.e. all firearms deactivated prior to June 2018 irrespective of their original deactivation date) to have them re-deactivated to the current EU specification (and then again to any future new specification) in order to continue owning them legally.

**This proposed amendment goes against previous and current Government policy of allowing firearms deactivated to all official UK standards to be legally owned without the need to re-deactivate them to whatever the current deactivation standard is. It also directly contradicts recent EU deactivation and firearms laws.**

**If NC29 were to become part of the new bill, it would be extremely damaging for the many thousands of law-abiding collectors of deactivated firearms, the majority of whom have a significant number of firearms deactivated to previous standards in their collections. Heritage and living history would be severely affected as would the historical study of firearms. The costs and logistics of bringing 400,000 firearms deactivated to previous standards up to the current specification are unmanageable. No evidence has been produced to support the need for NC29 or to justify how it would improve public safety.**

**The DWA opposes the introduction of clause NC29 and respectfully requests that it be withdrawn. The following arguments are presented to support this request:**

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*The following points make reference to legacy deactivated firearms. These include any firearm deactivated to an official UK or EU standard from 1988 to June 2018. References to UK legacy deactivated firearms include any firearm deactivated to an official UK standard from 1988 to May 2016.*

#### **Relating to Law;**

1. NC29 is in direct contradiction of the EU Deactivation Regulations that we now must adhere to - (EU) 2015/2043 and its revision (EU) 2018/337.
  - a. Article 1 point 2 states; **This Regulation shall not apply to firearms deactivated prior to the date of its application, unless those firearms are transferred to another Member State or placed on the market.**
  - b. In other words, there should be no retrospective deactivation requirement for legacy deactivated firearms unless they are sold or otherwise permanently transferred
2. NC29 also contradicts Article 10b (7) of the EU Firearms Directive (EU) 2017/853 which introduces the concept of equivalency for legacy national deactivation standards. The UK Home Office has made a submission for such equivalency and this is currently being considered by the EU Firearms Working Group; NC29 completely undermines this submission and approach. If equivalency is granted, UK legacy deactivated firearms will be considered to be deactivated firearms, equivalent to those deactivated under the EU Regulations, and will be fully transferrable.
3. All officially deactivated legacy firearms have been inspected by a Government appointed Proof House. For each deactivated firearm, they have confirmed that it meets a set of deactivation standards set by the Home Office; that it is no longer considered to be a firearm and that no firearms certificate is required to possess the item. Additionally, each legacy item has an official deactivation certificate to this effect. Should NC29 change the status of these official deactivations and their accompanying Proof House certificates, there will inevitably be legal challenges.

#### **Relating to Historical and Cultural Loss;**

4. UK legacy deactivated firearms are used extensively for;
  - a. Historical Research purposes – the study of firearms, their design, manufacture and the materials and mechanisms used within them.
  - b. Educational purposes – often as part of living history presentations to school children to provide an immersive and historically accurate experience.
  - c. By re-enactment groups – regularly used in living history displays around the country to preserve and promote history in an engaging and interesting hands-on way.
  - d. By film, theatre and television – allowing actors to use firearms in a realistic and safe way but without the need and expense of hiring an on-set armourer.
  - e. Displays at museums and other historical sites.
  - f. For security training, e.g. airport security where it is essential that a deactivated firearm can be disassembled to allow different potential scenarios to be tested, e.g. firearm parts hidden in or disguised as everyday objects.
  - g. The development of extensive personal collections borne out of an interest in history, the military, mechanical engineering or indeed many other sub-fields.
5. Should there be a requirement for legacy deactivated firearms to be re-deactivated to the current technical specification, the majority of the above uses would be destroyed or at the very least, severely impacted. Legacy items have more moving parts and, in some cases, can be cycled and

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stripped down, but all still with an inability to fire. These features are essential in all the activities described above and would be lost through re-deactivation to the current standard.

#### **Criminality;**

6. There are some 400,000 deactivated firearms in circulation; most of these are legacy items. None are registered and there are no records of where they currently are.
7. If enacted, NC29 would immediately criminalise tens of thousands of law-abiding collectors, re-enactors and companies who use legacy items. There would be no way of effectively communicating such a change in the law.
8. Any criminal use of legacy items would be unaffected by the legislation, as unsurprisingly criminals don't obey the law; only the law-abiding would be punished.

#### **Evidence Base;**

9. It is important that any new legislation has a clear evidence base to justify the impact it may have. Where is the evidence that legacy deactivated firearms are causing a problem or pose such a risk that that this legislation is required?
10. NABIS have previously gone on record, stating that UK legacy deactivated guns pose no threat to the public in the UK.

#### **Costs and Compensation;**

11. Most collectors have thousands of pounds invested in their collections. Many have tens of thousands and some have hundreds of thousands.
12. The majority of this investment is in legacy items which have greater monetary value due to a combination of their historical value and their legacy deactivation standards.
13. NC29 would have a catastrophic impact on the value of legacy items and the collections in which they reside.
14. Additionally, re-deactivation costs between £100 and £150 per item depending on the complexities of the task (undoing a previous deactivation to re-deactivate can be very time consuming, destructive and expensive). How could it ever be reasonable for a collector (who has already paid for deactivation once) to have to foot the bill for re-deactivation of their entire collections? Some simply would not be able to afford it. What then?
15. As written, each time the technical specification was updated, collectors would have to re-deactivate their entire collection again with the same or even greater costs involved. This is completely unreasonable, especially as the technical specification has already been updated once in two years.
16. Should NC29 be enacted, compensation for loss of value and re-deactivation would seem entirely reasonable and would be expected.

#### **Logistics;**

17. As stated, there are some 400,000 deactivated firearms in circulation with the majority being legacy items deactivated over approximately 30 years of official UK deactivation standards
18. There are less than ten specialist gunsmiths in the UK who offer deactivation services with the majority of these being a one person business. Obviously, statistics can be manipulated to show anything, but to put this into context;



- a. Assuming an average of 1.5 hours required to re-deactivate each legacy item, this would equate to 600,000 working hours to deactivate all legacy items
  - b. Assuming a working day of 8 hours, this would equate to 75,000 working days
  - c. Given 10 specialist deactivators in the UK, this would equate to 7,500 days per deactivator
  - d. Assuming a 5 day working week, this would equate to 1,500 working weeks per deactivator
  - e. **Assuming two weeks holiday per year, this would then equate to 30 years of work per deactivator to re-deactivate all legacy items**
19. Even if the variables in the above model are adjusted (deactivation time, working day, working week, etc.) the resources required to complete re-deactivation of legacy items is simply not sufficient to meet the requirement.
20. In addition to the issues regarding physical re-deactivation, each re-deactivated item would then have to be re-inspected and re-certified at one of the two UK Proof Houses. They would be the first to admit that whilst as businesses they would benefit from the additional income this would generate, their current systems and capacity would not be able to cope with such a massive influx of extra work. This would tie them up for years, to the detriment of all other duties.

*September 2018*

