

Comments to the Secretary of State for Northern  
Ireland concerning the proposals for reform of  
firearms control

*Submitted on behalf of the following individuals:*

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**June 1998**

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## **INTRODUCTION**

It is with some relief that we see that the report on firearms control in Northern Ireland has finally been published. It is with even more relief that we read that the proposals are for the most part sensible and reasonable, which is surprising given the attitude towards firearms after the shootings at Dunblane. This we attribute to the Secretary of State, who is known for her fairness in political matters.

However, although we see large areas of agreement with the Secretary of State on this issue, there are also inevitably areas of strong disagreement, notably in the areas of deactivated firearms, antique firearms and the appeals process which are detailed further in this submission. We have only commented on those areas where we disagree with the proposals put forward, or can see some way that they may be instituted in a more effective manner.

Any further enquiries regarding this submission should be directed to Steven W Kendrick MBA, whose contact details are contained in the covering letter.

## **BACKGROUNDS**

**Peter H Jackson MA CEng MICE** is a consulting engineer whose job entails assessment, avoidance and management of risk in the construction industry; he also owns and manages a hill farm in Scotland. Mr Jackson learned to shoot at the age of eight, and regularly uses firearms for sporting purposes, deer and vermin control, and target practice.

In the aftermath of Lord Cullen's inquiry into the shootings at Dunblane primary school, Mr Jackson co-authored two papers which examined statistical evidence withheld from the inquiry by the Home Office, "Was the Dunblane Inquiry Misled?" and false statistical evidence submitted by the Scottish Office, "Was the Dunblane Inquiry Misled by the Scottish Office?" (Papers and source data archived at [http://www.forge.demon.co.uk/rta/jackson/pj\\_stats.zip](http://www.forge.demon.co.uk/rta/jackson/pj_stats.zip)). Peter Jackson is fieldsports editor and administrator of *Cybershooters*, the leading UK internet shooting publication (details at <http://www.forge.demon.co.uk/rta/cs-faq.htm>)

**Steven W Kendrick MBA** is an acknowledged expert on firearm law and regulation both nationally and internationally. His submissions were accepted into evidence as part of the Dunblane Public Inquiry and the Home Affairs Committee report *Possession of Handguns*. Mr Kendrick is also the author of numerous articles on this subject, which have appeared widely, including in the *American Rifleman*, the largest distribution shooting publication in the world. He has also drafted proposed legislation governing firearms, such as several amendments that were offered to the Firearms (Amendment) Acts 1997 in the House of Lords.

Mr Kendrick is an accomplished target shooter and also a firearm collector, and the Editor of *Cybershooters*, an electronic shooting publication.

**Cleland Rogers** served in the Ulster Defence Regiment from 1981 to 1984, and then served with the Royal Hong Kong Police from 1984 to 1994, leaving with the rank of Senior Inspector. Mr Rogers was a firearms and I.S. tactics instructor in the RHKP from 1988 to 1992. From 1994 to 1996 he was the licensee of a commercial shooting range in Hong Kong, being responsible for the set up of the club from its inception. He dealt with all arms and ammunition licensing and security matters, liaising with the RHKP Licensing Office and Crime Prevention Bureau.

Mr Rogers has been a recreational shooter since his teens when he was introduced to shooting through his involvement in the RAF cadets (ATC). He represented the RHKP and Hong Kong at international level in the PPC and IPSC disciplines on numerous occasions. He currently resides in Northern Ireland.

**Guy Savage** is a professional gunsmith and his London based company is a registered importer, dealer and manufacturer of firearms. He has been involved in the gun trade for over 13 years. In his working

career in the trade he has supplied the RUC, NI Prison Service, UK MoD, Crown Agents and most UK Police Forces with firearms, ammunition and related equipment. He has extensively dealt with commercial imports and exports of firearms and ammunition, and had an interesting career in theatrical weapons manufacture and supply to the TV and film industry. He co-authored the Shooters Rights' Association submission to Lord Cullen's Inquiry and is an acknowledged expert on the appeals procedure in firearm matters.

He is considered a firearms expert, and has given expert testimony in Court on numerous occasions. He is a certified Instructor for the Monadnock Persuader mini-baton and a Certified Instructor for the National Law Enforcement Training Centre, Weapon Retention and Disarming program. He is a member of the American Society of Law Enforcement Trainers, and the International Association of Law Enforcement Firearm Instructors. He is a UK associate Instructor for the Use of Deadly Force and Stressfire defensive firearms training programs, for the Lethal Force Institute Inc.

Guy Savage is an accomplished shooter, entering the hobby at the age of 11. He is a writer, with interests in UK and EEC Law, Civil Rights and is a proud husband and expectant father.

**Jonathan M Spencer** is a full-time forensic firearms examiner, working with a consultancy in Durham. He has 26 years experience of a wide variety of firearms, having made a lifetime study of their design, mechanisms, and performance. He served ten years with the Royal Air Force Police, mainly on armed anti-terrorist and security duties. Upon completion of his service with the Royal Air Force, he went to Teesside Polytechnic where he was awarded a Bachelor of Science degree in Computer Science. He then went to the University of Newcastle-upon-Tyne and undertook research for three years.

He is a keen sporting shooter using rifles, shotguns and pistols. Mr Spencer handles over 50 firearm cases per year, the majority of these being for the criminal Courts. His caseload involves a wide range of firearms types (including rifles, pistols, shotguns, air guns, machine guns, mortars, grenades, and rockets) and an equally wide range of issues.

## **COMMENTS**

### **AIRGUNS**

We are of course pleased with the proposals to deregulate airguns with a muzzle energy of 4 J (2.95 ft lbf) or less. This is a long overdue measure. However, we would urge the Secretary of State to go the extra mile and harmonise the legislation in Northern Ireland with that in Great Britain, where any person aged 17 or older who is not prohibited from possessing firearms can lawfully acquire an air or CO<sub>2</sub> pistol with a muzzle energy of 6 ft lbf or less, or an air or CO<sub>2</sub> rifle with a muzzle energy of 12 ft lbf or less, without restriction.

The original requirement for a firearm certificate for these types of firearm was introduced not as a public safety measure, but as an emergency measure to protect the Government in response to the Easter Uprising in 1916. The Firearms Act 1920 created an exemption for low-power airguns and also shotguns from certification in Great Britain, but this exemption did not extend to Ireland. The reasoning behind not having such an exemption is thus somewhat archaic.

We also disagree with the Forensic Service to the extent that we are unaware of any lethal injuries being caused with a gun that has a muzzle energy of less than 4 ft lbf. Thus if the Secretary of State is determined to deregulate only those air and CO<sub>2</sub> guns which are not capable of causing lethal injury, we would urge her to set the legal limit at 3.9 ft lbf (5.3 J). While this may seem a narrow difference, it is significant and will make a clear difference to shooters in Northern Ireland, as many popular air and CO<sub>2</sub> pistols have a muzzle energy in the region of 3.5 ft lbf (4.75 J).

### **DEACTIVATED FIREARMS**

Also welcome is the proposal to deregulate deactivated firearms. However, upon close examination of the exact proposals, it would appear that the Northern Ireland Office is proposing a system of control that is tantamount to the current controls which require a firearm certificate. We strongly suspect that the implementation of the proposals as they stand will entail huge amounts of bureaucracy that have not been adequately foreseen.

We make the following observations as regards the six-point plan outlined in the proposals:

- (i) Deactivation to the required technical specification: – currently the Home Office sets a standard in accordance with Section 8 of the Firearms (Amendment) Act 1988. We assume the Northern Ireland Office standard will be similar or identical. We have no objection to such a technical standard being set, provided that such a standard does not conflict with the meaning of an object that is not a firearm within the meaning of the Firearms (Northern Ireland) Order 1983. In 1995, the Home Office tightened the specifications for deactivated submachineguns and semi-automatic and fully-automatic rifles in response to two shooting incidents in which reactivated submachineguns were used. These changes went too far, as semi-automatic and fully-automatic rifles cannot be easily reactivated under the pre-1995 specifications, and the Home Office has no record of any such guns being recovered after reactivation. Thus we recommend that the Northern Ireland Office should not follow the Home Office lead in this instance. In addition, it should be noted the submachineguns used in the two crimes had an open-bolt mechanism. We thus recommend that the Northern Ireland Office should also not follow the Home Office specification for submachineguns that have a closed-bolt mechanism, because they are substantially more complex than an open-bolt mechanism, and far more difficult to reactivate. It should be remembered that an open-bolt submachinegun is among the simplest of firearm designs.
- (ii) Registration with the local RUC: – it is in our opinion worthless to require deactivated firearms to be registered. A deactivated firearm is after all only a piece of inert metal in the shape of a gun. It cannot be used to cause lethal injury except as a blunt instrument. Other objects that can be used as a blunt instrument do not have to be registered with the RUC, and in our opinion, the

amount of bureaucracy such a requirement would entail cannot be justified to satisfy public safety concerns.

- (iii) Prior RUC approval of deactivated prohibited firearms: – this proposal is quite vague. Once again, it cannot be justified on public safety grounds if in effect it means someone who wants to own such a gun must gain the approval of the RUC before they can own it. Airsoft guns that resemble prohibited firearms will become unrestricted under the proposals governing airguns; it is illogical for such stringent requirements to be applied to objects that are entirely inert. We therefore recommend that this proposal be dropped.
- (iv) RUC must consent to public display of deactivated firearms: – given the peculiar public safety concerns in Northern Ireland due to the terrorist threat, a requirement that the RUC be notified prior to the public display of deactivated firearms is not unduly burdensome and we think this proposal should be adopted.
- (v) Only collectors may possess more than two deactivated firearms: – once again, this proposal is pointless, because the firearms are inert. A person in possession of a hundred such guns poses no greater threat than someone who possesses only two. This proposal will only create unwarranted bureaucracy and we recommend it be dropped.
- (vi) RUC to be notified of change of ownership: – another pointless bureaucratic provision. The RUC will not be notified of the transfer of real, firing, airguns, so why is there any point in requiring the notification of transfer of an inert piece of metal? We recommend this proposal be dropped.

### **COMPONENT PARTS OF FIREARMS**

This proposal is welcome and will bring the RUC into line with current practice in Great Britain. We hope that the Secretary of State will consult with interested parties on which component parts should not require certification before implementing the proposal, however. We suggest to her that only those parts that are pressure bearing require a certificate, which is the practice of police forces in Great Britain.

### **NON-RESIDENT HOLDERS OF RUC FIREARM CERTIFICATES**

One proposal is that the RUC should no longer issue full firearm certificates to non-residents of Northern Ireland, due to the difficulties in checking their background. However, this difficulty would still exist if visitor permits were to replace this practice. It should be noted that the system of referees proposed in Chapter 5 would possibly solve this problem in a more comprehensive manner.

We do not however, believe the idea is without merit, only that the stated reasons for it appear to be somewhat illogical.

We do make the point that firearm certificates should still be granted to residents of the Republic of Ireland. It should be possible for the Chief Constable to liaise with the authorities in the Republic to determine if an applicant is a fit person to be granted a certificate. This should be discussed with the appropriate cross-border body under the Peace Agreement. Clearly there are substantial numbers of shooters who cross the border on a regular basis, and to have to renew a permit every 12 months simply entails more bureaucracy for the RUC.

### **BORROWERS OF FIREARMS**

The proposals as regards the borrowing of firearms from certificate holders are logical and welcome, but we are unable to ascertain why the current restrictions should continue to apply to rifles. The Firearms (Amendment) Act 1988 contains a provision allowing estates to loan rifles to non-certificate holders for use on the estate's property. It would seem logical to apply this provision in Northern Ireland as well.

### **GROUND FOR REFUSAL OF THE GRANT OR RENEWAL OF A CERTIFICATE**

We recommend in addition to the proposals in 2.10 that the Chief Constable also take into consideration the mental health of any applicant. While the law provides for prohibitions against people of "unsound

mind”, there is currently no formal method for checking to determine this. Applicants who have been involuntarily detained (or who would have been involuntarily detained but for their consent) for mental illness should not be granted a firearm certificate. The only exception should be where the appropriate physician has certified the applicant as healthy, but the RUC should still check with that physician to make sure that the certification given by the physician took into account the fitness of the applicant to possess firearms.

## **TRAINING REQUIREMENTS FOR FIREARM CERTIFICATE APPLICANTS**

We do not believe it is appropriate to introduce a formal training requirement for applicants for firearm certificates, where the applicant intends to use the firearm for sporting purposes. The proposals draw the analogy of the driving test, however, that analogy is not taken to its logical conclusion. A driving license is not required for a person to operate a motor vehicle on private property, only on public roads. Nor should a shooting test be required for a firearm certificate, where that firearm is to be used on private property, or in an approved gun club.

The reality of the licensing system for firearms, which is unquestionably severe, is that people are not going to progress to the stage of applying for a firearm certificate until they are absolutely certain that it is worth the trouble of getting one. Any such person will clearly have used a firearm under supervision and be aware of the basic safety rules, before attempting to obtain a firearm certificate.

Especially bizarre would be to apply such a requirement to a member of an approved gun club, as probationary members have to complete a 12-month probationary period. A formal safety test for such people would clearly be a waste of time as they will be perfectly well-versed in safety procedures by the end of their probationary period.

The only exceptions to this general rule are applicants for firearm certificates for purposes other than sport. An applicant for a firearm certificate for veterinary use, or for personal protection, may well not be versed in firearm safety procedures, and their application may well be “out of the blue”. We recommend that the Secretary of State consult with the appropriate veterinary groups, as well as groups representing slaughterhouse users, race starters and so forth before making any firm proposal in this area.

As regards training for those who wish to carry a firearm for personal protection, there is of course a marked difference, as these people will be carrying loaded firearms in public places.

We recommend the following safety steps for applicants for firearm certificates for personal protection:

- (i) An applicant should be required to complete a course of instruction, lasting perhaps 2 to 4 hours, on the law as it pertains to self-defence in Northern Ireland. This course should be conducted by the RUC or by a person certified by the RUC to conduct this training. A person should demonstrate competence, in a multiple-choice questionnaire, as to when they are lawfully entitled to shoot in self-defence.
- (ii) An applicant should be required to complete a formal shooting test, consisting of a course of fire at a maximum distance of 10 metres, with a minimum 70% score on a standard PAA silhouette target to pass. The applicant should also be taught basic firearm safety procedures. These tests should be conducted by the RUC, or by an instructor certified by the RUC on an approved range.
- (iii) Applicants should be encouraged to join approved pistol clubs, so that they can develop their firearm handling skills further. We also recommend that the Chief Constable allow people to possess larger amounts of ammunition than the customary 25 rounds so that they may acquire ammunition for the purpose of practising on an approved range. A higher limit of perhaps 200 rounds would seem appropriate. The conditions attached to such a certificate should make it clear the holder is permitted to practice with their firearm at an approved range.

The current practice in Northern Ireland concerning firearms for personal protection does seem strange, in that a person who has no firearm skills at all can be granted a certificate and be carrying a firearm with

no knowledge of how it works. This situation is made worse by the ammunition restrictions, which severely discourage a person from going to an approved range to practice.

## **AGE LIMITS**

We fully endorse the concept of lowering age limits to allow younger people to use firearms under supervision, as this furthers the shooting sports, and engenders firearms safety. The current limit of 16 years was introduced by the Firearms Act 1920, which set the age limit as high as was practicable to reduce the number of legally possessed firearms to the absolute minimum. This was because the Government feared armed revolt in Ireland.

However, we still feel that the proposed age limit of 14 is too restrictive. A person of any age can use an airgun or shotgun under supervision in Great Britain. In addition, the exemptions in Section 11 of the Firearms Act 1968 are broader than in Article 12 of the 1981 Order and mean it is possible for a person of any age to practice with a miniature rifle in Great Britain. We would ask the Secretary of State to think again, and perhaps remove the age limit, especially in cases where the person supervising the shooter is the shooter's parent or guardian.

## **PROVISIONS RELATING TO APPROVED CLUBS**

The proposal to charge a fee for a club firearm certificate appears a little odd, as it has always been the assumption in Great Britain that the club approval fee covered the cost of the issuance of the club firearm certificate.

In addition, we wonder whether there is any point to a club firearm certificate at all – authority to possess club firearms should be a component of club approval, and a special club certificate issued which is co-terminous with the club approval. This would make the system more logical and less bureaucratic. We would in any event urge the Secretary of State to make club firearm certificates valid for the period of club approval. If not, clubs will be approved for six years and their certificates for five years, which will create an awkward gap and a paperwork problem.

We would also ask that the system of club probationary periods be reconsidered. Currently probationary periods in Northern Ireland are twelve months as opposed to three months in Great Britain. We would suggest that both periods be replaced with a system of a minimum number of visits, with twelve being the best number, and only one visit per week counting towards the completion of the probationary term. In this way, a person would have to attend the club for a minimum of twelve weeks to complete their probationary period, but it would prevent a situation whereby a person could attend frequently for perhaps one month, then have a break of a long time where they did not attend the club. This still counts towards the completion of their probationary period. With a system of a minimum number of visits, a person would still have to visit twelve times whether it took them three months or twelve months to do it.

Turning to Lord Cullen's recommendations contained in Chapter 5 of the proposals as regards clubs, it should be noted here that a serious problem has developed in Great Britain from the implementation of the recommendation that the club records be used to substantiate whether "good reason" to possess a firearm is continuing. This is because most active shooters attend more than one club, and indeed shoot overseas. It is thus very difficult, in fact impossible, for the police to collate how much use a person has made of their firearms to determine whether "good reason" does in fact still exist. This problem is somewhat different in Northern Ireland, in that there is one central licensing agency for the entire Province, so collation is somewhat easier. However, shooters also cross the border into the Republic and this presents a far more difficult problem to overcome than faces the police in Great Britain. We would suggest that the Secretary of State attempt to negotiate with the Irish authorities so that the RUC has some ability formally to request information about the use of a firearm at a club in the Republic if this is put forth as evidence of continuing "good reason" by the certificate holder.



Alternatively, it may be better to dispense with this highly bureaucratic exercise and simply have each target shooter nominate a "primary club" for each firearm they own, where they intend to make regular use of each gun. This would solve the collation problem in a far simpler manner.

## **HANDGUNS**

The Secretary of State has submitted that handguns should not be banned in Northern Ireland. We entirely agree with this view, however given that this is the most contentious part of the proposals we will comment further on exactly why we believe handguns should not be prohibited in the Province:

At the end of 1996 there were 10,867 firearm certificates on issue authorising the possession of a handgun for personal protection in Northern Ireland. While it is rare for a lawfully held handgun to be used actually to shoot in self-defence in Northern Ireland, this does not show the full picture.

Not only does the presence of a handgun mean that the holders can defend themselves, it also *dissuades* attack against them. This is either in the physical sense of pulling out a gun and scaring off an attacker, or the person not being attacked in the first place because the potential attacker suspects his target may be armed.

There is substantial criminological support for this viewpoint: for example the award-winning study contained in the book *Point Blank* by Prof. Gary Kleck of Florida State University indicates that the actual dissuading of attack outnumbers actual shootings by a huge number, of the order of more than a thousand to one. Other less comprehensive but nonetheless credible studies by such organisations as the Police Foundation in the United States also support this conclusion.

It should be noted that legal owners of handguns for personal protection in Northern Ireland, such as Ken Maginnis MP, have made public statements to the effect that they have used their handguns to dissuade attack, and that they feel that without the handgun present, they might have been killed or injured by the attacker.

In addition, recent critically acclaimed research by John Lott of the University of Chicago indicates that there is a correlation between a drop in crimes against the person and the enactment in various parts of the United States of laws enabling people to obtain permits to carry a concealed handgun. An example would be in the State of Florida, which enacted a statewide permit to carry law in 1987. Recently released figures for 1997 show that the murder rate has dropped to its lowest level since 1933, despite the fact that the State is now far more heavily urbanised than at any other time in history. Prof. Lott's research indicates that criminals turn from attacking people to committing property crimes.

Thus we feel that while the Secretary of State attaches great importance to the continued possession of firearms for personal protection, the actual gravity of the situation may be considerably larger than the Government has realised.

There may be calls for handguns for target shooting purposes to be banned. However, we point out that this will most likely reduce public safety in Northern Ireland, because without target shooters, pistol ranges will be forced to close. Therefore people who have handguns for personal protection, who carry them loaded in public places, will be deprived of a place to practice their firearm handling skills. It makes a serious accident with a firearm considerably more likely in our view, which outweighs the risk of a random attack by a lawful owner of a pistol.

Banning firearms by type is in our opinion irrational, because there are many other types of firearm remaining which are equally as deadly. This is graphically illustrated by mass shootings around the world, which have been committed with all manner of firearms. For example, the infamous 1966 Texas University clock tower shootings were committed with a .243 bolt-action hunting rifle, legal not only in Northern Ireland, but also in the Republic. Similarly, a recent shooting at a high school in Oregon was committed with a range of firearms, including a stolen .22 rimfire rifle, once again legal both in the UK and

the Republic of Ireland. A shooting in New Zealand in a rural town in late 1996 took place with an illegally possessed single shot shotgun; several people were killed.

Logically, the focus of any system of firearms controls should fall on the possessor of the firearms, because a person who is stable and not a criminal armed with any type of firearm is likely to pose far less threat to public safety than would a madman armed with a shovel, for example.

## **LORD CULLEN'S RECOMMENDATIONS**

We support the adoption of Lord Cullen's recommendations in the manner outlined in the proposals, with the exception of club registers as outlined above, and the provisions relating to the appeals process, as outlined below.

## **PROVISIONS RELATING TO REGISTERED FIREARMS DEALERS**

Chapter 6 of the proposals appears to be particularly well thought-out and we agree with all the proposals for the reasons stated, our sole difference of opinion being with the proposal contained in paragraph 6.13. While the proposal to lengthen the time for notification of a transfer from 48 to 72 hours is certainly welcome, we would urge the Secretary of State to consider lengthening it further, to 7 days. This would harmonise the provision with that in Great Britain, and we cannot see any public safety implications from such a change.

## **BALLISTIC TESTING OF FIREARMS**

We strongly disagree with the proposal that the scope of Article 47 be extended to include shotguns and airguns. Further, we disagree with the assertion that it "is an important factor in the fight against firearm-related crime". There appears to be little in the way of evidence to support this statement. We seriously doubt the Secretary of State would be recommending against a handgun ban if lawfully-held, ballistically-tested handguns were regularly cropping up in criminal activity.

Article 47 has always been considered an emergency measure, designed to dissuade terrorists from attempting to obtain handguns lawfully. It is however completely useless as a crime-fighting measure.

This is because, at best, the ballistic evidence will indicate where a firearm may have been stolen from when used in a crime. It does not indicate however who stole the gun, and this is one of the reasons it does not help generally in crime-fighting.

It should be noted that as far as we are aware, no other place in Europe requires ballistic testing of lawfully-held firearms. Nor has there been any clamour from the police either in Britain or abroad for this provision, indicating that it is not as important as the proposals suggest.

Home Office statistics from 1992-94 presented to the Dunblane Public Inquiry indicate that where lawfully held firearms are used in crime, they are exclusively used in domestic homicides or revenge attacks, and the perpetrator is readily identified and caught (if he does not commit suicide). Thus even an argument that ballistic evidence is necessary to lead the police to the lawful owner of a gun used in a crime is seriously flawed. We are unaware of any evidence that in Northern Ireland the pattern of misuse of lawfully held guns is any different than in Great Britain.

The reality of the licensing system is that it is so restrictive that it serves as sufficient deterrent to the use of lawfully-held firearms in general criminal activity.

This provision should be viewed for what it is – an emergency measure that is no longer relevant, especially given the Peace Agreement.

We therefore submit that Article 47 be repealed, rather than extended.

## **ANTIQUE FIREARMS**

We also strongly disagree with the proposals concerning antique firearms, which give us perhaps more cause for concern than any other proposed change. We do not consider that this proposal has been adequately thought out, and urge that further serious consultation and thought be applied.

If adopted as spelled out in the proposal, there will be two possible outcomes, likely a combination of both:

- (i) **A large number of people who possess antique firearms will instantly be turned into criminals.** They will be unaware that their nominally operable antique has been reclassified as a firearm requiring a license, and that they are thus in violation of the law. At best, if discovered, they will lose their property to the police.
- (ii) **A significant portion of the national heritage will be destroyed.** An antique firearm deactivated to the current Home Office standard has little more value than scrap metal. It is doubtful that many antique owners will be willing to obtain a certificate for their guns, given the rigorous licensing requirements. Thus they will either retain the firearm illegally, or dispose of it. Neither outcome is desirable, in our opinion.

We do however agree that the current regulation of antiques is flawed and requires revision. The current definition is far too vague and requires clarification. We submit the following possible definition of an antique firearm for consideration, firearms falling within the definition continuing to be exempt from certification requirements:

“Any firearm which was physically manufactured more than eighty years ago.”

This definition takes into account court rulings on what firearms are considered antiques, and can be applied via an amendment to Article 2 without altering Article 60. Antique collectors have depended on court rulings for some time, and it would be unwise to suddenly shift the goal posts so radically that all currently unlicensed antiques require a certificate. In general terms, it is safe to say that other collectibles from the Great War period and before are all considered to be antiques.

We disagree with the analysis contained in the proposals about the commercial availability of ammunition. It should be borne in mind that “commercially available” ammunition requires a firearm certificate to acquire. An argument that antiques should require licensing would seem to be an argument that ammunition should be completely deregulated, as in effect the proposal is saying that ammunition controls don't work.

It is certainly true that “a skilled and determined shooter or collector” could make ammunition that is not readily available, but we consider this to be an imprecise measure of the threat to the public. Rather, we should consider how many crimes have been committed by antique owners who also had live ammunition for their guns. We are unaware of any such crimes being committed. Thus, the proposed controls appear to be unjustified.

We find this proposal particularly flawed in that a person who has an 18<sup>th</sup> century musket hanging over their fireplace for example, would have to either obtain a firearm certificate for it or have it deactivated. Ammunition is of course nominally available for such a gun as it only consists of blackpowder (which can be extracted from fireworks) and lead balls. But the proposition that this is a threat to public safety is ridiculous. We hope the Secretary of State will agree and heavily revise this proposal.

## **FEES**

We disagree with the theory that “full cost recovery” should be applied to administrative functions performed under the Firearms Order.

It has been long-standing Government practice to only charge “full cost recovery” fees where the Government is providing a service, rather than a control. We submit that firearm regulations, licensing, permits, etc. are clearly controls, not a service.

These controls are intended to enhance public safety, rather than to perform any service for gun owners. It is thus reasonable to expect that the public at large should bear some of the cost for firearm controls, as it is they who are intended to benefit from them. A simple argument against the costs of the controls from a gun owner’s standpoint would of course be to argue that they be repealed – the gun owner would suffer no disadvantage as a result.

We do however agree in line with our comments about club approval that a fee should be charged for this, and we would expect such a fee to be in line with that charged in Great Britain. We also consider that there is some ground for charging for applications for the removal of statutory prohibitions. We do not, however, consider that the other items listed in paragraph 7.11 should be subject to a fee. Such items are not charged for in Great Britain.

## **STATUTORY FORMS**

We have some sympathy with the Chief Constable concerning requests for information from applicants. However, statutory forms are important as they help make the application procedure comprehensible to applicants. Above all, the law must be capable of being clearly understood.

We thus submit that statutory forms prescribed by regulation continue to be used, but that the Chief Constable be empowered to ask for additional information that he may “reasonably require” to discharge his functions under the Firearms Order.

“Reasonably require” must be accurately defined in the legislation to prevent unwarranted questioning of a certificate applicant. We suggest the definition of: “The request of only that information necessary for the discharge of the duties of the Chief Officer of Police under this Order.”

## **APPEALS**

The appeals procedure under the Firearms (Northern Ireland) Order 1981 has always been essentially an emergency measure. The review of controls in Northern Ireland has taken so long that the proposals in Chapter 8 have been eclipsed both by the Peace Agreement and European law.

There is now no need for appeals to be heard by the Secretary of State. The appeals process should be changed completely and we recommend that the provisions contained in Section 44 of the Firearms Act 1968 (as amended) be applied to Northern Ireland.

We also draw the Secretary of State’s attention to the comments of the then Lord Chancellor, Lord Mackay of Drumadoon, on amendment no. 58 to the Firearms (Amendment) Act 1997, in which he commented on a recommendation by Lord Cullen that would in our opinion have established an appeals process similar to that in Northern Ireland in Great Britain:

“The initial view of the Government was that Lord Cullen’s approach seemed eminently sensible. But detailed consideration of what he recommended, both in the light of the consultation which we carried out, and, more particularly, in the light of the terms of the European Convention on Human Rights, revealed that we could not safely proceed in that way without risking a violation of Article 6 of the convention. Article 6(1) requires independent judicial determination when somebody’s civil rights are being affected by a decision. Our view, having considered the points made in consultation, is that the procedure for decisions by the chief constable, coupled with appeal limited to the grounds recommended by Lord Cullen, would not amount to a proper compliance with Article 6(1).” – *Hansard*, 11 February 1997

It is our opinion that the appeal process currently operating under Article 55 of the Firearms Order violates Article 6(1) of the European Convention. There is no independent judicial interpretation, as the Secretary of State can hardly be considered a member of the judicial branch of Government.

Therefore, **it would appear Article 55 is illegal**, and must be repealed immediately.

In addition, we ask the Secretary of State to reconsider the proposal to have an intermediate tribunal prior to a hearing before a Crown court, which can be costly for appellants. While this may not have made sense under the current provisions, the institution of Section 44 style appeals changes the landscape considerably.

We also recommend that all decisions made by the Chief Constable concerning refusals to grant, vary or renew a certificate or the revocation of a certificate be made subject to advance disclosure so that the appellant can be fully informed prior to going to court. This is currently not the case in Great Britain.

## **MISCELLANEOUS**

Time has moved on since the review of firearms control began, and we recommend to the Secretary of State that attempts be made to harmonise various aspects of the firearms legislation in Northern Ireland and the Republic.

This may sound difficult. However, we point out that both the Firearms (Northern Ireland) Order 1981 and the Republic's Firearms Act 1925 have a common root: the Firearms Act 1920. There are however many substantial differences between the systems of control; the most significant being that the types of firearms legal in either jurisdiction vary.

For example, handguns are prohibited in the Republic, but are legal in Northern Ireland. Centrefire pump-action rifles are prohibited in Northern Ireland, but are legal in the Republic.

However, the many prohibitions in the Republic were caused by the political violence in Ireland, and were enacted in 1972. The Irish Government has on many occasions indicated its willingness to entertain repeal of prohibitions if there should be a lasting peace. This was demonstrated in 1994 when the maximum allowable calibre for rifles was raised from .22" to .277". At the time the Irish Government stated in meetings with representatives of shooting organisations that the legalisation of handguns for target shooting was a definite possibility, but the breakdown of the cease-fire put those plans on hold.

Thus there is certainly cause for hope that the legislation could be harmonised. Even if the specific types of firearms that should be legal cannot be agreed upon, there is no reason why the licensing systems and the sharing of information on approved clubs, ranges and criteria for statutory prohibition of possession of firearms, appeals systems, fee levels etc. cannot be harmonised.

The shooting community is certainly willing to do everything it can to encourage peace in Ireland, as its members have far more to gain than any other sport from an end to political violence. We certainly hope that both Governments will recognise the good will that exists between Unionist and Republican sporting shooters, and encourage politicians to visit gun clubs anywhere on the island where they will see members of both communities shooting side by side, rather than at each other. It is this reality of co-operation and responsibility that we hope will encourage politicians on either side of the border to lift punitive restrictions that have throttled the shooting sports in Ireland for far too long.